Chapter 1 - GENERAL PROVISIONS

State Law reference— Counties generally, Wis. Stats. § 59.001 et seq.; county home rule, Wis. Stats. § 59.03.

Sec. 1-1. - Title of Code; citation; short title.

These collected ordinances shall be known and referred to as the "Code of Ordinances, Clark County, Wisconsin." References to this Code shall be cited as follows: "Sec. 2-1, Code of Ordinances, Clark County, Wisconsin." This Code may also be referred to by the shortened title, "Clark County Code."

State Law reference— Authority to codify ordinances, Wis. Stats. § 66.0103; citation of statutes, Wis. Stats. § 991.12.

Sec. 1-2. - Principles of construction.

In the interpretation and construction of this Code, the following rules of construction shall be observed, unless they are inconsistent with the manifest intent of the county board or the context clearly requires otherwise.

(1) Conflicting general and specific construction. The rules of construction of this section shall not be applied to any section of this Code that contains any express provision excluding that construction or where the subject matter or context of that section may be repugnant thereto.

(2) Liberal construction. The provisions of this Code and all proceedings under them are to be construed with a view to affect their objects and to promote justice. All general provisions, terms, phrases, and expressions contained in this Code shall be liberally construed so that the true intent and meaning of the county board may be fully carried out.

(3) Common and technical terms. All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases, and other words that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to their peculiar and appropriate meaning.

(4) Minimum requirements. In the interpretation and application of any provisions of this Code, the provisions shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than a general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(5) Acts by agents. When an ordinance requires an act to be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

State Law reference— Similar rule of construction for state code, Wis. Stats. § 990.001(9).

(6) Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate,

and authorize subordinates to perform the required act or to perform the duty unless the terms of the provision or section specify otherwise.

(7) Joint authority. All words purporting to give a joint authority to three or more county officers or employees shall be construed as giving such authority to a majority of such officers or other persons.

(8) Number. Words importing the singular number may extend and be applied to several persons or things and words importing the plural may include the singular.

State Law reference— Singular and plural, Wis. Stats. § 990.001(1).

(9) Gender. Every word in these ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa.

State Law reference— Gender, Wis. Stats. § 990.001(2).

(10) Reasonable time or reasonable notice. Reasonable time or notice shall be deemed to mean only such time as may be necessary for the prompt performance of the act required.

(11) Repeal. When any ordinance which has the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.

(12) Singular and plural. Every word in these ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these ordinances referring to a plural number shall also be construed to apply to one person or thing.

(13) Tense. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

State Law reference— Tenses, Wis. Stats. § 990.001(3).

(14) Conjunctions. Where a provision involves two or more items, conditions, provisions, or events connected by any of the conjunctions "and," "or," "either … or," or "neither … nor," the conjunction shall be interpreted as follows:

a. The term "and" indicates that all the connected items, conditions, provisions or events shall apply.

b. The term "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

c. The terms "either … or" and "neither … nor" indicate that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

Sec. 1-3. - Definitions.

In the interpretation and construction of this Code, the following definitions shall be observed, unless they are inconsistent with the manifest intent of the county board of supervisors or the context clearly requires otherwise:

Adult. The term "adult" means a person who has attained the age of 18 years, except that for purposes of investigating or prosecuting a person who is alleged to have violated any provision of this Code or any other ordinance of the county, the term "adult" also means a person who has attained the age of 17 years.

State Law reference— Adult, Wis. Stats. § 990.01(3).

Board, county board, county board of supervisors. The terms "board," "county board," "county board of supervisors" and similar expressions refer to the chairperson and supervisors of Clark County, Wisconsin.

State Law reference— County board, Wis. Stats. § 990.01(6).

Code and Code of Ordinances. The terms "Code" and "Code of Ordinances" when used in any section of this Code refer to this Code unless the context of the section clearly indicates otherwise.

County. The term "county" means Clark County, Wisconsin.

Fee schedule or schedule of fees and charges. The terms "fee schedule" or "schedule of fees and charges" mean the official consolidated list of rates for utility or other public enterprises, fees of any nature, deposit amounts and various charges as determined from time to time by the county board, a copy of which is available in the office of the county clerk.

Fine. The term "fine" shall be the equivalent of the term "forfeiture," and vice versa.

Following. The term "following," when used by way of reference to any Code section, means the section next following that in which the reference is made.

Governing authority, governing body. The term "governing authority" or "governing body" means the County Board of Clark County, Wisconsin.

Highway. The term "highway" includes all public ways and thoroughfares and all bridges upon the same located in the county.

State Law reference— Highway, Wis. Stats. § 990.01(12).

Keeper, proprietor. The terms "keeper" and "proprietor" mean and include persons as the term "person" is defined herein, whether acting by themselves or through an agent or employee.

Land. The term "land" includes lands, tenements and hereditaments and all rights thereto and interests therein.

State Law reference— Land, Wis. Stats. § 990.01(18).

Law. The term "law" denotes applicable federal law, the constitution and statutes of the state, the ordinances of the county, including, but not limited to, those codified herein, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

May. The term "may" is to be construed as being permissive.

Minor. The term "minor," unless otherwise specifically defined herein for purposes of a particular Code section, means a person who has not attained the age of 18 years, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or

federal criminal law or any civil law or municipal ordinance, the term "minor" does not include a person who has attained the age of 17 years.

State Law reference— Minor, Wis. Stats. § 990.01(20).

Month. The term "month" means a calendar month.

State Law reference— Month, Wis. Stats. § 990.01(21).

Nuisance. The term "nuisance" means anything offensive or obnoxious to the health and welfare of the inhabitants of the county or any act or thing repugnant to, or creating a hazard to, or having a detrimental effect on the property of another person or to the community.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

State Law reference— Oath, Wis. Stats. § 990.01(24).

Occupant or tenant. The term "occupant" or "tenant" applied to a building or land, means any person who holds a written or an oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

Offense; violation. The terms "offense" and "violation" mean any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

Officers, departments, etc. Officers, departments, boards, commissions, committees, and employees referred to in this Code shall mean officers, departments, boards, commissions, committees, and employees of the county, unless the context clearly indicates otherwise.

Owner. The term "owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" means any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

State Law reference— Person, Wis. Stats. § 990.01(26).

Personal property. The term "personal property" includes every species of property except real property.

State Law reference— Personal property, Wis. Stats. § 990.01(27).

Property. The term "property" includes real, personal and mixed property.

State Law reference— Property, Wis. Stats. § 990.01(31).

Public place. The term "public place" means any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or adjacent open space and any lake or stream.

Publication. The term "publication" in a newspaper of any notice or other matter indicated to be for a stated number of weeks means one insertion each week, unless specifically stated to be for more than one day in each week.

State Law reference— Property, Wis. Stats. § 990.01(32).

Real property. The term "real property" includes lands, tenements and hereditaments.

State Law reference— Real estate and real property, Wis. Stats. § 990.01(35).

Residence. The term "residence" shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Shall. The term "shall" is mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature; subscription. The term "signature" or "subscription" includes a mark when the person cannot write.

State Law reference— Signature, Wis. Stats. § 990.01(38).

State. The term "the state" or "this state" means the State of Wisconsin.

State Law reference— State, Wis. Stats. § 990.01(40).

Statute. The term "statute," unless otherwise specifically stated, refers to the indicated portion of the Wisconsin Statutes.

Street. The term "street" shall include any highway, street, avenue, boulevard, road, alley, lane or viaduct in the county dedicated or devoted to public use.

State Law reference— Highway, Wis. Stats. § 990.01(12).

Sworn. The term "sworn" includes the term "affirmed" in all cases where by law an affirmation may be substituted for an oath.

State Law reference— Sworn, Wis. Stats. § 990.01(41).

Tenant; occupant. The terms "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or part of such building or land, either alone or with others.

Week. The term "week" means seven days.

State Law reference— Week, Wis. Stats. § 990.01(46).

Will. The term "will" is to be construed as being mandatory.

Wisconsin Administrative Code, Wis. Admin. Code. The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Admin. Code" means the most recent edition of the Wisconsin Administrative Code.

Wisconsin Statutes, Wis. Stats. The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." means, in these ordinances, the most recent edition of the Wisconsin Statutes.

Written and in writing. The terms "written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

State Law reference— Written, in writing, Wis. Stats. § 990.01(48).

Year. The term "year" means a calendar year unless otherwise expressed.

State Law reference— Year, Wis. Stats. § 990.01(49).

State Law reference— Similar definitions and rules of construction, Wis. Stats. §§ 990.001, 990.01.

Sec. 1-4. - Computation of time.

(a) The time within which an act is to be done or a proceeding had or taken shall be computed by excluding the first day and including the last. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded.

(b) If the last day within which an act is to be done or a proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.

(c) When the last day within which a proceeding is to be had or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state, this or any other county, city, town, school district or other subdivision of the state, of any money, return, statement, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or with which such return, statement, report, notice or other document is required to be filed do not include any office hours on such Saturday, the proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.

(d) Regardless of whether the time limited in any statute for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.

(e) The term "legal holiday," as used in this section, means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service and the last day within the time prescribed by law for performing such act falls on a legal holiday designated by the county such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this section.

State Law reference— Time computation, Wis. Stats. §§ 990.001(4), (12), 19.345; daylight saving time, Wis. Stats. § 175.095; state legal holidays, Wis. Stats. § 995.20.

Sec. 1-5. - Scope; applicability; jurisdiction.

Unless otherwise provided in this Code, this Code applies to acts performed within the corporate limits of the county. Provisions of this Code also apply to acts performed outside the corporate limits and up to the limits prescribed by law, where the law confers power on the county to regulate such particular acts outside the corporate limits.

Sec. 1-6. - Conflict of provisions.

(a) If the provisions of different chapters conflict with each other, the provisions of each chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

(c) If any of the provisions hereof conflict, and the conflict cannot be resolved by the application of subsection (a) or (b) of this section, the more stringent regulation shall apply and the specific provision shall prevail over the general.

Sec. 1-7. - Catchlines of sections.

The catchlines of the sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

State Law reference— Similar rule of construction for state code, Wis. Stats. § 990.001(6).

Sec. 1-8. - History notes, state law references, and editor's notes.

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

State Law reference— Similar rule of construction for state code, Wis. Stats. § 990.001(6).

Sec. 1-9. - References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified. Reference to any section of this Code shall be understood also to refer to and include the penalty section relating hereto, unless otherwise expressly provided.

Sec. 1-10. - Severability of provisions.

If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provision of these ordinances.

State Law reference— Severability, Wis. Stats. § 990.001(11).

Sec. 1-11. - Effective date.

(a) Code. This Code shall take effect from and after passage and publication as provided by state law.

(b) Subsequent ordinances. All ordinances passed by the county board subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

State Law reference— Similar provision regarding statutes, Wis. Stats. § 991.11.

Sec. 1-12. - Certain ordinances not affected by Code.

The adoption of this Code shall not act to repeal any ordinances, parts of ordinances, resolutions, or prior code provisions relating to the following subjects and not conflicting with the provisions of this Code, except that some of the following provisions may be amended by this Code:

(1) Salaries of public officials and employees;

(2) The creation or abolition of offices;

(3) The annexation of territory to the county;

(4) Releases of persons from liability;

(5) Contracts or rights created by resolution or county board action other than general ordinance;

(6) Naming of public property within the county;

(7) Tax and special assessment levies;

(8) Construction of public works;

(9) Budget ordinances, resolutions and actions;

(10) Issuance of corporate obligations by the county;

(11) Establishment of grades, curblines and widths of sidewalks, and the location of public streets and alleys; and

(12) Waterfront property lines and regulations.

State Law reference— Similar rule regarding construction of statutes, Wis. Stats. § 991.08.

Sec. 1-13. - Exclusion of special or temporary ordinances.

Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part hereof.

Sec. 1-14. - Code does not authorize existing use violations.

The adoption of this Code shall not be interpreted as authorizing or allowing any use or the continuance of any use of a structure or premises in violation of any ordinance of the county in effect on the date of adoption of this Code.

Sec. 1-15. - Effect of repeal.

The repeal or amendment of any provision of this Code or of any other ordinance or resolution of the county board shall not:

(1) Affect any rights, privileges, obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the county has expressly reserved the right to revoke such right, privilege, obligation or liability.

(2) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture which has arisen prior to the repeal or amendment of the relevant provision of any ordinance or resolution. The preceding sentence shall not preclude the application of a lesser penalty or forfeiture if the new amending or repealing provision contains such a lesser penalty or forfeiture. The procedure for prosecution of any violations of ordinances repealed or amended shall be conducted according to the procedure set forth in the new amending or repealing provision or other procedure currently in effect.

State Law reference— Effect of repeal, Wis. Stats. § 990.03.

Sec. 1-16. - Actions required to be by ordinance or resolution.

(a) Ordinance defined. As used herein, the term "ordinance" means an official legislative action of the county board, which action is a regulation of a general and permanent nature and enforceable as a local law. The following is a nonexclusive illustrative listing of actions which constitute ordinances under this definition:

(1) Actions that create, alter or abolish any county department, office or agency.

(2) Actions that provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations.

(3) Actions that appropriate funds or adopt a budget.

(4) Actions that grant, renew or extend franchises, or special permits or rights in public roads or public property, or close abandoned roads.

(5) Actions that authorize the borrowing of money or the issuance of bonds.

(6) Actions that levy taxes, assess property for improvements or establish charges for services. Except as provided in subsection (c) of this section, the provisions of this Code shall be considered ordinances.

(b) Resolution. As used herein, the term "resolution" means an expression of the county board concerning matters of administration, an expression of a temporary character or a provision for the disposition of a particular item of the administrative business of the county board.

(c) Form for board action. Unless specifically required otherwise by state law or specifically authorized by the county board no action that is defined in this section to be an ordinance shall be taken by the county board except by ordinance and no action that is defined in this section to be a resolution shall be taken by the county board except by resolution.

Sec. 1-17. - Publication of ordinances.

(a) Publication or notice required. Whenever a board enacts an ordinance, the county clerk shall immediately publish the ordinance either in its entirety as a class 1 notice under Wis. Stats. ch. 985 or as a notice as described in this section.

(b) Form of notice. A notice of the adoption of an ordinance may be published under this subsection in lieu of publication of the entire ordinance. Such notices shall be published as class 1 notices under Wis. Stats. ch. 985 and shall contain at least all of the following:

(1) The number and title of the ordinance.

(2) The date of enactment.

(3) A summary of the subject matter and main points of the ordinance, which must be a brief, precise and plain language description that can be easily understood.

(4) Information as to where the full text of the ordinance may be obtained, including the phone number of the county clerk, a street address where the full text of the ordinance may be viewed, and a website, if any, at which the ordinance may be accessed.

(c) Distribution of copies to town clerks. The clerk shall procure and distribute copies of the ordinance to the several town clerks, who shall file it in their respective offices.

State Law reference— Similar provision, Wis. Stats. § 59.14.

Sec. 1-18. - Publication of proceedings and public notices.

(a) The board shall, by ordinance or resolution, provide for publication in one or more newspapers in the county as a class 1 notice under Wis. Stats. ch. 985, a certified copy of all its proceedings had at any meeting, regular or special, said publication to be completed within 60 days after the adjournment of each session.

(b) The board may at any meeting, regular or special, provide by resolution for the publication in pamphlet form by the lowest and best bidder therefor, of a sufficient and designated number of copies of its duly certified proceedings, for general distribution.

(c) The board may order public notices relating to tax redemption and other affairs of the county to be published in a newspaper printed in any other than the English language, to be designated in such order, whenever the board considers it necessary for the better information of the inhabitants of the county, and it shall appear from the last previous census that one-fourth or more of the adult population of the county is of a nationality not speaking the English language, and that there shall have been a newspaper published in the county continuously for one year or more in the language spoken by that nationality; but all of the notices shall also be published in a newspaper published in the English language as provided by law.

(d) The compensation for all of the publications shall be paid by the county and shall be the same as that prescribed by law for publication in the English language; and no extra charge shall be allowed for translation in any case.

(e) No irregularity, mistake or informality in any such publication shall affect the validity or regularity of any tax redemptions or other legal proceedings.

State Law reference— Similar provision, Wis. Stats. § 59.14.

Sec. 1-19. - Amendments; language of amendments; new material.

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion of a chapter, article, division, section or subsection, such repealed portions may be excluded from the Code by omission from affected reprinted pages; and the subsequent ordinances, as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the county board.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances, Clark County, Wisconsin, is hereby amended to read as follows:…." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Clark County, Wisconsin, is amended by adding a section to be numbered _____, which section reads as follows:…." The new section may then be set out in full as desired.

(d) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-20. - Effect of amendments to Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the county board to make the addition or amendment a part of this Code, shall be deemed to be incorporated in this Code so that reference to the county's Code shall be understood and intended to include such additions and amendments.

Sec. 1-21. - Supplementation of Code.

(a) By contract or by county personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the county board. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the county board during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency, or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the Code printed in the supplement and make changes in the catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections or the alphabetical arrangement of new chapters inserted into the Code.

(d) In no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-22. - Clerk to maintain Code and documents incorporated by reference.

(a) County Code of Ordinances. Copies of this Code shall be kept available at the county clerk's office for public inspection.

(b) Material adopted by reference. Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the county clerk shall maintain in his office a copy of any such material as adopted and as amended from time to time.

(c) Open public records. Materials on file at the county clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the county clerk, subject to such restrictions on examination as the clerk imposes for the preservation of the materials.

Sec. 1-23. - Responsibility of personnel for assigned copies of Code.

Each county official or employee assigned a copy of this Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each such copy shall remain the property of the county and shall be turned over by the official or employee having custody thereof, upon expiration of his term of office or employment, to his successor or to the county clerk, in case he shall have no successor.

Sec. 1-24. - Tampering with code or other public documents and notices.

(a) It is unlawful and a violation of this Code, punishable as set forth in this chapter, for any person, with intent to injure or defraud, to destroy, damage, remove, or conceal, any public record of the county, including, but not limited to, this Code.

(b) It is unlawful and a violation of this Code, punishable as set forth in this chapter, for any person to intentionally damage, alter, remove, or conceal any public notice, posted as authorized by law, before the expiration of the time for which the notice was posted.

State Law reference— Similar provision, Wis. Stats. § 946.72; publication of legal notices, public newspapers, and fees, Wis. Stats. § 985.01 et seq.

Sec. 1-25. - General penalty.

(a) Generally. Except where a penalty is provided elsewhere in this Code or mandated by state law, or set forth in the schedule of forfeitures adopted from time to time by the county board, any person over the age of 17 years who shall violate any of the sections of this Code shall, upon conviction of such violation, be subject to a penalty, as follows:

(1) First offense. For a violation of any provision of this Code which adopts a state law by reference, and unless otherwise provided by the statute adopted, the forfeiture shall be the same as the forfeiture for violation of the statute. For a violation of any other provision of this Code, the forfeiture shall be not less than $100.00 nor more than $500.00. In either case, the person shall pay the costs of prosecution and a penalty assessment pursuant to Wis. Stats. § 757.05(1) where required for each offense.

(2) Second and subsequent offenses. In any case where an ordinance of the county does not provide for a second or subsequent violation, the person violating the ordinance for a second or subsequent time shall be subject to a forfeiture of not less than $150.00 nor more than $1,000.00 for each violation, together with the costs of prosecution and a penalty assessment pursuant to Wis. Stats. § 757.05(1) where required, except if the penalty expressly provided for the first violation of the ordinance exceeds $150.00, then that larger penalty shall be applicable to second and subsequent violations.

(b) Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the county from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) Execution against defendant's property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the county, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(d) Injunctive remedies. In addition to any other penalty imposed under this section or any other penalty section of this Code, the county may institute an action or proceeding to enjoin any violation; such violation or any nonpayment of any forfeiture and costs shall constitute the basis for revocation or denial of any and all licenses and permits wherein the county is the issuing authority.

(e) Suspension of defendant's driver's license. The court may suspend the defendant's operating privilege, as defined in Wis. Stats. § 340.01(40), until restitution is made and the forfeiture, assessments and costs are paid. If the defendant has not done so within 60 days after the date the restitution or payments, or both, are to be made and has not notified the court that he is unable to comply with the judgment, as provided under Wis. Stats. § 800.095(4)(a), except that the suspension period may not exceed two years, the court shall take possession of the suspended license and shall forward the license, along with a notice of the suspension, clearly stating that the suspension is for failure to comply with a judgment of the court, to the department of transportation. This subsection does not apply if the forfeiture is assessed for violation of an ordinance that is unrelated to the violator's operation of a motor vehicle.

(f) Court authority to impose alternative juvenile dispositions and sanctions.

(1) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in Wis. Stats. §§ 938.343 and 938.344 in accordance with the provisions of those statutes.

(2) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under Wis. Stats. §§ 938.343 and 938.344, the municipal court is authorized to impose any of the sanctions listed in Wis. Stats. § 938.355(6)(d) in accordance with the provisions of those statutes.

(g) Abatement of nuisances. In addition to all penalties and remedies provided in this section, the county shall have the right to abate any public nuisance, as provided in section 1-30 and by state law, and to recover permissible costs therefor.

(h) Other remedies. The county shall have any and all other legal and equitable remedies afforded by state law in addition to those specifically enumerated in this chapter.

(i) Time of payment. Any forfeiture and costs imposed as a penalty pursuant to this section or any penalty provision of this Code shall be payable forthwith if so ordered by the court; however, the court may, in its discretion, allow reasonable time for payment or reasonable payment plans, considering the defendant's ability to pay, and the court shall allow any time for payment or payment plan as provided for by any state law applicable at the time of imposition of the forfeiture.

(j) Failure to pay forfeiture or costs. Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the county, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs, or proceed with any of the remedies afforded by Wis. Stats. §§ 66.0114, 345.47, 800.09 and 800.095.

State Law reference— Penalty for violation of ordinances, Wis. Stats. § 66.0109; bail generally, Wis. Stats. § 66.0417; outstanding unpaid forfeitures, Wis. Stats. § 66.0115; actions for violations of municipal ordinances, Wis. Stats. § 66.0114; juvenile Justice code, Wis. Stats. § 938.01 et seq.; juvenile courts, Wis. Stats. § 48.03 et seq.; disposition in juvenile cases, Wis. Stats. § 48.33; penalties applicable to Class A, B and C misdemeanors, Wis. Stats. § 939.51.

Sec. 1-26. - Abatement of nuisances.

(a) Nuisances defined. For purposes of this section, the term "nuisances" includes all acts or omissions defined in this Code or by state law as public nuisances including, but not limited to, those acts enumerated in Wis. Stats. § 823.01 et seq.

(b) Remedy to include injunction. In addition to all other penalties and remedies under this section, the county may, at its election proceed to abate any condition that constitutes a public nuisance, including seeking injunction against the nuisance as provided in Wis. Stats. § 823.02.

(c) Enforcement. The inspection officials designated by the county board shall enforce those provisions of this Code that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the

designated officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(d) Summary abatement. If the inspecting officer shall determine that a public nuisance exists within the county and that there is great and immediate danger to the public health, safety, peace, morals or decency, the chair may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(e) Abatement after notice. If the inspecting officer shall determine that public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within at least ten days. If such nuisance is not removed within such time period, the proper officer shall cause the nuisance to be removed in the same manner as summary abatement.

(f) Other methods not excluded. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the county or its officials in accordance with state law.

(g) Costs of abatement. In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the county shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge. In addition, pursuant to Wis. Stats. §§ 823.06, 823.114, and 823.115, the county may, sell real and personal property as provided by law, and apply the proceeds to pay the expenses of abatement, paying the residue, if any, to the violator.

Sec. 1-27. - Responsibility for acts; aiding and abetting.

Every person concerned in the commission of any act prohibited by this Code, whether he directly commits the act or prosecutes, counsels, aids or abets in its commission, may be prosecuted and, upon conviction, is punishable as if he had directly committed such act.

Sec. 1-28. - Failure of officers to perform duties.

The failure of any officer or employee of the county to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code unless a penalty is specifically provided for such act or omission.

Sec. 1-29. - State uniform municipal citation adopted.

The county adopts the Wisconsin Uniform Municipal Citation and authorizes its use for violation of county ordinances including ordinances for which a statutory counterpart exists. A copy of the adopted state uniform municipal citation is on file in the office of the county clerk.

(Compiled Ords. of 2009, § 1.16.010)

Sec. 1-30. - Bond schedule.

(a) The bond schedule for all ordinances that have statutory counterparts shall be the same as the bond schedule for the statutory counterpart as listed in the State of Wisconsin Revised Uniform State Traffic Deposit Schedule and Alcohol Beverages, Harassment and Safety Violations Deposit Schedule and a Uniform Misdemeanor Bail Schedule and Trespass to

Land Deposit Schedule which is established pursuant to Wis. Stats. §§ 345.26(2)(a), 778.25(3), and 778.26(3), adopted by the Wisconsin Judicial Conference, and any future amendments thereto.

(b) The bond schedule for ordinances which do not have a state statutory counterpart shall be not more than $140.00 plus a penalty assessment, court costs, a jail assessment, and an automation fee.

(c) Any future amendments to the state statutory penalty assessment, court costs, jail assessment, or automation fee will also hereby be adopted. However, the standard deposit for parking illegally, except as otherwise specifically provided herein, shall be $10.00, plus a $1.90 penalty assessment, $10.00 for court costs, a $10.00 jail assessment, and a $1.00 automation fee for a total of $32.90.

(d) A first offender's violation of section 26-272, disorderly conduct with a motor vehicle, shall be $50.00, plus a $9.50 penalty assessment, $10.00 for court costs, a $10.00 jail assessment, and a $1.00 automation fee for a total of $80.50.

(e) All other ordinances shall have the standard bond deposit of $140.00.

(Compiled Ords. of 2009, § 1.16.020)

Chapter 2 - ADMINISTRATION

State Law reference— Counties generally, Wis. Stats. § 59.001 et seq.; home rule for counties, Wis. Stats. § 59.03; county boards of supervisors, Wis. Stats. § 59.10 et seq.; county officers, Wis. Stats. § 59.17 et seq.; county administration, Wis. Stats. § 59.52; county finance and budget, Wis. Stats. § 59.60 et seq.; county and city finances and revenues, Wis. Stats. § 66.0601 et seq.; county civil service, Wis. Stats. § 63.01 et seq.; county and city officers and employees, Wis. Stats. § 66.0501 et seq.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Creation of county.

The county was created by act of the state legislature signed by the then state governor on July 6, 1853, and has been in continuous existence since that date.

Secs. 2-2—2-20. - Reserved.

ARTICLE II. - BOARD OF SUPERVISORS

State Law reference— County boards of supervisors, Wis. Stats. § 59.10; powers of county boards, Wis. Stats. § 59.51 et seq.; removal of members of county boards of supervisors, Wis. Stats. § 17.14; definitions related to county board and county officials, Wis. Stats. § 59.001.

Sec. 2-21. - Number of districts and elected supervisors.

The county consists of 29 districts and the board of supervisors consists of 29 elected supervisors, one from each district.

State Law reference— County boards, Wis. Stats. § 59.10.

Sec. 2-22. - Rules and regulations.

The rules and regulations of the county's governing bodies are on file in the office of the county clerk and are available on the county's website.

Sec. 2-23. – Self-organized.

Pursuant to Wis. Stat. 59.10, the Clark County Board of Supervisors elects to be self-organized with the authority to act, among other laws, pursuant to Wis. Stat. 59.10(1).

Secs. 2-24 —2-47. - Reserved.

ARTICLE III. - BOARDS, COMMITTEES AND COMMISSIONS

State Law reference— Appointment and compensation of board committees, Wis. Stats. § 59.13.

Sec. 2-48. - Boards, committees and commissions.

The structure and duties of the county's governing bodies are on file in the office of the county clerk and are available on the county's website.

Secs. 2-49—2-67. - Reserved.

ARTICLE IV. - OFFICERS AND EMPLOYEES

State Law reference— County officers generally, Wis. Stats. § 59.17 et seq.; compatibility of service in more than one county office, Wis. Stats. § 59.10; county civil service, Wis. Stats. § 63.01 et seq.; resignations, vacancies and removals from office, Wis. Stats. § 17.001 et seq.

Sec. 2-68. - Officers and department heads to act to preserve records.

It shall be the duty of every county officer and department head to take immediate steps towards the preservation of all records which he is bound by law to keep, preferable by having the records microfilmed by the county microfilm and photostat department, following the procedure of the present program of microfilming county records.

(Compiled Ords. of 2009, § 2.44.270)

State Law reference— Custodians of public records, delegation, Wis. Stats. §§ 19.21(1), 19.33.

Sec. 2-69. - Highway commissioners; term of office.

The highway commissioner shall upon first election serve until the first Monday in January of the second year succeeding the year of his election. If reelected the commissioner shall serve at the pleasure of the board of supervisors for an indefinite period.

(Compiled Ords. of 2009, § 2.14.020)

State Law reference— County offices and officers, Wis. Stats. § 59.20; county highway commissioners, Wis. Stats. § 83.01; filling of vacancies in officer of county highway commissioner, Wis. Stats. § 17.22.

Sec. 2-70. - Bonds.

The following bonds and bond amounts are as required by Wis. Stats. § 59.21, as that section may be revised or renumbered:

(1) Abstractor's bond: $5,000.00 with two or more sureties.

(2) Clerk of circuit court's bond: Not less than $5,000.00 with two or more sureties.

(3) Coroner's bond: Not less than $500.00 nor more than $10,000.00 with not less than two sureties.

(4) Register of deeds bond: $3,000.00 with two or more sureties.

(5) Surveyor's bond: $5,000.00.

(6) Treasurer's bond: Not less than the amount nor exceeding twice the amount of all taxes directed to be levied by the county board and received by the treasurer next year, with three or more sureties, or, if furnished by a surety company, not less than ten percent of all taxes directed by the county board to be levied therein and to be received by the treasurer during the ensuing year or $500,000.00, whichever is the smaller.

(7) Highway commissioner's bond: $3,000.00.

(8) Veteran service commissioner's bond: $5,000.00.

(9) Sheriff's bond: Not less than $5,000.00 nor more than $25,000.00, with not less than three sureties.

(10) Clerk: Not less than $2,000.00.

(Compiled Ords. of 2009, §§ 2.48.020, 2.48.050, 2.48.060, 2.48.150, 2.48.180, 2.48.200)

State Law reference— Official oaths and bonds, Wis. Stats. § 59.21.

Sec. 2-71. - Code of ethics ordinance.

Therefore be it ordained by the Clark County Board of Supervisors, that Ordinance 201-8-11, creating Code of Ethics Ordinance, be created as attached.

(Ord. No. 201-8-11, 10-3-2011)

Editor's note— The Clark County Office of Personnel has decided to draft an ordinance regarding a code of ethics for public officials and employees as authorized under Wis. Stats., ch. 19. The code of ethics ordinance has been adopted by reference in its entirety. A complete copy of said ordinance is available at the offices of the county clerk for inspection by the public at all times during normal business hours.

Secs. 2-72—2-98. - Reserved.

ARTICLE V. - DEPARTMENTS

DIVISION 1. - GENERALLY

Sec. 2-99. - Departmental organization.

The administrative service of the county shall be divided into such departments as may be established from time to time by the county board. The county administrative coordinator shall appoint a director or head of each department or agency who shall be its principal officer.

Sec. 2-100. - Department heads.

Each department head shall be responsible for the administration and direction of the affairs and operations of his department or agency, subject to the direction and supervision of the administrative coordinator. Each such department head shall:

(1) Be immediately responsible to the administrative coordinator for the effective administration of his respective department and all activities assigned thereto;

(2) Keep informed as to the latest practices in his particular field and inaugurate, with the approval of the administrative coordinator, such new practices as appear to be of benefit to the service and to the public;

(3) Submit annual reports of the activities of his respective department to the county administrative coordinator;

(4) Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the county administrative coordinator;

(5) Have power, when authorized by the county administrative coordinator, to appoint and remove, subject to personnel regulations, all subordinates under him; and

(6) Be responsible for the proper maintenance of all county property and equipment used in his respective departments.

Sec. 2-101. - Intradepartmental cooperation.

Each department shall cooperate with every other department and shall furnish, upon the direction of the administrative coordinator, any other department such service, labor, and materials as may be requisitioned by the head of each department, as its own facilities permit.

Secs. 2-102—2-130. - Reserved.

DIVISION 2. - RESERVED

Editor's note—Res. No. 26-7-13, adopted July 25, 2013, repealed art. V, div. 2, §§ 2-131—2-135, which pertained to residency requirement and derived from Ord. No. 192-02-10, §§ 2.90.010—2.90.50.

Secs. 2-131—2-158. - Reserved.

ARTICLE VI. - SOCIAL SERVICES ADMINISTRATION

State Law reference— Social services generally, Wis. Stats. § 46.001 et seq.; county social service and mental hygiene budget and contract, Wis. Stats. § 46.031; establishment, approval and inspection of county social services buildings, Wis. Stats. § 46.17; minimum standards for county institutions, Wis. Stats. § 46.175; offices and employees of county institutions, Wis. Stats.

§ 46.19; county social services generally, Wis. Stats. § 46.22; public assistance and children and family services generally, Wis. Stats. § 49.001 et seq.; children's code, Wis. Stats. § 48.01 et seq.

DIVISION 1. - GENERALLY

Sec. 2-159. - Social services board.

The county social services board shall consist of five residents of the county. The members of such social services board shall be elected by the county board on the basis of knowledge and interest in public welfare. The members of the social services board shall hold office for a term of two years. The compensation of such members shall be the same per diem and mileage allowance as paid the county board members.

(Compiled Ords. of 2009, § 2.36.010)

State Law reference— County social services boards, Wis. Stats. § 46.22(1m).

Secs. 2-160—2-186. - Reserved.

DIVISION 2. - SOCIAL SERVICES DEPARTMENT

Sec. 2-187. - Functions, powers and duties.

In addition to the mandatory functions, duties and powers of the department of social services established by Wis. Stats. § 46.22(4), the department of social services shall have the following functions, duties and powers:

(1) Institutional admissions and releases. To make investigations, in cooperation with the court, institution superintendent, district attorney and other agencies and officials operating in the welfare field, regarding admissions to and release (or conditional release) from the following county and state institutions:

   a. County institutions. County infirmary, home, hospital (for mental diseases, tuberculosis or otherwise) or asylum.

   b. State institutions. Mendota State Hospital, Winnebago State Hospital, Wisconsin General Hospital, Wisconsin Orthopedic Hospital for Children, Southern Colony and Training School, Northern Colony and Training School, Central State Hospital, Wisconsin School for Boys and Wisconsin School for Girls. The provisions of this subsection shall not be construed to authorize the department of social services to make investigations regarding admission to or release from the Wisconsin State Prison, the Wisconsin State Reformatory, the Wisconsin Home for Women, county houses of correction, jails, detention homes or reforestation camps.

(2) Relief administration. To administer relief under Wis. Stats. § 49.02.

(3) Court-ordered investigations. To make investigations which are provided for under Wis. Stats. § 54.01 if the court having jurisdiction so directs.

(4) Juvenile probation. To perform juvenile intake duties and functions as defined in Wis. Stats. § 48.03 when requested to do so by the juvenile judge of the county.

(5) Family or personal services. To furnish services to families or person, other than the granting of financial or material aid, where such services may prevent such families or persons from becoming public charges or restore them to a condition of self-support.

(6) Eligibility determination. To make certification or referral of eligibles for state or federal works or other assistance programs, eligibility for which is based on need, when designated to perform such certification or referral services, and to certify eligibility for and distribute surplus commodities and foodstuffs.

(7) Child welfare administration. To administer child welfare services, including services to children who are mentally defective, dependent, neglected, delinquent or illegitimate, and to other children who are in need to such services. The authority given to the department of social services under this subsection to function as an authorized child welfare agency shall not be interpreted as excluding agencies licensed pursuant to Wis. Stats. § 48.60 from also exercising such functions.

(Compiled Ords. of 2009, § 2.36.020)

State Law reference— County departments of social services, Wis. Stats. § 46.22(1).

Sec. 2-188. - Merit system; personnel examinations.

The provisions of Wis. Stats. § 49.78(4) through (7) shall be applicable to the department of social services as authorized by Wis. Stats. § 49.22. Such merit system status as any county employee may have on the original effective date of Wis. Stats. § 49.22 shall not be deemed changed or interrupted by the provisions hereof; provided, that any department employee performing children's services on that effective date becoming subject to the provisions of Wis. Stats. § 49.78(4) through (7) shall be admitted to a merit system examination pursuant to Wis. Stats. § 49.78(4) through (7) regardless of the minimum qualifications established for such position.

(Compiled Ords. of 2009, § 2.36.090)

Sec. 2-189. - To set salaries under merit system.

The setting of salaries under the merit system shall be placed under the department of social services set up and made a part of the ordinance from which this section is derived (originally adopted in 1953), especially section 2-188 and this section, enacted pursuant to authority granted by Wis. Stats. § 49.22 to the end that quicker action can be had for obtaining the needed personnel.

(Compiled Ords. of 2009, § 2.36.100)

Sec. 2-190. - Employees to comply with state law; records and reports.

The department of social services and all county officers and employees performing any duties in connection with the administration of aid to the blind, old-aged assistance, all rules and regulations promulgated by the department pursuant to Wis. Stats. § 49.78(4) shall keep such records and furnish such reports as the department requires in relation to their performance of such duties.

(Compiled Ords. of 2009, § 2.36.110)

Secs. 2-191—2-218. - Reserved.

DIVISION 3. - CHILD WELFARE SERVICES

Sec. 2-219. - Governing provisions designated.

In administering child welfare services, the department shall be governed by the provisions set out in this division.

(Compiled Ords. of 2009, § 2.36.030)

Sec. 2-220. - Cooperation with individuals, agencies or organizations.

The department may avail itself of the cooperation of any individual or private agency or organization interested in the social welfare of children in the county.

(Compiled Ords. of 2009, § 2.36.040)

Sec. 2-221. - Expenditures.

The department shall administer and expend such amounts as may be necessary out of any moneys which may be appropriated for child welfare purposes by the county board or donated by individuals or private organizations.

(Compiled Ords. of 2009, § 2.36.050)

Sec. 2-222. - Investigations; guidance and supervision of juvenile court probationers.

Upon the request of the judge of the juvenile court, the department shall investigate the home environment and other factors in the life of any child brought to the attention of the court for alleged dependency, neglect or delinquency, and assume guidance and supervision of any child placed on probation by such court.

(Compiled Ords. of 2009, § 2.36.060)

Sec. 2-223. - Oversight of juveniles from state institutions.

Upon the request of the state department of social services and under its direction, the county department shall assume the oversight of any juvenile under parole from or otherwise subject to the supervision of any state institution.

(Compiled Ords. of 2009, § 2.36.070)

Sec. 2-224. - Additional powers and duties under statutes; restrictions on authority.

The department shall, without being licensed pursuant to Wis. Stats. § 48.37(2) have and exercise any additional powers and duties that are authorized for child welfare agencies under Wis. Stats. §§ 48.35 through 48.375; except that the department of social services shall not have

authority to accept permanent care, custody and control of any child, to place children for adoption or to place children in foster homes in another state.

(Compiled Ords. of 2009, § 2.36.080)

Secs. 2-225—2-241. - Reserved.

ARTICLE VII. - FINANCE

State Law reference— County finance and budget, Wis. Stats. § 59.60 et seq.

DIVISION 1. - GENERALLY

Sec. 2-242. - Fiscal year.

The fiscal year of the county shall be from January 1 through December 31.

State Law reference— County fiscal year, Wis. Stats. § 59.23(2)(h).

Sec. 2-243. - Authority to collateralize investments; institutions within county preferred for deposits.

Efforts will be made to make deposits of public funds in financial institutions within the county; however, should the need arise, such public funds may have to be deposited outside the county but within the state.

(Compiled Ords. of 2009, § 3.12.080)

Sec. 2-244. - Fees established by resolution; fee schedule.

Fees for permits, licenses, and other county services shall be as established from time to time by resolution or ordinance, as required by law, of the county board and set forth in the county fee schedule, a copy of which is available in the office of the county clerk and on the county's website.

Secs. 2-245—2-266. - Reserved.

DIVISION 2. - INSURANCE

State Law reference— Authority of board with regarding to liability, property damage, fire and casualty and employee insurance, Wis. Stats. § 59.52(11).

Sec. 2-267. - Liability and property damage insurance required.

The county shall carry public liability and property damage insurance, either in commercial companies or by self-insurance created by setting up an annual fund for such purpose, covering, without exclusion because of enumeration, motor vehicles; malfeasance of professional employees; maintenance and operation of county highways, county parks, parkways, or airports; and any other county activities involving possibility of damage to the general public.

(Compiled Ords. of 2009, § 2.52.010)

State Law reference— County liability and property damage insurance, Wis. Stats. § 59.52(11)(a).

Sec. 2-268. - County building insurance required.

The county shall cause all county buildings to be insured in the name and for the benefit of the county.

(Compiled Ords. of 2009, § 2.52.020)

Secs. 2-269—2-299. - Reserved.

DIVISION 3. - IDENTITY THEFT PREVENTION PROGRAM

Sec. 2-300. - Definitions.

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

Covered account means:

(1) An account that a creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and

(2) Any other account that the creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

Creditor means any person or entity who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies. For the purposes of this division, the county is a creditor.

Customer means a person that has a covered account with a creditor.

Department head means any department head who works at the discretion of the board of supervisors, any elected official, and any individual appointed to manage a department on a permanent or temporary basis.

Identity theft means a fraud committed or attempted using the identifying information of another person without authority.

Notice of address discrepancy means a notice sent to the county by a consumer reporting agency pursuant to 15 USC 1681(c)(h)(1), that informs the county of a substantial difference between the address for the consumer that the county provided to request the consumer report and the address in the agency's file for the consumer.

Personal identifying information means a person's credit card account information, debit card information, and bank account information and for a natural person includes their social security number, mother's birth name, drivers' license information and date of birth.

Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

Service provider means a person that provides a service directly to the county.

Sec. 2-301. - Purpose; alternate designation of division.

(a) The purpose of this division is to comply with 16 CFR 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft. Pursuant to 16 CFR 681.1, the purpose of this division is also to establish a process by which the county will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the county has received a notice of address discrepancy.

(b) This division may be referred to as the county's identity theft prevention program or ITTP.

Sec. 2-302. - Findings.

The board of supervisors has found as follows:

(1) The county is a creditor pursuant to 16 CFR 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears. Covered accounts offered to customers for the provision of county services include water, sewer, solid waste, and stormwater.

(2) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, and making payments for property taxes and other services have been identified as potential processes in which identity theft could occur.

(3) The county limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts.

(4) The county determines that there is a low risk of identity theft occurring in the following ways, (if any):

a. Use by an applicant of another person's personal identifying information to establish a new covered account;

b. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;

c. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts; and

d. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

Sec. 2-303. - Process of establishing a covered account.

(a) As a precondition to opening a covered account with the county, each applicant shall provide the county with personal identifying information of the customer in the form of a

valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account with written confirmation of being the authorized agent for the entity. The applicant shall also provide any other information necessary for the department providing the service for which the covered account is created. The information shall be entered directly into the county's records system and held in a secure storage area with access limited to those county personnel with the need to know.

(b) For each customer account for which the county may now or hereafter provide individual customer access to the customer's account information, such account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The county may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

Sec. 2-304. - Password required for access to covered account information.

Access to any customer account that includes personal identifying information shall be password protected and shall be limited to authorized county personnel. Passwords shall be changed by the head of the department providing the service for which the covered account is created, or by such other county employee authorized to carry out the provisions of this division, on a regular basis. The password shall be at least eight characters in length and shall contain letters, numbers and symbols.

Sec. 2-305. - Report of unauthorized access.

Any unauthorized access to or other breach of customer accounts is to be reported immediately to the appropriate department head and the password changed immediately.

Sec. 2-306. - Customer information confidential; report of requests for access.

Personal identifying information included in customer accounts is considered confidential and any request or demand that specifically asks for such information shall be immediately forwarded to the applicable department head or other person authorized by the board of supervisors to carry out the provisions of this division.

Sec. 2-307. - Credit card payments.

(a) In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.

(b) All credit card payments made over the telephone or the county's website shall be entered directly into the customer's account information in the computer data base.

(c) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Sec. 2-308. - Sources and types of red flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

(1) Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:

a. A fraud or active duty alert that is included with a consumer report;

b. A notice of credit freeze in response to a request for a consumer report, or a notice of address discrepancy provided by a consumer reporting agency;

c. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as a recent and significant increase in the volume of inquiries, an unusual number of recently established credit relationships, a material change in the use of credit, especially with respect to recently established credit relationships, or an account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(2) Suspicious documents. Examples of suspicious documents include:

a. Documents provided for identification that appear to be altered or forged;

b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;

c. Identification on which the information is inconsistent with information provided by the applicant or customer;

d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or

e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.

(3) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:

a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor, such as instances in which the address does not match any address in the consumer report or the social security number (SSN) has not been issued, or is listed on the social security administration's death master file.

b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.

c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.

d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.

e. The SSN provided is the same as that submitted by other applicants or customers.

f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.

g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.

i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(4) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:

a. Shortly following the notice of a change of address for an account, the county receives a request for the addition of authorized users on the account.

b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns as in instances where the customer fails to make the first payment or makes an initial payment but no subsequent payments.

c. An account is used in a manner that is not consistent with established patterns of activity on the account, such as instances where there is nonpayment when there is no history of late or missed payments or a material change in purchasing or spending patterns.

d. An account that has been inactive for a long period of time is used, taking into consideration the type of account, the expected pattern of usage and other relevant factors.

e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.

f. The county is notified that the customer is not receiving paper account statements.

g. The county is notified of unauthorized charges or transactions in connection with a customer's account.

h. The county is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.

(5) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Sec. 2-309. - Procedure regarding existing covered accounts.

(a) In the event that any county employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall implement the procedural policy prescribed by the department head, including, but not limited to, the procedure provided in this section, to determine whether such red flag or combination of red flags suggests a threat of identity theft.

(b) If, in his discretion, the employee determines that identity theft or attempted identity theft is likely or probable, the employee shall immediately report such red flags to his department head.

(c) If, in his discretion, the employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to his department head, who may in his discretion determine that no further action is necessary.

(d) In either event, the employee shall provide a memorandum, in the form prescribed by the department head, to the department heading detailing the red flag issue, all actions taken by the employee as a result of the issue, and the conclusions reached by the employee.

(e) If the department head in his discretion determines that further action is necessary, a county employee shall perform one or more of the following responses, as determined to be appropriate by the department head:

(1) Contact the customer;

(2) If, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account, change any account numbers, passwords, security codes, or other security devices that permit access to an account; or close the account;

(3) Cease attempts to collect additional charges from the customer for the covered account in question and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;

(4) Notify a debt collector within 24 hours of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;

(5) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or

(6) Take other appropriate action as determined by the department head to prevent or mitigate identity theft and provide a detailed report of the issue, the actions taken by the employee and the department head, and the conclusions reached.

Sec. 2-310. - Procedure regarding new covered accounts.

(a) In the event that any county employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, the employee shall implement the procedural policy prescribed by the department head, including, but not limited to, the procedure provided in this section, to determine whether such red flag or combination of red flags suggests a threat of identity theft.

(b) If the employee determines that identity theft or attempted identity theft is likely or probable, the employee shall immediately report such red flags to his department head.

(c) If the employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to his department head, who may in his discretion determine that no further action is necessary.

(d) In either event, the employee shall provide a memorandum, in the form prescribed by the department head, to the department heading detailing the red flag issue, all actions taken by the employee as a result of the issue, and the conclusions reached by the employee.

(e) If the department head in his discretion determines that further action is necessary, a county employee shall perform one or more of the following responses, as determined to be appropriate by the department head:

(1) Request additional identifying information from the applicant;

(2) Deny the application for the new account;

(3) Notify law enforcement of possible identity theft; or

(4) Take other appropriate action as determined by the department head to prevent or mitigate identity theft and provide a detailed report of the issue, the actions taken by the employee and the department head, and the conclusions reached.

Sec. 2-311. - Updating the program.

The corporation counsel shall annually review this division and, if deemed necessary, recommend to the county board changes with regard to any needed amendments, including amendments of the designation of red flags, in order to reflect changes in risks to customers or to the safety and soundness of the county and its covered accounts from identity theft. In so doing, the board of supervisors shall consider the following factors and exercise its discretion in amending the program:

(1) The county's experiences with identity theft;

(2) Updates in methods of identity theft;

(3) Updates in customary methods used to detect, prevent, and mitigate identity theft;

(4) Updates in the types of accounts that the county offers or maintains; and

(5) Updates in service provider arrangements.

Sec. 2-312. - Program administration.

(a) The corporation counsel is responsible for oversight of the program and for program implementation, including, but not limited to reviewing reports prepared by staff regarding compliance with red flag requirements and with making material changes to the program, as necessary in the opinion of the board of supervisors, to address changing identity theft risks and to identify new or discontinued types of covered accounts.

(b) Department heads shall report to the chair of the county board of supervisors, who shall report to the board of supervisors at least annually, on compliance with the red flag requirements. The department head reports will address material matters related to the program and evaluate issues such as:

(1) The effectiveness of the policies and procedures of the county in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;

(2) Service provider arrangements;

(3) Significant incidents involving identity theft and management's response; and

(4) Recommendations for material amendments of this division.

(c) The county's department heads, under the supervision of the chair of the county board of supervisors, are responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or

accepting payment for a covered account with respect to the implementation and requirements of this division.

Sec. 2-313. - Outside service providers.

In the event that the county engages a service provider to perform an activity in connection with one or more covered accounts, the applicable department head, under the supervision of the chair of the board of supervisors, shall exercise his discretion in reviewing such arrangements in order to ensure, to the best of his ability, that the service provider's activities are conducted in accordance with the policies and procedures in this division, as agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Sec. 2-314. - Annual report to board of supervisors.

An annual report will be submitted to the board of supervisors on such annual date as is established by the board of supervisors. The report shall be submitted by the chair of the county board of supervisors and will include a summary of department head reports and recommendations for any amendment to this division. The annual report will be prepared by the clerk or such other person as may be designated by the board of supervisors.

Sec. 2-315. - Treatment of address discrepancies.

In the event that the county receives a notice of address discrepancy, the county employee responsible for verifying consumer addresses for the purpose of providing the county service or account sought by the consumer shall verify the information in the consumer report with the consumer or compare the information in the consumer report with:

(1) Information the county obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 USC 5318(l);

(2) Information the county maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or

(3) Information the county obtains from third-party sources that are deemed reliable by the relevant county employee.

Sec. 2-316. - Furnishing consumer's address to consumer reporting agency.

(a) In the event that the county reasonably confirms that an address provided by a consumer to the county is accurate, the county is required to provide such address to the consumer reporting agency from which the county received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:

(1) The county is able to form a reasonable belief that the consumer report relates to the consumer about whom the county requested the report;

(2) The county establishes a continuing relation with the consumer; and

(3) The county regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.

(b) Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the county to such agency for the reporting period in which the county establishes a relationship with the customer.

Sec. 2-317. - Methods of confirming consumer addresses.

The county employee charged with confirming consumer addresses may, in his discretion, confirm the accuracy of an address through verifying the address with the consumer, reviewing the county's records to verify the consumer's address, verifying the address through third-party sources, or using other reasonable processes.

Secs. 2-318—2-337. - Reserved.

ARTICLE VIII. - ADMINISTRATIVE REVIEW

State Law reference— Municipal administrative review procedure, Wis. Stats. § 68.001 et seq.

DIVISION 1. - GENERALLY

Sec. 2-338. - State law adopted; exception.

In order to ensure fair play and due process in the administration of the affairs, ordinances, resolutions and bylaws of the county, the governing body thereof declares that the provisions of Wis. Stats. § 68-001 et seq. relating to municipal administrative review procedure shall be in full force and effect in the county, except as provided in section 2-372.

(Compiled Ords. of 2009, § 2.24.010)

Sec. 2-339. - Compliance with state provisions required; administrative reviews required upon request.

All officers, employees, agents, agencies, committees, boards and commissions of the county shall comply with the requirements of Wis. Stats. § 68.001 et seq. and shall conduct initial administrative reviews of their determinations in accordance with Wis. Stats. § 68.09 upon filing of a proper written request therefor.

(Compiled Ords. of 2009, § 2.24.020)

Secs. 2-340—2-366. - Reserved.

DIVISION 2. - APPEALS BOARD

Sec. 2-367. - Established; duty and responsibility.

There is created for the county an administrative review appeals board consisting of three members, which shall have the duty and responsibility of hearing appeals from initial administrative determinations or decisions of officers, employees, agents, agencies, committees, boards and commissions of the county filed in accordance with Wis. Stats. § 68.10 and making a final determination thereon.

(Compiled Ords. of 2009, § 2.24.030)

Sec. 2-368. - State law to govern.

In conducting administrative review hearings and making final decisions, the administrative review appeals board shall be governed by the provisions of Wis. Stats. §§ 68.11 and 68.12.

(Compiled Ords. of 2009, § 2.24.040)

Sec. 2-369. - Composition; appointment; terms; chairperson; alternate member.

(a) The administrative appeals review board shall consist of the county board chairperson, one county board supervisor and one citizen.

(b) The supervisor member shall be designated annually by the county board chairperson at the first meeting of the board in April of each year and shall be subject to confirmation by the board. The citizen member shall be appointed by the county board chairperson, subject to confirmation of the county board, for a two-year term commencing on July 1 of even-numbered years.

(c) The county board chairperson shall serve as the chairperson of the board.

(d) The county board chairperson may appoint, subject to confirmation for a two-year term, one alternate member, who shall act with full power only when a member of the board is absent or refuses to serve because of interest in the subject matter of the appeal.

(Compiled Ords. of 2009, § 2.24.050)

Sec. 2-370. - Procedural rules.

The administrative review appeals board may adopt rules for conduct for hearings not in conflict or inconsistent with the provisions of Wis. Stats. § 68.11.

(Compiled Ords. of 2009, § 2.24.060)

Sec. 2-371. - Salary and mileage.

The members of the administrative review appeals board shall receive such salary and mileage as set by the county board.

(Compiled Ords. of 2009, § 2.24.070)

Sec. 2-372. - Other provisions not repealed or superseded.

The provisions of the ordinance codified at this division shall not be deemed to repeal or supersede the provisions of any ordinances in conflict herewith or providing other procedures for review of administrative determinations within the county, except when otherwise specifically provided in those ordinances.

(Compiled Ords. of 2009, § 2.24.080)

Secs. 2-373—2-402. - Reserved.

ARTICLE IX. - PUBLIC RECORDS MANAGEMENT

State Law reference— Public records and property, Wis. Stats. § 19.21 et seq.; records destruction, Wis. Stats. § 19.35(5); county public records management, Wis. Stats. § 59.52(2).

Sec. 2-403 – 2-411. – Reserved.

Clark County's Record Retention Policy, adopted October 5, 2017, is on file in the office of the county clerk and available on the county's website at the following address: http://www.co.clark.wi.us.

(Ord. 217-9-17, 10-5-2017)

Chapter 3

(RESERVED)

Chapter 4 - ANIMALS

State Law reference— Duties of department of agriculture, trade, and consumer protection to promulgate rules and regulations regarding animal health and control of domestic animals, Wis. Stats. § 93.07; animal health, Wis. Stats. § 95.001 et seq.; captive wildlife, Wis. Stats. § 169.01 et seq.; strays and lost chattel, Wis. Stats. § 170.01 et seq.; animals distrained or doing damage; animals not to run at large, Wis. Stats. § 172.01; animals doing damage, Wis. Stats. § 172.51 et seq.; animals generally and humane officers, Wis. Stats. § 173.01 et seq.; dogs, Wis. Stats. § 174.001; crimes against animals, Wis. Stats. § 951.01 et seq.; providing proper food and drink to confined animals, Wis. Stats. § 951.13; abandoning animals, Wis. Stats. § 951.15; earthen manure storage facilities, Wis. Stats. § 92.16.

ARTICLE I. - IN GENERAL

Sec. 4-1. - Definitions.

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

Allow, with regard to running at large, refers to an animal owner who through negligence has allowed domesticated animals under his control to recurrently run at large.

Animal means and includes every living warm-blooded creature except a human being, every reptile, and every amphibian.

Cruel means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

Domesticated animals means livestock type animals that are kept for commercial or recreational purposes.

Farm animal means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

Owner includes a person who owns, harbors, keeps or controls an animal.

Run at large, in regard to animals, means to be on public property in an unauthorized place; on a public road when not under the control of the owner, or to be on private property without the property owner's consent.

Veterinarian means a practitioner of veterinarian medicine who is duly licensed by the examining board.

Secs. 4-2—4-20. - Reserved.

ARTICLE II. - ANIMAL ABUSE

DIVISION 1. - GENERALLY

Sec. 4-21. - Abatement review panel.

The animal abuse abatement review panel shall consist of the sheriff's department chief deputy and the county nurse. Should any of those officials have a conflict of interest, have participated in the decision to issue the order or not be available for the hearing, the county board chairperson shall appoint another official, or officials, of the county to serve in their place for that hearing only.

(Compiled Ords. of 2009, § 6.12.040(E))

Sec. 4-22. - Crimes against animals.

The provisions of Wis. Stats. §§ 951.01 through 951.18, relating to crimes against animals, punishable by forfeiture are adopted by reference as though fully set forth herein, including the forfeiture amounts as provided in Wis. Stats. § 951.18.

(Compiled Ords. of 2009, § 6.04.010)

Sec. 4-23. - Mistreatment of animals prohibited.

No person may treat his or any other animal in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinarian practices. Any person violating this section is subject to a forfeiture not to exceed $500.00.

(Compiled Ords. of 2009, § 6.12.010)

Secs. 4-24—4-49. - Reserved.

DIVISION 2. - ENFORCEMENT PROCEDURE

Sec. 4-50. - Animal abuse abatement orders.

A county law enforcement officer may issue an animal abuse abatement order in accordance with Wis. Stats. § 173.11 if he has reason to believe that a violation of statute or ordinance is occurring and the violation is causing or has the potential to cause injury to an animal.

(Compiled Ords. of 2009, § 6.12.040(A))

Sec. 4-51. - Hearing.

Any person named in an abatement order issued under this article, may, within the ten-day period following service of the order, request a hearing before the animal abuse abatement review panel. This hearing shall be held within ten days after the request is made, unless the requester agrees to a later date. The hearing shall be informal in nature. Within ten days after hearing, the panel shall affirm the order, modify and affirm the order or withdraw the order.

(Compiled Ords. of 2009, § 6.12.040(B), (C))

Sec. 4-52. - Appeal.

Any person adversely affected by a decision under this section may seek judicial review by commencing an action in circuit court within 30 days of the day that the decision is issued.

(Compiled Ords. of 2009, § 6.12.040(D))

Sec. 4-53. - Additional penalty for repeat violations.

Any person violating any provision of Wis. Stats. §§ 951.02 through 951.15, within three years after the issuance of an abatement order, is subject to a forfeiture not to exceed $1,000.00.

(Compiled Ords. of 2009, § 6.12.040)

Secs. 4-54—4-79. - Reserved.

ARTICLE III. - ANIMAL CARE AND CONTROL

DIVISION 1. - GENERALLY

Sec. 4-80. - Shining prohibited; exceptions.

(a) No person may use or possess with intent to use a light for shining wild animals between 10:00 p.m. and 7:00 a.m. from September 15 to December 31, and from midnight to 7:00 a.m. from January 1 to September 14.

(b) This section shall not apply:

(1) To a peace officer on official business, an employee of the department of natural resources on official business, or a person authorized by the department of natural resources to conduct a game census or to observe bear for educational purposes.

(2) To a person who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animals hunted.

(3) To a person who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or other unprotected animals.

(4) If rules promulgated by the department of natural resources specifically permit a person to use or possess a light for shining wild animals during these times.

(c) A person who violates this article shall forfeit not more than $1,000.00.

(Compiled Ords. of 2009, §§ 6.16.010—6.16.030)

Sec. 4-81. - Domesticated animals at large.

It shall be unlawful for any animal owner to allow his domesticated animal to run at large upon public property, unless said public property expressly authorizes the same, or upon private property of others, unless said private property owners authorize the same by expressed or implied consent. Any person violating this section shall be subject to a forfeiture of not less than $50.00 nor more than $200.00.

(Compiled Ords. of 2009, § 6.18.020)

Sec. 4-82. - Damaging or destroying property.

It shall be unlawful for any animal owner to allow any domesticated animal to run at large and damage, harm, or destroy the property of another person. Any person violating this section shall be subject to a forfeiture of not less than $50.00 nor more than $200.00.

(Compiled Ords. of 2009, § 6.18.030)

Sec. 4-83. - Proper food and drink for confined animals.

(a) Generally. No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

  (1) Food. The food shall be sufficient to maintain all animals in good health.

  (2) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

(b) Violation. Any person violating this section is subject to forfeiture not to exceed $500.00.

(Compiled Ords. of 2009, § 6.12.020)

Secs. 4-84—4-109. - Reserved.

DIVISION 2. - SHELTER

Subdivision I. - In General

Sec. 4-110. - Proper shelter required.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this division. In the case of farm animals, nothing in this division shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(Compiled Ords. of 2009, § 6.12.030(A))

Sec. 4-111. - Penalty.

Whoever violates this division is subject to a forfeiture not to exceed $500.00.

(Compiled Ords. of 2009, § 6.12.030(A)(4)(C))

Secs. 4-112—4-135. - Reserved.

Subdivision II. - Standards

Sec. 4-136. - Indoor shelter.

Minimum indoor standards of shelter shall include:

(1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(Compiled Ords. of 2009, § 6.12.030(A)(1))

Sec. 4-137. - Outdoor shelter.

Minimum outdoor standards of shelter shall include:

(1) Shelter from sun light. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this subsection, "caged" does not include farm fencing used to confine farm animals.

(2) Shelter from inclement weather generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(3) Shelter from inclement weather for dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(Compiled Ords. of 2009, § 6.12.030(A)(2))

Sec. 4-138. - Minimum space.

Minimum space and structural strength requirements for both indoor and outdoor enclosures shall include:

(1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(Compiled Ords. of 2009, § 6.12.030(A)(3))

Sec. 4-139. - Sanitation.

Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

(Compiled Ords. of 2009, § 6.12.030(A)(4)(A), (B))

Secs. 4-140—4-161. - Reserved.

ARTICLE IV. - DOGS

Sec. 4-162. - Running at large.

A dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.

(Compiled Ords. of 2009, § 6.08.010)

Sec. 4-163. - Untagged dogs.

A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

(Compiled Ords. of 2009, § 6.08.020)

Sec. 4-164. - Violations of article; penalty.

If the owner of a dog negligently or otherwise permits a dog to run at large or be untagged, the owner shall forfeit not less than $25.00 nor more than $100.00 for the first offense, and not less than $50.00 nor more than $200.00 for subsequent offenses.

(Compiled Ords. of 2009, § 6.08.030)

Sec. 4-165. - Penalties for damage caused by dogs.

(a) Without notice. The owner of a dog shall forfeit not less than $50.00 nor more than $100.00 if the dog injures or causes injury to a person, domestic animal, property, deer, game birds or the nest or eggs of game birds.

(b) After notice. The owner of a dog shall forfeit not less than $100.00 nor more than $500.00 if the dog injures or causes injury to a person, domestic animal, property, deer, game birds, or the nests of eggs of game birds, if the owner was notified or knew that the dog previously injured or caused injury to a person, domestic animal, property, deer, game birds, of the nests or eggs of game birds.

(Compiled Ords. of 2009, § 6.08.040)

Secs. 4-166—4-183. - Reserved.

ARTICLE V. - RABIES CONTROL

Sec. 4-184. - Rabies vaccination required for dogs.

Except for owners of dogs kept for educational or scientific purposes, the owner of a dog shall have the dog vaccinated against rabies by a veterinarian within 30 days after the dog reaches four months in age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into this state after the dog has reached four months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within three years after the previous vaccination.

(Compiled Ords. of 2009, § 6.10.020)

Sec. 4-185. - Penalties.

An owner who fails to have a dog vaccinated against rabies as required herein may be required to forfeit not less than $50.00 nor more than $100.00.

(Compiled Ords. of 2009, § 6.10.030)

Chapter 5

(RESERVED)

Chapter 6 - BUILDINGS AND BUILDING REGULATION

(RESERVED)

State Law reference— Authority for enactment of county building codes, Wis. Stats. § 59.70; county building inspectors, Wis. Stats. § 59.698; razing buildings; buildings as public nuisance, Wis. Stats. § 66.0413; joint city and county public building projects, Wis. Stats. § 66.0913; regulation of industry, buildings, and safety, Wis. Stats. § 101.01 et seq.; one- and two-family dwelling code, Wis. Stats. § 101.60 et seq.; electrical wiring and electricians, Wis. Stats. § 101.80 et seq.; multifamily dwelling code, Wis. Stats. § 101.971 et seq.

Chapter 7

(RESERVED)

Chapter 8 - BUSINESS LICENSING AND REGULATION

State Law reference— Authority for local regulation of transient merchants, Wis. Stats. § 66.0423; marketing and trade practices generally, Wis. Stats. § 100.01 et seq.; trade regulations generally, Wis. Stats. § 125.01 et seq.; miscellaneous trade regulations, Wis. Stats. § 134.01 et seq.; county authority to enact ordinances for public protection and safety, Wis. Stats. § 59.54; county authority to enact ordinances for purposes of consumer protection, Wis. Stats. § 59.55.

ARTICLE I. - IN GENERAL

Secs. 8-1—8-18. - Reserved.

ARTICLE II. - SOLICITORS AND TRANSIENT MERCHANTS

State Law reference— County licensing of hawkers and peddlers, Wis. Stats. § 59.55(3).

Sec. 8-19. - Permit required.

(a) It is unlawful for any person to make arrangements for any other person to go in or upon any private residence, apartment or premises in the county for the purpose of soliciting from the occupants thereof or to canvass for orders for goods, wares, merchandise or services of any character or description, or for the purpose of offering to give or to furnish or giving or furnishing any goods, wares, merchandise or services to any such occupants to induce or invite such orders, without first having applied for and received from the sheriff's department a solicitor's permit so to do.

(b) Every individual person, even though representing a firm or corporation who may be an applicant under this article, shall be required to individually apply and hold the solicitor's permit provided for in this article as required.

(Compiled Ords. of 2009, § 5.04.010)

Sec. 8-20. - Exceptions to permit requirement.

The terms of this article shall not be held to include newsboys, nor the acts of resident merchants, businessmen, insurance agents or employees residing in the county taking orders in the houses of their customers for goods held by them in stock at established places of business within the county or at established agencies, nor the acts of those merchants, businessmen and employees in delivering such goods, merchandise or insurance policies in the regular course of business, nor to solicitations or sales made by residents of the county for charitable purposes, nor shall it apply to farmers or truck gardeners residing in the state who vend, sell or dispose of, or offer to sell, vend or dispose of, the products of the farm or garden occupied or cultivated by them; provided, that nothing containing in this article will be held to prohibit any sale required by statute or by order of any court, or to prevent any person from conducting a bona fide auction sale pursuant to law.

(Compiled Ords. of 2009, § 5.04.020)

Sec. 8-21. - Application—Where made; forms; content.

Any person desiring to secure a solicitor's permit as is contemplated in section 8-19 shall apply therefor in person to the sheriff's department on forms provided by the county, and such application shall state the:

(1) Name and address of the applicant;

(2) Name and address of the person by whom employed;

(3) Length of service of such applicant with such employer;

(4) Place of residence and nature of the employment of the applicant during the last preceding year;

(5) Nature or character of the goods, wares, merchandise or services to be offered by the applicant;

(6) Personal description of the applicant; and

(7) License numbers, make, year and color of all motor vehicles to be operated within the county by any such applicants.

(Compiled Ords. of 2009, § 5.04.030)

Sec. 8-22. - Same—Credentials and evidence of good moral character and identity to accompany.

Such application as is contemplated in section 8-21 shall be accompanied by such credentials and other evidence of the good moral character and identity of the applicant as may be reasonably required by the sheriff's department.

(Compiled Ords. of 2009, § 5.04.040)

Sec. 8-23. - Fingerprints and photograph; filing for ten days required.

No solicitor's permit under this article shall be issued to any person until that person's fingerprints and photograph have been on file with the sheriff's department for at least ten days after such prints and photographs are taken.

(Compiled Ords. of 2009, § 5.04.050)

Sec. 8-24. - Issuance upon designated determination; term; fee.

If the sheriff's department determines after reasonable investigation, that the applicant is of good moral character and proposes to engage in a lawful and legitimate commercial or professional enterprise, that department shall then issue the permit applied for, which permit shall expire on December 31 in the year in which such permit was issued. A fee in the amount provided in the county fee schedule shall be charged for each issuance.

(Compiled Ords. of 2009, § 5.04.060)

Sec. 8-25. - Posting of permit requirement; sign design and lettering.

All roads at the boundaries of surrounding counties shall be posted at the county line stating that solicitor's' permits are required within the county. Such signs shall be of such a design and lettering as deemed necessary.

(Compiled Ords. of 2009, § 5.04.070)

Sec. 8-26. - Violation of article; penalty; each day a separate offense.

Any person violating any of the provisions of this article shall be, upon conviction, be subject to penalties as provided in section 1-25.

(Compiled Ords. of 2009, § 5.04.080)

Sec. 8-27. - Courthouse solicitation prohibited.

All persons are prohibited from soliciting funds or sales of non-county-related business or items in the courthouse.

(Compiled Ords. of 2009, § 5.04.090)

Chapter 9

(RESERVED)

Chapter 10 - EMERGENCY MANAGEMENT AND SERVICES

State Law reference— Emergency management generally, Wis. Stats. § 323.01 et seq.; emergency temporary locations of local governments, Wis. Stats. § 323.52; succession to local offices, Wis. Stats. § 323.54; local agency response and reimbursement, Wis. Stats. § 323.70; emergency powers of local governments, Wis. Stats. § 323.11; prohibition against restricting firearms or ammunition during emergency, Wis. Stats. § 323.24; statewide emergency services number, Wis. Stats. § 356.35; false alarms, Wis. Stats. § 941.13.

ARTICLE I. - IN GENERAL

Secs. 10-1—10-30. - Reserved.

ARTICLE II. - EMERGENCY MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 10-31. - Definitions.

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

Adjutant general means the adjutant general of the state department of military affairs.

Administrator of emergency management means the administrator of the division of emergency management of the state.

Disaster means a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, that exceeds the county's capability to respond to or provide the adequate resources or support and may require the additional assistance from state and federal agencies or traditional mutual aid partners.

Emergency means a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this county or a portion of this state.

Emergency management means all measures undertaken by or on behalf of the county and its subdivisions to do any of the following:

(1) Prepare for and minimize the effect of a disaster or the imminent threat of a disaster.

(2) Make repairs to or restore infrastructure or critical systems that are destroyed or damaged by a disaster.

Emergency management director means the head of the county emergency management department, who shall, in addition to fulfilling departmental responsibilities, provide direction and control of emergency management during times of emergency or disaster.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— Similar definitions, Wis. Stats. § 323.02.

Sec. 10-32. - Purpose.

(a) The purpose of this article is to prepare the county and its subdivisions to cope with emergencies resulting from a disaster, or the imminent threat of a disaster, and to establish protocol for emergency management conferring certain powers and duties upon the county board and others specified in this article.

(b) Unless otherwise specified by law, the role of any county department or agency, including the emergency management department, in an emergency declared under this article, is to assist local units of government and local law enforcement agencies in responding to a disaster or the imminent threat of a disaster.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— Declaration of state policy, Wis. Stats. § 323.01.

Secs. 10-33—10-55. - Reserved.

DIVISION 2. - EMERGENCY MANAGEMENT ORGANIZATION

Sec. 10-56. - Lines of succession for emergency declarations.

(a) Designees established. If because an emergency condition exists and the full county board is unable to meet with promptness, the county board has established individual designees in line of succession for proclaiming an emergency or disaster in the county.

(b) Exercise of county board powers subject to pending disaster. The line of succession designees shall be allowed, by proclamation, to exercise all of the powers of the county board which appear necessary as the result of an emergency or disaster, including issuing a mandatory evacuation order. Any proclamations so declared shall be subject to ratification, alteration, modification or repeal by the county board as soon as it can meet.

(1) County board chairperson. The chairperson of the county board is empowered to declare an emergency, as emergency is defined in this article.

(2) Alternates.

a. In the of absence of the chairperson, alternates in the line of succession are as follows:

1. The county board vice-chairperson.

2. The county sheriff.

3. The county emergency management director.

b. In the event the county emergency management director is absent, the chief deputy of the county sheriff's department is the alternate.

(3) State regional director. The state emergency management regional director may, upon request of law enforcement or emergency first responders responding to an emergency, request a local declaration of emergency.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— Succession to office by local officers, Wis. Stats. § 323.54; interim successors, Wis. Stats. § 323.55.

Sec. 10-57. - Emergency declarations and powers.

(a) Declaration by county board.

(1) The county board may, under Wis. Stats. § 323.11, declare, by resolution, an emergency existing within the county whenever conditions arise by reason of a disaster or an imminent threat of a disaster, as defined in this chapter, which exists or is likely to exist.

(2) A state of emergency shall not exceed 60 days, unless the state of emergency is extended by resolution of the board. The existing declaration of emergency may be revoked at the discretion of the county board by resolution.

(b) Powers of emergency management director. During a state of emergency declared by the governor or the county board, the county emergency management director may obtain supplies, equipment, and services or contract with any person to provide equipment and services on a cost basis to be used to respond to a disaster or the imminent threat of a disaster.

(c) Emergency powers of county board chairperson. In the event of a local emergency or the proclamation of a state of emergency by the governor, the county board chairperson or, when applicable, his alternate is empowered as follows:

(1) Whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the county in the emergency; including the power to bar, restrict, or remove all unnecessary traffic from the highways, notwithstanding any provision of Wis. Stats. chs. 341 to 349 and their succession chapters.

(2) If because disaster conditions exist or are likely to exist and the county board is unable to meet promptly, the county board chairperson may exercise, by proclamation, a local state of emergency. The proclamation shall be subject to ratification, alteration, modification, or repeal by resolution as soon as the county board can meet.

(d) Initial emergency measures. All emergency measures taken by the emergency management director prior to the issuance of an official proclamation of emergency, or prior to any decision of the county board not to issue such proclamation, shall be legal and binding upon the county.

(e) Expenditures. Any expenditure made in connection with such emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the county.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— Duties and powers of local governments regarding emergency management, Wis. Stats. § 323.14.

Sec. 10-58. - Emergency management committee designated; serve in advisory capacity to director and county board.

The law enforcement and emergency management committee is designated as the emergency management committee pursuant to Wis. Stats. § 323.14. The law enforcement and emergency management committee shall be an advisory and planning group and shall advise the county emergency management director and the county board on all matters pertaining to emergency management. It shall meet upon the call of the chairperson.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— County to designate head of emergency management, Wis. Stats. § 323.14.

Sec. 10-59. - Emergency management director.

(a) Appointment; compensation, entitlement privileges. The emergency management director shall be hired by the emergency management committee with a confirmation appointment by the county board. Compensation for the emergency management director shall be established by the county board and shall be considered to be an employee of the county not under civil service, and shall be entitled to all of the rights, privileges and benefits that county employees have. The emergency management director shall report to the county emergency management committee.

(b) Duties and responsibilities. The duties and responsibilities of the emergency management director, pursuant to Wis. Stats. § 323.14, shall be to:

(1) Develop and promulgate emergency management plans for the county, including planning for joint action with municipalities consistent with the state plan of emergency management.

(2) Coordinate and assist in the development of municipal emergency management plans within the county and integrate such plans with the county plans.

(3) Direct the county and joint action municipality emergency management programs.

(4) Direct countywide emergency management training and exercises.

(5) Advise the state director of all emergency management planning for the county and render such reports as may be required by the state director.

(6) In case of a state of emergency proclaimed by the governor, direct the county and joint action municipalities' emergency management activities and coordinate the municipal emergency management activities within the county, subject to the coordinating authority of the state director.

(7) Perform such other duties relating to emergency management as may be required by the county board.

(8) Act as a municipal emergency management director as provided for in Wis. Stats. ch. 323 and work, in consultation with the Clark/Marathon County Hazardous Materials Team and Local Emergency Planning Committee, as the emergency information coordinator and community emergency coordinator until such time as that committee has revoked those responsibilities.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— County to designate head of emergency management, duties and powers of local governments regarding emergency management, Wis. Stats. § 323.14.

Sec. 10-60. - Utilization of resources and facilities; responsibilities and action of department personnel.

(a) In order to assure that in the event of an emergency all facilities of the existing county government are expanded to the fullest to meet such emergency, all department heads will fulfill emergency and nonemergency duties as assigned under the county emergency operations plan. The emergency management director will assist them in organizing and planning for the expansion of their departments prior to and during an emergency, and for recruiting necessary emergency management volunteers to supplement regular department employees.

(b) Nothing in this section shall be construed so as to limit the emergency management director from immediately commencing organizational and planning programs as required by the emergency operations plan adopted in section 10-64.

(Ord. No. 197-10-10, 10-1-2010)

Sec. 10-61. - Joint action procedure—Countywide functions.

The emergency management director shall:

(1) Coordinate and assist in developing city, village, and town emergency management plans within the county;

(2) Integrate the plans with the county plan;

(3) Advise the department of military affairs of all emergency management planning in the county and submit to the adjutant general the reports that he requires;

(4) Direct and coordinate emergency management activities throughout the county during a state of emergency; and

(5) Direct countywide emergency management training programs and exercises.

State Law reference— Duties and powers of heads of emergency management, Wis. Stats. § 323.15.

(Ord. No. 197-10-10, 10-1-2010)

Sec. 10-62. - Same—Mutual agreement enacted with county.

Municipalities entering into a joint action agreement with the county shall provide for utilization of existing services of municipal government by enactment of an ordinance parallel to this article.

(Ord. No. 197-10-10, 10-1-2010)

Sec. 10-63. - Same—Appointment of emergency management coordinator.

(a) Each municipality enacting a joint action agreement with the county shall appoint an emergency management coordinator.

(b) The municipal emergency management coordinator will operate under the administrative direction of the county emergency management director.

(c) Remuneration, if any, for the municipal emergency management coordinator will be determined and paid by the governing body of that municipality.

(Ord. No. 197-10-10, 10-1-2010)

State Law reference— County to designate head of emergency management, Wis. Stats. § 323.14.

Sec. 10-64. - County emergency response plan.

Under the direction of the county board, the emergency management director shall be responsible for ensuring the development and maintenance of the county emergency response plan, which shall provide for the effective mobilization of all of the resources of the county, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, and staff of the emergency organization.

(1) Compliance. The plan shall comply with applicable local, state and federal planning criteria. The plan shall contain an analysis of the risks faced by the county, assign functional responsibilities to county agencies/departments and personnel, and assign lines of succession for the members of the emergency organization.

(2) Functional assignments. The plan shall include the functions assigned to county agencies or departments and it shall be the responsibility of each agency director/department head to develop and maintain an agency/department plan to fulfill the roles and responsibilities in the county emergency response plan and appoint coordinators who shall report to the emergency operations center and carry out assigned duties, as appropriate.

(3) Adoption. The emergency response plan shall not be effective until adopted by the county board. Nothing in this section shall be construed so as to limit the emergency management director from immediately commencing organizational and planning programs as required by the county emergency response plan adopted by the county board.

(Ord. No. 197-10-10, 10-1-2010)

Sec. 10-65. - Incident command system.

The emergency management plans shall require the use of the incident command system by all emergency response agencies, including local health departments, during a state of emergency declared.

(Ord. No. 197-10-10, 10-1-2010)

Sec. 10-66. - Substance release.

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

Cleanup means an operation where any solid, liquid, vaporous, or gaseous substance that creates a known, potential or suspected material, safety or health hazard, public nuisance, or a deleterious effect upon the environment is removed, contained, incinerated, neutralized, stabilized, cleared up, or in any manner processed, handled or disposed of with the primary goal of restoring the site to its pre-incident condition or, secondarily, to make the site harmless to people and the environment. This language is consistent with the definition of cleanup operations in 29 CFR 1910.120.

Emergency response means a response effort by trained employees from outside the immediate incident area or by other designated responders to a known, potential or suspected material, safety, health or environmental hazard. The intent of defining emergency response in this section is to allow trained personnel to implement and coordinate assessment, containment, cleanup and restoration operations of substance releases within an incident command system in accordance with 29 CFR 1910.120.

Entity means each and every individual, agent, firm, company, partnership, corporation, business establishment, or other enterprise.

Strict liability means liability without fault. Specifically, each and every entity responsible for containment of a solid, liquid, vaporous or gaseous substance at the point of release into the ecosystem of the county, including owners, controllers, and possessors of those substances, shall assume joint and several responsibility for pecuniary liabilities of those releases for containment, cleanup, restoration expenses and associated administrative fees, legal fees, and court costs. The intent of incorporating strict liability in this section is to reject matters of care, negligence, knowledge, ignorance, good faith, bad faith, or any other justification as a cause or reason for being a responsible entity in a substance release incident.

(b) Emergency response. The release into the ecosystem of the county of any solid, liquid, vaporous, or gaseous substance that creates a known, potential or suspected material, safety, health or environmental hazard, or public nuisance within the county, except those occurring during a sanctioned waste disposal, hazardous material collection or landfill activities, shall be considered such a hazard, unless determined otherwise by the on-scene incident commander, and be a condition that warrants an emergency response.

(c) Containment, cleanup, and restoration. The entity responsible for containment of a solid, liquid, vaporous or gaseous substance at the point of release into the ecosystem of the county, including owners, controllers, and possessors of those substances, except those specifically sanctioned to perform waste disposal, hazardous materials collection or landfill activities, which presents a known, potential or suspected material, safety, health, or environmental hazard or public nuisance, shall begin immediate actions to contain and

cleanup the offending substance and restore the site to its original condition upon direction of any emergency management, law enforcement, or fire department representative having jurisdictional authority. This entity includes owners, controllers, and possessors of those substances, except those specifically sanctioned to perform waste disposal, hazardous materials collection or landfill activities. Should an entity fail to comply for any reason or is not capable of completing the requirements of this subsection in a timeframe that is acceptable to the incident commander, emergency management, law enforcement or fire department representative having jurisdictional authority, such public official may order containment, cleanup, and site restoration actions to be taken by public or private agencies.

(d) Strict liability. The entity responsible for containment of a solid, liquid, vaporous or gaseous substance at the point of release into the ecosystem of the county, including owners, controllers, and possessors of those substances, shall be strictly liable for all reasonable and necessary containment, cleanup and restoration expenses, as determined by the local emergency planning commission, for those releases, set forth in subsection (b) of this section.

(e) Reimbursement. Agencies involved in the containment, cleanup, and restoration of substance releases shall be allowed to recoup expenses for personnel hours, equipment hours, supplies, and equipment losses as per subsection (b) of this section. Agencies seeking reimbursement under this section shall develop charge-back criteria for substance release response operations and submit that criteria to the local emergency planning commission for claims review determinations. Agencies seeking reimbursement under this section shall submit claims stating their expenses to the responsible entity with a copy to the local emergency planning commission within 30 days of the incident date. Claims for reimbursement received after 30 days of the incident date will not be reviewed or approved by the local emergency planning commission, except in cases of protracted site restoration or extenuating circumstances, as determined by the local emergency planning commission. The local emergency planning commission shall review claims submitted in accordance with this section and determine those expenses that were reasonable and necessary under this section. The agencies seeking reimbursement shall provide those entities that are strictly liable with written notice of the final determinations under this section. If an entity receiving notice objects to the amount of claimed expenses, that entity may petition the local emergency planning commission in writing within ten days of receiving such notice that the commission reviews its determinations. Such request must state specific objections to claimed expenses and offer concise rationale for those objections. The local emergency planning commission may modify its determinations and shall notify the entity of the results of its review. The local emergency planning commission shall be allowed to recoup expenses for processing claims under this section. The entity that is strictly liable under this section shall make direct reimbursement to each agency that submitted a claim in accordance with this subsection.

(f) Site access. Access to any site, public or private, where there is a known, potential or suspected substance release will be provided to the incident commander, emergency management, law enforcement or fire department representative having jurisdictional authority for purposes of implementing and coordinating assessment, containment, cleanup, and restoration operations.

(Ord. No. 197-10-10, 10-1-2010)

Secs. 10-67—10-80. - Reserved.

ARTICLE III. - EMERGENCY RESPONSE/RURAL ADDRESS

Editor's note—Ord. No. 200-1-11, adopted Feb. 24, 2011, amended the Code by the addition of ch. 32, §§ 32.01—32.10; however, said provisions have been redesignated as art. III, §§ 10-81—10-90, at the editor's discretion.

Sec. 10-81. - Introduction.

(a) Purpose. The purpose of this article is to promote the health, safety, comfort and general welfare of the public by establishing a method for physically locating properties, which is vital for providing emergency services as well as a convenience for other services that serve rural properties.

(b) Statutory authorization. This article is adopted pursuant to authorization in Wis. Stats. § 59.54(4).

(c) Jurisdiction. This article shall apply only in the unincorporated areas of Clark County, Wisconsin.

(d) Severability. If any section, clause, or provision of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not affected thereby.

(e) Effective date. This article becomes effective upon publication following adoption by the Clark County Board of Supervisors.

(Ord. No. 200-1-11, § 32.01, 2-24-2011)

Sec. 10-82. - Definitions.

Address means a physical number for each primary structure as assigned by the county designee.

Address sign means an individual address plate placed on a named road or driveway identifying the street or location address of a building or location.

Application form means the form required for assignment of a new address. The owner or their agent shall complete and submit the form to the Clark County Planning and Zoning Department.

Driveway means a private road serving not more than two primary structures.

Driveway access point means the point where the driveway or private road intersects a public roadway. This location is used to determine the correct address.

Primary structure is the building used for the principal activity on the property. A primary structure may be used for residential, commercial, industrial, public-semipublic, recreation or other purposes. (Note: An address may be assigned to a property without a primary structure at the request of the property owner.)

Private road means any road on private property leading to two or more driveways and/or principal structures.

Road means a public road which affords primary means of access by vehicles to adjacent property whether designated as a drive, easement, street, avenue, highway, road, boulevard or cartway, or otherwise designated.

Signpost means a post, permanently affixed in the ground, used solely for display of the address sign.

Summary signs means where three or more address signs are placed on a road intersection with a private road or driveway. The summary signs identify the range of addresses located on that specific private road.

(Ord. No. 200-1-11, § 32.02, 2-24-2011)

Sec. 10-83. - Addressing number system.

(a) Addresses shall be assigned based upon the existing address grid of Clark County as follows:

(1) The starting origin for address numbers running east to west begins at W100 along the east boundary of Clark County; the starting origin for numbers running south to north begins at N100 on the south boundary of the County along the towns Dewhurst, Levis, Washburn, and Sherwood and is assigned N100 northing from the southern border.

(2) There shall be 400 numbers allocated per section mile. The odd numbers are on southerly and westerly side of roads, the even numbers are on the northerly and easterly side.

(3) The northing and westing grid follows the PLSS (public land survey system) section lines.

(4) The direction of numbers to be assigned is based on the predominant direction of the entire stretch of road.

a. Addresses along westing roads shall be prefaced with the letter W.

b. Addresses along northing roads shall be prefaced with the letter N.

(5) Those roads not aligned along a linear direction shall be assigned numbers by the Clark County Planning and Zoning Committee or their designee.

(b) Roads shall be designated based on their alignment:

(1) Roads aligned east/west shall be designated roads.

(2) Roads aligned north/south shall be designated avenues.

(3) Roads with non-linear alignment may be designated as a road, avenue, court, drive, lane, or other as approved by the Clark County Planning and Zoning Department and Clark County Sheriffs Department.

(c) The principal structure shall be assigned an address based on where the driveway to the structure intersects the named road.

(d) Assignment of "sub" numbers or letters shall not be permitted without the approval of the Clark County Planning and Zoning Department.

(e) In unique situations where addressing will not conform to the system above, the county shall have the authority to coordinate the addressing in such a manner so the stated purpose of this article is maintained.

(Ord. No. 200-1-11, § 32.03, 2-24-2011)

Sec. 10-84. - Address assignment.

(a) It shall be the duty of the Clark County Planning and Zoning Department to assign a rural address number following a written request by a property owner to the zoning department. The zoning department shall maintain digital maps of the rural addressing for use by emergency services. The address assigned shall become the official address of the property and replace any prior address.

  (1) The Clark County Planning and Zoning Department shall assess fees, order the sign and arrange for delivery to the appropriate town official.

  (2) The town shall install all new and replacement signs.

(b) Properties served by a private access shall have a sign posted at the intersection of the public road and the private access indicating the range of rural addresses served by the access. Each property served by the access shall have an individual sign placed at the access for that property. Properties with more than one residence shall have a rural address for each residence.

(c) The Clark County Planning and Zoning Department shall forward the assigned address to the fire department, post office, the sheriff, tax lister, county treasurer and town chairperson, with an update to the necessary databases, within 30 calendar days of assignment.

(d) Incorrect assignment of an address due to incomplete or incorrect information on the application form or an error on the part of the person issuing the address shall be corrected immediately.

(e) If the location of an existing driveway access point changes, the present address number may remain unless the county determines the change disrupts the orderly and uniform sequence of the addressing system. If the location of the driveway access point is moved to a different roadway, the property shall be required to be readdressed.

(f) Existing addresses that are discovered to have been incorrectly assigned shall be evaluated by the county and determination shall be made if the situation needs to be corrected. The landowner(s) affected may be required to change their address to correct the situation.

(g) The town must provide the county with the name, address and phone number of the town's contact person for address or road naming coordination within the town.

(h) Any rural address not obtained through the Clark County Planning and Zoning Department under the authority of this article shall be deemed in a violation of this article.

(Ord. No. 200-1-11, § 32.04, 2-24-2011)

Sec. 10-85. - Sign specifications.

(a) These specifications are not retroactive to existing signs.

(b) The sign shall be two-sided and installed perpendicular to the roadway.

(c) The address letter and number shall be a minimum of four inches tall.

(d) The address sign shall include the street name and the town name.

(e) The sign shall have a blue background and white lettering.

(Ord. No. 200-1-11, § 32.05, 2-24-2011)

Sec. 10-86. - Sign placement.

(a) The town shall install the address sign.

(b) The rural address sign for a property shall be installed at the intersection of the public road and the access for the property.

(1) The sign shall be within ten feet of the right-of-way and 20 feet of the driveway or private road. (Note: Installers are encouraged to notify Diggers Hotline prior to installing any sign post.)

(c) In the case of a private access road for multiple properties, a sign indicating the range of addresses served by the access road shall be placed at the intersection of the public road and the access road. The town may require an additional sign be installed at the intersection of the private driveway and the private access road.

(Ord. No. 200-1-11, § 32.06, 2-24-2011)

Sec. 10-87. - Maintenance.

It shall be the responsibility of the property owner to maintain the installed address sign for the property. Maintenance shall include clearing of vegetation and keeping the sign in a condition where it is easily visible and legible at any time, and contacting the county or town to order a replacement sign if the sign is damaged or destroyed.

(Ord. No. 200-1-11, § 32.07, 2-24-2011)

Sec. 10-88. - Fees.

The new sign and replacement sign fees for a rural address sign shall be established by the Clark County Planning and Zoning Committee and may be amended by the committee when deemed necessary. A property owner shall submit a completed application and the established fee to the Clark County Planning and Zoning Department when requesting a rural address sign. (Note: The fees are provided in the Clark County Planning and Zoning Department Fee Schedule.)

(Ord. No. 200-1-11, § 32.08, 2-24-2011)

Sec. 10-89. - Enforcement.

The following violations are subject to a forfeiture of not less than $5.00 and not more than $200.00, plus court costs, for each violation. Each day of non-compliance shall constitute a separate and distinct violation.

(1) Damaging, altering, disfiguring, removing, or relocating an address sign.

(2) Failure to comply within 30 days after written notification to remove an address sign or failing to cooperate with installation of a replacement address sign.

(3) Failure to comply within 30 days to remove any address sign or numbers affixed to a structure, utility pole, fence or other illegal location, or house entrance, or elsewhere, which may be confused with the assigned address number.

(4) Utilizing a E911/rural address number not developed and assigned by the Clark County Planning and Zoning Department.

(Ord. No. 200-1-11, § 32.09, 2-24-2011)

Sec. 10-90. - Variance and appeal.

(a) The Clark County Planning and Zoning Committee shall determine and may vary the regulations of this article in harmony with its general purpose and intent, only in specific instances where the committee makes a finding of fact, based upon the standards prescribed in [reference in codified ordinances], that there are practical difficulties in carrying out the strict letter of the regulations of this article and that the granting of a variance will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable difficulty.

(b) The board of adjustment established under [reference in codified ordinances] shall hear the appeals to Clark County Planning and Zoning Committee decisions in regard to this article.

(Ord. No. 200-1-11, § 32.10, 2-24-2011)

Chapter 11

(RESERVED)

Chapter 12 - ENVIRONMENT

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

ARTICLE I. - IN GENERAL

Sec. 12-1. - Minimum housing standards.

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

(1) Be provided with an adequate, safe and potable well supply. Where plumbing exits, it shall be connected to either a public water supply or an approved private water supply so as to protect the health, safety, and welfare of the occupants and public.

(2) Be provided with a safe method of disposing of human and household waste in accordance with state code and local ordinances. The plumbing and waste disposal systems shall be properly installed and maintained.

(3) Be provided with an adequate and properly maintained heating system.

(4) Contains doors and windows constructed and maintained in relation to the adjacent wall construction so as to exclude rain or snow. Windows/screens shall be maintained in a manner which prevents an infestation of flies and/or other disease carrying insects and allows for adequate air circulation.

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

Secs. 12-2—12-20. - Reserved.

ARTICLE II. - FLOOD PREVENTION AND CONTROL

DIVISION 1. - GENERALLY

Sec. 12-21. - Definitions.

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

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

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

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

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

Building. See Structure.

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

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

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

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

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

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

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

Department means the state department of natural resources.

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

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

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

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

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

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

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

(1) The overflow or rise of inland waters;

(2) The rapid accumulation or runoff of surface waters from any source;

(3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

(4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

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

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

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

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

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

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

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

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

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

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

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

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

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

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

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

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

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

Historic structure means any structure that is either:

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

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

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

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

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

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

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

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes

that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of the term "mobile recreational vehicles."

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

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

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of the initial FIRM adopted by the county or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Compiled Ords. of 2009, ch. 18.04)

Sec. 12-22. - Statutory authorization.

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

(Compiled Ords. of 2009, § 18.08.010)

Sec. 12-23. - Finding of fact.

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

(Compiled Ords. of 2009, § 18.08.020)

Sec. 12-24. - Statement of purpose.

This article is intended to regulate floodplain development to:

(1) Protect life, health and property;

(2) Minimize expenditures of public funds for flood control projects;

(3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

(4) Minimize business interruptions and other economic disruptions;

(5) Minimize damage to public facilities in the floodplain;

(6) Minimize the occurrence of future flood blight areas in the floodplain;

(7) Discourage the victimization of unwary land and home buyers;

(8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

(9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(Compiled Ords. of 2009, § 18.08.030)

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

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

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

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

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

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

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

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

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

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

(Note—Approved by DNR and FEMA)

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

a. The Hydraulic Shadow Map, including corrected cross section evaluations found in the Snyder Dam—Dam Failure Analysis of February 1991, prepared by Ayres Associates. (Note—Approved by DNR)

b. The Hydraulic Shadow Map, including Dam Break Flood Profile, found in the Rock Dam—Dam Failure Analysis of March 1994, prepared by Ayres Associates. (Note—Approved by DNR)

c. The Cross Sections and Stage Diagrams Maps, found in appendix F, Dam Break Analysis, Mead Lake Dam Crystal Waters Subdivision Project, December, 2003, prepared by Northern Environmental. (Note—Approved by DNR)

d. The Hydraulic Shadow Maps, including Dam Break Flood Profiles, found in the Sherwood Dam—Dam Hazard Assessment of October 1998 prepared by Ayres Associates.

e. The Hydraulic Shadow Maps, including Dam Break Flood Profiles found in the Poplar River Structure No. 1 Sportsman Lake—Dam Failure Analysis, December 2006, prepared by the USDA, Natural Resource Conservation Service.

f. The Hydraulic Shadow Map, included the corrected cross section evaluations found in the Mead Lake Dam Failure Analysis Report of December 2017, prepared by Oakridge Engineering. (Note- Approved by DNR)

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

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

Sec. 12-27. - Establishment of districts.

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

(1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

(2) The Flood Fringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

(3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

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

Sec. 12-28. - Locating floodplain boundaries.

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

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

(2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the department.

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

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

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

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

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

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

Sec. 12-30. - Compliance.

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

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

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

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

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

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

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

(b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

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

Sec. 12-33. - Interpretation.

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

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

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

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

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

Sec. 12-35. - Severability.

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

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

Sec. 12-36. - General development standards.

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

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

Secs. 12-37—12-62. - Reserved.

DIVISION 2. - GENERAL STANDARDS APPLICATION TO ALL FLOODPLAIN DISTRICTS

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

(a) Except as allowed in subsection (c) of this section, no floodplain development shall:

  (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

  (2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of subsection (c) of this section are met.

(c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with this article.

(Compiled Ords. of 2009, § 18.12.010)

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

Sec. 12-64. - Watercourse alterations.

(a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood-carrying capacity of any altered or relocated watercourse shall be maintained.

(b) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(Compiled Ords. of 2009, § 18.12.020)

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

Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31 such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to this article.

(Compiled Ords. of 2009, § 18.12.030)

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

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

(1) The campground is approved by the department of health and family services.

(2) A land use permit for the campground is issued by the zoning administrator.

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

(4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official

which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

(5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section, to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.

(6) Only camping units are allowed.

(7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.

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

(9) The municipality shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.

(10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either this section or division 4 of this article for the floodplain district in which the structure is located.

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

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

(Compiled Ords. of 2009, § 18.12.040)

Secs. 12-67—12-90. - Reserved.

DIVISION 3. - FLOODWAY DISTRICT

Sec. 12-91. - Applicability.

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

(Compiled Ords. of 2009, § 18.16.010)

Sec. 12-92. - Permitted uses.

The following open space uses are allowed in the floodway district and the floodway areas of the General Floodplain District, if they are not prohibited by any other ordinance; they meet

the standards in sections 12-93 and 12-94, and all permits or certificates have been issued according to section 12-187:

(1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

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

(3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 12-93(d).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 12-93 and 12-94.

(5) Extraction of sand, gravel or other materials that comply with section 12-93(d).

(6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.

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

(Compiled Ords. of 2009, § 18.16.020)

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

(a) Generally.

(1) Any development in floodway areas shall comply with division 2 of this article and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to section 12-63:

a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

b. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection (a)(2) of this section.

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

(1) The structure is not designed for human habitation and does not have a high flood damage potential;

(2) It must be anchored to resist flotation, collapse, and lateral movement;

(3) Mechanical and utility equipment must be elevated or flood proofed to, or above the flood protection elevation; and

(4) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

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

(1) Adequate floodproofing measures are provided to the flood protection elevation; and

(2) Construction meets the development standards of section 12-63.

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

(1) The requirements of section 12-63 are met;

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

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

(Compiled Ords. of 2009, § 18.16.030)

Sec. 12-94. - Prohibited uses.

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

(1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;

(2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. Code ch. Comm 83;

(5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and 812;

(6) Any solid or hazardous waste disposal sites;

(7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b);

(8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(Compiled Ords. of 2009, § 18.16.040)

Secs. 12-95—12-116. - Reserved.

DIVISION 4. - FLOOD FRINGE DISTRICT

Sec. 12-117. - Applicability.

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

(Compiled Ords. of 2009, § 18.20.010)

Sec. 12-118. - Permitted uses.

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

(Compiled Ords. of 2009, § 18.20.020)

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

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

(1) Residential uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area, shall meet or exceed the following standards:

a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;

b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (1)d of this section.

d. In developments where existing street or sewer line elevations make compliance with subsection (1)c of this section impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event; or
2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the state department of natural resources.

(2) Accessory structures or uses.

a. Except as provided in subsection (2)b of this section, an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

b. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than $10,000.00 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of section 12-93(b)(1) through (4) and subsection (5) of this section.

(3) Commercial uses. Any commercial structure which is erected, altered or moved into the flood fringe area shall meet the requirements of subsection (1) of this section. Subject to the requirements of subsection (5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected, altered or moved into the flood fringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in section 12-191. Subject to the requirements of subsection (5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 12-191. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and:

a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 12-191 to the flood protection elevation;

b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) Sewage systems. All on-site sewage disposal systems shall be floodproofed, pursuant to section 12-191, to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code ch. Comm 83.

(8) Wells. All wells shall be floodproofed, pursuant to section 12-191, to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.

(9) Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in flood fringe areas.

(10) Deposition of materials. Any deposited material must meet all the provisions of this article.

(11) Manufactured homes.

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

b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

1. Have the lowest floor elevated to the flood protection elevation; and

2. Be anchored so they do not float, collapse or move laterally during a flood.

c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the flood fringe in subsection (1) of this section.

(12) Mobile recreational vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in subsections (11)a and (11)b.1 of this section. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Compiled Ords. of 2009, § 18.20.030)

Secs. 12-120—12-136. - Reserved.

DIVISION 5. - GENERAL FLOODPLAIN DISTRICT

Sec. 12-137. - Applicability.

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

(Compiled Ords. of 2009, § 18.24.010)

Sec. 12-138. - Permitted uses.

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

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

(Compiled Ords. of 2009, § 18.24.020)

Sec. 12-139. - Standards for development.

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

(Compiled Ords. of 2009, § 18.24.030)

Sec. 12-140. - Determining floodway and flood fringe limits.

Upon receiving an application for development within the General Floodplain District, the zoning administrator shall:

(1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the General Floodplain District limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures;

(2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

   a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

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

   c. Profile showing the slope of the bottom of the channel or flow line of the stream;

   d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(3) Transmit one copy of the information described in subsections (1) and (2) of this section to the department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of section 12-187(b)3 apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Compiled Ords. of 2009, § 18.24.040)

Secs. 12-141—12-163. - Reserved.

DIVISION 6. - NONCONFORMING USES

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

(a) If these standards conform with Wis. Stats. § 59.69(10), they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this article is derived or any amendment thereto.

(b) Modifications or additions.

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

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

(c) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.

(d) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

(e) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 12-63. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection.

(f) Buildings damaged or destroyed.

(1) Except as provided in subsection (5)b of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its predamaged condition exceeds 50 percent of the structure's present equalized assessed value.

(2) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR 60), or the regulations promulgated thereunder.

(g) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 12-93(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 12-191 are used.

(Compiled Ords. of 2009, § 18.28.010)

Sec. 12-165. - Floodway areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(1) Has been granted a permit or variance which meets all ordinance requirements;

(2) Meets the requirements of section 12-164;

(3) Will not increase the obstruction to flood flows or regional flood height;

(4) Any addition to the existing structure shall be floodproofed, pursuant to section 12-191, by means other than the use of fill, to the flood protection elevation;

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

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

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

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

d. The use must be limited to parking or limited storage.

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

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code chs. NR 811 and 812.

(Compiled Ords. of 2009, § 18.28.020)

Sec. 12-166. - Flood fringe areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in section 12-118, except where subsection (b) of this section is applicable.

(b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of adjustment, using the procedures established in section 12-189, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed in subsections (1) through (6) of this section. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) No floor is allowed below the regional flood elevation for residential or commercial structures;

(2) Human lives are not endangered;

(3) Public facilities, such as water or sewer, will not be installed;

(4) Flood depths will not exceed two feet;

(5) Flood velocities will not exceed two feet per second; and

(6) The structure will not be used for storage of materials as described in section 12-119(6).

(c) If neither the provisions of subsection (a) nor (b) of this section can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe, if the addition:

(1) Meets all other regulations and will be granted by permit or variance;

(2) Does not exceed 60 square feet in area; and

(3) In combination with other previous modifications or additions to the building, does not exceed 50 percent of the present equalized assessed value of the building.

(d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. Comm 83.

(e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article and Wis. Admin. Code chs. NR 811 and 812.

(Compiled Ords. of 2009, § 18.28.030)

Secs. 12-167—12-186. - Reserved.

DIVISION 7. - ADMINISTRATION

Sec. 12-187. - Zoning administrator.

(a) Powers and duties. The zoning administrator is authorized to administer this article and shall have the following duties and powers:

(1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.

(3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(4) Keep records of all official actions such as:

a. All permits issued, inspections made, and work approved;

b. Documentation of certified lowest floor and regional flood elevations for floodplain development;

c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;

d. All substantial damage assessment reports for floodplain structures.

(5) Submit copies of the following items to the department regional office:

a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

b. Copies of any case-by-case analyses, and any other information required by the department including an annual summary of the number and types of floodplain zoning actions taken;

c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

(7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.

(b) Land use permit. A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) General information.

a. Name and address of the applicant, property owner and contractor;

b. Legal description, proposed use, and whether it is new construction or a modification.

(2) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

a. Location, dimensions, area and elevation of the lot;

b. Location of the ordinary high-water mark of any abutting navigable waterways;

c. Location of any structures with distances measured from the lot lines and street centerlines;

d. Location of any existing or proposed on-site sewage systems or private water supply systems;

e. Location and elevation of existing or future access roads;

f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of division 3 or division 4 of this article are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 12-63. This may include any of the information noted in section 12-93(a).

(3) Data requirements to analyze developments.

a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as the term "subdivision" is defined in Wis. Stats. ch. 236 and other proposed developments exceeding five acres in area or where the estimated cost exceeds $125,000.00. The applicant shall provide:

1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;

2. A map showing location and details of vehicular access to lands outside the floodplain; and

3. A surface drainage plan showing how flood damage will be minimized.

b. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(4) Expiration. All permits issued under the authority of this article shall expire 365 days after issuance.

(c) Certificate of compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article;

(2) Application for such certificate shall be concurrent with the application for a permit;

(3) If all article provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed;

(4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of section 12-191.

(d) Other permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Compiled Ords. of 2009, § 18.32.010)

Sec. 12-188. - Zoning agency.

(a) The county planning, zoning, and farmland preservation committee shall:

(1) Oversee the functions of the office of the zoning administrator; and

(2) Review and advise the county board on all proposed amendments to this article, maps and text.

(b) This zoning agency shall not:

(1) Grant variances to the terms of this article in place of action by the board of adjustment; or

(2) Amend the text or zoning maps in place of official action by the county board.

(Compiled Ords. of 2009, § 18.32.020)

Sec. 12-189. - Board of adjustment.

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

(1) Powers and duties. The board of adjustment shall:

a. Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.

b. Boundary disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

c. Variances. Hear and decide, upon appeal, variances from the ordinance standards.

(2) Appeals to the board.

a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless

otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

b. Notice and hearing for appeals including variances.

1. Notice. The board shall:

(i) Fix a reasonable time for the hearing;

(ii) Publish adequate notice pursuant to state law, specifying the date, time, place and subject of the hearing;

(iii) Ensure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.

2. Hearing. Any party may appear in person or by agent. The board shall:

(i) Resolve boundary disputes according to subsection (3) of this section.

(ii) Decide variance applications according to subsection (4)of this section.

(iii) Decide appeals of permit denials according to section 12-190.

c. Decision. The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;

2. Be sent to the department regional office within ten days of the decision;

3. Be a written determination signed by the chairman or secretary of the board;

4. State the specific facts which are the basis for the board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board's proceedings.

(3) Boundary disputes. The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:

a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.

c. If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the county board for a map amendment according to division 8 of this article.

(4) Variance.

a. The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
3. The variance is not contrary to the public interest; and
4. The variance is consistent with the purpose of this article in section 12-24.

b. In addition to the criteria in subsection (4)a of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance may not cause any increase in the regional flood elevation;
2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this article.

c. A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district.
2. Be granted for a hardship based solely on an economic gain or loss.
3. Be granted for a hardship which is self-created.
4. Damage the rights or property values of other persons in the area.
5. Allow actions without the amendments to this article or maps required in section 12-223.
6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

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

(Compiled Ords. of 2009, § 18.32.030)

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

(a) The zoning agency (section 12-188) or board shall review all data related to the appeal. This may include:

(1) Permit application data listed in section 12-187(b).

(2) Floodway/flood fringe determination data in section 12-140.

(3) Data listed in section 12-93(a)2, where the applicant has not submitted this information to the zoning administrator.

(4) Other data submitted with the application, or submitted to the board with the appeal.

(b) For appeals of all denied permits, the board shall:

(1) Follow the procedures of section 12-189;

(2) Consider zoning agency recommendations; and

(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation, the board shall:

(1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

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

(Compiled Ords. of 2009, § 18.32.040)

Sec. 12-191. - Floodproofing.

(a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

(b) Floodproofing measures shall be designed to:

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

(2) Protect structures to the flood protection elevation;

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

(4) Ensure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(c) Floodproofing measures could include:

(1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure.

(2) Adding mass or weight to prevent flotation.

(3) Placing essential utilities above the flood protection elevation.

(4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

(5) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters.

(6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Compiled Ords. of 2009, § 18.32.050)

Sec. 12-192. - Public information.

The following information shall be made available to the public:

(1) Place marks on structures to show the depth of inundation during the regional flood.

(2) All maps, engineering data and regulations shall be available and widely distributed.

(3) All real estate transfers should show what floodplain zoning district any real property is in.

(Compiled Ords. of 2009, § 18.32.060)

Secs. 12-193—12-222. - Reserved.

DIVISION 8. - AMENDMENTS

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

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

(1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

(2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.

(3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

(4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

(5) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the municipality.

(6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

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

(Compiled Ords. of 2009, § 18.36.010)

Sec. 12-224. - Procedures.

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

(1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the county board. The amendment and notice of public hearing

shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 59.69.

(2) No amendments shall become effective until reviewed and approved by the department.

(3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

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

(Compiled Ords. of 2009, § 18.36.020)

Secs. 12-225—12-241. - Reserved.

DIVISION 9. - ENFORCEMENT AND PENALTIES

Sec. 12-242. - Penalty.

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

(Compiled Ords. of 2009, § 18.40.010)

Secs. 12-243—12-262. - Reserved.

ARTICLE III. - LANDSPREADING

Sec. 12-263. - Definitions.

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

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

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

(Compiled Ords. of 2009, § 16.20.010)

Sec. 12-264. - Standards.

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

(Compiled Ords. of 2009, § 16.20.020)

Sec. 12-265. - Prohibiting unlawful landspreading.

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

(Compiled Ords. of 2009, § 16.20.030)

Sec. 12-266. - Permit requirements.

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

(Compiled Ords. of 2009, § 16.20.040)

Sec. 12-267. - Landspreading plan submittals.

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

(1) Waste characterization.

   a. A detailed description and analysis of the petroleum contaminated soil proposed to be landspread.

   b. The volume of soil, type of petroleum contamination, and the soil source.

(2) Site characteristics.

   a. Maps of the landspreading site including copies of plat maps, USGS topographic maps, wetland and floodplain maps, county soil survey maps with the proposed area delineated on each map.

   b. The current land use of the landspreading site and adjacent properties.

   c. The landspreading site slope, depth to water table and bedrock, and a detailed soils description.

   d. The location of residences, private and public water supplies.

   e. A copy of the closure report that is filed with the DNR pursuant to Wis. Admin. Code ch. NR 718.

(3) Site operation.

a. The proposed spreading dates and spreading thickness. Landspreading in the county will only be allowed between May 1 and September 30.

b. The proposed methods of spreading, incorporation, and follow-up tillage as appropriate.

c. The type of crop or vegetation to be planted on the landspreading site after spreading.

d. A signage to be required when determined appropriate as a stipulation of permit issuance.

(Compiled Ords. of 2009, § 16.20.010)

Sec. 12-268. - Violations and penalties.

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

(Compiled Ords. of 2009, § 16.20.060)

Chapter 13 – Water and Soil Conservation

Article I – Manure Storage and Management

Sec. 13-1 - Authority

(a) This article is adopted pursuant to the authority granted by Wis. Stat. 59.02, 59.03, 59.70, 92.07, 92.15, and 92.16 and Wis. Admin. Code ATCP 50.56 and NR 151.05.
(b) The laws, rules and regulations referenced above and in this article are wholly adopted and incorporated by reference.

Sec. 13-2 - Purpose

(a) The purpose of this article is to provide for the proper and safe storage, handling, and land application of manure and other wastes and to reduce the delivery of manure and other wastes, agriculture chemicals and sediment to surface waters and groundwater through the use of conservation practices and implementation of state performance standards and prohibitions for agriculture, and to regulate the location, design, construction, alteration, maintenance, closure and the use of animal waste storage facilities, including the transfer of wastes into storage facilities.
(b) The Board finds that the following conditions may threaten the county's natural and water resources; cause harm to the health, safety and welfare of people within the county; and adversely impact the property tax base of the county:
    (1) New and substantially altered manure storage facilities that fail to meet performance and technical standards for proper design, construction and operation.
    (2) Existing manure storage facilities that are not properly functioning and pose unreasonable risks related to structural failure and leakage.

(3) Existing manure storage facilities that overtop or are operated in a manner that creates an unreasonable risk of discharge to waters of state.
(4) Existing manure storage facilities where no manure has been added or removed for a period of 24 months and are not slated for future use.
(5) Management of manure including land application that fails to meet performance and technical standards for proper handling and land application of manure.

(c) The Board finds that the technical standards developed by the USDA Natural Resources Conservation Service and the performance standards, prohibitions, and conservation practices codified by Wisconsin Department of Agriculture, Trade, and Consumer Protection and Department of Natural Resources, if adopted by Clark County, provide effective, practical, and environmentally protective methods for storing and managing manure.

(d) The Board finds the regulation of activities identified in this article will protect and promote the county's agricultural industry; prevent pollution of surface and ground water; protect the health, safety, and general welfare of the people and communities within the county; preserve the health of livestock, aquatic life and other animals and plants; advance the appropriate use of land and water conservation resources within the community; and protect the property tax base of county.

Sec. 13-3 - Applicability

The requirements in this article apply to all of the unincorporated areas of Clark County.

Sec. 13-4 - Interpretation

The interpretation and application of the provisions of this article shall be the minimum requirements; shall be liberally construed in favor of the county; and shall not be deemed a limitation or repeal of any other power granted by law. Unless a specific provision in this article seeks to apply requirements that are more stringent than state law, this article shall be interpreted to be consistent with Wis. Stat. 92 and Wis. Admin. Code ATCP 50 and NR 151.

Sec. 13-5 - Definitions

(a) Terms used in this article shall have the following meanings:
(1) “Adequate sod” or “Self-sustaining vegetative cover” means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
(2) “Agricultural waste” means manure (livestock excreta including livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal waste handling operations); excess fertilizers, herbicides and pesticides (which must be handled according to their specific regulations separate from this ordinance); or leachate from feed storage facilities.
(3) “Committee” means the Clark County Land Conservation Committee.
(4) “Department” means the Clark County Land Conservation Department.
(5) “Direct runoff” means any of the following:
i. Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.
ii. Runoff from an animal feed lot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to

groundwater through a defined or channelized flow path or manmade conveyance.

iii. Discharge of a significant amount of leachate from stored agriculture wastes to waters of the state.

iv. Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with Wis. Admin. Code NR 154.04(3).

(6) "DNR" means the Wisconsin Department of Natural Resources.

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

(8) "Landowner" means a person or entity who owns a parcel of land who may also control or use said parcel for agricultural purposes.

(9) "Livestock" means domestic animals such as cattle, horses, sheep, pigs, poultry, fish, etc., or exotic animals such as llamas, ostriches, etc.

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

(11) "Manure" means livestock excreta and the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted bio solids, and process water; and runoff collected from barnyards, animal lots, and feed storage areas.

(12) "Manure storage facility" means an impoundment made by constructing an embankment; excavating a pit or dugout; or fabricating, building, or installing a structure to store and transfer agricultural waste including, but not limited to, components to transfer waste from barns, barnyards, and feed storages, as well as fixed and permanent equipment and piping used to transfer waste.

(13) "Maximum operating level" means the level in a liquid storage or containment facility that allows for a required margin of safety for containing the precipitation and runoff as a result of a 25-year, 24-hour storm event and for a level of freeboard which provides extra space to reduce the risk of overtopping.

(14) "NRCS" means the Natural Resources Conservation Service of the U.S. Department of Agriculture.

(15) "Nutrient management plan" (NMP) means an annual written plan developed and implemented to ensure the proper application of manure and other nutrients to any field, including pastures, as well as to ensure adequate soil erosion control.

(16) "Operator" means a person or entity who owns, leases, or is responsible for the oversight of equipment, facilities, manure storage facilities, or livestock or is responsible for land management including nutrient applications, tillage practices, and cropping practices.

(17) "Overflow" means discharge of manure to the environment resulting from flow over the brim of a facility or from flow directed onto the ground through a man-made device including a pump or pipe.

(18) "Permit" means the signed, written statement issued by the Department under this article authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter, or close an animal manure storage facility.

(19) "Permittee" means any person or entity to whom a permit is issued under this article (must be landowner or have notarized, written permission from the landowner).

(20) "Significant discharge" means the release of waste including, but not limited to, agricultural waste and waste from a milking center, that has the potential to cause considerable harm to the environment as determined by the Department in consideration of the following factors: 1) volume and frequency of the discharge; 2) location of the source relative to receiving waters; 3) means of conveyance to water; 4) slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge to water, 5) available evidence of discharge to a surface water or to a direct conduit to groundwater as defined in Wis. Admin. Code NR 151.015; 6) whether the discharge is to a site susceptible to groundwater contamination as defined in Wis. Admin. Code NR 151.015; and 7) other factors relevant to the impact of the discharge on water quality standards of the receiving water or to groundwater standards.

(21) "Stored manure" means manure that is kept in a manure storage facility or an unconfined manure pile.

(22) "Substantially altered" means a change initiated by an owner or operator that results in a relocation of a structure or facility or significant changes to the size, depth, configuration, or use of a structure or facility.

(23) "Technical guide" means the current Wisconsin version of the United States Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide.

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

(25) "Unconfined manure pile" means a quantity of manure that is at least 175 cubic feet in volume and covers the ground surface to a depth of at least two (2) inches and is not confined within a manure storage facility, livestock housing facility, or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

(26) "Waste transfer system" means components such as pumps, pipes, conduits, valves, and other structures installed to convey manure or other waste streams from buildings, animal feeding operations, and feed storage areas to a storage structure, loading area, or treatment area.

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

(28) "Water" means all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

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

Sec. 13-6 - General requirement

An operator or any person or entity who directs another who constructs, installs, operates, substantially alters, closes, or possesses a manure storage facility; a facility that stores or transfers waste; or an idle storage facility, shall be subject to the provisions of this article.

Sec. 13-7 - Compliance with permit requirements

(a) An operator is in compliance with this article if he/she follows the procedures of this article; receives a permit from the Department before beginning activities subject to regulation under this article; and complies with the requirements of the permit.
(b) Modification or closure of pre-existing facilities requires a permit subject to all terms of this article.

Sec. 13-8 - Manure management prohibitions

(a) Livestock operations shall comply with all of the following:
    (1) Shall not have any overflow of waste storage facilities.
    (2) Shall not have any unconfined manure pile in a water quality management area.
    (3) Shall not have any direct runoff from a feedlot or stored manure into the waters of the state.
    (4) Shall not have any significant discharge to waters of the state as determined by the Department.
        i. Shall not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover.
        ii. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.
(b) A livestock operation that is in existence prior to October 1, 2002 shall not be required to comply with the manure management prohibitions unless cost-sharing is made available pursuant to Wis. Stat. 281.16(3).
(c) Noncompliance with the manure management prohibitions shall result in enforcement actions in accordance with Wis. Admin. Code NR.151.095.

Sec. 13-9 – Standards and specifications

(a) Standards and specifications for design, construction, and management of manure storage and transfer facilities are set forth in NRCS Field Office Technical Guide, Standard 313 and Standard 634.
(b) Standards and specifications for nutrient management of land-applied animal wastes and other nutrients are set forth in NRCS Field Office Technical Guide, Standard 590.
(c) Standards and specifications for closure of a storage facility are as set forth in NRCS Field Office Technical Guide, Standard 360.
(d) Any future amendment, revision, or modification of the referenced standards is incorporated unless otherwise acted upon by the Board.

Sec. 13-10 - Fees

(a) Fees, including, but not limited to, interest for unpaid fees and late fees, under this article shall be established and approved by the Committee.
(b) A list of fees shall be maintained by the Department.
(c) Any permit fee is payable upon submission of a permit application; is nonrefundable; and non-transferable.

(d) Fees shall be doubled if activity requiring a permit is commenced prior to issuance of a permit. All applicable federal, state, and local standards and ordinances still apply.

Sec. 13-11 – Permit

(a) An operator shall obtain a permit before any action associated with any activities set forth in this section is commenced.

(b) An operator shall obtain a permit to complete any of the following activities:

(1) The construction of a new manure storage facility including the construction or substantial alteration of a waste transfer system connected to a manure storage facility that meets any of the following conditions:

i. Hoppers or reception structures.

ii. New transfer lines or systems (i.e. channels larger than 2 feet wide and 2 feet deep)

iii. Buildings that store manure on the floor (i.e. bedded pack barns) for longer than one hundred eighty (180) consecutive days.

(2) Closure of a manure storage facility.

(3) Substantially altering an existing manure storage facility involving the relocation of an existing structure or facility or significant changes to the size, depth, or configuration of a structure or facility including, but not limited to:

i. Replacement of a liner in a manure storage facility.

ii. Any disturbance of an embankment below the maximum operating level.

iii. An increase in volumetric capacity or area of a structure.

iv. A change in a structure or facility related to a change in livestock management including a livestock species change, change in materials stored, or any other change in management.

(c) Emergency repairs for broken pipes, equipment, or leaking dikes or obstruction removal may be performed without the issuance of a permit before the work is completed.

(1) Emergency repairs shall not result in increased capacity to the manure storage facility.

(2) The operator shall contact the Department on the first business day following the emergency repairs for the determination on whether a permit will be required.

(d) Upon permit issuance, activities authorized by the permit must be completed and certified within two (2) years from the date of issuance at which time the permit shall be void.

Sec. 13-12 – Permit application

(a) An application for a permit shall be completed and filed with the Department on forms supplied by the Department.

(b) The Department shall provide a copy of the approved permit application to the appropriate town board (if applicable). The Department may provide a copy of the approved permit to other agencies or units of government that may have jurisdiction over the subject activity.

(c) Each application for a permit shall include a waste storage facility plan and a NMP.

Sec. 13-13 - Permit application review

(a) The Department shall review all permit applications and determine if the proposed facility and activities meet requirements.

(b) Within 30 working days after receiving the completed application, required plans, and fee, the Department shall inform the applicant in writing whether the permit application is approved or denied.

(1) If additional information is needed, the Department shall contact the applicant.

(2) The Department has 15 working days for CAFOs and 10 working days for smaller farms from the receipt of the additional information to approve or deny the permit application.

(c) If the Department fails to timely approve or deny the permit application in writing, the application shall be deemed approved and the permit issued subject to this article.

(d) If the permit is denied, the Department shall inform the applicant in writing of the reasons for the denial.

Sec. 13-14 - Permit conditions and requirements

(a) All permits issued under this article shall be issued subject to the following conditions and requirements:

(1) Manure storage facilities design, construction, and maintenance shall be carried out in accordance with the required plans and standards in this article.

(2) The permittee shall obtain all other local, state, or federal required permits and authorizations from appropriate authorities before commencing construction activities. The permittee shall provide proof of such permits to the Department.

(3) The permittee shall provide the Department five (5) business days' notice before starting any activity subject to the permit.

(4) The Department shall review and approve any plans and the site before permitted activity begins.

(5) The Department shall provide written approval prior to any modifications to a manure storage facility plan.

(6) The permittee shall notify the Department within 10 calendar days prior to facility completion for inspection.

(7) After the completion of the manure storage facility, a statement of certification of installation shall be executed by a professional engineer registered with the state examining board of architects, professional engineers, designers and land surveyors under Wis. Stats. 443 or by an agricultural engineer practitioner certified under Wis. Admin. Code ATCP 50.46 that said facility does or will meet requirements of ordinance and appropriate standards.

(8) Within the following 9 months, certification shall be provided to the Department and include the following information:

i. Certification that installation meets all NRCS standards with specific standards listed
ii. As-built drawings with final material quantities identified
iii. Red-lined drawings showing all changes from original plan
iv. Final survey points and notes about required final inspection
v. Job diary
vi. Material compliance data including representative samples of concrete batch tickets (if applicable) and documentation that all batch tickets were verified by inspector
vii. Photo of completed facilities including all components
viii. Facility location on plan map

(b) Following construction and certification, the Department shall conduct a post-construction inspection to verify the facility was installed per permit and plan.

Sec. 13-15 – Manure storage facility plan; Waste transfer plan

(a) Each application for a permit shall, at a minimum, include:

(1) A management assessment that addresses the storage components, available resources, waste manure disposal schemes, and waste characterization consistent with NRCS Field Office Technical Guide, Standard 313 and Standard 634.
(2) A site assessment that describes the physical characteristics that will influence the placement, construction, maintenance, and environmental integrity of the proposed site consistent with NRCS Field Office Technical Guide, Standard 313.
    i. A county representative from the Department must be onsite for subsurface investigations. The design engineer or a representative of the design engineer shall be responsible for the investigations.
(3) A location map of the site that includes all of the following:
    i. The location of all structures, buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches, creeks, flowages, rivers, streams, lakes, wetlands, or any other structures within 1,000 feet of the proposed facility or system.
    ii. The location of any wells within 300 feet of the facility.
    iii. The scale of the drawing and the north arrow with the date the general location map was prepared.
    iv. The location of any floodplains.
(4) A facility design, construction plan, and operation/maintenance plan consistent with NRCS Field Office Technical Guide, Standard 313 prepared by a professional engineer registered with the state examining board of architects, professional engineers, designers and land surveyors under Wis. Stat. 443 or by an agricultural engineer practitioner certified under Wis. Admin. Code ATCP 50.46.
    i. The operation/maintenance plan must include instructions on complying with the nutrient management standards annual requirements.

(b) Department must inspect the site for each application prior to the issuance of a permit.

Sec. 13-16 - Nutrient management plan (NMP)

(a) Permittees, with the exception of permits for the closure of manure storage facilities, shall obtain and comply with an approved NMP every year following the issuance of the permit.
(b) The NMP shall be developed by individuals with qualifications as described as set forth below pursuant to Wis. Admin. Code ATCP 50.04(3):
    (1) The individual shall be knowledgeable and competent in all of the following areas:
        i. NRCS Field Office Technical Guide, Standard 590
        ii. Soil testing
        iii. Calculating nutrient needs on a field-by-field basis
        iv. Crediting manure, residual legume nitrogen, and other nutrient sources on a field-by-field basis
        v. Conservation plans
        vi. Relevant laws related to nutrient management
        vii. Preparing NMP in accordance with Wis. Admin. Code ATCP 50.04(3)
    (2) An individual is qualified to complete a NMP if any of the following apply:
        i. Recognized as a certified professional crop consultant by the national alliance of independent crop consultants.
        ii. Recognized as a certified crop adviser or professional agronomist by the American society of agronomy or Wisconsin certified crop advisers board.
        iii. Registered as a soil scientist by the soil science society of America

iv. A landowner his/her farm, but not for others, if the landowner completes a Department-approved training course that results in a compliant NMP and the course instructor approves the landowner's first annual NMP.
    1. The landowner shall complete a Department-approved training course at least once every 4 years to maintain his/her presumptive qualification.

(c) The NMP shall include the following:
    (1) A map or description of all land on which manure is applied.
    (2) Soil nutrient tests conducted at a laboratory certified under Wis. Admin. Code ATCP 50.50.
    (3) Comply with the NRCS Field Office Technical Guide, Standard 590.
    (4) Recommendations for nutrient management applications in the University of Wisconsin Extension Soil Test Recommendations for Field and Vegetable, and Fruit Crops, UWEX Publication A-2809 (1998).
    (5) Any other information required by the Department.

(d) The NMP shall be updated and implemented on an annual basis and shall be submitted to the Department along with the Nutrient Management Checklist by April 1 each year. If a NMP is not submitted to the Department by May 15 each year, the operator will be charged a late fee with interest.
    (1) The Department may waive a late fee and/or interest for reason of hardship.

(e) Operator shall fully comply with performance standards and prohibitions found in Wis. Admin. Code ATCP 50, NR 151, and other requirements set forth in this article.

Sec. 13-17 - Facility closure

(a) Manure storage facilities shall be closed in a manner that will prevent contamination of groundwater and surface waters.

(b) Manure storage facilities shall be upgraded, replaced, or abandoned, which requires a permit, in accordance with this article if any of the following exist:
    (1) The facility is failing and leaking and poses an imminent threat to public health, fish, aquatic life, or groundwater.
    (2) The facility ceases operations or manure has not been added to or removed from the facility for a period of 24 consecutive months.
        i. The Department may extend this time for good cause with such extension not to exceed one (1) year.
        ii. Operator may retain the facility for a longer period of time by demonstrating to the Department that all of the following conditions are met:
            1. The facility is designed, constructed, and maintained in accordance with NRCS Field Office Technical Guide, Standard 313.
            2. The facility is designed to store manure for a period of time longer than 24-months.
            3. Retention of the facility is warranted based on anticipated future use.

(c) To close a manure storage facility, a closure design and inspection plan shall be completed and approved by the Department before any activity associated with closing the facility. The closure plan shall meet the following requirements:
    (1) The plan shall be consistent with NRCS Field Office Technical Guide, Standard 360.
    (2) The plan shall be prepared by a professional engineer registered with the state examining board of architects, professional engineers, designers and land surveyors under Wis. Stat. 443 or by an agricultural engineer practitioner certified under Wis. Admin. Code ATCP 50.46.

Sec. 13-18 - Setbacks

(a) All state and federal highways, county trunks, town roads, village road, and public streets are designated as roadways for purposes of this article.
(b) Permanent piping used to transfer waste from point of origin to a permanent manure storage facility is not subject to this section.
(c) Manure storage facilities shall be setback at least 110 feet from the centerline of the roadway or at least 50 feet from the roadway right-of-way line, whichever is greater.
(d) Any component of manure storage facilities shall not be more than three (3) feet above the natural grade within the visual clearance triangle, which is a 300 foot triangular area from the center point where roadways intersect.
(e) Manure storage facilities shall be setback at least 300 feet from any navigable water and shall be designed to protect navigable waters and drainage ways.
(f) Manure storage facilities shall not be installed in the 100-year floodplain of navigable water.
(g) Manure storage facilities shall not be installed in a wetland or within 100 feet of a wetland.
(h) Manure storage facilities shall be setback at least 100 feet from a property line. Note: a road is not a property line. See Sec 13-18(c) for setback from roads.
(i) Manure storage facilities shall be setback at least 300 feet from any residential building unless the building is owned by the landowner and the building is occupied by the landowner, operator, or the family, agent, and/or employee of the landowner or operator.

Sec. 13-19 - Delegation of authority; Duties

(a) The county designates the Department to administer and enforce the provisions of this article.
(b) This article shall be administered by the Department under the oversight of the Committee.
(c) The Department shall be responsible for following:
    (1) Keeping an accurate record of all permit applications, manure storage facility plans, NMPs, issued/denied permits, inspections, and other official actions.
    (2) Reviewing permit applications and issuing/denying permits in accordance with this article.
    (3) Inspecting manure storage facilities to determine if the facility construction, closure, and/or operation meet the requirements of this article.
    (4) Reviewing NMPs and their implementation.
    (5) Investigating complaints relating to compliance with this article.
    (6) Performing other duties as specified in this article.

Sec. 13-20 - Entry and inspection authority

(a) Pursuant to the authority granted in Wis. Stat. 92.07(14), the Department is authorized to enter and inspect lands affected by this article to determine compliance with this article including, but not limited to, inspection of sites prior to or after the issuance of a permit or inspection of sites with unpermitted storage facilities.
(b) If permission cannot be received from the applicant or permittee, the Department may seek a warrant pursuant to Wis. Stat. 66.0119.
(c) An operator's or permittee's refusal to grant permission to enter land shall be grounds for noncompliance and may result in permit denial or revocation or other enforcement actions.

Sec. 13-21 – Permit denial, suspension, or revocation; Appeal

(a) Department may deny, suspend, or revoke any permit for permit noncompliance.
(b) After an operator has repeated violations or violations which have created a serious public health hazard, the Department reserves the right to permanently revoke or deny a permit.

(c) The following procedure shall be followed if a permit is denied, suspended, or revoked:
    (1) The Department's decision to deny, suspend, or revoke a permit shall be in writing stating, with specificity, the reasons for the Department's decision and shall state any applicable statutes, ordinances, rules, or regulations that support such decision.
    (2) The Department shall send the operator a copy of the written decision by mail or by personal service along with the notice of right to appeal.
        i. Said notice shall inform the operator of the right to have such decision reviewed pursuant to Wis. Stat. 68 by submitting a written request to the Department within 30 days of notice receipt.

Sec. 13-22 - Enforcement

(a) The Department is authorized to issue an order to stop work for any activities subject to this article.
(b) The Department is authorized to refer any violation of this article or stop order to law enforcement or Corporation Counsel for enforcement.
(c) The county may institute any legal proceedings and seek any remedy or relief afforded by law, including, but not limited to, a civil forfeiture or injunction.

Sec. 13-23 - Penalties

(a) The laws, rules, and regulations referenced in this article are wholly adopted and incorporated by reference.
(b) No operator shall do any of the following:
    (1) Violate or fail to comply with any provision of this article.
    (2) Violate or fail to comply with any permit condition or requirement.
    (3) Violate or fail to comply with any incorporated standard or specification.
    (4) Knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to any county employee, county agent, Department, or Committee relating to any matter governed by this article.
    (5) Disobey, resist, or refuse to comply with any order.
(c) Violations of any ordinance in this article shall be subject to a forfeiture of not more than $200.00. A person who is alleged to violate the same ordinance in a 24-month period shall be subject to a forfeiture of not more than $500.00.
(d) Each act of violation and each day upon which a violation continues or occurs shall constitute a separate offense.

Sec. 13-24 – Variances

(a) The board of adjustment, pursuant to Wis. Stat. 59.694, may grant an area variance from any dimensional standards if the applicant can prove the following:
    (1) Literal enforcement of this ordinance will result in an unnecessary hardship; such hardship is based on conditions unique to the property, not the property owner.
    (2) Strict compliance with this ordinance would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome.
    (3) The issuance of the variance is not contrary to the public interest.
(b) A variance shall not be granted if any of the following situations apply:
    (1) To extend or increase any use of the property prohibited in the ordinance.
    (2) Hardship exists based solely on an economic gain or loss or is self-created.
    (3) Variance would damage the rights of property values of other persons in the area.
    (4) Variance from a technical standard.

(5) Variance from performance standard and prohibition in Wis. Admin. Code NR 151.

(c) DNR has authority to grant variances as set forth in Wis. Admin. Code NR 151.097.

Chapter 14 - FIRE PREVENTION AND PROTECTION

(RESERVED)

State Law reference— Police and firefighting services generally, Wis. Stats. § 213.01 et seq.; fire inspections, prevention, detection and suppression, Wis. Stats. § 101.14; consolidation of local services, Wis. Stats. § 59.03; authority of counties to provide public protection and safety, Wis. Stats. § 59.54; emergency powers of local governmental units, Wis. Stats. § 166.23.

Chapter 15

(RESERVED)

Chapter 16 - HEALTH AND SAFETY

State Law reference— Health administration and supervision, Wis. Stats. § 250.01 et seq.; county health and human services authority, Wis. Stats. § 59.53; emergency powers of county regarding health, Wis. Stats. § 166.23; indoor air quality, Wis. Stats. § 254.22; human health hazards, Wis. Stats. § 254.55 et seq.; nuisances violating building codes or health orders, Wis. Stats. § 254.595.

ARTICLE I. - IN GENERAL

Sec. 16-1. - Definitions.

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

Aircraft means any structure invented, used or designed for navigation or flight in the air.

Health hazards means and includes:

(1) Garbage and refuse. Accumulation of garbage or refuse not contained in closed containers designed for such purpose.

(2) Unfit buildings. Buildings or structures intended for humans which contain an accumulation of human or animal feces or urine.

(3) Dilapidated buildings. Any building or structure, due to its state of disrepair, unsafe or unsanitary condition that is unfit for human habitation or use.

(4) Accumulation of refuse. Accumulation of refuse, which renders any property unsanitary, unhealthy, or unfit for human habitation.

(5) Breeding places for vermin. Accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, abandoned automobiles, appliances, or any material in which flies, mosquitoes, disease carrying insects, rats, or other vermin can breed.

(6) Animal carcasses or carcasses of fowl. Animal carcasses or carcasses of fowl which are not buried or otherwise disposed of in a sanitary matter within a reasonable time.

(7) Unbarricaded openings. Unbarricaded open wells, holes, cisterns, and abandoned excavations.

Highway has the meaning given in Wis. Stats. § 340.01(22).

Vehicle has the meaning given in Wis. Stats. § 340.01(74), and includes an electric personal assistive mobility device, as defined in Wis. Stats. § 340.01(15pm).

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

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

Secs. 16-2—16-20. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. 16-21. - Health department to administer chapter provisions.

The health department shall administer this chapter. The health officer or designee of the health department shall have the power to ensure compliance with the intent of this chapter by any means possible under the law. The corporation counsel shall represent the county in all actions brought pursuant to this chapter and shall use prosecutorial discretion in any and all such cases. The health department shall have authority to contract for professional inspection services if necessary.

(Compiled Ords. of 2009, § 8.12.020)

State Law reference— Local board of health, members, Wis. Stats. § 251.03; duties and qualifications of local health officer, Wis. Stats. § 251.06.

Sec. 16-22. - Health department powers.

The health department shall have the following powers:

(1) To enter any structure or premise at a reasonable time for the purpose of performing duties under this chapter and to secure a court order to accomplish this purpose if necessary.

(2) To order abatement and/or correction of any health hazard in compliance with this chapter, state statutes, or regulations.

(3) Any other action authorized under the law or this chapter to ensure compliance with the purpose and intent of this chapter.

(4) To investigate all potential health hazards and determine what corrective action is required, and the time frame for such corrective action.

(Compiled Ords. of 2009, § 8.12.030)

Sec. 16-23. - Compliance.

Compliance with this chapter shall include compliance to all written orders issued with the authority of the chapter.

(Compiled Ords. of 2009, § 8.12.040)

Sec. 16-24. - Order enforcement.

When a violation of this chapter is encountered, the health officer or designee shall issue the violator a written order. This order must specify:

(1) The nature of the violation and the steps needed to abate or correct it.

(2) The time period in which the violation must be corrected or abated. (Generally, one to five days or ten to 30 days, depending on the nature of the violation.)

(3) The penalty or penalties the violator would be subject to if the apparent violation is not abated and/or corrected within the given time period.

(Compiled Ords. of 2009, § 8.12.050)

Sec. 16-25. - Exceptions to written order.

In extreme cases where a violation poses an immediate health hazard as determined by the health department or in the case of repeated occurrences of the same violation by the same person the time requirements for correction may be reduced to immediate action.

(Compiled Ords. of 2009, § 8.12.060)

Sec. 16-26. - Immediate health hazards.

A condition that exists or has the potential to exist, which should, in the opinion of the health officer, be abated or corrected immediately or at least within a 24-hour period to prevent possible severe damage to human health or the environment.

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

Sec. 16-27. - Noncompliance with the written order.

If a person does not comply with a written order from the health department, the person may be subject to one or more of the following actions or penalties:

(1) The issuance of a citation.

(2) Commencement of legal action against the person seeking court imposed forfeiture.

(3) Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the damage created by its violation.

(4) Any other action authorized by this article or by any other applicable laws as deemed necessary by the health department and/or the county corporate counsel.

(5) The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section.

(Compiled Ords. of 2009, § 8.12.070)

Sec. 16-28. - Violation and penalty.

The penalty for violating any of the provisions of this chapter shall be a forfeiture not to exceed $1,000.00 but not less than $200.00, together with the costs of prosecution and applicable penalty assessment.

(Compiled Ords. of 2009, § 8.12.080)

Sec. 16-29. - Appeals.

(a) Appeals to the board of health may be taken by any person aggrieved or by an officer, department, or board of the county affected by any decision of the health officer or any other administration officer. Such appeal shall be taken within 72 hours by filing with the officer from whom the appeal is taken, and with the board of health, a notice of appeal specifying the grounds thereof.

(b) The health officer or other officer from whom the appeal is taken shall forthwith transmit to the board all of the papers constituting the record upon which the action that is the subject of the appeal was taken.

(Compiled Ords. of 2009, § 8.12.100)

Secs. 16-30—16-46. - Reserved.

ARTICLE III. - HEALTH HAZARDS

Sec. 16-47. - Property maintenance.

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

(1) Be free of accumulation of garbage, animal waste, and other debris, which results in an unhealthy and unsanitary condition and presents a potential danger to public health.

(2) Be maintained in such a manner so as to prevent excess damage, decay, dilapidation and vermin infestation, which could result in a serious hazard to the health and safety of the occupants, and to the public.

(3) Any other situation or condition, which renders property unsanitary, unhealthy, or unfit for human habitation or occupation.

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

Secs. 16-48—16-67. - Reserved.

ARTICLE IV. - SMOKING

DIVISION 1. - GENERALLY

Sec. 16-68. - Causing fires by tobacco smoking.

(a) It is unlawful for any person to, by smoking, or attempting to light or to smoke cigarettes, cigars, pipes or tobacco, in any manner in which lighters or matches are employed, in a careless, reckless or negligent manner, set fire to any bedding, furniture, curtains, drapes,

house or any household fittings, or any part of any building specified in this section, so as to endanger life or property in any way or to any extent. In each sleeping room of all hotels, roominghouses, lodginghouses and other places of public abode, a plainly printed notice shall be kept posted in a conspicuous place advising tenants of the provisions of this section.

(b) Wis. Stats. § 50.58 relating to careless smoking is adopted.

(Compiled Ords. of 2009, § 8.04.020)

State Law reference— Similar provision, Wis. Stats. § 254.76.

Secs. 16-69—16-94. - Reserved.

DIVISION 2. - SMOKING IN CERTAIN FACILITIES

Sec. 16-95. - Definitions.

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

Assisted-living facility means a community-based residential facility, as defined in Wis. Stats. § 50.01(1g), a residential care apartment complex, as defined in Wis. Stats. §50.01(1d), or an adult family home, as defined in Wis. Stats. § 50.01(1)(b).

Child care center has the meaning given in Wis. Stats. § 49.136(1)(ad).

Correctional facility means any of the following:

(1) A state prison, as defined or named in Wis. Stats. § 302.01, except a correctional institution under Wis. Stats. § 301.046(1) or 301.048(4)(b) if the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration.

(2) A juvenile detention facility, as defined in Wis. Stats. § 938.02(10r), or a juvenile correctional facility, as defined in Wis. Stats. § 938.02(10p), except a juvenile correctional facility authorized under Wis. Stats. § 938.533(3)(b) or 938.539(5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody.

(3) A jail, as defined in Wis. Stats. § 165.85(2)(bg), a Huber facility under Wis. Stats. § 303.09, a work camp under Wis. Stats. § 303.10, a reforestation camp under Wis. Stats. § 303.07, or a lockup facility under Wis. Stats. § 302.30.

Educational facility means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

Employment means (notwithstanding Wis. Stats. § 101.01(5)) any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.

Enclosed place means a structure or area that has all of the following:

(1) A roof;

(2) More than two substantial walls.

Inpatient health care facility means a hospital, as defined in Wis. Stats. § 50.33(2), a county home established under Wis. Stats. § 49.70, a county infirmary established under Wis. Stats. § 49.72, a nursing home, as defined in Wis. Stats. § 50.01(3), a hospice, as defined in Wis. Stats. § 50.90(1), a state veterans home under Wis. Stats. § 45.50, or a treatment facility.

Lodging establishment means any of the following:

(1) A bed and breakfast establishment, as defined in Wis. Stats. § 254.61(1);

(2) A hotel, as defined in Wis. Stats. § 254.61(3);

(3) A tourist roominghouse, as defined in Wis. Stats. § 254.61(6).

Person in charge means the person, or his agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this division.

Place of employment means (notwithstanding Wis. Stats. § 101.01(11)) any enclosed place that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle or an employee cafeteria.

Private club means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.

Public conveyance means a mass transit vehicle, as defined in Wis. Stats. § 340.01(28m), a school bus, as defined in Wis. Stats. § 340.01(56), or any other device by which persons are transported, for hire, on a highway or by rail, water, air, or guidewire within the state, but does not include such a device while providing transportation in interstate commerce.

Public place means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

Restaurant means an establishment, as defined in Wis. Stats. § 254.61(5).

Retail establishment means any store or shop in which retail sales is the principal business conducted.

Retail tobacco store means a retail establishment that does not have a "Class B" intoxicating liquor license or a Class "B" fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories.

Retirement home means a residential facility where three or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

Smoking means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:

(1) A lighted cigar;

(2) A lighted cigarette;

(3) A lighted pipe;

(4) Any other lighted smoking equipment.

Sports arena means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

State institution means a mental health institute, as defined in Wis. Stats. § 51.01(12), a center for the developmentally disabled, as defined in Wis. Stats. § 51.01(3), or a secure mental health facility at which persons are committed under Wis. Stats. § 980.06.

Substantial wall means a wall with an opening that may be used to allow air in from the outside that is less than 25 percent of the wall's surface area.

Tavern means an establishment, other than a restaurant, that holds a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license.

Tobacco bar means a tavern that generates 15 percent or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes.

Tobacco product means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.

Treatment facility means a publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.

Type 1 juvenile correctional facility has the meaning given in Wis. Stats. § 938.02(19).

(Ord. No. 195-6-10, § 8.08.020, 7-5-2010)

Sec. 16-96. - Smoking and use of tobacco products prohibited.

No person in the county may smoke, or be found smoking, in violation of this division. This division allows for persons to smoke at certain facilities, locations or areas, as noted in section 16-97(c)(1).

(Ord. No. 195-6-10, § 8.08.010, 7-5-2010)

Sec. 16-97. - Prohibition against smoking.

(a) Specific prohibitions in locations or areas in the county.

(1) Except as provided in subsection (c) of this section, no person may smoke in any of the following enclosed places in the county:

a. Residence halls or dormitories owned or operated by a college or university;

b. Child care centers;

c. Educational facilities;

d. In-patient health care facilities;

e. Theaters;

f. Correctional facilities;

g. State institutions;

h. Restaurants;

i. Taverns;

j. Private clubs;

k. Retail establishments;

l. Common areas of multiple-unit residential properties;

m. Lodging establishments;

n. State, county, city, or village, or town buildings located in the county;

o. All enclosed places, other than those listed in subsections (a)(1)a through (a)(1)n of this section, that are places of employment or that are public places in the county.

(2) No person may smoke at any of the following outdoor locations in the county:

a. Anywhere on the premises of a child care center when children who are receiving child care services are present;

b. Anywhere on the grounds of a type 1 juvenile correctional facility;

c. A location that is 25 feet or less from a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System;

d. Any unenclosed public place or unenclosed place of employment owned or leased by the county that is so designated, approved and ordered as a "No Smoking Area" by the county public property committee and is properly signed by the county, or its agents.

(3) No person may smoke in any of the following areas:

a. A sports arena;

b. A bus shelter;

c. A public conveyance.

(b) Responsibility of persons in charge.

(1) No person in charge may allow any person to smoke in violation of subsection (a) of this section at a location that is under the control or direction of the person in charge;

(2) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited;

(3) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:

a. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition;

b. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club;

c. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.

(4) If a person refuses to leave a location after being requested to do so, as provided in subsection (b)(3)c of this section, the person in charge shall immediately notify an appropriate law enforcement agency of the violation;

(5) A person in charge may take measures in addition to those listed in subsections (b)(2) and (3) of this section to prevent persons from being exposed to others who are smoking or to further ensure compliance with this division;

(6) A person in charge of any county inpatient health care facility and any enclosed facilities, locations, areas or other public places or other designated unenclosed areas or designated unenclosed locations adjacent to such facility that are owned or leased by the county, shall comply with state and federal laws and the appropriate regulations related to smoking and use of tobacco products by residents, employees or other persons at any such area or locations adjacent to enclosed facilities, locations and areas owned or leased by the county. The person in charge of any such county facility shall ensure reasonable outdoor and designated unenclosed areas or locations which are the designated smoking or tobacco product use accommodations and for which it shall provide staff assistance at these areas or locations for the smoking or tobacco product use for residents of any such county facility.

(c) Exceptions to the prohibitions against smoking.

(1) The prohibition against smoking in this section does not apply to the following places:

a. A private residence;

b. A room used by only one person in an assisted living facility as his or her residence;

c. A room in an assisted living facility in which two or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed;

d. A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed;

e. A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.

(d) Local authority. This division and Wis. Stats. § 101.123(4m) does not limit the authority of any county, city, village or town to enact ordinances or of any school district to adopt policies that, complying with the purpose of this division, protect the health and comfort of the public. If a county, city, village, or town enacts an ordinance, or if a school district adopts a policy, regulating or prohibiting outside smoking in certain areas, as authorized under this subsection, the ordinance may apply only to public property under the jurisdiction of the county, city, village, town or school district. Such ordinance shall provide that the person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to the ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke. Such ordinance may not define the term "reasonable distance" or set any specified measured distance as being a "reasonable distance."

(e) Uniform signs. The state department of commerce shall, by rule, specify uniform dimensions and other characteristics of the signs required to be posted in the county under subsection (b) of this section. These rules adopted under Wis. Stats. § 101.123 may not require the use of signs that are more expensive than is necessary to accomplish their purpose.

(f) Signs for state agencies. The state department of commerce shall arrange, under Wis. Stats. § 101.123, with the state department of administration to have signs prepared and made

available for use in state facilities in the county, if any, that set forth the prohibition against smoking.

(Ord. No. 195-6-10, § 8.08.030, 7-5-2010)

Sec. 16-98. - Designated areas.

The public property committee of the county is delegated under this division the specific authority and responsibility of specifying, procuring, installing and posting signs with the international "no smoking" symbol to inform the public of the prohibition of smoking use at any noted designated unenclosed areas and unenclosed locations owned or leased by the county, in addition to signs at the county courthouse, the county health care center facility buildings, the other enclosed public place county buildings and other enclosed public place areas, facilities and locations owned or leased by the county that are places of employment or that are public places, as defined under this division. The public property committee, after consultation with the appropriate standing county board committees, may, by vote, approve, designate, order and name specific non-smoking designated unenclosed use areas or unenclosed locations at any county locations or areas owned or leased by the county and shall, upon such approval, designate and provide for the installation and posting of the proper "nonsmoking area" signage, and, finally, it shall order enforcement of this division under section 16-97(a)(2)d as a designated "nonsmoking area" with the persons named by the county to be in charge and responsible for these specific facilities, locations, areas or other public places owned or leased by the county.

(Ord. No. 195-6-10, § 8.08.040, 7-5-2010)

Sec. 16-99. - Violations.

(a) Penalty.

(1) Any person who violates section 16-97(a)(1) through (3) shall be subject to a forfeiture of not less than $100.00 nor more than $250.00 for each violation.

(2) Except as provided in subsection (a)(3) or (4) of this section, any person in charge who violates section 16-97(b)(2) through (4) shall be subject to a forfeiture of $100.00 for each violation.

(3) For violations subject to the forfeiture under subsection (a)(2) of this section, if the person in charge has not previously received a warning notice for a violation of section 16-97(b)(2) through (4), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

(4) No person in charge may be required under subsection (a)(2) of this section to forfeit more than $100.00 in total for all violations of section 16-97(b)(2) through (4) occurring on a single day.

(b) Injunction. Notwithstanding Wis. Stats. § 165.60, state or local officials, or any affected party, may institute an action in any court with jurisdiction to enjoin repeated violations of this division.

(Ord. No. 195-6-10, § 8.08.050, 7-5-2010)

Secs. 16-100—16-109. - Reserved.

ARTICLE V. – LODGING, FOOD PROTECTION, AND RECREATIONAL FACILITIES

Sec. 16-110 – Authority.

This article is adopted pursuant to Wis. Stat. 66.0417, 68, 93, 97, 251.04(3), 252.02, 252.03 and 254; and Wis. Admin. Code ATCP 72, 73, 74, 75, 76, 78, 79, and SPS 390.

Sec. 16-111 – Purpose.

The purpose of this article is to protect and improve the health and safety of the public and to authorize Clark County Health Department to become a designated agent of the Wisconsin Department of Agriculture, Trade, and Consumer Protection for the purpose of establishing license fees; issuing licenses; making investigations or inspection of hotels, motels, tourist rooming houses, retail food establishments, bed and breakfast establishments, campgrounds and camping resorts, recreational and educational camps, and public swimming pools; and enacting local regulations governing these establishments.

Sec. 16-112 – Applicability.

This article applies to the owner and/or operator of any retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, campground and camping resort, recreational and educational camp or public swimming pool in Clark County.

Sec. 16-113 – Definitions.

(a) In addition to those definitions set forth below, all definitions set forth in Wis. Stat. 66, 68, 93, 97, 101, 251, 252, and 254 and by Wis. Admin. Code ATCP 72, 73, 74, 75, 76, 78, 79, and SPS 390 are adopted and wholly incorporated by reference.
(b) Terms used in this article shall have the following meanings:

(1) Annual License Fee means a license fee for the operation of a retail or recreational facility in Clark County.
(2) DATCP means Wisconsin Department of Agriculture, Trade, and Consumer Protection.
(3) Duplicate License Fee means a fee for the replacement of an original license.
(4) Establishment means any business or premises being operated as or being held out to be a retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, campground and camping resort, recreational and educational camp, or public swimming pool.
(5) Health Board means the Clark County Board of Health.
(6) Health Department means the Clark County Health Department.
(7) Inspection Fee means a fee charged by the Clark County Health Department, the amount of which is reasonably related to the cost of performing an assessment of an establishment's compliance with the statutes and rules, under which a license is granted, including the following:
    a. An inspection in Clark County of a Department licensed mobile or temporary retail food establishment.

b. A fee authorized by a Department Memorandum of Understanding.

An inspection fee shall not be applied to an existing retail or recreational establishment that holds an existing license issued by Clark County.

(8) Late Fee means a fee for failure to pay established or assessed license fees in a timely manner.
(9) Local Health Officer means the health officer who is in charge of the Clark County Health Department
(10) Operator means the owner or person responsible to the owner for the operations of the hotel, motel, bed and breakfast establishment, retail food establishment, campground, camping resort, recreational or educational camps, or public swimming pools.
(11) Pre-Inspection Fee means the fee associated with the required inspection necessary to determine compliance at the time of a change-in-operator or new business.
(12) Re-Inspection Fee means a fee structure for the subsequent inspections needed to address compliance issues with the statutes and administrative codes that govern a respective establishment. The fee for a re-inspection will be a set fee, determined by the Board of Health.
(13) Special Condition Inspection Fee means a fee for inspection or consultation activities that are not directly related to Clark County's licensing responsibilities.

Sec. 16-114 – License.

No person shall operate a retail food establishment, hotel, motel, bed and breakfast, tourist rooming house, campground and camping resort, recreational and educational camp, or public swimming pool without first obtaining a license from the Health Department.

(a) All licenses shall expire on June 30 immediately following the date of issuance with the following exceptions:
  (1) All licenses initially issued on or after April 1 and set to expire the following June 30 shall expire June 30 of the following year (ie license issued on April 1, 2018 expires on June 30, 2019).
  (2) A temporary license will expire June 30.
(b) Each issued license shall be renewed annually.
(c) The issuance of a license may be conditioned upon the operator correcting a violation of this article within a specified period of time or complying with certain conditions.
  (1) If any conditions are not met, the license may be revoked at the discretion of Health Department.
(d) No license shall be issued until an application has been approved and all fees have been timely paid and if required, a pre-inspection conducted.
(e) With the exception of an establishment seeking a temporary license, the issuance of a license is contingent on the Health Department completing a pre-inspection, with acceptable results, of the establishment subject to the license application.
(f) The license shall be non-transferable except as provided under ATCP 72, 73, 75, 76, 78, and 79.
(g) The licensed establishment shall display the Health Department issued license at all times in a conspicuous public location at the establishment.

Sec. 16-115 – Application.

(a) Applications for a license shall be made in writing on forms established by the Health Department.
    (1) Completed applications shall be submitted to the Health Department.
(b) Such application shall state the name and address of the applicant and operator; the address and location of the establishment; and any other information required by the Health Department.
(c) Health Department shall either approve or deny the application within 30 days after receipt of the application.

Sec. 16-116 – Fees.

(a) County, as established and approved by the Health Board, may determine fees for the implementation of this article.
(b) Fees shall not be less than fees established by DATCP and shall be determined based on the actual and reasonable costs of the services provided.

Sec. 16-117 – Temporary orders.

Whenever, as a result of an investigation, the Local Health Officer or designee has reasonable cause to believe that an immediate danger to health and safety exists at an establishment, the Local Health Officer or designee may issue a temporary order pursuant to Wis. Stat. 66.0417(2) or take any other action deemed necessary.

Sec. 16-118 – Denial, suspension, or revocation of license; Appeal.

(a) Local Health Officer or designee may deny any license application or suspend or revoke any license for non-compliance with any license condition or provision of this article, including, but not limited to, provisions adopted by reference.
(b) After an operator or establishment has repeated violations or violations which have created a serious public health hazard, the Health Department reserves the right to permanently revoke or deny a license.
(c) A temporary license may be revoked or denied if an operator is determined to be uncooperative or a habitual violator at the discretion of Health Department.
(d) The following procedure shall be followed in the denial, suspension or revocation of any license:
    (1) A decision by the Local Health Officer or designee to deny, suspend, or revoke a license shall be in writing, be dated, and shall state, with specificity, the reasons for the Local Health Officer's or designee's decision and shall state any applicable statutes, ordinances, rules, regulation or orders which may support such decision.
    (2) The Local Health Officer or designee shall send the applicant or licensee a copy of the written decision by mail or by personal service along with applicable notice.
        a. Said notice shall inform the applicant or licensee of the right to have such decision reviewed pursuant to Wis. Stat. 68 by submitting a written request to the Local Health Officer within 30 days of receipt of the notice.

Sec. 16-119 – Enforcement; Penalty.

(a) The laws, rules and regulations set forth in Wis. Stat. 66.0417, 68, 93, 97, 251, 252 and 254; and Wis. Admin. Code 72, 73, 74, 75, 76, 78, and 79, and SPS 390 are adopted and wholly incorporated by reference. The expressed provisions of this article that are more restrictive than the adopted provisions shall take precedence.
(b) The expressed and adopted provisions of this article shall be administered and enforced by the Health Department.
(c) Enforcement includes, but is not limited to, the right to enter, at reasonable hours, upon establishments to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence; Local Health Officer issuing citations using the standard citation form; or commence any other legal action in conjunction with Corporation Counsel.
(d) Violations of any provisions of this article shall be subject to a forfeiture of not less than $100 and not more than $1,000.

Secs. 16-120—16-129. - Reserved.

ARTICLE VI. – DISEASE CONTROL

Sec. 16-130 – Authority.

This article is adopted pursuant to Wis. Stat. 252.03, 252.06, 252.19, 252.21, and Wis. Admin. Code DHS 145, which are wholly incorporated by reference.

Sec. 16-131 – Purpose.

The purpose of this article is to promote the public health, safety, convenience, and general welfare.

Sec. 16-132 – Duties of local health officer.

(a) The Clark County health officer, upon the appearance of any communicable disease in Clark County, will immediately investigate all the circumstances and make a full report to the County Board and Wisconsin Department of Health Services.
(b) The Clark County health officer will promptly take all measures necessary to prevent, suppress and control communicable diseases, and will report to the County Board the progress of the communicable diseases and the measures used against them, as needed to keep the County Board fully informed, or at such intervals as the Wisconsin Secretary of Health may direct.
(c) The Clark County health officer may inspect schools and other public buildings within his or her jurisdiction as needed to determine whether the buildings are kept in a sanitary condition.
(d) The Clark County health officer may do what is reasonable and necessary for the prevention and suppression of disease; may forbid public gatherings when deemed necessary to control outbreaks or epidemics and shall advise the Wisconsin Department of Health Services of measures taken.
(e) No person shall interfere with the investigation under this ordinance of any place or its occupants by the Clark County health officer or her or his assistants.
(f) No person who is knowingly infected with a communicable disease may willfully violate the recommendations of the local health officer or subject others to danger of contracting the disease. No person may knowingly and willfully take, aid in taking, advise or cause to be

taken, a person who is infected or is suspected of being infected with a communicable disease into any public place or conveyance where the infected person would expose any other person to danger of contracting the disease.

Sec. 16-133 – Enforcement; Penalty.

(a) Any person who violates or obstructs this article or an order of the Clark County Health Officer above is subject to any of the following:
    (1) The issuance of a citation pursuant to Wis. Stat. 66.0113. A citation may be issued by law enforcement officers.
    (2) A forfeiture of not less than $100 and not more than $500 for each violation.
    (3) The issuance of a summons and complaint, and entry of a civil judgment for a forfeiture and (temporary or permanent) injunctive relief.
    (4) Seek a court order pursuant to Wis. Admin. Code DHS 145.06(5).

(b) A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(c) Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude enforcement under this ordinance.

Chapter 17

(RESERVED)

Chapter 18 - HUMAN RIGHTS AND RELATIONS

State Law reference— Equal rights programs generally, open housing, Wis. Stats. § 106.50 et seq.; physically disabled persons housing requirements, Wis. Stats. § 101.132; authority for local housing ordinances, Wis. Stats. § 66.1101; discrimination in places of accommodation or amusement, Wis. Stats. § 106.52; discrimination in education, Wis. Stats. § 106.58; employment peace, Wis. Stats. § 111.01 et seq.; fair employment, Wis. Stats. § 111.31 et seq.; municipal employment relations, Wis. Stats. § 111.70 et seq.

ARTICLE I. - IN GENERAL

Secs. 18-1—18-19. - Reserved.

ARTICLE II. - FAIR HOUSING

Sec. 18-20. - Adoption of state law.

The county hereby adopts Wis. Stats. § 106.50 and all subsequent amendments thereto.

(Compiled Ords. of 2009, § 16.18.010; Ord. No. 196-7-10, 7-22-2010)

Sec. 18-21. - Policy and procedure.

The officials and employees of the county shall assist in the orderly prevention and removal of all discrimination in housing within the county by implementing the authority and enforcement procedures set forth in Wis. Stats. § 106.50.

(Compiled Ords. of 2009, § 16.18.020; Ord. No. 196-7-10, 7-22-2010)

Sec. 18-22. - Complaints; forms; filing.

The county clerk shall maintain forms for complaints to be filed under Wis. Stats. § 106.50 and shall assist any person alleging a violation thereof in the county to file a complaint thereunder with the state department of industry, labor and human relations for enforcement of Wis. Stats. § 106.50.

(Compiled Ords. of 2009, § 16.18.020; Ord. No. 196-7-10, 7-22-2010)

Chapter 19

(RESERVED)

Chapter 20 - LAND DEVELOPMENT

Editor's note—Ord. No. 212-5-15, Exh. A, adopted June 16, 2015, repealed ch. 20, and enacted new provisions as herein set out. Former ch. 20, §§ 20-1—20-8, 20-57—20-62, 20-83—20-97, 20-123—20-132, 20-156—20-164, 20-196—20-201, 20-221—20-224, and derived from the compiled ordinances of 2009, §§ 14.04.010, 14.04.030—14.04.060, 14.04.080, 14.04.340—14.04.560, 16.04.010—16.04.190, 16.04.210—16.04.250, 16.04.320, 16.04.360—16.04.410. For definitions and other general provision, and administrative, permit appeal, amendment and violations provisions applicable to this chapter, see chapter 22, land use.

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

ARTICLE I. - IN GENERAL

Sec. 20-1. - Definitions.

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

Block means platted land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or municipal boundary lines.

Certified survey map means a map (meeting the requirements of Wis. Stats. § 236.34) of a minor subdivision.

Easement means legal recorded permission granted by a property owner for the use of land for a specific purpose.

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

Minor subdivision means the division of a lot, parcel or tract by the owner thereof, or his agent, for the purpose of transfer of ownership or building development where the act of division creates one to four lots of ten acres each or less in area by successive divisions within a five-year period.

Outlot means a parcel of land other than a lot or block, intended for transfer of ownership or private right-of-way. An outlot may not be used for building site unless it is in compliance with this chapter, chapter 22 or other applicable laws or ordinances.

Parcel means a contiguous unit of land, undivided by public right-of-way, described by a single description in a deed, separately owned, or capable of being separately conveyed.

Planning agency means a county zoning committee authorized by Wis. Stats. § 59.69(2).

Plat means the map of a subdivision.

Replat means the changing of the boundaries of a recorded subdivision plat or part thereof.

Subdivision means the division of a lot, parcel or tract by the owner thereof, or his agent, for the purpose of transfer of ownership or building development where the act of division creates five or more parcels or building sites of ten acres each or less in area or where the sites of ten acres each or less in area by successive divisions within a five-year period.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-2. - Applicability.

The subdivision regulation provision contained in this chapter shall apply throughout the unincorporated area of the county.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-3. - Statutory authority and purpose.

In order to achieve the purposes of Wis. Stats. ch. 236 and section 22-305, and to provide safe and orderly shoreland subdivision layouts, the regulations set out in this chapter and adopted pursuant to Wis. Stats. §§ 59.692, 281.31 and 236.45.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-4. - Compliance with chapter and state provisions.

(a) Any division of land which results in a subdivision as defined in section 20-1 shall be in compliance with the provisions of this chapter and those sections of Wis. Stats. ch. 236 including review procedures by state agencies having authority to object to plats.

(b) No person shall divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes; and no person shall be issued a county land use permit, or state or county sanitary permit authorizing building on or improvement of any lot or part of the subdivision, certified survey or replat within the jurisdiction of the county until the provisions and requirements of this chapter have been fully met.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-5. - Compliance with state vacation and alteration provisions.

When a replat of a recorded subdivision or part thereof is proposed, the subdivision shall be vacated or altered according to the provisions of Wis. Stats. §§ 236.36 through 236.445.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-6. - Survey requirement.

A survey meeting the provisions of Wis. Stats. ch. 236 and this chapter is required for any parcel or parcels resulting from a land division that is ten acres or less in size.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-7. - Exclusions.

In no instance shall the provisions of this chapter relating to subdivisions apply to:

(1) Transfers of interest in land by will or pursuant to court order;

(2) Leases for a term not to exceed ten years;

(3) Mortgages;

(4) Utility easements; other than ingress and egress easements.

(5) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter, chapter 22 or other applicable laws or ordinances.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-8. - Violations and penalties.

(a) The zoning administrator shall report all violations of this ordinance to the zoning committee. The county may institute appropriate legal action for a violation of this ordinance.

(b) Unless otherwise specified in the applicable state statute, the penalty for each violation of this ordinance may not be less than a forfeiture of $10.00 or more than $200.00 plus applicable court costs. Every day of violation may constitute a separate offense.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Secs. 20-9—20-34. - Reserved.

ARTICLE II. - PROCEDURE

DIVISION 1. - GENERALLY

Secs. 20-35—20-56. - Reserved.

DIVISION 2. - APPROVAL PROCESS

Sec. 20-57. - Consultation on sketch plan.

(a) Prior to the filing of an application for the approval of a preliminary plat, the subdivider shall consult with the planning agency to present his proposed plat for review.

(b) As a part of this consultation the subdivider shall submit a sketch of sufficient scale and reasonable accuracy indicating the following information:

(1) The boundaries of the property being considered for sale;

(2) Uses of land adjacent to the proposed subdivisions, proposed roads, easements, public access to navigable water, dedications, community facilities and utilities;

(3) General lot layout showing proposed lot widths and depths;

(4) General soil conditions derived from a representative sampling of soil conditions on the property, seasonally wet areas, rock outcrops and areas with slopes over 15 percent;

(5) Proposed filling, grading, lagooning, dredging;

(6) Delineation of any areas periodically flooded, shorelines and high-water lines; and

(7) A description of all property owned or controlled by the subdivider contiguous to the proposed plat even though only a part of the area is proposed for immediate development.

(c) At this review or within 20 days thereafter, the subdivider will be informed of any additions, changes or corrections to his proposed plat necessary to expedite the preliminary plat and final plat procedures.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-58. - Preliminary plat.

(a) Copies required. The subdivider shall submit sufficient copies of the preliminary plat to the planning agency so that two copies can be submitted by the planning agency to the agencies having authority to approve and review plats under the provisions of Wis. Stats. §§ 236.10 and 236.12.

(b) Basic contents. The preliminary plat based upon an exterior boundary survey by a professional land surveyor shall include:

(1) Lot width and depths;

(2) Existing and proposed streets, parks, public access, community facilities utilities and easements;

(3) Land characteristics including seasonally wet areas and slopes over 15 percent;

(4) Proposed filling, grading, lagooning, dredging; and

(5) Delineation of any areas periodically flooded, shorelines and high-water lines.

(c) Scale and improvements rendering. The proposed layout shall be shown on a map at a scale of one inch equals 100 feet and shall identify the improvements, grading, paving, installation of facilities including, if applicable, preplanned sites for water disposal facilities and dedications or reservations of land which the subdivider proposes to make and shall indicate when the improvements will be provided.

(d) Restrictive covenants. Any proposed restrictive covenants for the land involved shall be stated.

(e) Action by planning agency. The planning agency shall approve, approve conditionally, or reject the preliminary plat within 40 days, as provided by Wis. Stats. § 236.11. Failure of the planning agency to act within 40 days shall constitute an approval.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-59. - Final plat.

(a) Copies submitted and deadline. Sufficient copies shall be submitted to the planning agency within six months of preliminary plat approval unless this requirement is waived by the planning agency.

(b) Conformance and certification. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided in Wis. Stats. § 236.12. The final plat shall be accompanied by detailed construction plans of all improvements to be provided by the subdivider.

(c) Presentation and action. Final plats shall be presented to the planning agency at least ten workdays prior to the meeting at which they are to be considered and shall be accepted or rejected by the planning agency within 60 days of their submission.

(d) Recording. Approved final plats shall be recorded in accordance with the requirements of Wis. Stats. § 236.25 before lots are sold.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-60. - Replat; requester's requirements.

When it is proposed to replat a recorded subdivision or part thereof, so as to change the boundaries of a recorded subdivision or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Wis. Stats. §§ 236.40 through 236.44. The subdivider or person wishing to replat shall then proceed as specified in sections 20-58 and 20-59.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-61. - Replat; hearing and notice.

The clerk shall schedule a public hearing before the planning agency when a preliminary plat of a replat of lands within the county is filed, and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior

boundaries of the proposed replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed replat.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-62. - Minor subdivision (certified survey map).

All certified survey maps (CSM) outside of incorporated areas shall be submitted to the county planning and zoning department for review and approval prior to recording by the register of deeds. Failure to act by the department within ten business days constitutes approval.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-63. - Cemetery platting.

A cemetery authority shall survey and plat those portions of lands that are proposed to be used for burial of human remains, into cemetery lots, drives and walks and the following will be required:

(1) The survey and plat must meet the provisions of Wis. Stats. chs. 236 and 157.

(2) The plat or map shall be recorded in the register of deeds.

(3) The plat or map may not be recorded unless laid out and platted to the satisfaction of the county board of the county, and the town board of the town in which the land is situated.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Secs. 20-64—20-82. - Reserved.

ARTICLE III. - STANDARDS AND SPECIFICATIONS

Sec. 20-83. - Suitability of land.

(a) No land shall be subdivided which is held unsuitable for the proposed use by the planning agency for reasons of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community.

(b) The planning agency, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter the planning agency may affirm, modify or withdraw its determination of unsuitability.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-84. - Layout relationship to streets, natural features and adjoining areas.

All subdivision layouts shall be developed in proper relation to existing and proposed streets, the topography, surface water, vegetative cover, other natural features and the most advantageous development of adjoining areas.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-85. - Dedication or reservation for public use.

(a) County power; limit; conformance.

(1) The planning agency may require that suitable sites not to exceed ten percent of the total area of the subdivision be dedicated or reserved for future public use such as parks, playgrounds, public access and open spaces as needed by the subdivision subject to acceptance thereof by the county or town.

(2) Any part of a street, drainageway or other public way which is indicated on a comprehensive plan or plan component shall conform to the arrangement, width and location indicated, and shall be offered for dedication to the county or town.

(b) Access to lakes and streams. Subdivisions abutting on a navigable lake or stream shall, according to the provisions of Wis. Stats. § 236.16(3), provide access at least 60 feet wide to the high-water mark so that there will be public access which is connected to existing public roads at least at one-half mile intervals, as measured along the lake or stream shore, except where greater intervals and wider access is agreed upon by the state department of natural resources and the department of administration and excluding shore areas where public parks or open space streets or roads on either side of a stream are provided. The planning agency may require dedications of access points of greater width or at more frequent intervals at points designated by them.

(c) Term; display on final plat. Reservation of land for public acquisition shall be for a period not to exceed three years. Land so dedicated or reserved must be shown on the final plat.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-86. - Unplattable lands on water's edge.

The lands lying between the meander line, established in accordance with Wis. Stats. § 236.20(2)(g) and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge, shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which he holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream as provided in Wis. Stats. § 236.16(4).

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-87. - Improvements; completion or bond and agreement; notice for inspection.

(a) Before final approval of any plat, the subdivider may install required street and utility improvements or, if such improvements are not installed at the time that the final plat is submitted for approval, the subdivider shall, before recording the plat, enter into a contract

with the county, agreeing to install the required improvements, and shall file with that contract a surety bond meeting the approval of the district attorney as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than one year from the date of recording of the plat or later if specified.

(b) One week prior to the time each improvement is to be installed and upon its completion, the subdivider must notify the planning agency so that adequate inspections can be made.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-88. - Streets.

(a) Basic requirement. The subdivider may be required to dedicate land for and improve public streets.

(b) General design and location. Public streets shall be designed and located to take into account:

(1) Existing and planned streets;

(2) Topographic conditions, including the bearing capacity and erosion potential of the soil;

(3) Public convenience and safety, including facilitating fire protection, snowplowing and pedestrian traffic;

(4) The proposed uses of land to be served;

(5) Anticipated traffic volumes; and

(6) Further resubdivision possibilities.

(c) Right-of-way width. Right-of-way width shall be approved by the local accepting authority.

(d) Construction standards. Construction shall be according to local road standards. Where there are no local road standards, the minimum standards of the state department of transportation shall apply. The subdivider shall grade the roadbeds in the roadway width to subgrade and shall surface all roadways to the width prescribed by these regulations.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-89. - Frontage on a public road.

All proposed lots are to be developed with frontage to a dedicated public road. If an access easement or private road is proposed, the planning agency must approve it and the following will be required:

(1) The easement or private road must be part of the plat or certified survey map.

(2) All proposed access easements or private roads must be a minimum of three rods in width.

(3) All proposed access easements that are to serve more than two lots must be approved by the town board.

(4) All existing access easements less than three rods in width are allowed to remain. Existing access easements are not required to be surveyed but must be shown on the certified survey map (CSM). Access to the proposed subdivision shall meet the terms and conditions of the existing access easement.

(5) All proposed access easements, private roads and driveways abutting a local road must have the point of access approved by the local accepting authority.

(6) Any portion of a lot or parcel that abuts a local road must be a minimum of three rods in width regardless if the lot or parcel has additional road frontage.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-90. - Parcels on private ways; disclosure requirement for sale.

No person shall sell any parcel of land of ten acres or less in size, located outside the corporate limits of a municipality, if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the town or county.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-91. - Water supply.

Where there is an existing public water supply system on or near the subdivision, the local municipality furnishing such service and the planning agency shall determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system. Where there is no existing public water supply, individual water supply systems will be permitted in accordance with the minimum standards and regulations of the department of natural resources.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-92. - Survey monuments.

(a) The subdivider shall install survey monuments in accordance with the requirements of Wis. Stats. § 236.15.

(b) All iron pipes or bars, or durable metal or concrete monuments used in lieu of iron pipes or bars, used for monumentation shall be a minimum of 24 inches in length.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-93. - Storm drainage.

(a) Storm drainage facilities, where needed, shall be designed to permit the unimpeded flow of natural watercourses, ensure the drainage of all points along the line of streets and provide

positive drainage away from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff on adjacent property.

(b) The planning agency may require that easements or drainageways of widths sufficient to accommodate anticipated stormwater runoff be provided.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-94. - Lot area, minimum.

A minimum lot area of one acre is required by this article except where any of the following apply:

(a) The city's zoning provisions apply or where a more restrictive municipal ordinance applies.

(b) The proposed lot is located within a previously platted area of an unincorporated village and shall meet all of the following conditions:

(1) The proposed lot combines existing lots, or portions thereof, to create one single lot.

(2) The lot must be served by a public sewer or a detailed soil test must be completed on the proposed lot as provided in Wis. Admin. Code ch. SPS 385 and demonstrate the proposed lot will meet the requirements of Clark County Ordinance Chapter 20, Article IV, Private Onsite Wastewater Treatment System and all other applicable laws, codes and ordinances dealing with wastewater.

(3) The proposed lot must be approved by the town board.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-95. - Lots not served by public sewers; optional detailed soil tests.

If a subdivider chooses, he may carry out a detailed soil test on a proposed lot as provided in Wis. Admin. Code ch. SPS 385. The location of the three required soil borings or soil test pits over the site of the proposed infiltration component shall be accurately recorded on the subdivision plat. An infiltration component may be located on the site of the tested area without further tests unless further tests are deemed necessary by the zoning administrator or planning agency and if installation is within five years of the initial tests.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-96. - Cluster development.

(a) Purpose; use of undeveloped area. Grouping of residences in cluster subdivisions will permit individual minimum lot sizes to be reduced; provided that overall density within the subdivision is maintained. The remaining undeveloped area within the subdivision is to be used to provide common open space and preserve the scenic qualities of the shoreland area. Grouping of residences facilitates common water supply and sewage disposal systems.

(b) Review agencies; considerations.

(1) The preliminary plat for a proposed cluster subdivision shall be reviewed by the department of administration and any regional planning commission of which the county is a member in addition to the other required approving and objecting authorities.

(2) The planning agency and the department of administration shall consider the effect of any proposed cluster development within the 1,000-foot setback of a lake on the carrying capacity of the lake, the erosion potential of the shore, the water-supply and waste-disposal potential of the soil and subsurface geology, the scenic beauty of the lake, and other pertinent factors.

(c) Configuration and dedications.

(1) Development and lot size. Proposed cluster developments shall include a minimum of five acres and shall be platted according to the subdivision regulation requirements of this article. The maximum permitted number of lots on such development shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot sizes required herein.

(2) Principal structures proximity. The minimum distance between principal structures shall be 50 feet.

(3) Open space dedication. Excess land not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or by dedication to the county, town or municipality.

a. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government.

b. If the land is to be conveyed to owners of lots in the development, a homeowners' association of similar legally constituted body shall be created to maintain the open space land.

c. 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 law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

(d) Water and sewer. Water supply and sewage disposal shall meet the minimum standards of the department of health services, department of commerce, and the department of administration; articles IV and V of this chapter; and other applicable regulations.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-97. - Modification of provisions.

The planning agency may permit modifications from the subdivision provisions of this chapter, after holding a public hearing under the following conditions:

(1) Because of the unique topographic of other conditions of the land involved, literal application of the provisions of this article would impose undue hardship.

(2) Conditions are attached to plat approval that assure compliance with the requirements of this article insofar as practical.

(3) There is compliance with the provisions of Wis. Stats. ch. 236 and other relevant state laws.

(4) The purposes and intent of this article are observed.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Secs. 20-98—20-122. - Reserved.

ARTICLE IV. - PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS

State Law reference— Requirement for county ordinance governing private sewage systems, Wis. Stats. § 59.70(5). (Back)

DIVISION 1. - GENERALLY

Sec. 20-123. - Statutory authority.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 59.07(1), 59.70(5), 145.04, 145.19, and 20.245.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-124. - Purpose.

This article is adopted to promote and protect public health and safety by ensuring the proper siting, design, installation, inspection and management of the county private on-site wastewater treatment system (POWTS) and nonplumbing sanitation systems.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-125. - Applicability.

This article applies to the entire geographical area of the county. This article shall not require approval or be subject to disapproval by any town, city, or village.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-126. - Effective date.

After public hearing, adoption by the county board and publishing or posting as required by law, this article shall be effective. Sanitary permits issued by the planning and zoning department prior to the adoption and publication of the ordinance from which this article is derived shall be subject to the ordinance in effect at time of permit issuance.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-127. - Liability.

This article shall not create a liability on the part of or a course of action against the county or any employee thereof for any private on-site wastewater treatment system (POWTS) or

nonplumbing sanitation system, which may not function as designed. There shall be no liability or warranty for any site, which is approved or denied. The issuance of a sanitary permit and the final inspection of such a system does not warrant the system's function, nor is there a guarantee that the system is free of defects or that all aspects of the system comply to Wisconsin Statute or Administrative Code requirements.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-128. - Interpretations.

The provisions of this article 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 power granted by state law and related administrative codes.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-129. - Compliance.

(a) All structures or premises in the county that are permanently or intermittently intended for human habitation or occupancy, which are not serviced by a public sewer, shall have a system for holding or treatment and dispersal of sewage and wastewater which complies with the provisions of this article.

(b) The private on-site wastewater treatment system (POWTS) or nonplumbing sanitation system for newly constructed structures, replacement structures, or structures requiring a reconnection permit shall be installed and inspected only after a sanitary permit has been obtained.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-130. - Incorporation of provisions by reference.

(a) This article incorporates by reference the following rules, regulations, and laws, as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code governing the location, construction, and use of private sewage systems:

(1) Wis. Stats. ch. 145, Wis. Stats. §§ 59.70(5), 254.59, 281.48 and 968.10;

(2) Wis. Admin. Code chs. SPS 305, 326, 362, 381—387, and 391;

(3) Wis. Admin. Code chs. NR 113 and 116;

(4) Wis. Admin. Code chs. DHS 178.

(b) These rules, regulations, and laws shall apply until amended or renumbered and then shall apply as amended or renumbered.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-131. - Limitations.

(a) All domestic wastewater shall enter a private on-site wastewater treatment system (POWTS) unless otherwise exempted by the state or this article.

(b) A nonplumbing sanitation system may be permitted only when the structure or premises served by the nonplumbing sanitation is not provided with an indoor plumbing system. If plumbing is installed in the structure or running water is supplied to the structure, an acceptable method of sewage disposal other than, or in addition to, a nonplumbing sanitation system must be provided.

(c) A sanitary permit for the installation of a holding tank shall not be issued unless a soil and site evaluation determines that the property is unsuitable for any other type of system permitted by Wis. Admin. Code ch. SPS 383, except as provided in subsection (c)(1) or (2) of this section.

(1) A holding tank may be installed to serve a use with a daily wastewater flow of less than 160 gallons per day. In addition to items required in section 20-157, an application for a sanitary permit to install a holding tank to serve a use with less than 160 gallons per day shall include a notarized, written statement from the property owner, agreeing to install another type of system if any change of use occurs which results in a daily wastewater flow which equals or exceeds 160 gallons per day.

(2) A holding tank may be installed when the only applicable treatment component for the site requires the use of an additional pretreatment component in order to attain influent quality more stringent than provided in Wis. Admin. Code § SPS 383.44(5)(b)a. through c.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-132. - Failing systems.

(a) When a failing private on-site wastewater treatment system (POWTS) or nonplumbing sanitation system is identified, it shall be brought into compliance with current code requirements, replaced with a code compliant system or its use discontinued within that period of time required by planning and zoning department order.

(b) Unlawfully modified or installed POWTS or nonplumbing sanitation systems which are discharging untreated or partially treated sewage to the ground surface or surface waters shall be ordered by the planning and zoning department to be corrected or replaced with a code compliant system.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Secs. 20-133—20-155. - Reserved.

DIVISION 2. - APPLICATIONS AND PERMITS

Sec. 20-156. - Soil and site evaluation.

(a) Soil and site evaluations shall be done prior to the issuance of all state sanitary permits as specified in Wis. Admin. Code chs. SPS 383, 385, and 391.

(b) Soil test pits shall be constructed which allow adequate visual observation of the soil profile in place. This is best accomplished by using backhoe-excavated pits, although hand dug pits may be acceptable.

(c) A planning and zoning department onsite verification of a soil and site evaluation report may be necessary to determine the suitability of a lot for a private on-site wastewater treatment system (POWTS). This verification will be made prior to the issuance or denial of the sanitary permit.

(d) A certified soil tester may also request that the planning and zoning department perform an onsite verification of a soil and site evaluation report.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-157. - Sanitary permits.

(a) Every private on-site wastewater treatment system (POWTS) shall require a separate application and sanitary permit.

(b) A sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, prior to the installation, establishment or construction of any structure which requires a POWTS or nonplumbing sanitation system. Any property owner, his agent or contractor, who starts construction prior to obtaining a sanitary permit is in violation and will be subject to the penalties provided in this article.

(c) A state sanitary permit shall be obtained by the property owner, his agent or contractor, before any POWTS may be installed, replaced, or modified. A sanitary permit is not required for manhole risers, manhole covers, baffles, filters, pumps, valves, controllers, or meters.

(d) A county sanitary permit shall be obtained prior to constructing or installing a nonplumbing sanitation system.

(e) A county sanitary permit shall be obtained by the property owner, his agent or contractor, before any POWTS may be reconnected.

(f) No person may sell at retail a septic/holding tank for installation unless the purchaser holds a valid sanitary permit.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-158. - Application requirements.

(a) A sanitary permit application shall include the following information which shall be furnished by the applicant on forms required by the state and/or the planning and zoning department along with the applicable fees:

  (1) Soil and site evaluation report.

  (2) System plans (see section 20-159, and Wis. Admin. Code § SPS 383.22).

  (3) Appropriate agreements and contracts for system management and maintenance.

  (4) A copy of the POWTS Component User's Manual.

  (5) Verification that any existing POWTS on the same parcel of land is not failing according to Wis. Stats. § 145.245(4).

  (6) Any other information required by the planning and zoning department.

(b) When any official state action is required prior to the issuance of a sanitary permit, an original copy of the official action shall accompany the application.

(c) Pit privy permit applications shall be accompanied by a soil and site evaluation provided by a certified soil tester to determine compliance with Wis. Admin. Code. ch. SPS 391.

(d) The planning and zoning department reserves the right to refuse incomplete or incorrect permit applications or to delay permit issuance until corrected or completed applications are received.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-159. - Plans.

System plans shall be submitted for approval to the planning and zoning department or to the state in accordance with Wis. Admin. Code ch. SPS 383. Plans shall comply with the requirements of Wis. Admin. Code ch. SPS 383 and this article.

(1) Plans submitted to the planning and zoning department for approval shall include the original and two copies.

(2) If plans are reviewed and approved by the state, one set of the plans submitted to the planning and zoning department shall bear an original state approval stamp or seal.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-160. - Sanitary permit expiration and renewal.

(a) A sanitary permit for a private on-site wastewater treatment system (POWTS) or nonplumbing sanitation system which has not been installed, modified or reconnected and approved shall expire two years after the date of issuance. Permits may be renewed following written application to the planning and zoning department by the property owner, his agent or contractor, prior to the expiration date of the original permit.

(b) There shall be a fee for the renewal of a sanitary permit.

(c) The renewal shall be based on ordinance and code requirements in effect at the time of renewal.

(d) A new sanitary permit shall be obtained by the owner or his agent prior to beginning construction if a sanitary permit has expired.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-161. - Transfer of ownership.

Transfer of ownership of a property for which a valid sanitary permit exists shall be subject to the following:

(1) The applicable transfer form shall be submitted to the planning and zoning department.

(2) The submittal of the appropriate fee.

(3) Transfer of ownership shall not affect the expiration date or renewal requirements.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-162. - Change of plumbers.

(a) When an owner wishes to change plumbers, it will be necessary to furnish the planning and zoning department with the applicable transfer form signed by the new plumber.

(b) The transfer of sanitary permits shall take place prior to the installation of the private on-site wastewater treatment system (POWTS).

(c) Sanitary permits for systems requiring state plan approval shall not be transferred to a different plumber unless the plan bears the stamp of an architect, engineer, or plumbing designer, or a new state level approval is obtained by the new plumber.

(d) Transfer fee is required to be submitted.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-163. - Reconnection.

(a) A county sanitary permit for reconnections shall be obtained prior to:

  (1) Disconnection of a structure from an existing private on-site wastewater treatment system (POWTS) and connection of another structure to the system.

  (2) Rebuilding a structure that is connected to a POWTS.

(b) Prior to issuing a reconnection permit, the existing POWTS shall be examined to:

  (1) Determine if it is a failing system.

  (2) Determine if it will be capable of handling the proposed designed wastewater flow and contaminant load from the proposed building to be served.

  (3) Determine that all minimum setback requirements of Wis. Admin. Code ch. SPS 383 will be maintained.

(c) Application for a county sanitary permit for reconnections shall include the following:

  (1) For all systems that utilize in situ soil for treatment or disposal, a soil and site evaluation report verifying that the vertical separation distance between the infiltrative surface of the existing treatment or dispersal component and estimated high groundwater elevation and/or bedrock complies with Wis. Admin. Code ch. SPS 383 unless a valid report meeting these criteria is on file with the department.

  (2) A report provided by a licensed plumber, certified septage pumper, CST, or a POWTS inspector relative to the condition, capacities, baffles and manhole covers for any existing treatment or holding tanks and all other system components.

  (3) A plot plan prepared by a plumber or designer.

  (4) Reconnection to an existing holding tank shall require a new servicing contract.

  (5) Reconnection to an existing POWTS may require a contingency plan or system management plan.

(d) When reconnection to an undersized system is permitted by Wis. Admin. Code chs. SPS 383 and 384 an affidavit for the use of the undersized system must be recorded in the register of deeds office.

(e) All systems shall be inspected at the time of reconnection, prior to backfilling, to ensure that proper materials are being used.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-164. - Fees.

(a) Fees pertaining to private on-site wastewater treatment system (POWTS) and sanitary permits shall be set by the planning and zoning committee and shall be reviewed periodically.

(1) A current fee schedule can be requested from the planning and zoning department.

(2) No fees shall be refunded after a sanitary permit has been issued.

(3) An additional charge of $100.00 will be charged for all after-the-fact applications to partially recover the cost of obtaining compliance.

(b) Agent plan review. County plan review fees for any system approved by the planning and zoning department as a designated agent of the state shall be the same as those fees set by the state in Wis. Admin. Code ch. SPS 302, except for holding tank review fees which shall be set by the planning and zoning committee.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Secs. 20-165—20-195. - Reserved.

DIVISION 3. - INSPECTIONS

Subdivision I. - In General

Sec. 20-196. - General review and examination of POWTS installation, operation and equipment.

(a) Notice for final inspection shall be given to the planning and zoning department for all private on-site wastewater treatment systems (POWTS) installed, modified or reconnected.

(b) When a POWTS is ready for inspection, the plumber in charge shall make arrangements to enable the inspector to inspect all parts of the system. The plumber shall provide the proper apparatus, equipment and necessary assistance to make a proper inspection.

(c) A reinspection fee may be assessed when additional inspections of a POWTS are necessary.

(d) A POWTS may be inspected periodically, per Wis. Admin. Code § SPS 383.26(1) after the initial installation inspection and/or after the system is operative.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-197. - Site-constructed holding tanks.

(a) All site-constructed holding tanks shall be inspected after the floor is poured and the keyway and water stop are installed or after the forms for the tank walls have been set, but in all instances before any concrete for the walls has been poured.

(b) Concrete walls may be poured only after it has been determined that the tank, as formed, complies with the approved plans.

(c) A final inspection is required at the time of connection to the building sewer.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-198. - Nonplumbing sanitary systems.

(a) All nonplumbing sanitary systems installed shall be inspected for compliance with Wis. Admin. Code ch. SPS 391 and this article.

(b) Nonplumbing sanitary systems serving public uses shall also be inspected for compliance with Wis. Admin. Code ch. SPS 362.29(2).

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-199. - Testing requirement.

(a) If testing of new systems or new system components is required by Wis. Admin. Code ch. SPS 382, 383 or 384 or as a condition of plan approval, notice shall be given to the planning and zoning department so that they may make an inspection during the test.

(b) The planning and zoning department shall verify that required testing has been completed by:

  (1) Performing an inspection during the test; and/or

  (2) Requiring written verification from the responsible person.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-200. - Maintenance and management.

(a) All POWTS shall be managed and maintained in accordance with Wis. Admin. Code chs. SPS 383 and 384 and this article. This includes all POWTs installed prior to July 1, 2000.

(b) The property owner shall submit a copy of an appropriate maintenance agreement and/or servicing contract to the planning and zoning department prior to sanitary permit issuance.

(c) The property owner shall submit a new or revised maintenance agreement and/or servicing contract to the planning and zoning department whenever there is a change to such document.

(d) The property owner shall submit a new maintenance agreement and/or servicing contract to the planning and zoning department prior to expiration of any existing maintenance agreement and/or servicing contract.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-201. - Septic tank maintenance program.

The applicant for a sanitary permit which includes a septic tank component shall be provided written notice by the planning and zoning department of the maintenance program at the time the sanitary permit is issued.

(1) All septic tanks permitted and installed on or after July 1, 1980, shall be visually inspected and pumped within three years of the date of installation and at least once every three years thereafter, unless upon inspection the tank is found to have less than one-third of the volume occupied by sludge and scum.

(2) The owner of such septic tank shall furnish the planning and zoning department with a copy of the inspection report verifying the condition of the tank, and whether wastewater or effluent from the POWTS is ponding on the ground surface.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Secs. 20-202—20-220. - Reserved.

Subdivision II. - Administration and Enforcement

Sec. 20-221. - Authority to administer article.

The planning and zoning department shall be responsible for the administration of this article.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-222. - Powers and duties.

In the administration of this article, the planning and zoning department shall have the following powers and duties:

(1) Advise applicants concerning the provisions of this article and assist them in preparing permit applications.

(2) Review and approve plans for POWTS as approved through agent status by the state.

(3) Issue sanitary permits and inspect properties for compliance with this article and related Wisconsin Statutes and the Administrative Code.

(4) Maintain records of all plan approvals, sanitary permits issued, inspections, and other official actions.

(5) Have access to any premises during reasonable hours in accordance with Wis. Stats. § 145.02(3)(c) for the purpose of performing official duties or at other times set by mutual agreement between the property owner or his agent and the planning and zoning department or upon issuance of a special inspection warrant in accordance with Wis. Stats. § 66.122.

(6) Upon reasonable cause or question as to proper compliance, revoke or suspend any sanitary permit and issue cease and desist orders requiring the cessation of any

construction, alteration or use of a building which is in violation of the provisions of this article, until compliance with this article or applicable Wisconsin Statutes and the Administrative Code is obtained.

(7) Issue and enforce orders to plumbers, pumpers, property owners, their agents or contractors or the responsible party, to ensure proper compliance with all provisions of this article.

(8) Administer the state fund grant program and distribute grants to qualified applicants.

(9) Withhold permits or approvals pursuant to this chapter where the applicant or owner is in violation of this article or any ordinance administered by the planning and zoning department and for any parcel of land which has an outstanding violation until the violation has been corrected.

(10) Perform other duties regarding POWTS as considered appropriate by the county or the state.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-223. - Board of adjustment.

Any person who alleges that there is an error in any order, requirement or decision made in the enforcement of this article may appeal to the board of adjustment. Any appeal shall be made on forms furnished by the planning and zoning department within 30 days of the date of the administrative action. Other substantiating evidence will be accepted.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Sec. 20-224. - Violations and penalties.

(a) Any person who fails to comply with the provisions of this article, or any order of the planning and zoning department issued in accordance with this article, shall be subject to section 20-8 of this chapter.

(b) Any construction which is in violation of this article shall cease upon written orders from the planning and zoning department and/or the placement of a notification of violation at the site.

(c) All construction shall remain stopped until the order is released by the planning and zoning department.

(Ord. No. 212-5-15, Exh. A, 6-16-15)

Chapter 21

(RESERVED)

Chapter 22 - LAND USE

State Law reference— County zoning and boards of adjustment, Wis. Stats. § 59.694; zoning filing fees, Wis. Stats. § 59.696; fees for zoning appeals, Wis. Stats. § 59.697; floodplain zoning, Wis. Stats. § 87.830; county zoning and planning commissions, Wis. Stats. § 59.69; platting

lands and recording and vacating plats, Wis. Stats. § 236.01 et seq.; airport and spaceport protection, Wis. Stats. § 114.135 et seq.; comprehensive planning, Wis. Stats. § 66.1001; county subdivision plans, Wis. Stats. § 236.46; construction site erosion control and storm water management zoning, Wis. Stats. § 59.693.

ARTICLE I. - IN GENERAL

Sec. 22-1. - Definitions.

(Compiled Ords. of 2009, § 17.04.030)

Sec. 22-2. - Applicability.

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

(Compiled Ords. of 2009, § 17.04.010)

Sec. 22-3. - Distance measurement.

All distances unless otherwise specified shall be measured horizontally.

(Compiled Ords. of 2009, § 17.04.020)

Sec. 22-4. - Fees.

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

(1) Land use permits;

(2) Building permits;

(3) Certificates of compliance;

(4) Subdivision reviews;

(5) Public hearings;

(6) Legal notice publications;

(7) Special exception permits.

(Compiled Ords. of 2009, § 17.08.940)

Secs. 22-5—22-26. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

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

The zoning administrator may exercise the following duties and powers:

(1) Advise applications as to the provisions of this chapter and chapter 20, pertaining to land development and assist them in preparing permit applications;

(2) Issue permits and inspect properties for compliance with this chapter and chapter 20, pertaining to land development;

(3) Keep records of all permits issued, inspections made, work approved and other official actions;

(4) Prohibit the use of new private water supply or private sewage disposal systems not in compliance with the requirements of this chapter and chapter 20, pertaining to land development, until he has inspected and approved such system;

(5) Inspect new and existing sewerage and water systems;

(6) Have access to any structure or premises between 8:00 a.m. and 6:00 p.m. for the purpose of performing his duties;

(7) Make on-site investigations required for subdivision administration;

(8) Report violations of this chapter and chapter 20, pertaining to land development, and other applicable regulations, to the zoning committee and district attorney.

(Compiled Ords. of 2009, § 17.04.040)

Secs. 22-28—22-57. - Reserved.

DIVISION 2. - BOARD OF ADJUSTMENT

Sec. 22-58. - Appointment; composition.

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

(Compiled Ords. of 2009, § 17.04.050)

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

Sec. 22-59. - Powers and duties.

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

(Compiled Ords. of 2009, § 17.08.910)

Sec. 22-60. - Appeals.

(a) Filing. Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board of adjustment, a notice of appeal specifying the grounds thereof. The zoning administrator or other officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appeal from was taken.

(b) Hearing.

(1) The board of adjustment shall fix a reasonable time for the hearing of the appeal. The board shall give public notice thereof by publishing a class 2 under Wis. Stats. ch. 985 specifying the date, time and place of hearing and the matters to come before the board, and shall mail notices to the parties in interest and the appropriate district office of the department of natural resources at least ten days prior to the public hearing.

(2) A decision regarding the appeal shall be made as soon as practical and a copy shall be submitted to the department of natural resources within ten days after the decision issued.

(3) The final disposition of an appeal or application to the board of adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appeal, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

(4) At the public hearing, any party may appear in person or by agent or by attorney.

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

Secs. 22-61—22-78. - Reserved.

DIVISION 3. - PLANNING AND ZONING COMMITTEE

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

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

(Compiled Ords. of 2009, § 17.08.820)

Sec. 22-80. - Powers and duties.

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

(1) It shall hear and recommend a decision to the county board on proposed map and text amendments to this chapter.

(2) It shall hear and decide applications for special exception permits.

(3) It may authorize upon appeal, in specific cases, such variance from the dimensional standards of this chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this chapter will result in unnecessary hardship.

a. In the issuance of a variance, the spirit of this chapter shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property which is prohibited in that zoning district by this chapter.

b. For the purpose of this article, "unnecessary hardship" means any unique and extreme inability to conform to the requirements of this chapter due to a special condition affecting a particular property, which was not self-created and is not solely related to economic gain or loss.

(4) It shall review, accept/object, and assist the county board in deciding on applications for shoreland area subdivisions.

(Compiled Ords. of 2009, § 17.08.830)

Secs. 22-81—22-103. - Reserved.

DIVISION 4. - VIOLATIONS

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

Except as otherwise specifically provided in this chapter, any building or structure erected, moved or structurally altered after the effective date of the 1967 ordinance codified in this chapter or any use established after the effective date of the 1967 ordinance codified in this chapter, as amended, in violation of the provisions of this chapter, by any person, firm, association, corporation (including building contractors) or his or their agent, is an unlawful structure or use.

(Compiled Ords. of 2009, § 17.04.250)

Sec. 22-105. - Reporting; prosecution.

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

(Compiled Ords. of 2009, § 17.04.260)

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

Unless otherwise provided in this chapter, a violator shall, upon conviction, forfeit to the county a penalty of not less than $10.00, together with the taxable cost in such action and not more than $200.00, and every day of violation shall constitute a separate offense. The penalties

for violation of the subdivision regulation portions of this chapter shall be as contained in Wis. Stats. §§ 236.31, 236.32, and 236.335.

(Compiled Ords. of 2009, § 17.04.270)

Secs. 22-107—22-125. - Reserved.

DIVISION 5. - AMENDMENTS

Sec. 22-126. - Applicability.

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

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

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

(Compiled Ords. of 2009, § 17.04.210)

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

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

(Compiled Ords. of 2009, § 17.04.220)

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

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

(Compiled Ords. of 2009, § 17.04.230)

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

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

(Compiled Ords. of 2009, § 17.04.240)

Secs. 22-131—22-158. - Reserved.

ARTICLE III. - PERMITS AND CERTIFICATES

DIVISION 1. - GENERALLY

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

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

(Compiled Ords. of 2009, § 17.04.070)

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

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

(1) Before any building or other structure is erected, moved or structurally altered so as to change its use or increase its floor area;

(2) Before any land use is substantially altered;

(3) Before any private sewerage or water system is constructed or structurally altered.

(Compiled Ords. of 2009, § 17.08.750)

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

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

(1) Name and address of the applicant and property owner;

(2) Legal description of the property and type of proposed use;

(3) A sketch of the dimensions of the lot and location of buildings from the lot lines, centerline of abutting highways, and the high-water mark of any abutting watercourse and water mark at the day of the sketch;

(4) Where a private water or sewerage system is to be installed:

   a. Type of proposed installation;

   b. Name of person in charge of installation and any state license held by him;

   c. Type of occupancy, number of occupants or patrons and estimated water consumption;

   d. Size and location of the proposed sewage disposal system;

   e. A sketch showing:

      1. Location of wells, streams, lakes, buildings, privies and septic tank systems within 100 feet of the proposed sewage disposal site.

      2. The location of all percolation test holes and report of each test and soil boring as run by a sanitary technician.

      3. Depth to groundwater or bedrock if less than six feet.

      4. Slope in feet per 100 or contour lines at two-foot intervals in the area of the proposed absorption field or well.

(Compiled Ords. of 2009, § 17.04.090)

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

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

(Compiled Ords. of 2009, § 17.08.770)

Secs. 22-163—22-192. - Reserved.

DIVISION 2. - SPECIAL EXCEPTION PERMITS

Sec. 22-193. - Required.

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

(Compiled Ords. of 2009, § 17.04.100)

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

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

(1) Safety and healthfulness. The maintenance of safe and healthful conditions;

(2) Water pollution. The prevention and control of water pollution, including sedimentation;

(3) Existing features and vegetation. Existing topographic and drainage features and vegetative cover on the site;

(4) Floodways and floodplains. The location of the site with respect to floodplains and floodways of rivers or streams;

(5) Erosion. The erosion potential of the site, based upon degree and direction of slope, soil type and vegetative cover;

(6) Access. The location of the site with respect to existing or future access roads;

(7) Shoreland location. The need of the proposed use for a shoreland location;

(8) Compatibility. Its compatibility with uses on adjacent land;

(9) Waste disposal. The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems;

(10) Domesticity and nonpolluting preference. Locational factors under which:

a. Domestic uses shall be generally preferred;

b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;

c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

(Compiled Ords. of 2009, § 17.04.110)

Sec. 22-195. - Conditions.

(a) Upon consideration of the factors listed in section 22-194, the board of adjustment may attach such conditions, in addition to those required elsewhere in this chapter and chapter 20, pertaining to land development, that it deems necessary in furthering the purposes of this chapter and chapter 20, pertaining to land development. Violation of any of these conditions shall be deemed a violation of this chapter.

(b) Such conditions may include specifications for, without limitation because of specific enumeration:

(1) Type of shore cover;

(2) Increased setbacks and yards;

(3) Specified sewage disposal and water supply facilities;

(4) Landscaping and planting screens;

(5) Period of operation;

(6) Operational control;

(7) Sureties;

(8) Deed restrictions;

(9) Locations of piers, docks, parking and signs;

(10) Type of construction; or

(11) Any other requirements necessary to fulfill the purpose and intent of this chapter.

(Compiled Ords. of 2009, § 17.04.120)

Sec. 22-196. - Additional information requirements.

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

(1) A plan of the area showing contours, soil types, high-water mark, groundwater conditions, bedrock, slope and vegetative cover;

(2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping;

(3) Plans of buildings, sewage disposal facilities and water supply systems, and arrangements of operations;

(4) Specifications for areas of proposed filling, grading, lagooning or dredging;

(5) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter and chapter 20, pertaining to land development

(Compiled Ords. of 2009, § 17.04.130)

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

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

(Compiled Ords. of 2009, § 17.04.140)

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

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

(b) The board of adjustment shall state in writing the grounds for refusing a special exception permit.

(Compiled Ords. of 2009, § 17.04.150)

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

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

(Compiled Ords. of 2009, § 17.04.160)

Sec. 22-200. - Termination for violations.

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

(Compiled Ords. of 2009, § 17.04.170)

Secs. 22-201—22-223. - Reserved.

DIVISION 3. - CERTIFICATES OF COMPLIANCE

Sec. 22-224. - Issuance.

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

(Compiled Ords. of 2009, § 17.08.780)

Sec. 22-225. - Contents.

(a) The certificate of compliance shall show the building or premises or part thereof, and the proposed use thereof, and conform to the provisions of this chapter.

(b) Application of such certificate shall be concurrent with the application for a zoning permit.

(c) The certificate of compliance shall be issued within ten days after the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms to all the provisions of this chapter.

(Compiled Ords. of 2009, § 17.08.790)

Sec. 22-226. - Preexisting uses.

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

(Compiled Ords. of 2009, § 17.08.810)

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

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

(Compiled Ords. of 2009, § 17.08.800)

Secs. 22-228—22-247. - Reserved.

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

DIVISION 1. - GENERALLY

Sec. 22-248. - Applicability.

(a) This article is for the purposes of providing for the administration, development and sale of all lands owned by the county and acquired through tax deed, quitclaim deed, warranty deed, patent, bequest or in exchange for county-owned land lying outside of the boundaries of county forests as described by an ordinance entitled "Clark County Forestry Ordinance," enacted by the county board on April 26, 1934. County forests include land located in certain towns within the county, such land being described as follows:

(1) Sherwood: Township 23N. Range 1 East: Sections W ½ 15, 16, 17, 18, 19, 20, 21, W ½ 22, W ½ 27, 28, 29, 30, 31, 32, 33, W ½ 34;

(2) Washburn: Township 23N, Range 1 West: Sections 20 to 36 inclusive;

(3) Washburn: Township 23N, Range 1 West: Sections 20 to 36 inclusive;

(4) Levis: Township 23N, Range 2 West: All of Sections 20, 21, 28, 29, 31, 32, 33, 34, 35 and 36;

(5) Dewhurst: Township 23N, Range 3 West: Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, W ½ 26, 27, 28, 29, 30, 31, 32, 33, 34 and W ½ 35;

(6) Hewett: Township 24N, Range 3 West: All of the town of Hewett except Sections 1, 11, 12 and 13;

(7) Mentor: Township 24N, Range 4 West: Sections 1, 2, 3, 4, E ½ 5, E ½ 9, W ¼ 10, E ½-NE ¼ 10, all of 11 except W ½-SW ¼, 12, 13, all of Section 14 except W ½-NW 1/3 and the NW ¼-SW ¼ and the S ½-SW ¼, all of Section 23 except NW ¼, all of Sections 24, 25, 26, 34, 35 and 36;

(8) Seif: Township 25N, Range 3 West; Sections 5, S ½ Section 6, all of 7, 8, W ¼ Section 13, all of Section 14, E ¼ Section 15, all of Sections 17, 18, 19, 20, 21, N ½ Section 22, E ½-SE ¼ Section 22, all of Section 23, Section 24, S ½-NW ¼ Section 25, all of Section 26, SE ¼ Section 27, all of Sections 28, 29, 30, 31, 32, 33, 34, 35 and the W ½ Section 36;

(9) South Foster: Township 25N, Range 4 West: All of the Town of South Foster except the SW ¼ of Section 29, the S ½ of Section 30, all of Section 31 and the W ½ of Section 32;

(10) North Foster: Township 26N, Range 4 West: All of the Town of North Foster, Sections 1 to 36 inclusive;

(11) Mead: Township 27N, Range 3 West: Sections 17, 18, 19, 20, 28, 29, 30, the N ½ of Sections 31 and 32;

(12) Butler: Township 27N, Range 4 West: Sections 2, 3, 4, 5, 6, 7, 8, 9, N ½ Section 10, Sections 16, 17, 18, 19, 20, 21, SW ¼ Section 25, S ½ Section 26, S ½ Section 27, all of Sections 28, 29 and 30, 31, 32, 33, 34 and 35, all of Section 36 except NE ¼.

(b) All lands now owned or acquired by the county in the future in the list of towns set out in subsection (a) of this section and lying inside of the areas specified therein, and in the zoned area prescribed by an order entitled "Clark County Zoning Ordinance," enacted by the county board on November 14, 1934, shall be subject to the administrative procedure established in this article, excepting that this article shall not include any land owned by the county outside the forestry or zoned area.

(Compiled Ords. of 2009, § 17.16.010)

Secs. 22-249—22-274. - Reserved.

DIVISION 2. - JOINT COMMITTEE

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

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

(Compiled Ords. of 2009, § 17.16.020)

Sec. 22-276. - Powers and duties.

(a) Fair value determination of land before sale. The joint committee shall have the power, and it shall be the duty of the joint committee, to determine the fair value of any land in the zoned area or forestry area of timber before it is sold by the county.

(b) Lease, sale, easement and permit records. The joint committee shall have the power to maintain at all times an up-to-date card index record and map for all county-owned lands on which reports have been made and on which leases, stumpage sales, easements and special use permits have been issued, as well as any county-owned land on which leases, stumpage sales, easements, special use permits or sales can be made.

(c) Timber sales in conformance with forest management practices. The joint committee shall have the power, and it shall be the duty of the joint committee, to sell the timber of land in the zoned area of forestry area without the land if, in the committee's judgment, this is in the best interest of the county, such operations to be carried on in accordance with acceptable forest management practices.

(d) Appraisal of lands and timber before sale. The joint committee shall have the power, and it shall be the duty of the joint committee, to make a full and complete appraisal of lands and timber to be offered for sale by the county at the time the county is ready to sell the property or has obtained a bid on the property.

(e) Survey line location. The joint committee shall have the power, and it shall be the duty of the joint committee, to locate, where necessary, survey lines of lands to be offered for sale or on which forest products are sold.

(f) Special land use area development. The joint committee shall have the power, and it shall be the duty of the joint committee, to develop special land use areas, including game and forest improvement areas, flowage areas, blueberry fields, moss areas, quarries, gravel pits, recreation and such other uses as appear most adapted for such lands.

(g) Land exchange recommendations. The joint committee shall have the power, and it shall be the duty of the joint committee, to recommend and submit to the county board for approval the exchange of land with public and private agencies, when such exchange will promote the usefulness or salability of land retained by the county.

(h) Annual report to county board. The joint committee shall have the power, and it shall be the duty of the joint committee, to file with the county board, at its annual meeting, a report on the activities of the committee, including a statement of expenses and receipts.

(i) Appraisal values schedule establishment. The joint committee shall have the power, and it shall be the duty of the joint committee, to annually establish a schedule of land and timber appraisal values, entirely independent of any past tax equities, for the guidance of its employees or agents of the committee.

(j) Expenditure power. The joint committee shall have the power, and it shall be the duty of the joint committee, to expend the money accruing in the fund contemplated in this in the administration of the work assigned to such committee, up to the total amount authorized for the committee by the annual budget.

(k) Granting of leases and easements. The joint committee shall have the power to give leases or grant easements to individuals or corporations for land uses provided for in this chapter.

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

Sec. 22-277. - Meetings; notice.

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

(Compiled Ords. of 2009, § 17.16.130)

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

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

(Compiled Ords. of 2009, § 17.16.140)

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

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

(Compiled Ords. of 2009, § 17.16.150)

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

(a) Whenever, in the opinion of the joint committee, the interests of the county can best be served by maintaining any lands in public ownership, such lands should be removed from any 1isting of public lands offered for sale by the county.

(b) In addition, whenever, in the opinion of the joint committee, any land owned by the county should be retained or could best be developed for park purposes, the joint committee shall report to the county board, listing the description of land which should be so retained and developed.

(c) It shall be the responsibility of the joint committee to develop and execute plans, whenever possible and practical, for the use or improvement of all lands retained pursuant to this section, whether for water conservation, watershed protection, game development, quarrying, special crop possibilities or any other purposes.

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

Secs. 22-281—22-284. - Reserved.

DIVISION 3. - TIMBER CUTTING

Sec. 22-285. - Timber sales procedure.

(a) Sealed bid requirement. The joint committee shall require sealed bids for the sale of timber in all cases on county-owned lands, unless otherwise provided by state law, where the estimated stumpage value of the timber is in excess of $100.00.

(b) Basis on scale, measure or count. All timber sales shall be made on the basis of the scale, measure or count of cut forest products as reported by a scaler acceptable to the joint committee.

(c) Payment schedule. Before any person shall cut timber as contemplated by this section, he shall pay 50 percent of the estimated value of the timber to the treasurer. The balance due shal1 be paid to the treasurer before any of the cut products are removed.

(d) Removal within set time limit or six months. All products shall be removed within the time set by the joint committee but in no event more than six months from the date of the contract for sale.

(e) When county board approval required. Sales of over $1,000.00 are to be referred to the county board for approval before the contract is executed.

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

Sec. 22-286. - Trespass cutting.

(a) Suit for damages. Whenever evidence of trespass cutting on lands on which the county holds a tax certificate or a tax deed is lodged with the district attorney, he shall bring suit to recover damages under Wis. Stats. § 74.44.

(b) Criminal action. If the trespass cutting is, on reasonable evidence, willful, then criminal action under Wis. Stats. § 74.44 shall be brought by the district attorney.

(c) Seizure and disposal of materials. Whenever farm or forest products are found, known to have been cut or removed in trespass from county lands, the sheriff shall, on satisfactory evidence, seize such materials and sell them for the account of the county or remove them for the use of any county institution, as the joint committee shall direct.

(d) Duty to investigate. It shall be the duty of the joint committee to secure information and to get the cooperation of the county officials and town officers in securing information to be presented to the district attorney for action for trespass.

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

Secs. 22-287—22-290. - Reserved.

DIVISION 4. - LAND SALES

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

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

(Compiled Ords. of 2009, § 17.16.240)

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

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

(Compiled Ords. of 2009, § 17.16.250)

Sec. 22-293. - Presale reports.

(a) When required; distribution. Upon receipt of a bid for purchase, the joint committee shall investigate and cruise, or have an investigation and cruise made, and make a report of their findings. The report shall be provided to the county board, by depositing a copy thereof with the county clerk, and to the town board of each town in which the lands are located. The committee shall retain a copy of the report in its own records.

(b) Contents. The report shall include:

(1) A complete statement of the value of the land and the merchantable wood products, based on the schedule of current values annually adopted by the joint committee;

(2) Accessibility to roads and schools; and

(3) A statement regarding whether the proposed use of this land conforms to county zoning regulations and the established policies of the joint committee.

(c) Request for review by and recommendation of town boards. Each report copy provided under this section to a town board shall be accompanied by a request that the town board furnish information and recommendations to the joint committee regarding whether the proposed sale would cause unwarranted increases in government expenditures, general welfare problems that may be associated with the contemplated sale, highway and any other reservations deemed desirable, and any other factors that should be considered by the joint committee.

(d) Submission of town board recommendations to joint committee. Immediately after the town board meeting and recordation of the town board recommendations in the minutes of the town board meeting, the joint committee shall request the town clerk to return the report and the town board's recommendations to the committee not less than ten days prior to the committee meeting at which the contemplated sale will be reviewed.

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

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

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

(1) Low bid. The bid was less than the appraised value.

(2) Excessive expenses and services. The sale would involve additional and unwarranted governmental services and expenses.

(3) Zoning conflicts. The apparent future use conflicts with the objectives of the zoning ordinance.

(4) Planned development conflicts. The sale would be contrary either to the long-time planned development of the forest or of other land uses.

(5) Tax roll doubt. There is reasonable doubt that the prospective purchaser will maintain the land on the tax roll.

(Compiled Ords. of 2009, § 17.16.290)

Sec. 22-295. - Deed restriction recommendations.

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

(1) Retention of title to the designated area for the construction of new roads or the relocation, improvement, safety and beautification of present roads;

(2) Retention of timber rights or conveyed lands for any predetermined number of years, subject to cancellation by mutual agreement between the committee and the owner and providing for restricted cutting by the owner under the supervision of the committee;

(3) Retention of mineral, gravel and quarry rights; and

(4) Retention of the right to public utility rights-of-way.

(Compiled Ords. of 2009, § 17.16.300)

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

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

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

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

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

(Compiled Ords. of 2009, § 17.16.330)

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

Upon a finding by the joint committee that any application under this division fully complies with all parts of this article, then a deed shall be issued to the applicant. The deed shall be

properly executed and acknowledged by the county clerk, the county treasurer and the chairman of the town board of the town in which such land is located.

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

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

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

(b) Upon acceptance of a bid under this article by the county, the successful bidder under this division shall pay the sale amount in full or, in the alternative, may pay 20 percent of the sale price as an earnest money deposit pending full payment as provided in this section.

(c) Upon acceptance of any bid by the county, the successful bidder shall be required to make full payment of the bid price within 30 days following acceptance by the county. Any earnest money deposit shall be applied toward the final purchase price if the total is timely paid pursuant to this subsection.

(d) If the successful bidder fails to perform pursuant to his bid, the earnest money paid under this section, and the application deposit required by this article, shall be forfeited and paid into the county treasury.

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

Secs. 22-300—22-302. - Reserved.

ARTICLE V. - SHORELANDS AND WETLANDS

DIVISION 1. - GENERALLY

Sec. 22-303. - Definitions.

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

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

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

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

Board of Adjustment means pursuant to Wis. Stats. 59.694 (1)(2) and 59.692(4)(5) duties and responsibilities include, but are not limited to hear and decide administrative appeals and

variance from the terms of a Zoning Ordinance, as will not be contrary to the public interests, public safety, or public welfare.

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

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

Department means the Department of Natural Resources.

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

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

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

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

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

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

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

Handicap access means any temporary deck extension, walkway, ramp, elevator, or any mechanical device used as a means of movement or access by a handicapped person, which is deemed medically necessary to provide reasonable accommodations as required by the Federal

Americans with Disabilities Act, the Federal Fair Housing Act and the Wisconsin Fair Housing Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 22-304. - Interpretation of terms.

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

Sec. 22-305. - Statutory authorization.

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

Sec. 22-306. - Findings of fact.

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

Sec. 22-307. – Title and Purpose.

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

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

(1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
   a. Limiting structures to those areas where soil and geological conditions will provide a safe foundation;
   b. Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems;
   c. Controlling filling and grading to prevent serious soil erosion problems;
   d. Limiting impervious surfaces to control runoff which carries pollutants.

(2) Protect spawning grounds, fish and aquatic life through:
   a. Preserving wetlands and other fish and aquatic habitat;
   b. Regulating pollution sources;
   c. Controlling shoreline alterations, dredging and lagooning;

(3) Control building sites, placement of structures and land uses through:
   a. Prohibiting certain uses detrimental to the shoreland area;
   b. Setting minimum lot sizes and widths;
   c. Regulating side yards and building setbacks from roadways and waterways;
   d. Setting the maximum height of near shore structures.

(4) Preserve and restore shore cover and natural beauty through:
   a. Restricting the removal of natural shoreland cover;
   b. Preventing shoreland encroachment by structures;
   c. Controlling shoreland excavation and other earth-moving activities;
   d. Regulating the use and placement of boathouses and other structures.

Sec. 22-308. - Regulated shoreland areas.

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

(1) Within 1,000 feet of the OHWM of navigable lakes, ponds or flowages;

(2) Within 300 feet of the OHWM of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater;

(3) Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodways maps, county soil survey maps, or other existing county floodplain zoning maps used to delineate floodplain areas which have been adopted by the county, shall be used to determine the extent of the floodplain of navigable rivers or streams in the county;

(4) Determinations of navigability or OHWM shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the department for a final determination of navigability or OHWM. The county may work with surveyors with regard to Wis. Stat. 59.692(1h);

(5) The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland;

(6) Under Wis. Stat. 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:

a. Lands adjacent to farm drainage ditches if:

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

Sec. 22-309. - Compliance.

(1) The use of any land or water, the size, shape and placement of lots, the use, size type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state, or federal regulations;

(2) Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for building code and ordinance compliance and reasonable care in construction.

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

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

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

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

(1) This ordinance shall not require approval or be subject to disapproval by any town or town board;

(2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise;

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

(4) This ordinance may establish standards to regulate matters that are not regulated in Wis. Admin. Code NR 115, but that further the purposes of shoreland zoning as described in section 22-307 of this ordinance;

(5) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:

a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use;
b. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

(6) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the department has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stats. 30, 31, 281, or 283.

(7) The provisions of the Clark County Zoning Ordinance are hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

Sec. 22-312. - Interpretation of provisions.

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

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

Sec. 22-313. - Violations.

(1) Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of the ordinance codified in this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation;

(2) Any violations which existed under previous ordinances in effect at that time shall continue as violations regardless of changes caused by any approved revision or repeal which takes place in this ordinance;

(3) The zoning administrator shall report all violations of this ordinance to the zoning committee. The county may institute appropriate legal action for a violation of this ordinance. Unless otherwise specified in the applicable state statute, the penalty for each violation of this ordinance may not be less than a forfeiture of $10.00 or more than $200.00 plus applicable court costs. Every day of violation may constitute a separate offense;

(4) Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Wis. Stat. 87.30(2).

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

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

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

Wis. Stat. 59.692(1k)(a)1.b. and d. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in ordinance section 22-316. Property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements.

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

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

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

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

(1) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt

or remodeled if the activity does not expand the footprint of the nonconforming structure;

(2) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level;

(3) Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements;

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

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

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

(2) The existing principal structure is at least 35 feet from the OHWM;

(3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the OHWM than the closest point of the existing principal structure;

(4) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in ordinance sections 22-389 and 22-390;

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

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

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

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

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

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

(2) The existing principal structure is at least 35 feet from the OHWM;

(3) No portion of the relocated structure is located any closer to the OHWM than the closest point of the existing principal structure;

(4) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirements;

(5) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in ordinance sections 22-389 and 22-390;

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

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

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

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

(2) The authorized structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level.

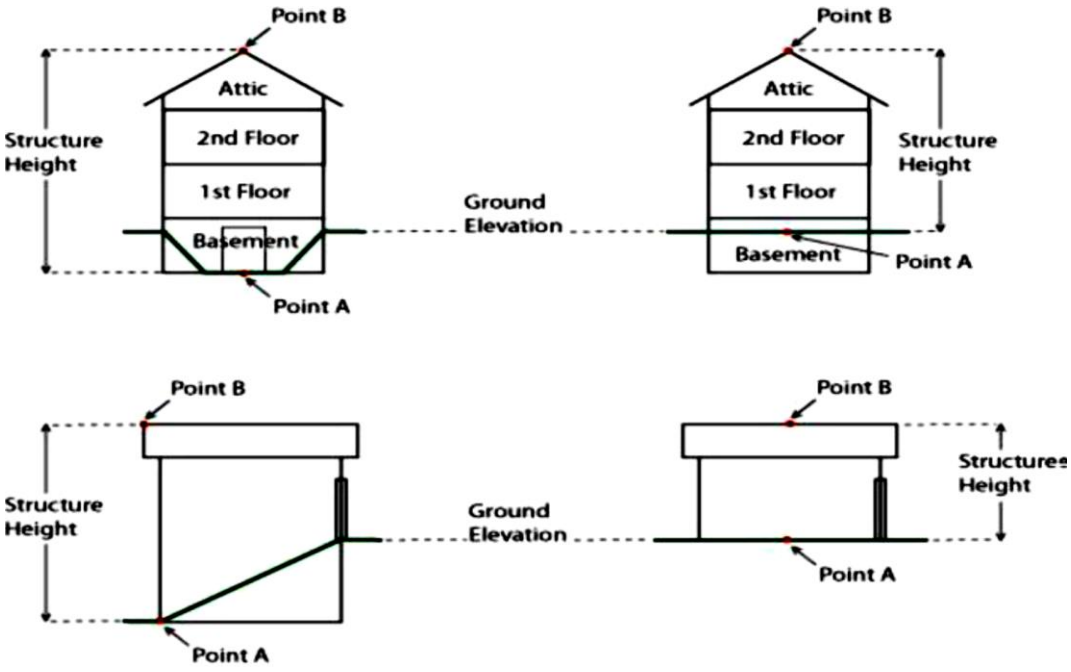
(3) Counties may allow expansion of an authorized structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

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

Sec. 22-321. – Height.

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

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



Sec. 22-322. – Floodplain Structures.

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

Sec. 22-323. – Administrative Provisions.

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

(1) Appoint an administrator and such additional staff as the workload may require;

(2) Create a zoning agency as authorized by Wis. Stat. 59.69a board of adjustment as authorized by s. 59.694, Stat., and a county planning agency as defined in Wis. Stat. 236.02(3), and required by Wis. Stat. 59.692(3);

(3) Create and administer a system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county zoning administrator, unless prohibited by Wis. Stat. 59.692(1k);

(4) Conduct regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance;

(5) Create and administer a variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship as

long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland zoning ordinance;

(6) Create and administer a special exception (conditional use) procedure for uses presenting special problems;

(7) Maintain a complete record of all proceedings before the board of adjustment, zoning agency and planning agency;

(8) Provide written notice to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review.

(9) Submit to the appropriate office of the Department, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance;

(10) Develop and maintain official maps of all mapped zoning district boundaries, amendments, and recordings;

(11) Establish appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in Wis. Stat. 59.69 (11);

(12) Pursue the prosecution of violations of the shoreland ordinance;

(13) Facilitate shoreland wetland map amendments according to Wis. Admin. Code NR 115.04. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the Department within 10 days after the decision is issued.

Secs. 22-324—22-331. - Reserved.

DIVISION 2. - Minimum Lot Size.

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

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

a. The OHWM;
b. The OHWM mark building setback line;

c. One other representative location on the lot within 300 feet of the OHWM.

Sec. 22-332. - Substandard lots.

A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

(1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.

(2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

(3) The substandard lot or parcel is developed to comply with all other ordinance requirements.

(Ord. 219-5-18, 06-28-2018)

Secs. 22-333. – Outlots.

(1) An outlot shall not be used for a principal building site;

(2) An outlot may be used for an accessory structure building site which is clearly incidental to, and customarily found in connection with, a principal structure, and which the outlot is located adjacent to that of the principal structure lot under same ownership;

(3) An outlot may be combined by Certified Survey Map to an existing lot, substandard lot, or newly created lot.

Secs. 22-334. – Land Division Review.

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

(1) Hazards to the health, safety or welfare of future residents.

(2) Proper relationship to adjoining areas.

(3) Public access to navigable waters, as required by law.

(4) Adequate stormwater drainage facilities.

(5) Conformity to state law and administrative code provisions.

Secs. 22-335. – Sanitary Regulations.

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

(1) Where public water supply systems are not available, private well construction shall be required to conform to Wis. Admin. Code NR 812.

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

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

DIVISION 3. - SETBACKS

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

Sec. 22-359. - Sideyard setbacks.

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

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

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

(1) Agriculture Fence
   a. Agriculture fences consisting of post and wire require no setback from the property line and can be constructed up to the OHWM;
   b. Property must be actively used for agriculture pasturing of livestock on one side of the fence;
   c. Maximum height of 4 feet from the adjacent grade within 75 feet from the OHWM.

(2) Privacy, Security and Open fences
   a. Fence requires a 3 foot setback from the property line for maintenance access;
   b. Fence requires a 75 foot setback from the OHWM;

(4) Private on-site wastewater treatment systems that comply with Wis. SPS Comm 383;

(5) Facility or equipment of a public utility, as defined in Wis. Stat. 196.01 (5), that has no feasible alternative location outside of the minimum setback;

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

Sec. 22-361. - Highway setbacks.

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

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

(2) Class B highways.
   a. All county trunks are hereby designated as class B highways. For the purpose of this ordinance, any road shall be considered a county trunk after it has been placed on the county trunk system by the county board and approved by the division of highways;

   b. The setback from class B highways shall be 75 feet from the centerline of such highway or 42 feet from the right-of-way lines, whichever is greater.

(3) Class C highways.

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

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

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

(1) Fences as described in ordinance section 22-360;

(2) Telephone, telegraph and power transmission poles, lines, and portable equipment;

(3) Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle that would obstruct the view;

(4) Private on-site wastewater treatment systems that comply with Wis. SPS Comm 383;

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

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

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

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

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

(1) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the OHWM provided all of the following are met:

   a. Both of the existing principal structures are located on adjacent lot to the proposed principal structure;
   b. Both of the existing principal structures are located within 250' of the proposed principal structure;
   c. Both of the existing principal structures are located less than 75' from the OHWM;
   d. The average setback shall not be reduced to less than 35' from the OHWM of any navigable water;

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

   a. The existing principal structure is located on adjacent lot to the proposed principal structure;
   b. The existing principal structure is located within 250' of the proposed principal structure;
   c. The existing principal structure is located less than 75' from the OHWM;
   d. The average setback shall not be reduced to less than 35' from the OHWM of any navigable water.

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

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

(1) Open sided and screened structures such as gazebos, decks, screen houses and patios that satisfy the requirements in Wis. Stat. 59.692(1v);

   a. The part of the structure that is nearest to the water is located at least 35 feet landward from the OHWM;
   b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded;
   c. The structure that is the subject of the request has no sides or has open or screened sides;
   d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. A mitigation plan must be submitted and approved that meets the standards found in ordinance sections 22-389 and 22-390.

(2) Stairways, walkways and lifts that are necessary to provide pedestrian access to the shoreline because of steep slopes, rocky, wet or unstable soils when the following conditions are met:

a. There are no other locations or facilities on the property which allow adequate access to the shoreline;
b. Only one stairway or one lift is allowed, not both, except where there is an existing stairway and the lift will be mounted;
c. Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas;
d. Vegetation which stabilizes slopes or screens structural development from view shall not be removed;
e. Structures shall be painted so as to blend into the natural features of the shoreline and screened by vegetation so as to be inconspicuous when viewed against the shoreline;
f. Canopies, roofs, and sides are prohibited. Open railings may be provided where required for safety;
g. A maximum width of 60 inches (outside dimensions) is allowed for stairways, walkways and lifts;
h. Landings are allowed where required for safety purposes and shall not exceed 30 square feet. Attached benches, seats, tables, etc. are prohibited;
i. Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavation that is proposed must meet the requirements of section 7 of this ordinance.

(3) Where strict interpretation of this ordinance would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance, the zoning administrator may grant a Conditional Use Permit to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the Wisconsin Fair Housing Act. The permit shall be subject to the following conditions:

a. Only the minimum relaxation of dimensional, density or other standards needed to provide reasonable accommodation shall be approved;
b. No use, structure or other relaxation of standards shall be approved that would violate or undermine the stated purposes of this ordinance;
c. The Conditional Use Permit will expire once the property is no longer primarily used by a disabled person. Subsequent landowners shall be responsible for the removal of any nonconforming structures no longer required by a disabled resident.

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

a. The construction of a boathouse below the OHWM of any navigable waters is prohibited;
b. The construction of a boathouse within a floodplain is prohibited;
c. The use of a boathouse for human habitation is prohibited;
d. The maximum dimensions of a boathouse are: 12 feet in width by 30 feet in depth;
e. The construction of a boathouse must be at least 10 feet horizontally and 2 feet vertically from the OHWM;
f. Boathouses shall not exceed one story;
g. Boathouse roofs shall be constructed with a roof pitch not less than 4:12 (rise to run) nor greater than 6:12 and eves shall not exceed 24 inches past walls;
h. Earth toned color shall be required for all exterior surfaces of a boathouse;

i. Maximum of one overhead door is allowed, overhead door shall be installed on water side;
j. Maximum of one service door not exceeding 38" is allowed;
k. No windows, including door windows, are allowed to be installed on the water side of the boathouse;
l. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted;
m. Boathouses shall not contain plumbing;
n. Boathouses shall be constructed entirely within the viewing and access corridor;
o. Only one boathouse is allowed per lot.

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

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

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

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

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

Secs. 22-366—22-380. - Reserved.

DIVISION 4. - Vegetation and Impervious Surface

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

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

Sec. 22-382. Vegetative Buffer Zone.

To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that

extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

(1) The county may allow routine maintenance of vegetation.

(2) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b), Stats, the viewing corridor shall not be more than 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.

(3) The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with "generally accepted forestry management practices" as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with these practices.

(4) The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.

(5) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

(Ord. 219-5-18, 06-28-2018)

Sec. 22-383. – Impervious Surface.

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

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

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

(1) Treated Impervious surfaces described in ordinance section 22-387 shall be excluded from the calculation of impervious surface on the lot;

(2) If an outlot lies between the ordinary high water mark and the developable lot, and both lots are in common ownership, the lot and the outlot shall be combined with a single legal description and recorded with a new deed prior to be considered one lot for the purposes of calculating the percentage of impervious surface.

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

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

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

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

(1) A property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot that is within 300 feet of the ordinary high-water mark;

(2) A mitigation plan must be submitted and approved that meets the standards found in ordinance sections 22-389 and 22-390 prior to a Land Use Permit being issued.

Sec. 22-387. – Treated Impervious Surfaces.

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

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

(2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.

(3) To qualify for the statutory exemption, property owners shall submit a complete permit application that shall be approved by the county. The application shall include the following:

a. The required runoff volume of the impervious surface (IS) must use a rainfall depth derived from the NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2 year 24 hour rainfall event;

b. A calculation showing how much runoff is coming from the impervious surface area. The calculation of the runoff volume to treat or infiltrate is the area of the impervious surface (IS) multiplied by the runoff depth (2.74 inch or 0.23 ft.);

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

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

or

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

d. Documentation that all applicable stormwater BMP technical standards are met;

e. An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.

Note: The provisions in this subsection are an exemption from the impervious surface standards and as such should be construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device or internally drained. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with this subsection will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt.

Sec. 22-388. – Existing Impervious Surfaces.

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

(1) Maintain and repair the existing impervious surfaces;

(2) Replace existing impervious surfaces with similar surfaces within the existing building envelope;

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

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

Sec. 22-389. – Mitigation.

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

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

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

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

(2) The mitigation practices shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty;

(3) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation practices. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.

Sec. 22-390. – Mitigation Practices.

(1) The following mitigation practices are mandatory for all projects requiring mitigation:

a. The associated privately owned wastewater treatment system shall be evaluated and upgraded to comply with Wis. SPS Comm 383;
b. Standard erosion and storm water runoff control measures must be implemented and all mitigation activities shall comply with Division5 of this ordinance chapter regarding land disturbing activities.

(2) For projects requiring mitigation a property owner shall choose at least three (3) points from among the following mitigation practices:

a. Removal of existing impervious surfaces or structures within 0 to 35 feet landward from the OHWM: *One point per 200 sq. ft. removed*;
b. Removal of existing impervious surfaces or structures within 35 to 75 feet landward from OHWM: *One point per 200 sq. ft. removed*;

c. Maintain an existing or establish a new shoreland buffer which includes the establishment of all three vegetative layers, the ground cover, the shrub and the tree layer on 70% of the parcel area entirely located from 0 to 35 feet landward from the OHWM: *Three points*;
d. Maintain an existing or establish a new shoreland buffer which includes the establishment of all three vegetative layers, the ground cover, the shrub layer and the tree layer on 70% of the parcel area entirely located from 35 to 45 feet landward from the OHWM: *Two points;*
e. Maintain an existing or establish a new access and viewing corridor less than the allowable 30%: *One point per each 300 sq. ft. less than the allowable*;
f. Install a rain garden, or similar engineered structure or system, designed by a qualified professional to catch, retain, and infiltrate runoff from the property principal structure: *one point for principal structure to a rain garden;*
g. Implement other practices as agreed upon by the County.

Secs. 22-391—22-413. - Reserved.

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

Sec. 22-414. - General standards.

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

(1) Filling, grading, lagooning, dredging, ditching or excavating shall be in accordance with the provisions ofWis. Admin. Code NR 115.04, the requirements of Wis. Stat. 30, and other state and federal laws where applicable;

(2) Filling, grading, lagooning, dredging, ditching or excavating shall be completed in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty;

(3) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.

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

(5) Filling, grading, lagooning, dredging, ditching or excavating shall meet the requirements of ordinance sections 22-502(2) and (3).

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

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

(1) Filling, grading, lagooning, dredging, ditching or excavating activities of any area, any size within 35 feet of the OHWM;

(2) Filling, grading, lagooning, dredging, ditching or excavating activities of any area, any size, and which has surface drainage towards the water on slopes of more than 20%;

(3) Filling, grading, lagooning, dredging, ditching or excavating activities of more than 1,000 sq. ft. and which has surface drainage towards the water on slopes of 12% to 20%;

(4) Filling, grading, lagooning, dredging, ditching or excavating activities of more than 2,000 sq. ft. and which has surface drainage towards the water on slopes less than 12%;

(5) Cultivation of existing agricultural fields is not considered a filling, grading, lagooning, dredging, ditching or excavating activity, provided it is done in conformance with appropriate practices;

(6) For ponds, lagoons, lakes or flowages connected to or located within 500 feet of a navigable body of water, a permit under Wis. Stat. 30.19(1g) must be obtained from the department;

(7) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

Sec. 22-416. - Permit conditions.

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

(1) The smallest amount of bare ground shall be exposed for as short a time as feasible;

(2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established;

(3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion;

(4) Lagoons shall be constructed to avoid fish trap conditions;

(5) Fill shall be stabilized according to accepted engineering standards;

(6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain;

(7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

Secs. 22-417—22-498. - Reserved.

DIVISION 6. - SHORELAND-WETLAND DISTRICT

Sec. 22-499. - Designation.

This district shall include all shorelands within Clark County that are subject to this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

(Ord. 219-5-18, 06-28-2018)

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

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

Sec. 22-501. - Purpose.

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

Sec. 22-502. - Permitted uses.

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

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

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

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

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

a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation provided that:

1. The road cannot, as a practical matter, be located outside the wetland;
2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland;
3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
4. Road construction activities are carried out in the immediate area of the roadbed only;
5. Any filling, flooding, draining, dredging, ditching, tiling or excavating must be necessary for the construction or maintenance of the road;

b. The construction and maintenance of nonresidential buildings, not intended for human habitation, provided that:

1. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
2. The building cannot, as a practical matter, be located outside the wetland;
3. Such building does not exceed 500 square feet in floor area;
4. Only limited excavating and filling necessary to provide structural support for the building allowed.

c. The establishment and development of public and private parks and recreation areas, natural and outdoor education area, historic and scientific areas, wildlife refuges, fish hatcheries, game bird and animal farms, fur animal farms, shooting preserves, public boat launching ramps, access roads used in conjunction with a public boat launching ramp, and other similar uses provided that:

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

d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:

1. The transmission and distribution lines or related facilities cannot, as a practical matter, be located outside the wetland;
2. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetlands;
3. Only limited filling or excavating necessary for such construction or maintenance is allowed.

e. The construction and maintenance of railroad lines, provided that:

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

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

Sec. 22-503. - Prohibited uses.

Any use not listed in ordinance sections 22-502(1) through (3) is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Wis. Stat. 59.69(5)(e), Wis. Admin. Code NR 115 and ordinance section 22-504.

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

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

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

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

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

Secs. 22-505—22-637. - Reserved.
ARTICLE VI – Reserved

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

ARTICLE VII. - FORESTS

DIVISION 1. - GENERALLY

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

(a) Determination is made that for the purpose of proper and complete identification, all county-owned lands now held or hereafter acquired for forestry purposes, established and designated as county forests shall be shown on an official county forest map to be maintained in the county forestry office in the courthouse in Neillsville, and according to the records in the office of the register of deeds.

(b) It is the intent of the county board of supervisors to consolidate county forest holdings as lands are acquired by the county and that application to enter such lands are acquired by the county and that application to enter such lands as county forest lands pursuant to Wis. Stats. § 28.11 shall be filed.

(Compiled Ords. of 2009, § 17.12.10)

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

(a) Civil action. Whenever evidence of unlawful cutting on county lands shall come before the committee, the committee may recommend to the district attorney that he bring suit to recover damages as provided by Wis. Stats. § 26.09. Similarly, civil suit shall be recommended against parties responsible for forest fire damage under Wis. Stats. § 26.21.

(b) Cooperation. It shall be the duty of the committee and its appointed administrative agent to secure information and to seek the cooperation of state, county and town officers in securing information required for legal action.

(c) Penalties. Any person who violates any of the provisions of this article, or other rules and regulations made by the committee, shall be subject to a forfeiture of not less than $25.00 or more than $500.00, together with costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 90 days. Each day a violation exits shall constitute a distinct any separate violation of this article and as such, forfeitures shall apply accordingly.

(Compiled Ords. of 2009, § 17.12.90)

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

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

(Compiled Ords. of 2009, § 17.12.40)

Sec. 22-769. - Forest finances.

(a) All allotments from the state department of natural resources to the county under Wis. Stats. § 28.14 for the purchase, development, preservation and maintenance of the county forest, shall be deposited in the state aid forestry fund. Income from the sale of lands or equipment purchased with state aid funds shall be restored to this fund. All unexpended funds shall be nonlapsing.

(b) All moneys received from the sale of timber stumpage, cut forest products, fees and use permits, sale of building materials, sale of surplus materials, and equipment, or other revenue received by the committee, except income specified in subsection (a) of this section, shall be deposited in the county forestry fund and expended for the purposes covered by this article and designated by the committee.

(c) All moneys appropriated for purposes under section 22-769 shall be deposited in the county forest and parks fund.

(Compiled Ords. of 2009, § 17.12.50)

Secs. 22-770—22-791. - Reserved.

DIVISION 2. - FORESTRY AND PARKS COMMITTEE

Sec. 22-792. - Appointment.

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

(Compiled Ords. of 2009, § 17.12.20)

Sec. 22-793. - Powers and duties.

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

(1) Acquire lands within county forest areas by purchase, gift or bequest, or by exchange of county-owned lands outside such areas for the purpose of blocking the forest for better administration with such limits as may be prescribed by the county board and subject to approval of the county board;

(2) Make application for entry under the county forest crop law as lands are acquired within the county forest areas;

(3) Direct and supervise the county forestry office and designate a county forest administrator as its agent, and the committee is empowered to employ such other competent personnel as may be necessary to direct, perform and enforce the administrative and management functions of this article;

(4) Establish and maintain in appropriate centers, a forest headquarters for office space and the housing of machinery, tools, equipment and supplies needed in conducting forest and parks operations;

(5) Purchase, acquire, sell, trade or dispose of instruments, tools, equipment and supplies required for the operation of the forest and parks. All purchases shall be conducted pursuant to the applicable state law. The county board authorizes the committee to purchase up to $15,000.00 of said items without the county board approval;

(6) Cooperate with the department of natural resources in preparing budgets for county forest administration, capital and direct expenditures of forestry funds advanced by the department of natural resources and for the other revenues accruing to the county under this article for submission to the county board;

(7) Do all things necessary for the protection of the forest whether from fire, insects, disease, trespass or from damage by animals or from other causes in cooperation with the department of natural resources in all such related matters;

(8) Regulate the disposal of slash;

(9) Locate survey lines and appropriately monument corners of county forest lands;

(10) Construct, improve and maintain a system of forest roads, trails and fire breaks, and purchase or secure easements for accessways required to cross privately owned lands;

(11) Gate or block roads or trails with gates, cables, rails, posts, earthen embankments or other material. Unauthorized motor vehicles are prohibited from travel on roads or trails so gated or posted;

(12) Conduct forest improvement work including reforestation, release cuttings, thinnings, pruning and weeding by any method including spraying or dusting chemicals by airplane and other methods;

(13) Dispose of salvaged materials;

(14) Cooperate with the department of natural resources in the determination of the allowable annual cut by establishment of an intensive county forest management plan including an inventory of growing stock and increment, acreage control, establishment of cutting compartments and other necessary items for such plan;

(15) Sell timber stumpage in accordance with a county forest management plan in cooperation with the department of natural resources;

(16) Establish, construct and maintain wherever desirable within the forest, picnic grounds, waysides, camps and campsites, public access roads and boat landings, scenic areas, nature trails and designate, mark and preserve places of natural and historic interest and significance;

(17) Cooperate with the department of natural resources on all matters relating to game and fish management within the county forest on which a memorandum of understanding between the county board and the department of natural resources is in existence;

(18) Authorize to enter into agreement with the Lake States Forest Experiment Station, the University of Wisconsin or other universities with the endorsement of or directly with the department of natural resources for the use of tracts of county forest lands, labor, materials and equipment for conducting forest research, pending county board approval;

(19) Do special forest or recreation development work on other public lands not included in the county forests, including such lands as school forest, community forests, county parks, watersheds, reduction of hazards, public highways and similar projects under the county forestry fund as set up in section 22-769;

(20) Prepare and present an annual report of its activities to the county board.

(Compiled Ords. of 2009, § 17.12.30)

Secs. 22-794—22-824. - Reserved.

DIVISION 3. - PERMITS

Sec. 22-825. - Regulating gathering rights.

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

(1) Permit required. Any treaty rights participant interested in gathering firewood, tree bark, maple sap, lodge poles, bows, marsh hay, or other miscellaneous forest products (except fruits, seeds, or berries not enumerated in county ordinances), from the county-owned land shall obtain a county gathering permit from the county forestry office prior to the exercise of said gathering rights.

(2) Application and processing. The county forest administrator shall prepare an appropriate application requesting pertinent information from all treaty rights participants who seek to gather miscellaneous forest products on county forest land. Said application shall be available upon request. Those treaty rights participants who seek to gather miscellaneous forest products shall provide proper identification and present a valid tribal membership card upon submitting an application with the county. Upon receipt of an application, the county shall respond to the gathering permit request no later than 14 days after receipt of said application. Said response shall either grant or deny the request. Should the request be denied, the reasons for said denial shall be set forth in the response of the county, including the basis for said denial with specific reference to the limitations set forth in subsection (4) of this section. Any application which is incompletely or incorrectly prepared shall be returned within said 14 days to the applicant with specific directions as to which portion or portions of said applications are defective.

(3) Conditions in permit. The gathering permit shall indicate the location of the material to be gathered, the volume of the material to be gathered, and any additional conditions on the gathering of the material necessary for conservation of timber or miscellaneous forest products on county land may not permit any person other than another treaty rights participant to tend or operate equipment involved in the gathering.

(4) Denial of gathering permit. The county may not deny a request to gather miscellaneous forest products on county property under the terms of this article unless:

   a. The gathering is inconsistent with the forest management plan for said property;

   b. The gathering will conflict with pre-existing rights of a permittee or other person possessing an approval to conduct an activity on the property, including a contractor of the county; or

   c. Is otherwise inconsistent with conservation or public health or safety.

(5) Penalty. Any person gathering miscellaneous forest products without first obtaining a gathering permit shall be subject to all existing penalties provided for in county

ordinances, including trespass and timber theft charges. Any person who possesses a gathering permit, and gathers beyond the authority granted in the permit, or who causes damage to the timber or miscellaneous forest products on county land, shall be assessed a forfeiture as set forth in the Clark County Uniform Citation Ordinance.

(6) Conflicts. Any and all ordinances or resolutions of the county, or any portion of said ordinances or resolutions to the contrary or in derogation of the above sections, are hereby repealed only insofar as any conflict exists.

(Compiled Ords. of 2009, § 17.12.70)

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

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

(Compiled Ords. of 2009, § 17.12.80)

Secs. 22-827—22-845. - Reserved.

DIVISION 4. - USE REGULATIONS

Sec. 22-846. - Recreational use.

Recreational use regulations are as follows:

(1) The committee may designate suitable areas for forest parks, campsites and picnic grounds, and boat access and is authorized to provide needed conveniences, including wells, and sanitary facilities. Such areas shall be for public use as prescribed by the committee.

(2) No miscellaneous lot leases will be issued nor transferred and those now present will be terminated at the death of the owner (county board proceedings March 4, 1965).

(3) Any cabin permit may be revoked at any time without reimbursement of fees when the permittee or any member of his family or guest shall have been convicted of violation of the state game laws or forest fire laws or of the regulations herein provided and rules of good conduct. All permits issued for the use of cabins shall contain clauses that the permittee shall remove any buildings erected by him by April 15 of the year following revocation or failure to renew any permit, and that whenever any buildings not so removed by April 15 shall become the property of the county and the committee may dispose of such buildings.

(4) Overnight camping including tents, trailers, cars and trucks, portable hunting or fishing cabins may be permitted in the county forest. A registration fee set by the committee will be charged. Any camped or campers who violate the rules and regulations of this article or of good conduct, including cutting or defacing timber, carelessness with fire, violation of game and fishing laws of the state, or improper disposal of garbage and litter shall be subject to ejection from the county forest and subject to the penalties provided by county and state law.

(5) The dumping of rubbish, debris, dirt, stone or any other materials shall be prohibited on all county forest lands. Visitors, including berry pickers, hunters, fishermen, tourists and

all others who visit the county forests are forbidden to leave litter anywhere in the forests or in its lakes or streams.

(6) It is unlawful for any person to construct, cause to be constructed, use, or occupy any permanent elevated scaffold or other permanent elevated device, commonly referred to as a tree stand, on any lands owned or under the control of the county. Portable/temporary tree stands may be used, provided that they are erected after September 1 and completely removed no later that January 7 of the following year, and provided that such portable tree stands are not in any manner bolted, nailed, or screwed to the tree, and provided that such portable tree stands cause no permanent damage to the trees in which they are placed. The use of nails, screws, spikes, or other devices to aid in climbing a tree is prohibited, except that one-piece, hat-treated and tapered commercially manufactured tree steps are permitted, provided that they are installed after September 1 and completely removed no later than January 7 of the following year. The cutting of shooting lanes is prohibited. Tree stands found in violation of this article may be removed and destroyed by any authorized person.

(7) It is unlawful for any person to construct, cause to be constructed, use, or occupy any ground blind hunting stand which is in any manner bolted, nailed, or screwed to a tree. Ground blinds constructed of materials which are not natural to the landscape must be installed after September 1 and completely removed no later that January 7 of the following year. The cutting of living trees for use as building materials for hunting blinds and the cutting of shooting lands is prohibited. Hunting stands found in violation of this article may be removed and destroyed by any authorized person.

(8) Provisions for the placement of approved hunting stands as described under subsections (6) and (7) of this section do not permit or warrant exclusive territorial hunting rights on county forest lands.

(9) It is unlawful for any person to place or cause to be placed unauthorized signs on any county forest lands or other lands under the management, supervision and control of the committee

(10) The more detailed county park ordinance shall be referred to for more specific regulations regarding the recreational aspects of the forest.

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

Sec. 22-847. - Timber cutting.

Timber cutting regulations are as follows:

(1) Cultural cuttings shall include thinnings, release cuttings, sanitation cuttings and improvement cuttings to remove trees of inferior species, form or condition for the purpose of stand improvement. All cultural cuttings on county forests shall be in accordance with plans made by or under the supervision of the forester office or given to other county agencies for their use, or sold, as the committee shall determine. When given to other public agencies, the latter shall pay the county a sum equal to the severance tax thereon.

(2) Salvage cuttings shall include all cutting of timber damaged by fire, storm, insect or disease. Salvage cuttings shall be done under the procedure specified for cultural cutting or for commercial cutting, as the committee may decide.

(3) Commercial cuttings shall include all cutting where stumpage is sold under contract in which the primary objective of the cutting is the marketing of the timber products, including logs, ties, poles, posts, pulpwood, piling, Christmas trees and boughs, or other forest products.

a. Proposed timber sales shall be submitted to the committee by the county forest administrator after all provisions relating to forestry practice have been endorsed by the forester of the department of natural resources.

b. Contract specifications for each cutting operation pertaining to payment and financial responsibility of the bidder shall be determined by the committee in consultation with the county forest administrator and the forester.

c. After approval of any sale by the committee, a notice of intention to cut shall be prepared as provided by Wis. Stats. § 28.11(6) as that section may be amended, revised or renumbered.

d. All timber sales shall conform with the provisions of Wis. Stats. § 28.11(6) as that section may be amended, revised or renumbered.

e. Payment for forest products shall be made promptly after billing. Prepayment or other payment arrangements may be made with the approval of the committee.

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

Secs. 22-848—22-872. - Reserved.

DIVISION 5. - CUTTING FOREST PRODUCTS

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

(a) Before any person cuts, or causes to be cut any logs, piling, poles, posts, pulpwood, Christmas trees or other forest products, except fuel wood for personal home consumption, in, upon or adjoining any forest or wild land area, the person shall pay all delinquent taxes on the land and each year shall mail a notice in the English language giving his name and post office address, and listing all the lands upon which cutting is to be done, designating the lands upon which cutting is to be done by each 40-acre governmental subdivision or fraction of a 40-acre governmental subdivision with the proper section, town and range, by registered letter addressed to the county clerk. The county clerk shall mail a copy of the notice to the chairperson of each town in which lands upon which forest products are to be cut under this subsection are located, and to the county treasurer, who shall forthwith determine whether the county holds tax certificates or tax deeds to any of the land listed in the notice and if the county treasurer so finds, the county treasurer shall take action to collect the unpaid taxes represented by county-owned tax certificates or to prevent cutting on land to which the county holds a tax deed or tax certificate. This section shall not apply to cutting on public lands, or to cutting for the purpose of clearing the land for agricultural use or to a person who may cut up to five Christmas trees on the person's own property for his own use, provided that he can prove that his real estate taxes for the previous calendar year have been paid. "Public lands" as used in this section shall mean lands owned by the United States of America, the state of Wisconsin or any political subdivision of this state.

(b) No purchaser of Indian reservation land or land to be placed upon the tax roll for the first time shall cut or cause to be cut any logs, piling, posts, poles, pulpwood, Christmas trees or

other forest products, except fuel wood for personal home consumption, from such land without first recording the instrument by which title to such land was acquired in the county in which such land is located.

(c) Penalty. Whoever violates this section shall forfeit not more than $50.00.

(Compiled Ords. of 2009, § 17.32.010)

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

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

(b) As used in this section, the term "raw forest products" means forest products not altered by a manufacturing process off the land from which they are taken. This term includes logs, pilings, posts, poles, cord wood products, pulp wood, fuel wood and Christmas trees.

(c) Penalty. Whoever violates this section is subject to a forfeiture of not less than $100.00 nor more than $10,000.00.

(Compiled Ords. of 2009, § 17.32.020)

Secs. 22-875—22-896. - Reserved.

ARTICLE VIII. - RESERVED

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

Secs. 22-897—22-1211. - Reserved.

ARTICLE IX. - NONMETALLIC MINE RECLAMATION

DIVISION 1. - GENERALLY

Sec. 22-1212. - Definitions.

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

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

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

Department means the state department of natural resources.

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

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

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

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

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

Nonmetallic mining or mining means all of following:

(1) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

(2) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

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

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

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

(1) The term "nonmetallic mining site" means the following:

a. The location where nonmetallic mining is proposed or conducted.

b. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.

c. Areas where nonmetallic mining refuse is deposited.

d. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.

e. Areas where grading or re-grading is necessary.

f. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, renegotiation test plots, or channels for surface water diversion, are located.

(2) The term "nonmetallic mining site" does not include any of the following areas:

a. Those portions of sites listed in subsection (1) of this definition not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.

b. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001, and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.

c. Areas previously mined but used after August 1, 2001, for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

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

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

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

Regulatory authority means one of the following:

(1) The county in which the nonmetallic mining site is located, that has an applicable reclamation ordinance under Wis. Stats. § 295.13 except where a municipality has adopted an applicable reclamation ordinance pursuant to this subsection (1).

(2) The municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance under Wis. Stats. § 295.14.

(3) The department, in cases where a county mining reclamation program is no longer in effect under Wis. Stats. § 295.14 but only if there is no applicable reclamation ordinance enacted by the municipality in which the nonmetallic mining site is located.

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

Solid waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Wis. Stats. ch. 283 or source material, special nuclear material or by-product material, as defined in Wis. Stats. § 254.31(1).

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

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

Unreclaimed acre or unreclaimed acres.

(1) The term "unreclamed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001, and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under section 22-1372(c). However the term does not include any areas described in subsection (2)a of this definition.

(2) The term "unreclaimed acre" or unreclaimed acres" does not include:

   a. Those areas where reclamation has been completed and certified as reclaimed under section 22-1372(c).

   b. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

   c. Those portions of nonmetallic mining sites which are included in an nonmetallic mining reclamation plan approved pursuant to this article but are not yet affected by nonmetallic mining.

   d. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

   e. For purposes of fees under section 22-1370, those areas within a nonmetallic mining site which the county has determined to have been successfully reclaimed on an interim basis in accordance with section 22-1372(c).

(Compiled Ords. of 2009, § 17.34.120)

Sec. 22-1213. - Purpose.

The purpose of this article is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the county after the effective date of the article from which this section is derived, in compliance with Wis. Admin. Code ch. NR 135 and Wis. Stats. ch. 295, subch. I.

(Compiled Ords. of 2009, § 17.34.020)

Sec. 22-1214. - Statutory authority.

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

(Compiled Ords. of 2009, § 17.34.030)

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

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

(Compiled Ords. of 2009, § 17.34.040)

Sec. 22-1216. - Interpretation.

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

(Compiled Ords. of 2009, § 17.34.050)

Sec. 22-1217. - Overall applicability.

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

(Compiled Ords. of 2009, § 17.34.080)

Sec. 22-1218. - Exemptions.

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

(1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the state department of natural resources under Wis. Stats. § 30.19, 30.195 or 30.20 and complies with Wis. Admin. Code ch. NR 340.

(2) Excavations subject to the permit and reclamation requirements of Wis. Stats. § 30.30 or 30.31.

(3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.

(4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.

(5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.

(6) Excavations for building construction purposes conducted on the building site.

(7) Nonmetallic mining at nonmetallic mining sites that affect less than one acre of total area over the life of the mine.

(8) Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stats. ch. 293.

(9) Any activities required to prepare, operate or close a solid waste disposal facility under Wis. Stats. ch. 289 or a hazardous waste disposal facility under Wis. Stats. ch. 291 that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this article apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(10) a. Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the state department of transportation concerning the restoration of the nonmetallic mining site.

b. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the state department of transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

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

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

(Compiled Ords. of 2009, § 17.34.090)

Sec. 22-1219. - Administration.

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

(Compiled Ords. of 2009, § 17.34.100)

Secs. 22-1220—22-1241. - Reserved.

DIVISION 2. - STANDARDS

Sec. 22-1242. - Conformance required.

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

(Compiled Ords. of 2009, § 17.34.130)

Sec. 22-1243. - General standards.

(a) Refuse and other solid wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed in accordance with applicable rules of the state department of natural resources adopted pursuant to Wis. Stats. chs. 289 and 291.

(b) Area disturbed and contemporaneous reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(c) Public health, safety, and welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) Habitat restoration. When the land use required by the reclamation plan approved pursuant to this article requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(e) Compliance with environmental regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

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

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

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

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

Sec. 22-1245. - Groundwater protection.

(a) Groundwater quantity. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) Groundwater quality. Nonmetallic mining reclamation shall be conducted in a manner that does not cause groundwater quality standards in Wis. Admin. Code ch. NR 140 to be exceeded at a point of standards application defined in that chapter.

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

Sec. 22-1246. - Topsoil management.

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

(b) Volume. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this article.

(c) Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this article, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

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

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

(a) All areas affected by mining shall be addressed in the approved reclamation plan pursuant to this article to provide that a stable and safe condition consistent with the post mining land

use is achieved. The reclamation plan may designate highwalls or other un-mined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

(b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under section 22-1288, steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or sable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material. The engineering analysis shall show that a minimum acceptable slope stability factor is attainable at a steeper slope and that the post-mining land use specified in the reclamation plan is not adversely affected. When the slope occurs at the edge of a body of water, this approved slope shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(c) When the approved post-mining land use includes a body of water, the approved final grade at the edge of the body of water shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at designated location or locations, depending on the size of the water body to allow for a safe exit.

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

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

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

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

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

Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this article, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in

accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

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

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

(a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this article. Criteria to evaluate reclamation success shall be quantifiable.

(b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

  (1) On-site inspections by the county or its agent;

  (2) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or

  (3) A combination of inspections and reports.

(c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(d) Revegetation success may be determined by:

  (1) Comparison to an appropriate reference area; or

  (2) Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

  (3) Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

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

Sec. 22-1251. - Intermittent mining.

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

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

Sec. 22-1252. - Maintenance.

During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the

standards of this article, or to meet the goals specified in the reclamation plan approved pursuant to this article.

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

Secs. 22-1253—22-1277. - Reserved.

DIVISION 3. - PERMITTING

Subdivision I. - In General

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

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

(Compiled Ords. of 2009, § 17.34.140)

Sec. 22-1279. - Required submittals.

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

(1) A brief description of the general location of the nonmetallic mine.

(2) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.

(3) The names, addresses, and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.

(4) The name, address, and telephone number of the person or organization who is the operator.

(5) A certification by the operator of his intent to comply with the statewide nonmetallic mining reclamation standards established by division 2 of this article, pertaining to standards.

(Compiled Ords. of 2009, § 17.34.150)

Sec. 22-1280. - Application contents.

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

(1) The information required by section 22-1279.

(2) The plan review and annual fee required by sections 22-1369 and 22-1370.

(3) A reclamation plan conforming to subdivision II of this division.

(4) A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by subdivision III of this division upon granting of the reclamation permit but before mining begins.

(5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this article.

(Compiled Ords. of 2009, § 17.34.160)

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

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

(1) Public notice.

a. When the county receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies section 22-1278.

b. The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to Wis. Stats. § 985.07(1) in the official newspaper of the county. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.

c. Copies of the notice shall be forwarded by the county to the applicable county or municipal zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) Hearing. The county shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:

a. If it conducts a zoning-related hearing on the nonmetallic mine site, the county shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. The county shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this article.

b. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in subsection (2)a of this section, opportunity for public hearing required by this section shall be provided as follows:

1. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in

which the nonmetallic mining site is located or proposed may request a public informational hearing.

2. The county shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under subsection (1) of this section.
3. This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.
4. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

(Compiled Ords. of 2009, § 17.34.300)

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

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

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

(Compiled Ords. of 2009, § 17.34.320)

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

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

(1) Unless denied pursuant to section 22-1287, the county shall approve in writing a request that satisfies the requirements of section 22-1278 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.

(2) The county may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of subdivision II of this division. The regulatory authority may issue a reclamation permit subject to conditions in section 22-1286, if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application that meets the requirements in section 22-1278 and reclamation plan that meets the requirements in subdivision II of this division, unless a public hearing is held pursuant to section 22-1281. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to section 22-1286, if appropriate, or

shall deny the permit as provided in section 22-1287, no later than 60 days after completing the public hearing.

(3) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of subdivision II of this division and provision by the applicant of financial assurance required under subdivision III of this division and payable to the county prior to beginning mining.

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

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

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

(1) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;

(2) Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;

(3) Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the state department of transportation concerning the restoration of nonmetallic mining sites;

(4) Is not a commercial source;

(5) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any; and

(6) Is not otherwise exempt from the requirements of this article under section 22-1218(10).

(b) In this subsection, the term "municipality" has the meaning defined in Wis. Stats. § 299.01(8).

(c) Automatic permits shall be issued under this subsection in accordance with the following provisions:

(1) The applicant shall notify the county of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.

(2) The applicant shall provide evidence to the county to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.

(3) The county shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under subdivision II of this division.

(4) The county shall accept the contractual provisions in lieu of the financial assurance requirements in subdivision III of this division.

(5) The public notice and hearing provisions of section 22-1281 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.

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

(6) Mines permitted under this subsection shall pay an annual fee to the county as provided in section 22-1370, but shall not be subject to the plan review fee provided in section 22-1369. The total annual fee, including the share of the department of natural resources, shall not exceed the amount in Table 2 of Wis. Admin. Code § NR 135.39.

(7) The county shall issue the automatic permit within seven days of the receipt of a complete application.

(8) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the state department of transportation requirements.

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

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

(Compiled Ords. of 2009, § 17.34.380)

Sec. 22-1285. - Expedited review.

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

(1) The operator may submit a request for expedited permit review that shall state the need for such expedited review and the date by which such expedited review is requested.

(2) The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.

(3) Following receipt of a request under this subsection, the county shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under subsection (1) of this section shall be returned.

(4) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to section 22-1281. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

(Compiled Ords. of 2009, § 17.34.390)

Sec. 22-1286. - Permit conditions.

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

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

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

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

(Compiled Ords. of 2009, § 17.34.400)

Sec. 22-1287. - Permit denial.

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

(1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in section 22-1283, if the county finds any of the following:

a. The applicant has, after being given an opportunity to make corrections, failed to provide to the county an adequate permit application, reclamation plan, financial assurance or any other submittal required by Wis. Admin. Code ch. NR 135 or this article.

b. The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this article, Wis. Admin. Code ch. NR 135 or Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.).

c. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within ten years of the permit application or modification request being considered shown a pattern of serious violations of this article or of federal, state or local environmental laws related to nonmetallic mining reclamation. The following may be considered in making this determination of a pattern of serious violations:

1. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

2. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this article, other reclamation ordinances or Wis. Admin. Code ch. NR 135.

3. Forfeitures of financial assurance.

4. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(2) A decision to deny an application to issue a reclamation permit may be reviewed under section 22-1292.

(Compiled Ords. of 2009, § 17.34.410)

Sec. 22-1288. - Alternative requirements.

(a) Scope of approval. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in division 2 of this article. The county may approve an alternative requirement to the reclamation standards established in this article if the operator demonstrates and the county finds that all of the following criteria are met:

(1) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.

(2) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.

(3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

(b) Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in subsection (a) of this section shall demonstrate all the criteria in Wis. Admin. Code § NR 135.26(1). This request shall be submitted in writing to the Clark County Department of Planning and Zoning, 517 Court Street, Neillsville, Wisconsin 54456. The request shall be reviewed under the following guidelines:

(1) The alternative requirement review and approval or denial will be performed by the the county planning and zoning department zoning administrator.

(2) The decision of the county planning and zoning department administrator can be appealed to the county board of adjustment.

(3) A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

(c) Transmittal of decision on request for alternate requirements. The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

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

Sec. 22-1289. - Permit duration.

(a) A nonmetallic mining reclamation permit issued under this article shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to section 22-1399(a).

(b) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to 22-1290.

(Compiled Ords. of 2009, § 17.34.470)

Sec. 22-1290. - Permit transfer.

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

(1) A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to the county of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.

(2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the county and the county makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

(Compiled Ords. of 2009, § 17.34.480)

Sec. 22-1291. - Previously permitted sites.

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

(Compiled Ords. of 2009, § 17.34.490)

Sec. 22-1292. - Review.

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

(Compiled Ords. of 2009, § 17.34.500)

Secs. 22-1293—22-1312. - Reserved.

Subdivision II. - Reclamation Plan

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

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

(Compiled Ords. of 2009, § 17.34.190)

Sec. 22-1314. - Required site information.

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

(1) Maps of the nonmetallic mining site including the general location, property boundaries, the areal extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the approximate elevation of ground water, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.

(2) Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.

(3) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine site.

(4) Existing topography as shown on contour maps of the site at ten-foot contour intervals.

(5) Location of manmade features on or near the site.

(6) For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

(Compiled Ords. of 2009, § 17.34.195)

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

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

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

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

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

(Compiled Ords. of 2009, § 17.34.200)

Sec. 22-1316. - Reclamation measures.

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

(1) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and if necessary a site-constructed engineering analysis performed by a registered professional engineer as provided by section 22-1247(a) and (b).

(2) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.

(3) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.

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

(4) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.

(5) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.

(6) A revegetation plan that shall include timing and methods of seedbed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.

(7) Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.

(8) A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface water and groundwater.

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

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

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

(Compiled Ords. of 2009, § 17.34.205)

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

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

(Compiled Ords. of 2009, § 17.34.210)

Sec. 22-1318. - Certification of plan.

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

(Compiled Ords. of 2009, § 17.34.215)

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

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

(Compiled Ords. of 2009, § 17.34.220)

Sec. 22-1320. - Approval.

The county shall approve, conditionally approve, or deny the reclamation plan submitted under this section in writing in accordance with section 22-1283 for mines that apply for a reclamation permit in conformance with this article. Conditional approvals of reclamation plans shall be made according to section 22-1286 and denials of reclamation plans made according to section 22-1287. The operator shall keep a copy of the reclamation plan approved under this subsection, at the mine site or, if not practicable, at the operator's nearest place of business.

(Compiled Ords. of 2009, § 17.34.230)

Secs. 22-1321—22-1338. - Reserved.

Subdivision III. - Financial Assurance

Sec. 22-1339. - Requirements.

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

(1) Notification. The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under subsection (3) of this section.

(2) Filing. Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with the county. The financial assurance shall provide that the operator shall faithfully perform all requirements in this article, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to the county. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the county only if it currently has primary regulatory responsibility.

(3) Amount and duration. The amount of financial assurance shall equal as closely as possible the cost to the county of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the county to assure it equals outstanding reclamation costs. Any financial assurance filed with the county shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. The county may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to affect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

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

(5) Multiple projects. Any operator who obtains a permit from the county for two or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by the county.

(6) Multiple jurisdictions. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(7) Certification of completion and release.

a. The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he determines that reclamation of any portion of the mining site or the entire site is complete. The county shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. The county may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete, the county shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.

b. The county shall make a determination of whether or not the certification in subsection (7)a of this section can be made within 60 days that the request is received.

c. The county may make a determination under this subsection that:

1. Reclamation is not yet complete;

2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;

3. Reclamation is complete in a part of the mine; or

4. Reclamation is fully complete.

(8) Forfeiture. Financial assurance shall be forfeited if any of the following occur:

a. A permit is revoked under section 22-1367 and the appeals process has been completed.

b. An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(9) Cancellation. Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90-day notice to the county in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the regulatory authority a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(10) Changing methods of financial assurance. The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to this article. The operator shall give the county at least 60 days notice prior to changing methods of

financial assurance and may not actually change methods without the written approval of the county.

(11) Bankruptcy notification. The operator of a nonmetallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under the federal bankruptcy code, naming the operator as debtor, within ten days of commencement of the proceeding.

(12) Adjustment of financial assurance. Financial assurance may be adjusted when required by the county. The county may notify the operator in writing that adjustment is necessary and the reasons for it. The county may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(13) Net worth test.

a. Only an operator that meets the definition of "company" in Wis. Stats. § 289.41(1)(b) may use the net worth method of providing financial assurance.

b. The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of Wis. Stats. § 289.41(4). The criteria in Wis. Stats. § 289.41(6)(b), (d), (e), (f), (g), (h) and (i) shall apply.

c. An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with Wis. Stats. § 289.41(6).

d. Determinations under the net worth test shall be done in accordance with Wis. Stats. § 289.41(5).

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

(Compiled Ords. of 2009, § 17.34.250)

Sec. 22-1340. - Private nonmetallic mines.

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

(Compiled Ords. of 2009, § 17.34.260)

Sec. 22-1341. - Public nonmetallic mining.

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

(Compiled Ords. of 2009, § 17.34.270)

Secs. 22-1342—22-1365. - Reserved.

DIVISION 4. - ADMINISTRATION

Sec. 22-1366. - Permit modification.

(a) By the county. A nonmetallic mining reclamation permit issued under this article may be modified by the county if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Wis. Admin. Code ch. NR 135 or this article. Such modification shall be by an order modifying the permit in accordance with section 22-1366. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Wis. Admin. Code ch. NR 135 or this article.

(b) At the operator's option. If operator of any nonmetallic mine that holds a reclamation permit issued under this article desires to modify such permit or reclamation plan approved under this article, it may request such modification by submitting a written application for such modification to Clark County Department of Planning and Zoning, 517 Court Street, Neillsville, Wisconsin 54456. The application for permit or plan modification shall be acted on using the standards and procedures of this article.

(c) Required by the operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this article shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this article. Such application for permit modification shall be acted on using the standards and procedures of this article.

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

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

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

(a) Grounds. The county may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this article if it finds the operator has done any of the following:

(1) Failed to submit a satisfactory reclamation plan within the time frames specified in this article.

(2) Failed to submit or maintain financial assurance as required by this article.

(3) Failed on a repetitive and significant basis to follow the approved reclamation plan.

(b) Procedures. If the county finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in subsection (a) of this section, it may issue a special order suspending or revoking such permit as set forth in section 22-1399(b).

(c) Consequences.

(1) If the county makes any of the findings in subsection (a) of this section, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for

reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to section 22-1399.

(2) If the county makes any of the findings in subsection (a) of this section it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this article to the county. The county may use forfeited financial assurance to reclaim the site to the extent needed to comply with this article and the applicable reclamation ordinance.

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

Sec. 22-1368. - Annual operator reporting.

(a) Contents and deadline. Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

(1) Contents. The annual report required by this section shall include all of the following:

a. The name and mailing address of the operator.

b. The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.

c. The identification number of the applicable nonmetallic mining permit, if assigned by the county.

d. The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.

e. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.

f. A plan, map or diagram accurately showing the acreage described in subsections (1)d and e of this section.

g. The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Wis. Admin. Code ch. NR 135.

(2) Deadline. The annual report shall cover activities on unreclaimed acreage for the previous calendar year and be submitted by January 31.

(3) When reporting may end. Annual reports shall be submitted by an operator for all active and intermittent mining sites to the county for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to section 22-1372(c) or at the time of release of financial assurance pursuant to section 22-1339(7).

(b) Inspection in lieu of report. The county may, at its discretion, obtain the information required in this section for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If the county obtains and documents the required information, the annual report need not be submitted by the operator. If the county determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the

end of the applicable calendar year. In that case, the county shall require the operator to submit the certification required in subsection (1)g of this section.

(c) Retention of annual reports. Annual reports submitted under this section or inspection records that replace them shall be retained by the county for at least ten years after the calendar year to which they apply. These records, or accurate copies of them, shall be made available to the state department of natural resources upon written request or during its inspection or audit activities carried out pursuant to Wis. Admin. Code ch. NR 135.

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

Sec. 22-1369. - Plan review fees.

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

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

(b) Expedited plan review fee. The fee is to be established by the county planning and zoning committee and published in a fee schedule.

(c) Relation to annual fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under section 22-1370.

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

Sec. 22-1370. - Annual fees.

(a) Areas subject to fees, procedures and deadline.

(1) Operators of all nonmetallic mining sites subject to reclamation permits issued under this article shall pay fees to the Clark County Planning and Zoning Department, Room 204, 517 Court Street, Neillsville, Wisconsin 54456.

(2) Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mine site, as defined below:

a. "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under section 22-1339(7). However the term does not include any areas described in subsection (a)(2)b of this section.

b. "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under section 22-1339(7).
2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001, for a non-mining activity, including stockpiling of materials, provided the stockpiles are associated with on-site industrial processes, used for an industrial activity unrelated to nonmetallic mining such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. Those areas within a nonmetallic mining site which the county has determined to have been successfully reclaimed on an interim basis in accordance with section 22-1372(b) and (c).

c. Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.

(3) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under section 22-1372. Fees shall be paid no later than January 31 for the previous year.

(4) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by the county pending certification of completed reclamation pursuant to section 22-1339(7) and section 22-1372(c). Upon such, the county shall refund that portion of the annual fee that applies to the reclaimed areas. If the county fails to make a determination under section 22-1339(7) and section 22-1372(c) within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(5) The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in subsection (b) of this section, the share the county described in subsection (c) of this section, and, if applicable, the reclamation plan review fee described in section 22-1369.

(b) State department of natural resources share of fee.

(1) Fees paid under this section shall, except where provided in subsection (b)(2) of this section include a share for the state department of natural resources equal to the amount specified in Wis. Admin. Code § NR 135.39(3), Table 1.

(2) For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the state department of natural resources shall be $15.00.

(3) The county shall forward fees collected under this subsection to the state department of natural resources by March 31.

(c) County's share of fee.

(1) Fees paid under this section shall also include an annual fee due to the county which shall be established by the county planning and zoning committee and published in a fee schedule. A submittal form provided by the county must accompany payment.

(2) The annual fee collected by the county under this subsection for local transportation-related mines issued permits under section 22-1284 may not exceed the amounts set forth in Wis. Admin. Code § NR 135.39, Table 2. The amount listed shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the state department of natural resources and the county.

(d) Reduced fee for inactive mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee established by the county planning and zoning committee and published in a fee schedule.

(e) Documentation of county's share of fee. The county shall document in writing its estimated program costs and the need for fees established in subsection (c) of this section if the county's fees exceed those listed in Wis. Admin. Code § NR 135.39, Table 2. This documentation shall be available for public inspection at the county planning and zoning department.

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

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

(a) Reporting. The county shall send an annual report to the state department of natural resources by March 31 for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:

(1) The total number of nonmetallic mining reclamation permits in effect.

(2) The number of new permits issued within the jurisdiction of the county.

(3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.

(4) The number of acres being mined or unreclaimed acres.

(5) The number of acres that have been reclaimed and have had financial assurance released pursuant section 22-1339(7).

(6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this section pursuant to section 22-1372(a) and (b).

(7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

(b) Documentation. The county shall, to the best of its ability, maintain the information set forth below, and make it available to the state department of natural resources for that agency's audit of the reclamation program pursuant to Wis. Admin. Code ch. NR 135:

(1) Documentation of compliance with Wis. Admin. Code ch. NR 135 and this article.

(2) The procedures employed by the county regarding reclamation plan review, and the issuance and modification of permits.

(3) The methods for review of annual reports received from operators.

(4) The method and effectiveness of fee collection.

(5) Procedures to accurately forward the state department of natural resources' portion of collected fees in a timely fashion.

(6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.

(7) Responses to citizen complaints.

(8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.

(9) The maintenance and availability of records.

(10) The number and type of approvals for alternative requirements issued pursuant to section 22-1288.

(11) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to section 22-1339(7).

(12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the county to implement its nonmetallic mining reclamation program under this article.

(13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.

(14) Any other performance criterion necessary to ascertain compliance with Wis. Admin. Code ch. NR 135.

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

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

(a) Certification of completion. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or the entire nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135. The certification shall be provided to the county department of planning and zoning on forms provided by that department.

(b) Reporting of interim reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135. Reporting of interim reclamation shall be done according to the procedures in subsection (a) of this section.

(c) Inspection of completed reclamation certification. The county shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Wis. Admin. Code § NR 135.40(7)(c). If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with subdivision II of division 3 of this article, the county shall issue the mine operator a written certificate of completion.

(d) Effect of completed reclamation. If reclamation is certified by the county as complete under subsection (c) of this section for part or all of a nonmetallic mining site, then:

(1) No fee shall be assessed under section 22-1370 for the area so certified.

(2) The financial assurance required by subdivision III of division 3 of this article shall be released.

(3) For sites that are reported as interim reclaimed under subsection (b) of this section and so certified under subsection (c) of this section, financial assurance for reclaiming the certified area shall be reduced or waived.

(e) Effect of inaction following report of completed reclamation. If no written response as required by subsection (c) of this section for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the county for the reported area under section 22-1370 shall be refunded.

(f) Permit termination. When all final reclamation required by a reclamation plan conforming to subdivision II of division 3 of this article and required by this article is certified as complete pursuant to section 22-1371, the county shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

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

Secs. 22-1373—22-1397. - Reserved.

DIVISION 5. - ENFORCEMENT

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

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

(1) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of the county or the state department of natural resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article.

(2) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

(Compiled Ords. of 2009, § 17.34.840)

Sec. 22-1399. - Orders and citations.

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

A violation of this article, of an order or permit issued pursuant to this article or of a reclamation plan required by subdivision II, division 3 of this article and a permit issued under this article shall be considered a violation of Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article.

(b) Special orders. The county may issue a special order as set forth in Wis. Stats. § 295.19(1)(b) and (c) suspending or revoking a nonmetallic mining reclamation permit pursuant to section 22-1367, or directing an operator to immediately cease an activity regulated under Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article until the necessary plan approval is obtained.

(c) Review of orders. A person holding a reclamation permit who is subject to an order pursuant this section shall have the right to review the order in a contested case hearing under Wis. Stats. § 68.11 notwithstanding the provisions of Wis. Stats. §§ 68.001, 68.03(8) and (9), 68.06 and 68.10(1)(b).

(d) Enforcement. The county may submit any order issued under this section to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

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

Sec. 22-1400. - Penalties.

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

(1) Any person who violates Wis. Admin. Code ch. NR 135 or an order issued under section 22-1399 may be required to forfeit not less than $25.00 nor more than $1,000.00 for each violation. Each day of continued violation is a separate offense. While an order issued under section 22-1399 is suspended, stayed or enjoined, this penalty does not accrue.

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

(Compiled Ords. of 2009, § 17.34.900)

Secs. 22-1401—22-1425. - Reserved.

ARTICLE X. - ZONING OF COUNTY-OWNED LAND

Sec. 22-1426. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

(Compiled Ords. of 2009, § 17.20.010)

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

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

(Compiled Ords. of 2009, § 17.20.020)

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

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

(1) Production of forest products;

(2) Forestry industries;

(3) Campgrounds, limited to temporary structures; no permanent buildings are to be allowed;

(4) Hunting and fishing camps;

(5) Trappers' camps;

(6) Mines, quarries and gravel pits;

(7) Hydroelectric dams, power plants, flowage areas, transmission lines and substations;

(8) Telephone and telegraph lines' right-of-way;

(9) Harvesting of any wild crops such as marsh hay, ferns, moss, berries, or tree fruits or seeds.

(Compiled Ords. of 2009, § 17.20.030)

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

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

(1) Public and private parks, playgrounds, campgrounds and golf grounds;

(2) Recreational camps and resorts;

(3) Private summer cottages and service buildings;

(4) Hunting and fishing cabins;

(5) Trappers' cabins;

(6) Boat liveries;

(7) Telephone and telegraph line rights-of-way;

(8) Commercial leases for soft drinks and lunch stands.

(Compiled Ords. of 2009, § 17.20.040)

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

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

(Compiled Ords. of 2009, § 17.20.050)

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

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

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

(2) One license only for the off-premises sale of packaged fermented malt beverages on county-owned lands at the Mead Dam Resort is authorized and permitted.

(Compiled Ords. of 2009, § 17.20.060)

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

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

(Compiled Ords. of 2009, § 17.20.070)

Sec. 22-1433. - Rental fee determination.

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

(Compiled Ords. of 2009, § 17.20.80)

Article XI – RENEWABLE ENERGY SYSTEMS

Division 1 - Large Wind Energy Systems

Sec. 22-1434 - Definitions

(a) Terms used in this division shall have the following meanings:

(1) Applicant means the owner who submits an application for a wind energy system.
(2) Committee means the Clark County Planning, Zoning, and Land Information Committee.
(3) Commission means the State of Wisconsin Public Service Commission (PSC).
(4) County means Clark County, Wisconsin.
(5) Department means the Clark County Planning, Zoning, and Land Information Department.
(6) Department administrator means the administrator of the Clark County Planning, Zoning, and Land Information Department.
(7) Large Wind Energy systems means a wind energy system that has a total installed nameplate capacity of over 300 kilowatts and consists of individual wind turbines that have an installed nameplate capacity of more than 100 kilowatts.
(8) LWES ordinance means Clark County Large Wind Energy Systems Ordinance.
(9) Owner means a person and/or entity with direct ownership interest in a wind energy system.
(10) Permit means a wind energy system permit issued by the Clark County Planning, Zoning, and Land Information Department pursuant to this ordinance.
(11) PSC means Wisconsin Administrative Code PSC 128, Wind Energy Systems.
(12) Wind energy system means equipment and associated facilities that convert and then store and/or transfer energy from wind into usable forms of energy.
(13) Wind energy system facility means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility.

Sec. 22-1435 –Purpose

The purpose of this ordinance is to adopt and wholly incorporate the requirements of Wis. Stat. 66.0401, 66.0403, and Wis. Admin. Code PSC 128 as a local ordinance and to establish local regulations on the installation and use of large wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency.

Sec. 22-1436 - Applicability

This ordinance applies to all lands within the boundaries of the county lying outside the limits of incorporated cities and villages. This ordinance applies to large wind energy systems only.

Sec. 22-1437 - Application Submittal

(a) Owner shall file an original application, which contains the information required by PSC 128.30(2) with the department.
(b) The owner shall submit eleven (11) copies of the application to the department and one (1) copy of the application to the clerk of each town where any proposed large wind energy system facility would be located.
(c) The owner shall submit one (1) digital copy of the application to the department in a format that is acceptable to the department.
(d) Each copy of the application shall be complete including all documents, drawings, maps, worksheets, and other materials that are included in the original application.

Sec. 22-1438 - Filing Requirements

(a) Any document or paper required to be filed with the county pursuant to PSC 128 or this ordinance must be filed at or delivered to the department's office.
(b) Any document, paper, or other material submitted to the county that relates to an application must be delivered to the department's office or submitted to the department on the record at a public hearing.
(c) Any document or paper filed or otherwise submitted by an owner or any other interested party that relates to an application shall be 8-1/2 x 11 inches in size.
(d) The county adopts the permit requirements and process set forth in Wis. Stat. 66.0401(4) and Wis. Stat. 66.0403(3) – (11). Owner shall comply with such requirements and process.
    (1) Such requirements include, but are not limited to, the department publishing a Wis. Stat. 985 class 1 notice after the submission of an application (Wis. Stat. 66.0401(4)(a)1) and the applicant providing notice to applicable property owners (Wis. Stat. 66.0403(3)(b)).

Sec. 22-1439 – Additional Permits

An owner shall submit a copy of all necessary state and federal permits and approvals to the county within thirty (30) days of the owner's receipt of any permit or approval that was not provided with the owner's application.

Sec. 22-1440 - Conditions Required for Approval

(a) Any requirement set forth herein is a condition for approval of an application for a wind energy system.

(b) An owner shall provide information specific to the project about whether it has consulted with and received any non-binding recommendations for construction, operating, and decommissioning the large wind energy system from any federal or state agency and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.
(c) An owner shall cooperate with any study of the effects of a large wind energy systems that is coordinated by a state agency.
(d) An owner shall submit a copy of all necessary state and federal permits and approvals to the department.
(e) An owner shall provide information showing that it has complied with the notification requirements specified in PSC 128.14(6)(b) and PSC 128.15(5)(b).
(f) Approval of an application is contingent on an owner providing sufficient financial assurance for decommissioning of the large wind energy system pursuant to this ordinance and PSC 128.30.

Sec. 22-1441 - Cost and Fees

(a) An applicant shall pay an application fee to cover the actual and necessary costs of reviewing and processing the application including, but not limited to, the cost for services provided by outside attorneys, engineers, environmental specialists, planners, and other consultants and experts.
(b) The department shall determine the estimated amount of the application fee and provide notice to the applicant of such fee. Applicant shall pay fifty (50) percent of the total estimated fee at the time the application is filed and deemed complete. After notice of the written decision on the application is provided to the owner, department shall invoice the applicant for any unpaid fees that are due.
(c) An owner is responsible for paying all costs incurred by the county in connection with monitoring compliance during construction and assessing when wind energy facilities may not be maintained in good repair and operation condition.
(d) The county shall invoice the applicant or owner for the actual and necessary costs incurred set forth in this ordinance. The applicant or owner shall reimburse the county for those costs within thirty (30) days of the date of invoice unless otherwise specified.

Sec. 22-1442 – Consultants and Third Party Inspector

(a) The department is authorized to contract with one or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with this ordinance.
(b) The County Attorney is authorized to contract with outside attorneys to perform necessary services in connection with this ordinance.
(c) The department may contract with a third-party inspector to review, monitor, and report to the department regarding the owner's compliance with permit requirements during construction and operation of a wind energy system.
(d) The inspector monitoring compliance under this section shall also report to the state upon request of the state permitting authority.
(e) The inspector shall provide at least monthly written reports to the department and any other reporting that may be requested of the department.
(f) The owner shall reimburse the county for the actual and necessary cost of the inspector.

Sec. 22-1443 - Completeness Review

(a) An application is complete if it complies with the filing requirements of this ordinance, requirements of PSC 128.30(2) and PSC 128.50(1), and payment of all application fees and costs.
(b) The department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
(c) If the department determines that the application is incomplete, the department shall provide the owner with written notice stating the reasons for the determination. The owner shall provide additional information specified in the notice and an additional forty-five (45)day completeness review period will begin the day after the department receives responses to all required items identified in the notice.
(d) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days from the date of the written notice, the application will be deemed abandoned and the forfeiture of any application fee and/or costs. The owner may refile the application at a later date subject to payment of a new application fee and any other costs set forth in this ordinance. There is no limit to the number of times that an owner may refile an application.
(e) If the department does not make a completeness determination within the applicable review period as set forth above, the application is considered to be complete.

Sec. 22-1444 - Request for Additional Information

(a) The department may request additional information necessary to understand the large wind energy system after determining that an application is complete.
(b) An owner shall provide additional information in response to all reasonable requests.
(c) An owner shall respond to all inquiries made subsequent to a determination of application completeness in a timely, complete, and accurate manner.
(d) If, before the application is approved or denied, the owner fails to provide additional information requested within ninety (90) days from the date of the request, the application will be deemed abandoned and the forfeiture of any application fee and/or costs. The owner may refile the application at a later date subject to the payment of a new application fee and any other costs set forth in this ordinance. There is no limit to the number of times that an owner may refile an application.

Sec. 22-1445 – Approval; Permit Requirements

(a) An owner must obtain the county's approval before constructing a large wind energy system or expanding an existing or previously approved wind energy system. No large wind energy system may be installed, constructed, or expanded without a large wind energy system permit issued by the department.
(b) A large wind energy system permit issued by the department expires if construction of the large wind energy system is not commenced within twenty-four (24) months from the date the permit is issued.

Sec. 22-1446 - Approval Review

(a) The department shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application.
(b) The review period may be extended upon written notice to the applicant for one or more of the following reasons; but the total time for all extensions may not exceed an additional ninety (90) days:
    (1) Up to forty-five (45) days if additional information is needed;

(2) Up to ninety (90) days if the applicant makes a material modification to the application; or
(3) Up to ninety (90) days for other good cause specified in writing.

(c) If the department fails to act within the review period set forth above (i.e. ninety (90) days or within any extended time period), the application will be considered approved.
(d) The department will make an application for a large wind energy system available for public review pursuant to PSC 128.30(6). The department shall hold one (1) public hearing during the initial ninety (90) day application review period for the purpose of receiving public comments on the application. A hearing notice will be published as a class 3 notice pursuant to Wis. Stat. 985 and the hearing will normally be held as soon as practical following notice to the applicant that the application is complete.
(e) Written comments will be accepted for ten (10) days following the close of the hearing.

Sec. 22-1447 - Written Decision

(a) The department shall issue a written decision to approve or deny an application for a wind energy system. The written decision must include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial. The department may approve the application subject to conditions set forth in this ordinance.
(b) The department shall provide a duplicate original of its written decision to the owner and the commission.
(c) The owner shall record a copy of a written decision approving an application with the Clark County Register of Deeds within thirty (30) days of the written decision date for all applicable property as stated in Wis. Stat. 66.0403(6)(a). If the owner does not timely record the decision, the department shall record the decisions at the owner's expense.

Sec. 22-1448 - Modifications

(a) An owner shall comply with PSC 128.35 before making any material change to a wind energy system.
(b) The department shall conduct a review of any application for a material change in a large wind energy system as set forth in PSC 128.35(2).

Sec. 22-1449 - Soil and Drainage System Protection

(a) An owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its wind energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.
(b) An owner shall describe the applicable best practices that it intends to use in the placement, construction, operation, and maintenance of its wind energy facilities in its application

Sec. 22-1450 – Post-construction Filing Requirement

(a) Within ninety (90) days of the date a large wind energy system commences operation, the owner shall file with the department and the commission an as-built description of the wind energy system, an accurate map of the large wind energy system showing the location of all wind energy system facilities, geographic information, system information showing the location of all large wind energy system facilities, and current information identifying the owner of the large wind energy system.
(b) An owner shall label each wind turbine location described in its filing and shown on the map of the large wind energy system with a unique identifier consistent with the information posted at the wind turbine location under PSC 128.18 (1).

Sec. 22-1451 - Annual Reports

An owner shall, on or before January 31 of each year, file an annual report with the department documenting the operation and maintenance of the large wind energy system during the previous calendar year.

Sec. 22-1452 – Real Property Provisions

(a) A large wind energy system easement or wind access easement shall be recorded pursuant to Wis. Stat. 706. A wind energy system easement or wind access easement shall include the terms of the easement and a full legal description of the property subject to the easement.
(b) A large wind energy system lease agreement and any waiver under PSC 128.14(5) or PSC 128.15(4) shall hold harmless and indemnify the real property owner for all of the following:
    (1) Any violation of Federal, State or local law by the owner of the wind energy system.
    (2) Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system.

Sec. 22-1453 - Aerial Spraying

(a) An owner shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within one-half mile of a constructed wind turbine if the farm operator demonstrates all of the following:
    (1) Substantial evidence of a history, before the large wind energy system owner gives notice under PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of a farm field located within one-half mile of a constructed wind turbine.
    (2) A material reduction in potato, pea, snap bean, or sweet corn production or a material increase in application costs on all or part of a farm field located within one-half mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

Sec. 22-1454 - Airport Approach Protection; Siting; Shadow Flicker; Stray Voltage, Noise, and Signal Interference

(a) An owner may not construct a large wind energy system facilities near a public or private airport/heliport that does not comply with the height and setback distance provisions set forth in Wis. Stat. 114.135, Wis. Stat. 114.136, and federal aviation administration obstruction standards (if applicable).
(b) The county adopts the requirements and process set forth in PSC 128.13 regarding siting criteria; PSC 128.14 noise, PSC 128.15 regarding shadow flicker; PSC 128.16 signal interference and PSC 128.17 regarding stray voltage. Owner shall comply with such requirements and process.

Sec. 22-1455 - Lighting

An owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground (if applicable).

Sec. 22-1456 - Compensation for Nonparticipating Residences

(a) An owner shall offer an agreement to the owner of a nonparticipating residence if the residence is located within one-half mile of a constructed wind turbine, that includes the initial annual monetary compensation of $600 for one (1) turbine located within one-half mile of a nonparticipating residence; $800 for two (2) turbines located within one-half mile

of a nonparticipating residence; and $1,000 for three (3) or more turbines located within one-half mile of a nonparticipating residence.

(b) The initial annual amounts shall increase each year by the greater of two (2) percent or the increase in the Consumer Price Index, as described in Wis. Stat. 196.374(5)(bm)2 from the previous year.

(c) An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this ordinance or PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this ordinance or PSC 128.

Sec. 22-1457 - Ownership Change

(a) An owner shall provide the county with notice of any change in ownership of the large wind energy system on or before the effective date of the change.

(b) A notice of change in ownership of the large wind energy system shall include information showing that the financial assurance requirements set forth in this ordinance will be met following the change in ownership.

Sec. 22-1458 - Emergency Communications Corridors

(a) Large Wind energy system facilities may not be located within an emergency communication corridor, which is defined as the area within an existing line-of-sight communication path that is used by a government or military entity to provide services essential to protect public safety.

(b) Owner shall provide information to department that large wind energy system facilities will be compliant with signal interference requirements set forth in this ordinance and PSC 128.

Sec. 22-1459 - Emergency Procedures

(a) An owner shall establish and maintain a liaison with each political subdivision, including the county, within which its wind energy systems facilities are located and with fire, police, and other appropriate first responders serving the area in which the wind energy systems facilities are located in order to create effective emergency plans as required by PSC 128.18(4)(b).

(b) An owner shall distribute a copy of its emergency plans to the following:

(1) Clark County Emergency Management, Attn: Emergency Management Director, 517 Court Street Room 306, Neillsville, WI 54456

(2) Clark County Sheriff's Office, Attn: Clark County Sheriff, 517 Court Street, Room 308, Neillsville, WI 54456

(3) Clerk for any town or village within which its wind energy systems facilities are located or that are within one-half mile of any of its wind energy systems facilities.

(4) Clerk for any city within one-half mile of any of its wind energy systems facilities.

(5) Any fire, police, or other first responder identified by the county's emergency management director or the clerk of any city, village, or town who has received a copy of the owner's emergency plans as set forth above.

(c) An owner shall provide annual training for the county's emergency management department, sheriff's office, and any other fire, police, or other first responder identified in the owner's emergency plans. An owner shall provide at least eight (8) hours of training during each calendar year and the owner is responsible for all direct training costs.

(d) If an owner is required to implement its emergency plans as the result of a large wind energy system emergency, it shall conduct a review of employee activities to determine whether the procedures were effectively followed. The owner shall provide the county's emergency management director with a copy of its review. If the review results in any changes to its

emergency plans, the owner shall distribute the revised emergency plans to the parties set forth above.

Sec. 22-1460 – Consultation Notice

(a) An owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the wind energy system, provide the county with information about the reason for the consultation.
(b) An owner shall, within thirty (30) days of receiving any non-binding recommendation for the construction, operation, or decommissioning of the large wind energy system from any federal or state agency, provide the county with information about the consultation and recommendation and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.

Sec. 22-1461 - Financial Assurance

(a) An owner of a large wind energy system with a nameplate capacity of one megawatt or larger shall provide the county with financial assurance of the owner's ability to pay the actual and necessary costs to decommission the large wind energy system before commencing major civil construction activities on the wind energy system.
(b) An owner shall provide the county with three (3) estimates of the actual and necessary costs to decommission the large wind energy system. The cost estimates shall be prepared by third parties who are preapproved by the owner and the county. The amount of financial assurance required by the county will be the average of the three (3) estimates.
(c) An owner shall establish financial assurance that is acceptable to the county and that places the county in a secured position pursuant to PSC 129.19(3). The financial assurance must provide that the secured funds may only be used for decommissioning the large wind energy system until such time as the county determines that the large wind energy system has been decommissioned as provided for in PSC 128.30(5)(b) or the county approves the release of the funds, whichever occurs first. The financial assurance must also provide that the county may access the funds for the purpose of decommissioning the large wind energy system if the owner does not decommission the system when decommissioning is required.
(d) The county may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the county finds that the future anticipated costs to decommission the large wind energy system is at least ten (10) percent more or less than the amount of financial assurance provided under this section, the county may require an increase or decrease in the amount of financial assurance.
(e) The county may require an owner to submit a substitute financial assurance of the owner's choosing if the county determines an event has occurred that raises material concern regarding the viability of the existing financial assurance.

Sec. 22-1462 - Compliance Monitoring

(a) An owner shall maintain a maintenance log for each wind turbine. The log must contain the following information regarding any maintenance performed on the wind turbine:
    (1) date and time maintenance was performed;
    (2) nature of the maintenance performed; and
    (3) reason(s) for the maintenance.
(b) An owner shall, at the owner's sole expense, provide the department with a copy of the maintenance log for each wind turbine quarterly.
(c) The department may retain such consultants or experts as it deems necessary to assess and determine whether the large wind energy system facilities are compliant and/or to assess

whether the large wind energy system facilities are being maintained in good repair and operating condition.

Sec. 22-1463 - Decommissioning

(a) When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life. The owner shall complete decommissioning and removal of the wind energy system within 540 days after the wind energy system has reached the end of its useful life.
(b) An owner shall file a notice of decommissioning completion with the county and any political subdivision which its wind energy systems facilities are located when a large wind energy system approved by the county has been decommissioned and removed.
(c) The department shall conduct a decommissioning review to determine whether the large wind energy system has reached the end of its useful life and whether the owner has decommissioned and removed the large wind energy system as required by PSC 128.19(1)(a) and whether the owner has complied with its site restoration obligation under PSC 128.19(4).
(d) The owner shall cooperate with the county by participating in the decommissioning review process.

Sec. 22-1464 - Appeals

(a) A decision by the department that the application is incomplete, to approve or disapprove the application, or to impose a restriction on a large wind energy system may be appealed to the Clark County Board of Adjustments pursuant to Wis. Stat. 59.694 or the commission pursuant to PSC 128.51.
(b) An appeal shall be filed within thirty (30) days after the date of the decision or the start of the enforcement action that is being appealed.
(c) Judicial review of the commission's decision or order is available pursuant to Wis. Stat. 66.0401(5).

Sec. 22-1465 - Complaint Notice Requirements

(a) An owner shall comply with the notice requirements set forth in PSC 128.42(1).
(b) An owner shall, before construction of a large wind energy system begins, provide the department with a copy of the notice issued pursuant to PSC 128.42(1) along with a list of the name and address of each person and each political subdivision to which the notice was sent.
(c) An owner shall, before construction of a large wind energy system begins, file with the department the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the department current.

Sec. 22-1466 - Complaint Monitoring

(a) An owner shall maintain a complaint log as required by PSC 128.40(2)(d).
(b) An owner shall, at the owner's sole expense, provide the department with a copy of the complaint log for each month within five (5) calendar days after the end of each month.
(3) An owner shall, before construction of a large wind energy system begins, provide the department with a written copy of the owner's complaint resolution process. An owner shall provide the department with a written copy of any changes to the complaint resolution process at least thirty (30) days prior to implementing the change.

Sec. 22-1467 - Complaint Process

(a) An aggrieved person may make a complaint to the owner regarding the failure by the owner to comply with PSC 128 or this ordinance.
(b) An owner shall use reasonable efforts to resolve complaints and shall investigate complaints regarding a wind energy system at the owner's expense.
(c) Upon receipt of a complaint, an owner shall provide the complainant with a copy of the notice described in PSC 128.42 (1). Within thirty (30) days of receiving a complaint, an owner shall provide an initial response to the complainant.
(d) An owner shall make a good faith effort to resolve complaints within forty-five (45) days of receiving a complaint. An owner shall notify the department and applicable political subdivisions of complaints that have not been resolved within forty-five (45) days of the date the owner received the original complaint.
(e) An aggrieved person who has made a complaint to an owner pursuant to PSC 128.40 may petition the county for review of the complaint if the complaint has not been resolved within forty-five (45) days of the owner receiving the original complaint.
(f) The petition for review must be filed with the department within ninety (90) days of the date of the original complaint.
(g) The petition must include the following:
    (1) name, address, and telephone number of the person filing the petition;
    (2) copy of the original complaint to the owner;
    (3) copy of the owner's initial response;
    (4) statement describing the unresolved complaint;
    (5) statement describing the desired remedy;
    (6) any other information the complainant deems relevant to the complaint; and
    (7) notarized signature of the person filing the petition.
(h) The department shall forward a copy of the petition to the owner by certified mail within ten (10) days of the department's receipt of the petition.
(i) The owner shall file an answer to the petition with the department and provide a copy of its answer to the complainant within thirty (30) days of the owner's receipt of the petition.
(j) The owner's answer must include all of the following:
    (1) name, address, and telephone number of the person filing the answer;
    (2) statement describing the actions taken by the owner in response to the complaint;
    (3) reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved;
    (4) statement describing any additional action the owner plans or is willing to take to resolve the complaint;
    (5) any other information the owner deems relevant to the complaint; and
    (6) notarized signature of the person filing the answer.
(k) The complainant and the owner may, within thirty (30) days following the owner's filing of its answer, file such additional information with the department as each deems appropriate.
(l) The department may request such additional information from the complainant and the owner as it deems necessary to complete its review.
(m) The department may retain such consultants or experts as it deems necessary to complete its review and invoice the owner for such costs.
(n) The department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
(o) The department's decision and enforcement action is subject to review under Wis. Stat. 66.0401(5).

Sec. 22-1468 - Violations

(a) No person or entity shall do any of the following:
    (1) violate any provision of this ordinance;
    (2) knowingly provide false information; make a false statement; and/or fail to provide or misrepresent any material fact to the department, County employee, agent, or County governing body; and/or
    (3) disobey, fail, neglect, resist, or refuse to comply with a permit or order issued pursuant to this ordinance.

(b) A separate offense is deemed committed on each day that a violation occurs or continues.

Sec. 22-1469 - Enforcement

(a) The department shall enforce this ordinance and may conduct inspections and investigate complaints relating to compliance with this ordinance.

(b) The department may request permission to inspect, at a reasonable time and date, any premises or structure for which subject to a permit or order to determine compliance with this ordinance. Refusal to grant permission is grounds for denial or revocation of a permit. If permission is not given, the department may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. 66.0119.

(c) If the department determines a violation of any provision of this ordinance has occurred, the department may issue a written notice stating the conditions of non-compliance, specifying the action required to come into compliance, and a specifying a reasonable amount of time when compliance is required.

(d) The department may revoke a permit for substantial noncompliance with any provision of this ordinance, refusal to permit inspection of wind energy systems facilities for which a permit has been granted, or failure to comply with the action required contained in a notice of noncompliance.

(e) Any person or entity who violates this ordinance may be subject to any of the following:
    (1) issuance of a citation; or
    (2) commencement of legal action including, but not limited to, issuance of a summons and complaint and/or seeking injunctive relief.

(f) A separate offense is deemed committed on each day that a violation occurs or continues.

(g) The department is not required to issue a notice of noncompliance or take any other action prior to enforcing violations of this ordinance as set forth above.

(h) Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude enforcement under this ordinance.

Sec. 22-1470 - Penalties

(a) A person or entity that violates this ordinance is subject to a forfeiture of not less than $500 and not more than $10,000 for each violation plus court costs.

(b) The forfeiture thresholds set forth above are doubled for repeated violations of this ordinance that occur within any twelve (12) month period.

Secs. 22-1471 – 22-1499 - Reserved

Division 2 – Small Wind Energy Systems

Sec. 22-1500 - Definitions

(a) The terms defined in Division 1 – Large Wind Energy Systems, Sec. 22-1434 – Definitions are adopted and wholly incorporated herein.

(b) Terms used in this division shall have the following meanings:
   (1) Small wind energy system means a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.
   (2) SWES ordinance means Clark County Small Wind Energy Systems Ordinance.

Sec. 22-1501 –Purpose

(a) The purpose of this ordinance is to adopt and wholly incorporate the requirements of Wis. Stat. 66.0401, 66.0403, and Wis. Admin. Code PSC 128 as a local ordinance and to establish local regulations on the installation and use of small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency.
(b) The purpose of this ordinance is also to adopt and wholly incorporate the requirements of Article XI – Large Wind Energy Systems unless otherwise stated below.

Sec. 22-1502 - Applicability

This ordinance applies to all lands within the boundaries of the county lying outside the limits of incorporated cities and villages. This ordinance applies to small wind energy systems only.

Sec. 22-1503 - Small Wind Energy System Requirements

(a) The requirements set forth herein do not apply to small wind energy systems that are used for private use and do not provide energy for off-site use and/or to export to the wholesale market.
(b) The requirements set forth in Division 1 – Large Wind Energy Systems apply to small wind energy systems except for following sections/language do not apply:
   (1) Sec. 22-1440 – Conditions Required for Approval, (b) and (c) only
   (2) Sec. 22-1453 – Aerial Spraying
   (3) Sec. 22-1451 – Annual Reports
   (4) Sec. 22-1459 – Emergency Procedures, (b), (c), and (d) only
   (5) Sec. 22-1461 – Financial Assurance
   (6) Sec. 22-1460 – Consultation Notice
   (7) Sec. 22-1456 – Compensation for Nonparticipating Residences
   (8) Sec. 22-1454 – Signal Interference
   (9) Sec. 22-1449 – Soil and Drainage System Protection
   (10) Sec. 22-1450 – Post-Construction Filing Requirement
   (11) Sec. 22-1462 – Compliance Monitoring
   (12) Sec. 22-1463 – Decommissioning, (b) regarding compliance with site restoration obligations under PSC 128.19(4)
   (13) Sec. 22-1465 – Complaint Notice Requirements
   (14) Sec. 22-1466 – Complaint Monitoring
   (15) Sec. 22-1467- Complaint Process, (c) and (d) only
(c) For the abandonment and decommissioning of small wind energy systems only, the following provisions apply:
   (1) A small wind energy system that does not generate electricity for a continuous period of 540 days will be deemed at the end of its useful life or abandoned and the department may issue a notice of abandonment to the owner.

(2) If, within thirty (30) days of receipt of a notice of abandonment, the owner provides the department with information showing that the small wind energy system has not been abandoned, the department will withdraw the notice.
(3) Unless the department withdraws the notice of abandonment, a small wind energy system, which includes all equipment and associated facilities that convert and store/transfer energy, must be decommissioned by the owner pursuant to PSC 128.19. If the owner fails to remove the small wind energy system and reclaim the site, the county may remove and/or cause the removal of the small wind energy system and arrange for the reclamation of the site. The county may seek reimbursement for the costs of removal and site reclamation against the owner and/or the real property owner by any means available at law.

Secs. 22-1504 – 22-1529 – Reserved

Division 3 – Solar Energy Systems

Sec. 22-1530 - Definitions

(a) Terms used in this division shall have the following meanings:
(1) Applicant means the owner who submits an application for a solar energy system.
(2) Collector use period means 9:00 AM to 3:00 PM standard time daily.
(3) Commercial use means a solar energy system that are not an accessory use to existing parcels, structures, or uses and are designed for providing energy to off-site uses and/or to export to the wholesale market.
(4) Committee means the Clark County Planning, Zoning, and Land Information Committee.
(5) County means Clark County, Wisconsin.
(6) Department means the Clark County Planning, Zoning, and Land Information Department.
(7) Department administrator means the administrator of the Clark County Planning, Zoning, and Land Information Department.
(8) Owner means a person and/or entity with direct ownership interest in a solar energy system.
(9) Permit means a solar energy system permit issued by the Clark County Planning, Zoning, and Land Information Department pursuant to this ordinance.
(10) Private use means a solar energy system that is an accessory use (private or commercial) to existing parcels, structures, or uses and are designed for providing energy to existing parcel or structures.
(11) Solar collector means a manmade device which is part of a solar energy system providing the surface on which sunlight energy is collected.
(12) Solar energy means radiant energy received from the sun that can be collected in the form or heat or light by a solar collector.
(13) Solar energy system means a manmade system that transforms solar energy into another form of energy or transfer heat from a solar collector to another medium using mechanical, electrical, or chemical means.

Sec. 22-1531 –Purpose

(a) The purpose of this ordinance is to adopt and wholly incorporate the requirements of Wis. Stat. 66.0401 and Wis. Stat. 66.0403 as a local ordinance and to establish local regulations on the installation and use of solar energy systems for the production of electricity and/or

conversion of energy for uses on-site and those systems which produce electricity for off-site use and distribution.

(b) These regulations are adopted pursuant to the authority granted in Wis. Stat. 59.69, 59.694, 66.0401, and 66.0403 and are intended to be no more restrictive than those set forth in Wis. Stat. 66.0401.

Sec. 22-1532 - Applicability

This ordinance applies to all lands within the boundaries of the county lying outside the limits of incorporated cities and villages. This ordinance applies to solar energy systems only.

Sec. 22-1533 –Permit Requirements

(a) An owner shall obtain a permit from the department before the installation, construction, modification, or expansion of a solar energy system. No solar energy system shall be installed, constructed, modified, or expanded without complying with the provisions of this ordinance.

(b) A solar energy system permit issued by the department expires if construction of solar energy system is not commenced within twenty-four (24) months from the date the permit is issued.

(c) A solar energy system permit is not required for the following :

(1) For private, residential use solar energy systems that consist of solar collectors mounted to buildings provided the collectors do not extend more than twenty-four (24) inches from the original exterior perimeter of the building on which the collectors are mounted or built.

(2) For minor alterations involving ordinary maintenance and repair of the system.

(d) The county adopts the permit requirements and process set forth in Wis. Stat. 66.0401(4) and Wis. Stat. 66.0403(3) – (11). Owner shall comply with such requirements and process.

(1) Such requirements include, but are not limited to, the department publishing a Wis. Stat. 985 class 1 notice after the submission of an application (Wis. Stat. 66.0401(4)(a)1) and the applicant providing notice to applicable property owners (Wis. Stat. 66.0403(3)(b)).

Sec. 22-1534 - Application Submittal

(a) Owner shall file a completed application for a permit with the department administrator, along with the applicable fee as set forth in the Department fee schedule as approved by the Committee. Owner shall use the department-provided application form. Department may require the owner to pay additional fees/costs (i.e. outside attorneys, engineers, environmental specialists, planners, and other consultants and experts) to cover actual and necessary to review and process the application.

(b) The application for permit shall contain the following information at a minimum:

(1) Name, address, and phone number of all persons having an ownership in the property where the solar energy system is intended to be installed;

(2) The location, total size, and parcel identification number of the lot or lots including a legal description;

(3) Relative location of any and all nearby public and private streets;

(4) The existing and intended use of the lot or lots;

(5) A site plan (which shall be required to be drawn to scale horizontally and vertically) shall include the following:

a. The dimensions and configuration of the lot;

b. Proposed setback distances to side and rear property lines, roads (either right-of-way lines or centerlines), septic system components, access easements, and unique site features such as wetlands and waterways.
c. The location of all existing, temporary, and proposed building(s) or structures;
d. The location of all existing public and/or private streets abutting the lot;
e. Existing and/or proposed private onsite wastewater treatment system(s);
f. Open space(s) and parking area(s);
g. All projects/developments within the shoreland, wetland, and/or floodplain areas shall adhere to all applicable site plan standards and requirements of county shoreland-wetland and floodplain zoning; and
h. Any applicable easements (access, utility, etc.).

(6) Approximate/estimated value of the development, construction, or project;
(7) On residential parcels, the number of dwelling units contained within each building and proposed number of bedrooms;
(8) Location and dimensions of all buildings or structures to be erected, structurally altered, or moved; and
(9) Such other information concerning the lot or adjacent lots as may be necessary as determined by the department to determine conformance with this ordinance.

(c) The owner shall submit the number of copies of the application as determined by the department and one (1) copy of the application to the clerk of each town where any proposed solar energy system would be located. The owner may also be required to submit the application electronically in format requested by the department.
(d) Each copy of the application shall be complete including all documents, drawings, maps, worksheets, and other materials that are included in the original application.

Sec. 22-1535 – Application Review

(a) An application is complete if it complies with the filing requirements of this ordinance and payment of all application fees and costs.
(b) The department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
(c) If the department determines that the application is incomplete, the owner shall provide additional information requested and an additional forty-five (45) day completeness review period will begin the day after the department receives responses to all required items identified in the notice.
(d) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days from the date of the written notice, the application will be deemed abandoned and the forfeiture of any application fee and/or costs. The owner may refile the application at a later date subject to payment of a new application fee and any other costs set forth in this ordinance. There is no limit to the number of times that an owner may refile an application.
(e) If the department does not make a completeness determination within the applicable review period as set forth above, the application is considered to be complete.
(f) The department shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application. The time for approval may be extended by the department depending on the complexity of the proposed system.
(g) The owner shall record a copy of a written decision approving an application with the Clark County Register of Deeds within thirty (30) days of the written decision date for all

applicable property as stated in Wis. Stat. 66.0403(6)(a). If the owner does not timely record such decision, the department shall record the decision at the owner's expense.

(d) The department shall post in a conspicuous place on the property for which a permit is issued attesting to the fact that activity has be permitted pursuant to the provisions of this ordinance and the permit itself.

Sec. 22-1536 – Application and Permit Conditions

(a) Unless otherwise stated, any condition or requirement set forth in this ordinance is a condition for approval of an application and permit for a solar energy system (for private or commercial use).

(b) An owner shall submit a copy of all necessary state and federal permits and approvals to the department.

(c) All applications and permits regulated by this ordinance may be subject to additional conditions and restrictions as determined by the department that are consistent with but no more restrictive than those set forth in Wis. Stat. 66.0401(1m). Where such conditions are considered and applied on a case-by-case basis, the condition or restriction shall satisfy one of the following:

(1) Serves to preserve or protect the public health or safety.

(2) Does not significantly increase the cost of the system or significantly decrease its efficiency.

(3) Allows for an alternative system of comparable cost and efficiency.

Sec. 22-1537 - Private Use Application and Permit Requirements

(a) Unless otherwise stated, any condition or requirement set forth in this section is a condition for approval of an application and permit for a solar energy system for private use only.

(b) Solar energy systems for private use shall meet the following requirements:

(1) Solar energy systems mounted on buildings or roofs shall not exceed the maximum allowed height that may apply pursuant to other zoning regulations (i.e. shoreland zoning).

(2) Solar energy systems installed directly into the ground or on a pole shall not exceed fifteen (15) feet in height when oriented at maximum tilt.

(3) Solar energy systems shall meet the accessory structure setbacks for applicable zoning regulations that may apply where the system is located.

(4) Solar energy systems shall be designed to blend into the architecture of the building or structure.

(5) Solar energy systems using a reflector to enhance solar production shall minimize reflected light from the reflector affecting adjacent or nearby properties. Measures to minimize reflected light include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, and/or other remedies that limit reflected light.

(6) Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted.

Sec. 22-1538 – Commercial Use Application and Permit Requirements

(a) Unless otherwise stated, any condition or requirement set forth in this section is a condition for approval of an application and permit for a solar energy system for commercial use only.

(b) Solar energy systems for commercial use shall meet the following requirements:

(1) In addition to the application requirements stated above, the system application shall also include the following:
    a. Proposed ingress and egress to system.
    b. Systems proximity to transmission lines to link the system to the electric power grid.
    c. Nature of land use on adjacent and nearby properties.
    d. Proximity of system to neighboring residential structures.
(2) Solar energy systems shall meet setbacks for applicable zoning regulations that may apply where the system is located.
(3) Solar energy systems installed directly into the ground or on a pole shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
(4) Solar energy systems (excluding power and communication lines from the solar energy system to the electric power grid) shall be enclosed by a fence with controlled access.
(5) Solar energy systems shall be subject to and comply with the Wisconsin DNR stormwater management, erosion, sediment control provisions as well as NPDES permit requirements. An owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its solar energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.
(6) The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may apply as required by the department administrator.
    a. Large-scale removal of mature trees on the site is discouraged. County may set additional restrictions on tree clearing or require mitigation for cleared trees.
    b. To the greatest extent possible, the top soil shall not be removed during development unless part of a remediation effort.
    c. Soils shall be planted and maintained for the duration of operation in perennial vegetation to prevent erosion, manage run off, and improve soil.
    d. Seed mixes and maintenance practices shall be consistent with those recommendations made by the department and/or Wisconsin DNR.
    e. The applicant shall submit financial assurance in the form of a letter of credit, cash deposit, or bond in favor of the County equal to one hundred twenty-five (125) percent of the costs to meet the ground cover and buffer area standard. The financial assurance shall remain in effect until vegetation is sufficiently established.
(7) The system application shall include a decommissioning plan to ensure the solar energy system is properly removed after its useful life as well as sufficient financial assurance for decommissioning in an amount to cover the actual and necessary costs to decommission the solar energy system and form (i.e. bond, letter of credit, escrow account) determined by the department.
    a. Decommissioning of solar energy systems must occur in the event they are not in use for twelve (12) consecutive months. Decommissioning shall be completed within 180 days after the end of useful life or as determined by department. The plan shall include provisions for removal and disposal of all structures, foundations, storage, and hazardous materials; restoration of soil and vegetation; and a plan ensuring financial resources will be available to

fully decommission the system. All structures/facilities and/or foundations shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.

b. If the owner fails to remove a solar energy system and reclaim the site, the County may remove or cause the removal of the solar system and the reclamation of the site. The County may recover the cost of removal and reclamation from any financial assurance provided by the owner. Any removal or reclamation cost incurred by the County that is not recovered from the owner may be collected by any lawful means.

c. An owner shall file a notice of decommissioning completion with the county and any political subdivision which its solar energy systems facilities are located when a system approved by the county has been decommissioned and removed.

d. The department shall conduct a decommissioning review to determine whether the system has reached the end of its useful life and whether the owner has decommissioned and removed the system and whether the owner has complied with its site restoration obligation.

e. The owner shall cooperate with the county by participating in the decommissioning review process.

(8) An owner shall, on or before January 31 of each year, file an annual report with the department documenting the operation and maintenance of the solar energy system during the previous calendar year.

(9) An owner shall establish and maintain a liaison with each political subdivision, including the county, within which its solar energy systems facilities are located and with fire, police, and other appropriate first responders serving the area in which the solar energy systems facilities are located and create and implement effective emergency plans with such personnel.

a. An owner shall distribute a copy of its emergency plans to the following:

1. Clark County Emergency Management, Attn: Emergency Management Director, 517 Court Street Room 306, Neillsville, WI 54456
2. Clark County Sheriff's Office, Attn: Clark County Sheriff, 517 Court Street, Room 308, Neillsville, WI 54456
3. Clerk for any town or village within which its solar energy systems facilities are located or that are within one-half mile of any of its solar energy systems facilities.
4. Any fire, police, or other first responder identified by the county's emergency management director or the clerk of any city, village, or town who has received a copy of the owner's emergency plans as set forth above.

(10) An owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the solar energy system, provide the county with information about the reason for the consultation.

(11) An owner shall provide the county with notice of any change in ownership of the solar energy system on or before the effective date of the change. A notice of change in ownership of the solar energy system shall include information showing that the financial assurance requirements set forth in this ordinance will be met following the change in ownership.

(12) An owner shall submit a copy of all necessary state and federal permits and approvals to the county within thirty (30) days of the owner's receipt of any permit or approval that was not provided with the owner's application.

(13) An owner, at the owner's sole expense, shall maintain and provide the department each month a maintenance log for the solar energy system. The log must contain the following information regarding any maintenance performed: 1) date and time maintenance was performed; 2) nature of the maintenance performed; and 3) reason(s) for the maintenance. The department may retain such consultants or experts as it deems necessary to assess and determine whether the solar energy system facilities are compliant and/or to assess whether the solar energy system facilities are being maintained in good repair and operating condition. An owner shall pay for all costs incurred by the county in connection with monitoring compliance during construction and assessing when solar energy facilities are maintained in good repair and operation condition.

(14) Within ninety (90) days of the date a solar energy system commences operation, the owner shall file with the department an as-built description of the solar energy system, an accurate map of the solar energy system showing the location of all solar energy system facilities including unique identification for each system component; geographic information; system information showing the location of all system facilities including the location of power and communication lines from the solar energy system to the electric power grid; and current information identifying the owner of the energy system.

(15) An owner shall, before construction of a solar energy system begins, file with the department the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the department current. An owner shall maintain a complaint log and an owner shall, at the owner's sole expense, provide the department with a copy of the complaint log for each month within five (5) calendar days after the end of each month. An owner shall, before construction of a solar energy system begins, provide the department with a written copy of the owner's complaint resolution process. An owner shall provide the department with a written copy of any changes to the complaint resolution process at least thirty (30) days prior to implementing the change.

Sec. 22-1539 – Complaint Process

The complaint process set forth in Sec. 22-1467 - Complaint Process is hereby adopted related to complaints regarding solar energy systems subject to this division.

Sec. 22-1540 - Violations

(a) No person or entity shall do any of the following:

(1) violate any provision of this ordinance;

(2) knowingly provide false information; make a false statement; and/or fail to provide or misrepresent any material fact to the department, County employee, agent, or County governing body; and/or

(3) disobey, fail, neglect, resist, or refuse to comply with a permit or order issued pursuant to this ordinance.

(b) A separate offense is deemed committed on each day that a violation occurs or continues.

Sec. 22-1540 - Enforcement

(a) The department shall enforce this ordinance and may conduct inspections and investigate complaints relating to compliance with this ordinance.
(b) The department may request permission to inspect, at a reasonable time and date, any premises or structure for which subject to a permit or order to determine compliance with this ordinance. Refusal to grant permission is grounds for denial or revocation of a permit. If permission is not given, the department may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. 66.0119.
(c) If the department determines a violation of any provision of this ordinance has occurred, the department may issue a written notice stating the conditions of non-compliance, specifying the action required to come into compliance, and a specifying a reasonable amount of time when compliance is required.
(d) The department may revoke a permit for substantial noncompliance with any provision of this ordinance, refusal to permit inspection of wind energy systems facilities for which a permit has been granted, or failure to comply with the action required contained in a notice of noncompliance.
(e) Any person or entity who violates this ordinance may be subject to any of the following:
    (1) issuance of a citation; or
    (2) commencement of legal action including, but not limited to, issuance of a summons and complaint and/or seeking injunctive relief.
(f) A separate offense is deemed committed on each day that a violation occurs or continues.
(g) The department is not required to issue a notice of noncompliance or take any other action prior to enforcing violations of this ordinance as set forth above.
(h) Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude enforcement under this ordinance.

Sec. 22-1541 - Penalties

(a) A person or entity that violates this ordinance is subject to a forfeiture of not less than $500 and not more than $10,000 for each violation plus court costs.

The forfeiture thresholds set forth above are doubled for repeated violations of this ordinance that occur within any twelve (12) month period.

Chapter 23

(RESERVED)

Chapter 24 - Law Enforcement

Article I - General

Secs. 24-1 - 24-18 - Reserved

Article II – Reciprocal Law Enforcement

Sec. 24-19 – Assistance to law enforcement agencies or municipalities

The county may provide assistance to other law enforcement agencies or municipalities pursuant to Wis. Stat. 59.26, 59.27, 59.28, 62.13, 66.0313, and 66.0513.

Sec. 24-20 – 24-44 - Reserved

Article III – Civil Service System for Law Enforcement

Sec. 24-45 - Authority

(a) This article is adopted pursuant to the authority of Wis. Stat. 59.26(8) and 59.52(8).
(b) The provisions of this ordinance shall take precedence over all ordinances, resolutions, or policies of the County which are in conflict with any provisions of this ordinance.

Sec. 24-46 - Purpose

The County is committed to bringing qualified individuals into County law enforcement through a system of competitive examinations to provide that applicable positions are filled with qualified applicants as determined by the County and the Clark County Sheriff's Office (Office).

Sec. 24-47 - Scope

(a) This article governs the hiring of with specific positions set forth in this ordinance.
(b) The following positions shall be considered classified positions:
    (1) Chief deputy
    (2) Captain – any Office division
    (3) Sergeant – any Office division
    (4) Administrative supervisor
(c) The following positions shall be considered unclassified positions:
    (1) Patrol deputy sheriffs as defined in Wis. Stat. 40.02(48)(b)(3)
    (2) Jail deputies
    (3) Dispatchers
    (4) Program assistants
    (5) Reserve patrol deputy sheriffs
    (6) Reserve jail deputies
    (7) Reserve dispatchers
(d) If a specific Office position is not listed, the Law Enforcement and Emergency Management Committee (Committee) shall determine the classification of such position subject to applicable laws and any union agreements.

Sec. 24-48 - Administration

The Committee may prepare and adopt rules of procedure and other administrative regulations so far as the same shall be consistent with Wis. Stat. 59.26(8) and 59.52(8) together with such other rules and regulations as shall, in the judgment of the Committee, be necessary to secure the best service for the office and shall tend to promote efficiency and expedite the elimination of all unnecessary formality in making appointments. Such rules and regulations shall be printed and distributed in such manner as will reasonably inform the public of the county as to their purpose, and shall take effect immediately after committee approval.

Sec. 24-49 - Positions

(a) Pursuant to Wis. Stat. 59.26(8), the Board hereby designates the Committee to fix the number of patrol deputy sheriffs to be appointed and determine their respective salaries to be paid with the final approval of County Board of Supervisors.

(b) The position of undersheriff in the County is hereby abolished. There is hereby created the position of Chief Deputy, which shall have all of the statutory powers, duties, functions and responsibilities performed by an undersheriff, except that the Chief Deputy shall serve an indefinite term of office and is subject to hiring procedures pursuant to this ordinance and Wis. Stat. 59.52(8)(b).

(c) The Chief Deputy shall outrank all other positions in the Office except the Sheriff. In addition to being the highest ranking officer of the Office and performing duties of the Deputy Sheriff, it is the intent of this ordinance that he/she shall, subject to the Sheriff's lawful authority, be the head administrative officer and chief investigator under the Sheriff and assume such other duties and responsibilities as the Sheriff may direct. The Chief Deputy assumes the duties, responsibilities and authority of the Sheriff in the Sheriff's absence.

Sec. 24-50 – Applications

(a) Notice for the open positions subject to this ordinance will be advertised in compliance with County policies and collective bargaining agreements (if applicable). The Office shall determine the requirements and qualifications for a given position.

(b) Pay rates for new positions or any variations in established rates shall be approved pursuant to the applicable County policy.

(c) Every candidate for the positions subject to this ordinance shall file a written application with the Personnel Department upon designated forms.

(d) The Personnel Department and the Office shall certify those applicants that meet the minimum qualifications (qualified applicants).

Sec. 24-51 – Selection Process

(a) The following process shall apply to hiring for a classified position:

(1) Each qualified applicant shall be evaluated using the following interviews or examinations:

i. The Office and any other individual(s) determined by the Office shall conduct an oral interview.

1. The results from this interview shall carry a weight of thirty-four percent (34%) of the final grade.

ii. The Committee chairperson; the Sheriff or designee; and an outside law enforcement officer of equal or higher rank for the position being hired shall conduct an oral interview.

1. The results from this interview shall carry a weight of thirty-three percent (33%) of the final grade.

iii. The Office shall review the applicant's training, education, and experience.

1. The results from this review shall carry a weight of thirty-three percent (33%) of the final grade.

iv. Before posting for an open position, the Office may determine any other examinations or testing deemed appropriate. The Office shall administer such examinations or testing.

1. The results from any other examinations or testing shall be taken into account as part of the review of the applicant's education, training, and experience.

(2) Interviews and examinations of qualified applicants shall follow the following general procedure:

i. Notice of the date, time and place for conducting such interviews with details of the interview as well as the requirements of the position and all other necessary information shall be communicated per County policy.

ii. The purpose of the oral interviews and rating evaluation shall be to evaluate applicant's personal characteristics and qualifications including, without limitation, the ability of the applicant to communicate, the personality of the applicant, the alertness of the applicant, and the judgment of the applicant.

iii. The oral interview questions shall be developed by the individuals conducting the interview with the approval of the Personnel department.

iv. The rating system shall be determined before conducting any interviews.

v. Each response to a given question shall be rated by each individual conducting the interview. Each interviewed applicant shall receive a collective, overall rating based on the applicant's responses to the questions for each interview.

vi. Each applicant shall receive a collective, overall rating based on the review of the applicant's education, training, and experience.

(3) Upon completion of all examinations or testing, the Office shall compile a ranking list of applicants based on overall final grade taking into account the weighted grades defined above.

(b) The following process shall apply to hiring for an unclassified positions:

(1) Each qualified applicant shall be evaluated using the following interviews or examinations:

i. The Committee and any other individual(s) determined by the Committee (Examiners) shall conduct an oral interview.

1. The results from this interview shall carry a weight of fifty (50%) of the final grade.

ii. The Examiners and an individual from the Office shall review the applicant's training, education, and experience.

1. The results from this review shall carry a weight of fifty (50%) of the final grade.

iii. Before posting for an open position and unless provided otherwise below, the Office may determine any other examinations or testing deemed appropriate. The Office shall administer such examinations or testing. The Office shall report the results of such examinations or testing to the Examiners.

1. The results from any other examinations or testing shall be taken into account as part of the review of the applicant's education, training, and experience.
2. The following examination/testing shall be administered for the stated positions:
    a. Dispatchers and Reserve dispatchers – communication center observation
    b. Administrative supervisor, Dispatchers, Program assistants, and Reserve dispatchers – computer skill/typing test

(2) Interviews and examinations of qualified applicants shall follow the following general procedure:

i. Notice of the date, time and place for conducting such interviews with details of the interview as well as the requirements of the position and all other necessary information shall be communicated per County policy.
ii. The purpose of the oral interview and rating evaluation shall be to evaluate applicant's personal characteristics and qualifications including, without limitation, the ability of the applicant to communicate, the personality of the applicant, the alertness of the applicant and the judgment of the applicant.
iii. The oral interview questions shall be developed by the individuals conducting the interview with the approval of the Personnel department.
iv. The rating system shall be determined before conducting any interviews.
v. Each response to a given question shall be rated by each individual conducting the interview. Each interviewed applicant shall receive a collective, overall rating based on the applicant's responses to the questions for each interview.
vi. Each applicant shall receive a collective, overall rating based on the review of the applicant's education, training, and experience.

(3) Upon completion of all examinations or testing, the Office shall compile a ranking list of applicants based on overall final grade taking into account the weighted grade defined above.

(c) A list of qualified applicants who have been interviewed and examined as set forth above may be retained for further examination and/or appointment.

Sec. 24-52 – Appointments

(a) The Sheriff shall make appointments from the ranking list of applicants for each position.
(b) Appointments shall be conditioned upon the successful completion of the pre-employment testing set forth in this ordinance. Results of the pre-employment testing shall be communicated to the Committee and to the Personnel Department.
(c) County employees at the time of interview who are offered a position may not be subject to the pre-employment testing at the discretion of Committee.

Sec. 24-53 - Promotions

(a) The examination and appointment for promotions shall be carried out in accordance with the hiring processes defined in this ordinance. The Committee may waive provisions of the hiring process for internal promotions if deemed in the county's best interests.
(b) The Office, along with the Personnel Department and the Committee, shall determine the promotion eligibility for a given position taking into account the desired level of experience, education, etc.

Sec. 24-54 - Pre-employment testing

(a) Any offer of employment shall be conditioned on the successful completion of the pre-employment test as determined by the Office and as outlined below.
(b) The Office, along with the Personnel Department as requested by the Office, shall conduct pre-employment testing. All testing shall be conducted in accordance with the Americans with Disabilities Act (ADA) and any other applicable laws.
(c) Pre-employment testing may include, but is not limited to, the review and completion of the following:
(1) Accuracy of application or resume;
(2) Previous employers and work record;
(3) All schools attended;
(4) Present and past neighbors and landlords;

(5) Character references;
(6) Credit records;
(7) Disposition; ethical character, honesty and trustworthiness;
(8) Local, state and federal police records and background check;
(9) Driving history records;
(10) Military records;
(11) Any other source of information which previous contacts show to be important;
(12) Any other source of information determined from time to time by the Sheriff, Committee, the Personnel department, or recommended by standards established by the Wisconsin Law Enforcement Standards Board;
(13) Drug testing;
(14) Psychological examination in a form approved for use by the Office and/or psychological testing with a licensed psychologist or psychiatrist;
(15) Physical examination conducted by a licensed physician; and/or
(16) Any other examination deemed appropriate by the Office.

(d) As part of pre-employment testing, all applicants shall execute and file with the Office a consent and release of information form authorizing the Office to obtain access to needed information for completion of pre-employment testing. Failure to promptly file same shall make the individual ineligible from further consideration or appointment.
(e) The candidate's former employer shall be interviewed regarding all aspects of the candidate's past performance history.

Sec. 24-55 - Miscellaneous

(a) No position subject to this ordinance shall be employed in any other capacity unless such employment has been previously approved by the Office.
(b) Any dispute with respect to the interpretation of any of the sections, provisions, or language of this ordinance, including which positions are covered by this ordinance, shall be submitted to the Committee for consideration and final resolution.
(c) All employees subject to this ordinance are also subject to the provisions and procedures within the Clark County Employee Handbook that are not in conflict with this ordinance.
(d) The provisions and sections of this ordinance shall be deemed independent and separate from every other section and provision and the invalidity of any section or provision of this ordinance shall not invalidate the remainder of this ordinance.
(e) All positions subject to this ordinance that are presently employed by the Office shall be considered to have fully complied with the provisions of this ordinance and meet the eligibility requirements as hereinafter set forth and shall be subject to the provisions of this ordinance from the day this ordinance is approved.
(f) If a position subject to this ordinance is covered under a collective bargaining agreement, the provisions of the collective bargaining agreement shall take precedence over the provisions of this ordinance for conflicting provisions.

Secs. 24-56 – 24-76 - Reserved

Article IV – Disposal of Property in Sheriff's Office

Sec. 24-77 – Authority

The Clark County Sheriff's Office Evidence/Property Room Manager(s) are manager(s) of the property subject to this ordinance.

Sec. 24-78 – Disposal of personal property
Pursuant to Wis. Stat. 66.0139, personal property, other than cash, which has been abandoned or which remains unclaimed for thirty (30) days and is not needed for evidence or if all proceedings in which the property might be required as evidence have been completed or expired, shall be disposed of by any means determined to be in the best interests of the county, including, but not limited to: sale at public auction; acceptance of an offer to purchase in response to a request for competitive bids or proposals; private sale; or donation.

Sec. 24-79 – Disposal of cash
Pursuant to Wis. Stat. 66.0139, personal property consisting of cash that is abandoned or remains unclaimed for thirty (30) days after the county takes possession of the property shall be turned over to the county treasury.

Sec. 24-80 – Disposal of abandoned, unclaimed, or seized dangerous weapons or ammunition
Abandoned, unclaimed, or seized weapons or ammunition may be disposed of only under Wis. Stat. 968.20.

Sec. 24-81 – Disposal of deceased person's and inmate property
Property of the deceased and inmate's property shall be disposed of by the Sheriff's office pursuant to Wis. Stat. 59.66.

Sec. 24-82 – Disposal of abandoned vehicles
Abandoned vehicles shall be disposed of pursuant to Wis. Stat. 342.40(3).

Sec. 24-83 – Disposal of abandoned flammable, explosive, or incendiary substances, materials, or devices
Pursuant to Wis. Stat. 66.0139, the County, through designee by the Public Property Committee, may safely dispose or abandoned of unclaimed flammable, explosive or incendiary stances, materials, or devices posing danger to life or property in their storage, transportation, or use immediately after taking possession of such property without a public auction.

Sec. 24-84 – Return; Fees
(a) The County shall attempt to return to the rightful owner such items of property which have substantial value if the owner can be reasonably determined and the property does not pose an immediate threat to life or property.
(b) If the owner of the property is known, the thirty (30) day period shall commence on the date of mailing a notice by registered mail to the owner's last known address.
(c) If ownership is unknown, the thirty (30) days shall commence on the date the property is taken into possession by the county.
(d) Any property remaining unclaimed beyond the thirty (30) days may be subject to a per day fee as determined by the Sheriff's Office commencing with the expiration of the thirty (30) day period and continuing until the property is reclaimed or disposed of.
(e) The County reserves the rights to take appropriate legal action to acquire unpaid fees.

Chapter 25

(RESERVED)

Chapter 26 - OFFENSES AND NUISANCES

State Law reference— Power of local government units to prohibit certain criminal conduct, Wis. Stats. § 66.0107; authority of county to adopt certain provisions of state law relating to offenses, Wis. Stats. § 59.54(22); authority to adopt prohibition against possession of marijuana, Wis. Stats. § 59.54(25); authority of county to adopt provision prohibiting certain conduct, Wis. Stats. § 59.54; county authority to prohibit truancy and impose penalties, Wis. Stats. § 118.163; authority for conduct to adopt and enforce provisions prohibiting possession of tobacco products by minors, Wis. Stats. § 254.92(4); limitation on penalties for violation of local government ordinances, Wis. Stats. § 66.0109; penalties for misdemeanor violations, Wis. Stats. § 939.51.

ARTICLE I. - IN GENERAL

Secs. 26-1—26-18. - Reserved.

ARTICLE II. - PUBLIC HEALTH AND SAFETY

DIVISION 1. - GENERAL

Sec. 26-19. - Firefighting assistance and interference.

It is unlawful for any person to:

(1) Intentionally interfere with the property functioning of a fire alarm system or the lawful effort of fire fighters to extinguish a fire;

(2) Interfere with, tamper with or remove without authorization any fire extinguisher, fire hose or any other firefighting equipment;

(3) Interfere with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate city or county authority.

(Compiled Ords. of 2009, § 9.04.010)

State Law reference— Similar provision, Wis. Stats. § 941.12.

Sec. 26-20. - False alarms.

It is unlawful for any person to intentionally give a false alarm to any public officer or employees, whether by means of a fire alarm system or otherwise.

(Compiled Ords. of 2009, § 9.04.020)

State Law reference— Similar provision, Wis. Stats. § 941.13.

Sec. 26-21. - Switchblade knife possession.

It is unlawful for any person to manufacture, sell or offer to sell, transport, purchase, possess or be armed with any knife having a blade that opens by pressing a button, spring or other device in the handle or by gravity or by a thrust or movement.

(Compiled Ords. of 2009, § 9.04.030)

State Law reference— Similar provision, Wis. Stats. § 941.24.

Sec. 26-22. – Restrictions relating to alcohol and minors.

The provisions of Wis. Stats. § 125.07(1)(a) are adopted and wholly incorporated by reference. Each violation of this section shall be subject to a forfeiture not to exceed $500.00.

Sec. 26-23. - Closing hours of alcohol beverage establishments.

The provisions of Wis. Stats. §§ 125.32(3) and 125.68(4) regarding the closing hours of alcohol beverages establishments are adopted as though fully set forth in this article.

(Compiled Ords. of 2009, § 5.16.010)

Sec. 26-24. - Junked vehicle storage.

(a) No person shall accumulate or store any junked automobiles or parts thereof outside of any building on any real estate located within the geographic limits of the county except upon a permit issued by the city council.

(b) No accumulation or storage of such material shall be allowed within 2,000 feet outside of the geographic limits of the county or within 750 feet of the center line of any county trunk, state trunk or federal highway or within 500 feet of the center line of any city street, except upon a permit issued by permission of the county board.

(c) The permit issued by the county board shall be signed either by the mayor and city clerk and shall specify the quantity and manner of storing such junk. Such permit shall be revocable at any time by the county board after a hearing at which it has been found that the permit holder has failed or refused to comply with the ordinances or restrictions providing regulations for the storage of such junked automobiles or parts thereof. Such hearing may be held by the county board upon its own motion or upon the complaint in writing duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with such ordinance or regulation. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than ten days previous to the date of hearing.

(d) Any person violating any of the provisions hereof shall upon conviction be fined not less than $10.00, nor more than $50.00 for each offense, and in default of payment of said fine shall be imprisoned in the county jail for a period not exceeding 30 days. Each day that junk, as herein defined, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense.

(Compiled Ords. of 2009, § 8.04.030)

State Law reference— Similar provision, Wis. Stats. § 175.25.

Sec. 26-25. - Burning materials handling.

It is unlawful to handle burning material in a highly negligent manner. Burning material is handled in a highly negligent manner if handled with criminal negligence under Wis. Stats. § 939.25 under circumstances in which the person should realize that a substantial and unreasonable risk of serious damage to another's property is created.

(Compiled Ords. of 2009, § 8.04.040)

State Law reference— Similar provision, Wis. Stats. § 941.10.

Sec. 26-26. - Littering.

(a) It is unlawful to:

(1) Deposit or discharge any solid waste on or along any highway, in any waters of the state, on the ice of any waters of the state or on any other public or private property.

(2) Permit any solid waste to be thrown from a vehicle operated by the person.

(3) Fail to remove within 30 days or otherwise abandon any automobile, boat or other vehicle in the waters of the state located within the city.

(4) Own an aircraft that has crashed in the waters of the state located within the city and fails to remove the aircraft from those waters within 30 days after the crash or within 30 days after the national transportation safety board pursuant to an investigation under 49 CFR 831 authorizes its removal, whichever is latest.

(b) This section does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property or to a person who deposits or discharges solid waste in conformance with state law or a permit, license or other approval issued by the city or state.

(Compiled Ords. of 2009, § 8.04.060)

Sec. 26-27. Misuse of 911 Emergency System

(a) No person shall intentionally call the 911 emergency system:

a. to knowingly give false information;

b. to not disclose information as a prank; or

c. to make a request when an emergency does not exist.

(b) No person shall knowingly encourage, aid, or permit another to make a call as defined above.

(c) Each violation of this section shall be subject to a forfeiture of not more than $1,000.00.

Secs. 26-28—26-55. - Reserved.

DIVISION 2. - FIREARMS

Editor's note—Res. No. 28-7-13, adopted July 25, 2013, repealed former div. 2, §§ 26-56—26-63, which pertained to firearms, and derived from the compiled ordinances of 2009, §§ 9.28.010—9.28.080. Subsequently, Ord. No. 203-6-13, adopted Nov. 12, 2013, added new provisions as herein set out.

Sec. 26-56. - Definitions.

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

Firearm means a shotgun, rifle, handgun, or any weapon made from a rifle or shotgun (modification or otherwise), or any other weapon, including a pistol or revolver, from which a shot is discharged by an explosion, propellant, or gunpowder.

Law enforcement officer means any person employed or was employed by the state or any political subdivision of the state or federal government, who is licensed or authorized to detect, prevent, arrest, and enforce violations of the laws or ordinances.

(1) This definition includes peace officers, former law enforcement, and qualified out-of-state law enforcement.

Weapon means a firearm, an electric weapon, a knife, other than a switchblade, or billy club.

(Ord. No. 203-6-13, 11-12-2013)

State Law reference— Similar provisions, Wis. Stats. §§ 176.31, 941.23, and 175.60.

Sec. 26-57. - Firearm restrictions in county buildings.

(a) No person shall possess, carry, or bear a firearm in any county owned or leased building in the county.

(1) Signs, at a minimum of five inches by seven inches, shall be posted in prominent places near the entrances of county buildings prohibiting the possession of firearms in those buildings.

(b) This section does not apply to the following individuals when engaged in the proper discharge of their official duties:

(1) Law enforcement officers;

(2) Licensed private detectives, investigators, or private security persons under Wis. Stats. § 440.26;

(3) Members of the armed forces of the United States or the State of Wisconsin on active duty; or

(4) Judges, district attorneys, assistant district attorneys, or persons permitted to carry a weapon by a judge who are licensed to carry a concealed weapon under Wis. Stats. § 175.60.

(c) This section does not prohibit the sale, purchase, trade, or repair of firearms or weapons by a market or retail business doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer or market.

State Law reference— Similar provisions, Wis. Stats. §§ 941.235 and 943.13.

Sec. 26-58. - Endangering safety by use of dangerous weapons.

No person shall:

(1) Endanger another's safety by the negligent operation or handling of a dangerous weapon; or

(2) Operate or go armed with a firearm while he or she is under the influence of an intoxicant; or

(3) Operate or go armed with a firearm while he or she has detectable amounts of restricted controlled substance in his or her blood; or

(4) While on the lands of another, discharge a firearm within 100 yards of any building devoted to human occupancy situated on and attached to the lands of another without the express permission of the owner or occupant of the building.

(Ord. No. 203-6-13, 11-12-2013)

State Law reference— Similar provisions, Wis. Stats. § 941.20.

Sec. 26-59. - Discharge of firearms prohibited.

No person shall fire or discharge any firearm or weapon if unjustified and within 660 feet of any public park, square, or enclosure resorted to for recreation or pleasure.

(Ord. No. 203-6-13, 11-12-2013)

State Law reference— Similar provisions, Wis. Stats. § 167.30.

Sec. 26-60. - Possession of concealed weapons.

(a) No person shall carry or go armed with a concealed weapon.

(b) This section does not apply to the following:

(1) Law enforcement officer; or

(2) An individual licensed to carry a concealed weapon under Wis. Stats. § 175.60; or

(3) An individual within his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies.

(Ord. No. 203-6-13, 11-12-2013)

State Law reference— Similar provisions, Wis. Stats. §§ 941.23 and 167.31.

Sec. 26-61. - Seizure of firearms.

A law enforcement officer enforcing this article shall take the firearm or weapon in question into the officer's possession for delivery to the court designated in the citation issued to the defendant for any such offense.

(Ord. No. 203-6-13, 11-12-2013)

Sec. 26-62. - Holding firearm until bond posted.

The firearm involved in any such offense shall, at the discretion of the court, be held until a bond of $200.00, for each defendant for each offense, is posted, guaranteeing obedience of this article.

(Ord. No. 203-6-13, 11-12-2013)

Sec. 26-63. - Penalty.

The penalty for each violation of this article may not be less than $100.00 or more than $500.00 plus applicable court costs.

(Ord. No. 203-6-13, 11-12-2013)

Secs. 26-64—26-84. - Reserved.

ARTICLE III. - PROPERTY

DIVISION 1. - GENERALLY

Sec. 26-85. - Molotov cocktails.

It shall be unlawful for any person to possess, manufacture, sell or offer for sale, give or transfer a fire bomb. As used in this section, the term "fire bomb" means a breakable container containing a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, excluding devices commercially manufactured primarily for the purpose of illumination.

(Compiled Ords. of 2009, § 9.04.040)

Sec. 26-86. - Fraud on certain suppliers of goods and services.

(a) It is unlawful for any person, having obtained any beverage, food, lodging, ticket or other means of admission, or other service or accommodation at any campground, hotel, motel, boardinghouse or lodginghouse, restaurant, or recreational attraction, to intentionally abscond without paying for it.

    (1) If a person has obtained a ticket, another means of admission, or an accommodation or service provided by the recreational attraction, his failure or refusal to pay a recreational attraction the established charge for the ticket, other means of admission, or accommodation or service provided by the recreational attraction constitutes prima facie evidence of an intent to abscond without payment.

    (2) As used in this section, the term "recreational attraction" means a public accommodation designed for amusement and includes chair lifts or ski resorts, water parks, theaters, entertainment venues, racetracks, swimming pools, trails, golf courses, carnivals, and amusement parks.

(b) It is unlawful for any person, while a guest at any campground, hotel, motel, boardinghouse or lodging house, or restaurant, to intentionally defraud the keeper thereof in any transaction arising out of the relationship as guest.

(c) It is unlawful for any person, having obtained any transportation service from a taxicab operator, to intentionally abscond without paying for the service. The refusal to pay a taxicab operator the established charge for transportation service provided by the operator constitutes prima facie evidence of an intent to abscond without payment.

(d) It is unlawful for any person, having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail, to intentionally abscond without paying for the gasoline or diesel fuel. The failure or refusal to pay a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail the established charge for gasoline or diesel fuel provided by the service station, garage, or other place constitutes prima facie evidence of an intent to abscond without payment.

(e) Any person violating this section shall be subject to penalties as provided in Wis. Stats. § 943.21(5).

(Compiled Ords. of 2009, § 9.04.050)

Sec. 26-87. - Retail theft.

The county adopts the provisions of Wis. Stats. § 943.50 by reference but only to the extent that behavior prohibited thereunder constitutes a misdemeanor, i.e., retail theft of $2,500.00 or less.

(Compiled Ords. of 2009, § 9.04.060)

Secs. 26-88—26-117. - Reserved.

DIVISION 2. - THEFT OF VIDEO SERVICE

State Law reference— Theft of video service, Wis. Stats. § 943.46.

Sec. 26-118. - Definitions.

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

Private financial gain does not include the gain resulting to any individual from the private use in that individual's dwelling unit or any programming for which the individual has not obtained authorization.

Video service has the meaning given in Wis. Stats. § 66.0420(2)(y), except that the term "video service" does not include signals received by privately owned antennas that are not connected to a video service network whether or not the same signals are provided by a video service provider.

Video service network has the meaning given in Wis. Stats. § 66.0420(2)(zb).

Video service provider has the meaning given in Wis. Stats. § 66.0420(2)(zg), and also includes an interim cable operator, as defined in Wis. Stats. § 66.0420(2)(n).

(Compiled Ords. of 2009, § 9.34.010)

Sec. 26-119. - Violation; penalty.

Any person who violates this division is subject to forfeiture not to exceed $500.00.

(Compiled Ords. of 2009, § 9.34.030)

Sec. 26-120. - Prohibitions.

No person may intentionally do any of the following:

(1) Obtain or attempt to obtain video service from a provider by trick, artifice, deception, use of an illegal device or illegal decoder or other fraudulent means with the intent to deprive that provider of any or all lawful compensation for rendering each type of service obtained. The intent required for a violation of this subsection may be inferred from the presence on the property and in the actual possession of the defendant of a device not authorized by the video service provider, the major purpose of which is to permit reception of video services without payment. This inference is rebutted if the defendant demonstrates that he purchased that device for a legitimate use.

(2) Give technical assistance or instruction to any person in obtaining or attempting to obtain any video service without payment of all lawful compensation to the provider providing that service. This subsection does not apply if the defendant demonstrates that the technical assistance or instruction was given or the installation of the connection, descrambler or receiving device was for a legitimate use.

(3) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of video services for the purpose of distributing video service to any other dwelling unit without authority from a video service provider.

(4) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of video services for the purpose of obtaining video service without payment of all lawful compensation to the provider providing that service. The intent required for a violation of this subsection may be inferred from proof that the video service to the defendant's residence or business was connected under a service agreement with the defendant and has been disconnected by the video service provider and that thereafter there exists in fact a connection to the video service network at the defendant's residence or business.

(5) Make or maintain any modification or alteration to any device installed with the authorization of a video service provider for the purpose of intercepting or receiving any program or other service carried by that provider which that person is not authorized by that provider to receive. The intent required for a violation of this subsection may be inferred from proof that, as a matter of standard procedure, the video service provider places written warning labels on its converters or decoders explaining that tampering with the device is a violation of law and the converter or decoder is found to have been tampered with, altered or modified so as to allow the reception or

interception of programming carried by the video service provider without authority to do so. The trier of fact may also infer that a converter or decoder has been altered or modified from proof that the video service provider, as a matter of standard procedure, seals the converters or decoders with a label or mechanical device, that the seal was shown to the customer upon delivery of the decoder and that the seal has been removed or broken. The inferences under this subsection are rebutted if the video service provider cannot demonstrate that the intact seal was shown to the customer.

(6) Possess without authority any device or printed circuit board designed to receive from a video service network any video programming or services offered for sale over that video service network, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, or perform or facilitate the performance of any of the acts under subsections (1) to (5) of this section with the intent that that device or printed circuit be used to receive that video service provider's services without payment. Intent to violate this subsection for direct or indirect commercial advantage or private financial gain may be inferred from proof of the existence on the property and in the actual possession of the defendant of a device if the totality of circumstances, including quantities or volumes, indicates possession for resale.

(7) Manufacture, import into this state, distribute, publish, advertise, sell, lease or offer for sale or lease any device, printed circuit board or any plan or kit for a device or for a printed circuit designed to receive the video programming or services offered for sale over a video service network from a video service network, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, with the intent that that device, printed circuit, plan or kit be used for the reception of that provider's services without payment. The intent required for a violation of this subsection may be inferred from proof that the defendant has sold, leased or offered for sale or lease any device, printed circuit board, plan or kit for a device or for a printed circuit board in violation of this subsection and during the course of the transaction for sale or lease the defendant expressly states or implies to the buyer that the product will enable the buyer to obtain video service without charge.

(Compiled Ords. of 2009, § 9.34.020)

Sec. 26-121. - Exception.

This article does not affect the use by a person of cable television services if the services have been paid for and the use is exclusive to the person's dwelling unit. This section does not prohibit a board or council of any city, village or town from specifying the number and manner of installation of outlets used by any such person for cable television services and does not prohibit a cable television company, in any written contract with a subscriber, from requiring the company's approval for any increase in the number of those outlets used.

(Compiled Ords. of 2009, § 9.34.040)

Secs. 26-122—26-140. - Reserved.

DIVISION 3. - TREPASS

Sec. 26-141. - Trespassing statutes adopted except for penalty.

The county adopted by reference the provisions of Wis. Stats. § 943.13, with the exception of subsection (3), and except that the penalty for violation of this division shall be a fine not to exceed $500.00.

(Compiled Ords. of 2009, § 9.20.010)

State Law reference— Trespass to land, Wis. Stats. § 943.13.

Sec. 26-142. - Trespass to dwellings under peace-breaching circumstances; penalty.

Whoever enters a dwelling of another without the consent of such person, under circumstances tending to create or provoke breach of the peace, is subject to a fine of $500.00 plus costs of prosecution.

(Compiled Ords. of 2009, § 9.20.040)

State Law reference— Criminal trespass to dwellings, Wis. Stats. § 943.14.

Secs. 26-143—26-167. - Reserved.

DIVISION 4. - WORTHLESS CHECKS

State Law reference— Issuance of worthless check, Wis. Stats. § 943.24; civil liability for worthless checks, Wis. Stats. § 943.245.

Sec. 26-168. - Violation; penalty.

Whoever issues any check or other order for the payment of money less than $2,500.00 which, at the time of issuance, he intends shall not be paid is subject to a forfeiture of not less than ten dollars nor more than $500.00.

(Compiled Ords. of 2009, § 9.06.030)

State Law reference— Similar provision, Wis. Stats. § 943.24(1).

Sec. 26-169. - Evidence of worthless check issuance specified.

Any of the following is prima facie evidence that the person, at the time he issued the check or other order for the payment of money, intended that it should not be paid:

(1) Proof that, at the time of issuance, the person did not have an account with the drawee;

(2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that person failed, within five days after receiving notice of nonpayment or dishonor, to pay the check or other order;

(3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed, within five days after receiving notice of nonpayment or dishonor, to pay the check or other order.

(Compiled Ords. of 2009, § 9.06.010)

State Law reference— Similar provision, Wis. Stats. § 943.24(3).

Sec. 26-170. - Exemption.

This chapter does not apply to a postdated check or to a check given for a past consideration other than a payroll check.

(Compiled Ords. of 2009, § 9.06.020)

State Law reference— Similar provision, Wis. Stats. § 943.24(4).

Secs. 26-171—26-193. - Reserved.

ARTICLE IV. - GAMBLING

Sec. 26-194. - Definitions.

The definitions provided in Wis. Stats. § 945.01 shall apply to this article.

(Compiled Ords. of 2009, § 9.04.070)

Sec. 26-195. - Betting; lottery; gambling machines.

(a) It is unlawful for any person to make a bet, to enter or remain in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling machine; or to conduct a lottery or possess facilities to do so.

(b) Wis. Stats. § 945.01, relating to gambling, is adopted.

(Compiled Ords. of 2009, § 9.04.080)

Sec. 26-196. - Commercial gambling—Prohibited acts; penalty.

(a) It is unlawful for any person to:

(1) Participate in the earnings of or for gain operate or permit the operation of a gambling place;

(2) For gain, receive, record or forward a bet or offer to bet or, with intent to receive, record or forward a bet or offer to bet, possess facilities to do so;

(3) For gain, become a custodian of anything of value to bet or offered to be bet;

(4) Conduct a lottery where both the consideration and the prize are money, or with intent to conduct such a lottery, possess facilities to do so;

(5) Set up for use for the purpose of gambling or collect the proceeds of any gambling machine;

(6) For gain, maintain in this state any record, paraphernalia, tickets, certificates, bills, slip, token, paper, writing or other device used, or to be used, or adapted, devised or designed for use in gambling; or

(7) For gain, use a wire communication facility for the transmission or receipt of information assisting in the placing of a bet or offer to bet on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of a bet or offer to bet.

(b) The penalty for violation of this section shall be $10,000.00.

(Compiled Ords. of 2009, § 9.04.090)

Sec. 26-197. - Same—Unlawful use of premises.

It is unlawful for any person to permit any real estate owned or occupied by him or under his control to be used as a gambling place or to permit a gambling machine to be set up for the purpose of gambling in a place under his control. Penalties for violation of this section shall be as provided in Wis. Stats. § 945.04.

(Compiled Ords. of 2009, § 9.04.100)

Secs. 26-198—26-217. - Reserved.

ARTICLE V. - GOVERNMENT ADMINISTRATION

DIVISION 1. - GENERALLY

Sec. 26-218. - Public records and notices tampering.

It is unlawful for any person, with intent to injure or defraud, destroy, damage, remove or conceal any public records. It is also unlawful for any person to intentionally damage, alter, remove or conceal any public notice, posted as authorized by law, before the expiration of the time for which the notice was posted.

(Compiled Ords. of 2009, § 9.04.110)

State Law reference— Similar provision, Wis. Stats. § 946.72.

Sec. 26-219. - Resisting or obstructing public officers.

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

Obstructs includes, without limitation, knowingly giving false information to the officer with the intent to mislead him or her in the performance of his duty including the service of any summons or civil process.

Officer means a peace officer or other public officer or public employee having the authority by virtue of his office or employment to take another into custody.

Resists means to oppose the officer by direct, active, and quasi-forcible or forcible means. The resistance must be directed to the officer personally.

(b) Whoever knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority is subject to a forfeiture of not less than $25.00 nor more than $500.00.

(Compiled Ords. of 2009, §§ 9.05.010, 9.05.020)

State Law reference— Refusing to aid officer, Wis. Stats. § 946.40; resisting or obstructing officer, Wis. Stats. § 946.41.

Sec. 26-220. - Public assistance fraud.

(a) The term "public assistance," as used in this section, means and includes general relief.

(b) Any person who, with intent to secure public assistance under this article, whether for himself or for some other person, willfully makes any false representations may, if the value of the assistance so secured does not exceed $300.00, be subject to a forfeiture as provided for in this article.

(c) Where a person is originally eligible for assistance and receives any income or assets or both thereafter and fails to notify the officer or agency granting such assistance of the receipt of such assets within ten days after such receipt and continues to receive aid, such failure to so notify the proper officer or agency if receipt of such assets or income or both shall be considered a fraud.

(d) If any person obtains for himself or herself or for any other person or dependents or both, assistance under Wis. Stats. ch. 49 on the basis of facts stated to the authorities charged with the responsibility of furnishing assistance and fails to notify said authorities within ten days of any change in the facts as originally stated and continues to receive assistance based on the originally stated facts such failure to notify shall be considered a fraud.

(e) Any person violating this section is subject to a forfeiture not to exceed $1,000.00.

(Compiled Ords. of 2009, § 9.36.010)

State Law reference— Authority of county to enact ordinance prohibiting false representations with regard to public assistance, Wis. Stats. § 59.54(23); penalties for making false representations for purposes of obtaining public assistance, Wis. Stats. § 49.95.

Sec. 26-221. - Open meeting violation.

(a) As used in this section, the terms "governmental body" and "meeting" shall have the definition provided in Wis. Stats. § 19.82.

(b) Any member of a governmental body who knowingly attends a meeting of such body held in violation of Wis. Stats. § 19.81 et seq. or who, in his official capacity, violates any other provision of Wis. Stats. § 19.81 et seq., shall forfeit without reimbursement not less than $25.00 nor more than $300.00 for each violation.

(c) No member of such governmental body is liable under this section on account of his attendance at a meeting held in violation of this section if he votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his votes on all relevant motions were inconsistent with all those circumstances which caused the violation.

(Compiled Ords. of 2009, § 9.52.010)

State Law reference— Similar provision, Wis. Stats. § 19.96.

Sec. 26-222. - Open records violations.

(a) As used in this section, the term "authority" shall have the meaning provided in Wis. Stats. § 19.32(1) and the term "legal custodian" shall have the meaning provided in Wis. Stats. § 19.33.

(b) Any authority or legal custodian who arbitrarily and capriciously denies or delays response to a request for public records or charges excessive fees for records as provided in Wis. Stats. § 19.35(3) may be required to forfeit not more than $1,000.00.

(Compiled Ords. of 2009, § 9.54.010)

State Law reference— Similar provision, Wis. Stats. § 19.37(4).

Secs. 26-223—26-252. - Reserved.

DIVISION 2. - CAMPAIGN FINANCES

Sec. 26-253. - Violation; penalty.

Any person who violates this division may be required to forfeit not more than $500.00 for each violation.

(Compiled Ords. of 2009, § 9.40.020)

Sec. 26-254. - Identification of political contributions and disbursements.

(a) No disbursement may be made or obligations incurred anonymously, and no contribution or disbursement may be made or obligation incurred in a fictitious name or by one person or organization in the name of another for any political purpose.

(b) The source of every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement or other communication which is paid for by or through any contribution, disbursement or incurred obligation shall clearly appear thereon. This subsection does not apply to communications for which reporting is not required under Wis. Stats. § 11.06(2).

(c) Every such communication, the cost of which is paid for or reimbursed by a committee or group, or for which a committee or group assumes responsibility, whether by the acceptance of a contribution or by making of a disbursement, shall be identified by the words "Paid for by" followed by the name of the committee or group making the payment or reimbursement or assuming responsibility for the communication and the name of the treasurer or other authorized agent of such committee or group.

(d) Every such communication which is directly paid for or reimbursed by an individual, including a candidate without a personal campaign committee who is serving as his own treasurer, or for which an individual assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words "Paid for

by" followed by the name of the candidate or other individual making the payment or reimbursement or assuming responsibility for the communication. No abbreviation may be used in identifying the name of a committee or group under this subsection.

(e) In addition to all other requirements of this section, a committee or individual required to file an oath under Wis. Stats. § 11.06(7) shall also in every communication in support of or in opposition to any clearly identified candidate or candidates include the words "Not authorized by any candidate or candidate's agent or committee."

(f) Communications under this section by a personal campaign committee may identify the committee or any bona fide subcommittee thereof.

(g) The source of each printed advertisement, billboard, handbill, paid television or radio advertisement or other communication made for the purpose of influencing the recall from or retention in office of an individual holding a state or local office shall clearly appear thereon in the manner prescribed in this section.

(h) This section does not apply to the preparation and transmittal of personal correspondence or the production, wearing or display of a single personal item which is not reproduced or manufactured by machine or other equipment for sale or distribution to more than one individual.

(i) This section does not apply to communications printed on pins, buttons, pens, balloons, nail files and similar small items on which the information required by this subsection cannot be conveniently printed. The board may, by rule, specify small items not mentioned herein to which this section shall not apply.

(j) This section does not apply to nonadvertising material contained in a regularly published newsletter by an organization which is expressing its political views with respect to elections which are of concern to its membership, provided that distribution of such newsletter is restricted to such membership.

(k) Notwithstanding any other provision of this section, the attributions required by this section in written communications shall be readable, legible and readily accessible.

(l) Notwithstanding any other provision of this section, any communication making a solicitation on behalf of more than one candidate for a joint fund raising effort or program pursuant to an escrow agreement under Wis. Stats. § 11.16(5) may omit the names of the candidates or personal campaign committees assuming responsibility for the communication if the communication disclosed that a joint fund-raising effort or program is being conducted on behalf of named candidates.

(m) No person may publish or disseminate, or cause to be published or disseminated any communications in violation of this section. A communications medium which in good faith relies on the representations of any person who places an advertisement with such a medium as to the applicability of this section to such persons does not violate this section as a result of publication or dissemination of that advertisement based on such representations, provided that the representations are reasonable.

(Compiled Ords. of 2009, § 9.40.010)

State Law reference— Campaign financing generally, Wis. Stats. § 11.001 et seq.; reports regarding campaign contributions and disbursements, Wis. Stats. § 11.12; restrictions regarding campaign contributions and disbursements, Wis. Stats. § 11.16.

Secs. 26-255—26-271. - Reserved.

ARTICLE VI. - PUBLIC PEACE, ORDER AND OTHER INTERESTS

Sec. 26-272. - Disorderly conduct.

(a) It is unlawful for any person, in a public or private place, to engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.

(b) It is also unlawful for any person to operate a motor vehicle in any unreasonable manner so as to cause a squealing of the tires, or makes or causes to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb or alarm another, or in any way provoke or tend to provoke a disturbance or a breach of the peace in or about any public street, road, alley, park highway or any private residence or public place.

(Compiled Ords. of 2009, §§ 9.04.120, 9.12.010)

State Law reference— Disorderly conduct, Wis. Stats. § 947.01.

Sec. 26-273. - Bomb scares.

It is unlawful for any person to intentionally convey or cause to be conveyed any threat or false information, knowing such to be false, concerning an attempt or alleged attempt being made or to be made to destroy any property by the means of explosives.

(Compiled Ords. of 2009, § 9.04.130)

Sec. 26-274. - Unlawful assemblies.

(a) As used in this section, the term "unlawful assembly" includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by any other person of any private or public thoroughfares, property or of any positions of access or exit to or from any private or public building, or dwelling place, or any portion thereof, and which assembly does in fact so block or obstruct the lawful use by any other person or persons of any such private or public thoroughfares, property or any position of access or exit to or from any private or public building, or dwelling place, or any portion thereof.

(b) It is unlawful for any person to:

(1) Fail or refuse to withdraw from an unlawful assembly which the person knows has been ordered to disperse;

(2) Cause, attempt to cause, or participate in an unlawful assembly upon any property of a public institution of higher education or upon any highway abutting on such property, if he fails to withdraw from the assembly promptly upon issuance of an order to disperse and if such order is given in such manner that such person can reasonably be expected to hear or read such order.

(c) Violations of this section are punishable as provided in Wis. Stats. § 947.06.

(Compiled Ords. of 2009, § 9.04.140)

Sec. 26-275. - Unlawful use of the telephone or computerized communication systems.

The provisions of Wis. Stats. § 947.012 and 947.0125 are adopted and wholly incorporated by reference. Each violation of this section shall be subject to a forfeiture not to exceed $1,000.00.

State Law reference— Unlawful use of telephone, Wis. Stats. § 947.012; Unlawful use of computerized communication system, Wis. Stats. § 947.0125.

Sec. 26-276. - Throwing or shooting at persons or public places.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street sidewalk, alley, highway, park, playground or other public place within the county.

(Compiled Ords. of 2009, § 9.16.010)

State Law reference— Disorderly conduct, Wis. Stats. § 947.01; throwing missiles, circulars or pamphlets at vehicles, Wis. Stats. § 346.94(4).

Sec. 26-277. - Domestic abuse contact prohibition.

(a) Unless there is a written waiver by the alleged victim of a domestic abuse incident within a 72-hour period immediately following an arrest of a perpetrator for a domestic abuse incident, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim.

(b) An arrested person who intentionally violates this section shall be required to forfeit not more than $1,000.00.

(Compiled Ords. of 2009, §§ 9.46.010, 9.46.020)

State Law reference— Contact prohibition in domestic abuse situations, Wis. Stats. § 968.075(5).

Sec. 26-278. - Loitering or prowling.

(a) No person shall loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

(b) Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting the actor to identify himself and explain his presence and conduct.

(c) No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

State Law reference— Vagrancy, Wis. Stats. § 947.02; county authority to prohibit vagrancy, Wis. Stats. § 59.54(6).

Sec. 26-279. - Harassment.

(a) As used in this section, the term "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(b) It is unlawful for any person, with intent to harass or intimidate another person, to:

(1) Strike, shove, kick, or otherwise subject the person to physical contact or attempt or threaten to do the same.

(2) Engage in a course of conduct or repeatedly commit acts which harass or intimidate the person which serve no legitimate purpose.

(c) This section does not prohibit any person from participating in lawful conduct in labor disputes under Wis. Stats. § 103.53.

(d) Any person who violates this section is subject to forfeiture not to exceed $1,000.00.

(Compiled Ords. of 2009, §§ 9.48.010—9.12.030)

State Law reference— Harassment, Wis. Stats. § 947.013.

Secs. 26-280—26-306. - Reserved.

ARTICLE VII. - CONTROLLED SUBSTANCES

DIVISION 1. - GENERALLY

Sec. 26-307. - Violation of Uniform controlled substances act; possession or distribution prohibited.

It shall be a violation of this article for any person to possess, use or dispense any controlled substance in violation of the Uniform Controlled Substance Act, Wis. Stats. § 961.011 et seq.

(Compiled Ords. of 2009, § 9.08.010)

State Law reference— Uniform Controlled Substances Act, Wis. Stats. § 961.001 et seq.

Secs. 26-308—26-332. - Reserved.

DIVISION 2. - DRUG PARAPHERNALIA

State Law reference— Authority of county to enact ordinance prohibiting possession and sale of drug paraphernalia, Wis. Stats. § 59.54(25m).

Sec. 26-333. - Definitions.

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

Drug paraphernalia means all equipment, products and materials of any kind that are used or designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of this chapter.

(1) The term "drug paraphernalia" includes, but is not limited to, any of the following:

a. Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.

b. Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.

c. Isomerization devices used, designed for use or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.

d. Testing equipment used, designed for use or primarily intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances or controlled substance analogs.

e. Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.

f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use or primarily intended for use in cutting controlled substances or controlled substance analogs.

g. Separation gins and sifters used, designed for use or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

h. Blenders, bowls, containers, spoons and mixing devices used, designed for use or primarily intended for use in compounding controlled substances or controlled substance analogs.

i. Capsules, balloons, envelopes and other containers used, designed for use or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.

j. Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

k. Objects used, designed for use or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

2. Water pipes.
3. Carburetion tubes and devices.
4. Smoking and carburetion masks.
5. Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
6. Miniature cocaine spoons and cocaine vials.
7. Chamber pipes.
8. Carburetor pipes.
9. Electric pipes.
10. Air-driven pipes.
11. Chilams.
12. Bongs.
13. Ice pipes or chillers.

(2) The term "drug paraphernalia" excludes:

a. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.

b. Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products. As used in this subsection, "primarily" means chiefly or mainly.

(Compiled Ords. of 2009, § 9.50.010)

State Law reference— Similar definitions, Wis. Stats. § 961.571.

Sec. 26-334. - Acts prohibited; penalty.

No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this article may forfeit not more than $500.00.

(Compiled Ords. of 2009, § 9.50.020)

State Law reference— Possession of drug paraphernalia prohibited, Wis. Stats. § 961.573.

Secs. 26-335—26-356. - Reserved.

ARTICLE VIII. - MINORS

DIVISION 1. - GENERALLY

Sec. 26-357 – Minors and lewd, obscene, and sexually explicit material

(1) As applied to a minor, which, for purposes of this section, is defined as a person who is alleged to have violated this section and who has not attained the age of 17 years, the provisions of Wis. Stat. 944.20, 944.21, 944.23, 944.25, 948.10, 948.11, and 948.12 are adopted and wholly incorporated by reference.

(2) Each violation of this section shall be subject to a forfeiture not to exceed $500.00.

Secs. 26-358 – 26-385. – Reserved.

DIVISION 2. - TOBACCO PRODUCTS

State Law reference— Prohibitions with regard to sale to and possession by minors of tobacco products, Wis. Stats. § 254.92; authority for county to adopt and enforce provisions, Wis. Stats. § 254.92(4).

Sec. 26-386. - Definitions.

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

Cigarette means any roll of tobacco wrapped in paper or any substance other than tobacco.

Distributor means any of the following:

(1) A person specified under Wis. Stats. § 139.30(3).

(2) A person specified under Wis. Stats. § 139.75(4).

Identification card means any of the following:

(1) A license containing a photograph issued under Wis. Stats. ch. 343.

(2) An identification card issued under Wis. Stats. § 343.50.

(3) An identification card issued under Wis. Stats. § 134.66.

Jobber has the meaning given in Wis. Stats. § 139.30(6).

Law enforcement officer means any person employed by the state or any political subdivision of the state for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he is employed to enforce and includes a person appointed as a conservation warden under Wis. Stats. § 23.10(1).

Manufacturer means any of the following:

(1) A person specified under Wis. Stats. § 139.30(7).

(2) A person specified under Wis. Stats. § 139.75(5).

Place of business means any place where cigarettes or tobacco products are sold, manufactured, or stored for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

Retailer means any person licensed under Wis. Stats. § 134.65(1).

School has the meaning given in Wis. Stats. § 118.57(1)(d).

Subjobber has the meaning given in Wis. Stats. § 139.75(11).

Tobacco products has the meaning given in Wis. Stats. § 139.75(12).

Vending machine has the meaning given in Wis. Stats. § 139.30(14).

Vending machine operator has the meaning given in Wis. Stats. § 139.30(15).

(Compiled Ords. of 2009, § 9.22.010)

State Law reference— Similar definitions, Wis. Stats. § 134.66.

Sec. 26-387. - Violations; penalties.

(a) In this section, the term "violation" means a violation of section 26-391(a), (c) or (d).

(1) A person who commits a violation is subject to a forfeiture of:

a. Not more than $500.00 if the person has not committed a previous violation within 12 months of the violation; or

b. Not less than $200.00 nor more than $500.00 if the person has committed a previous violation within 12 months of the violation.

(2) A court shall suspend any license or permit issued under Wis. Stats. § 134.65, 139.34 or 139.79 to a person for:

a. Not more than three days, if the court finds that the person committed a violation within 12 months after committing one previous violation;

b. Not less than three days nor more than ten days, if the court finds that the person committed a violation within 12 months after committing two other violations; or

c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing three or more other violations.

(3) The court shall promptly mail notice of a suspension under subsection (a)(2) of this section to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

(b) Whoever violates section 26-391(b) shall forfeit not more than $25.00.

(Compiled Ords. of 2009, § 9.22.070)

Sec. 26-388. - Purchase of tobacco products, false representation of age by minors prohibited.

Except as provided in section 26-389, no child may buy or attempt to buy any cigarette or tobacco product or falsely represent his age for the purpose of receiving any cigarette or tobacco product.

(Compiled Ords. of 2009, § 9.22.020)

State Law reference— Purchase or possession of cigarettes or tobacco products by person under 18 prohibited, Wis. Stats. § 254.92.

Sec. 26-389. - Exception.

A child may purchase cigarettes or tobacco products for the sole purpose of resale in the course of employment during his working hours if employed by a retailer licensed under Wis. Stats. § 134.65(1).

(Compiled Ords. of 2009, § 9.22.030)

Sec. 26-390. - Seizure of product by officer.

A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of section 36-388 committed in his presence.

(Compiled Ords. of 2009, § 9.22.040)

Sec. 26-391. - Restrictions on retailers.

(a) No retailer may sell or give cigarettes or tobacco products to any person under the age of 18, except as provided in Wis. Stats. § 254.92(2)(a). A vending machine operator is not liable under this subsection for the purchase of cigarettes or tobacco products from his vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

(b) A retailer shall post a sign in areas within his premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and Wis. Stats. § 254.92.

(c) A vending machine operator shall attach a notice in a conspicuous place on the front of his vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under Wis. Stats. § 254.92 and that the purchaser is subject to a forfeiture not to exceed $25.00.

(d) No person may place a vending machine within 500 feet of a school.

(e) No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to a person under the age of 18 years.

(Compiled Ords. of 2009, § 9.22.050)

State Law reference— Restrictions on sale or gift of cigarettes or tobacco products, Wis. Stats. § 134.66.

Sec. 26-392. - Defense of retailer.

Proof of all of the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 years is a defense to any prosecution for a violation of section 26-391(a):

(1) That the purchaser falsely represented that he had attained the age of 18 years and presented on identification card;

(2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18 years;

(3) That the sale was made in good faith, in reasonable reliance on the identification card and appearance that the purchaser had attained the age of 18 years.

(Compiled Ords. of 2009, § 9.22.060)

State Law reference— Similar provisions, Wis. Stats. § 134.66(3).

Secs. 26-393—26-412. - Reserved.

DIVISION 3. - ALCOHOL BEVERAGES

Sec. 26-413. - Definitions.

The definitions in Wis. Stats. § 125.02, to the extent applicable, shall apply to this division.

(Compiled Ords. of 2009, § 9.24.010)

Sec. 26-414. - Sales to minors.

The provisions of Wis. Stats. § 125.07(1) are adopted by reference, including penalty provisions.

(Compiled Ords. of 2009, § 9.24.020)

State Law reference— Presence of underage and intoxicated persons on licensed premises and possession of alcohol beverages by underage persons, Wis. Stats. § 125.07.

Sec. 26-415. - Presence in place of sale.

The provisions of Wis. Stats. § 125.07(3) are adopted by reference, including penalty provisions.

(Compiled Ords. of 2009, § 9.24.030)

Sec. 26-416. - Possession or public consumption.

The provisions of Wis. Stats. § 125.07(4) are adopted by reference, including penalty provisions.

(Compiled Ords. of 2009, § 9.24.040)

Sec. 26-417. - Misrepresentation of age.

The provisions of Wis. Stats. § 125.07(4)4 are adopted by reference, including penalty provisions.

(Compiled Ords. of 2009, § 9.24.050)

Sec. 26-418. - Possession on school grounds.

The provisions of Wis. Stats. § 125.09(2) are adopted by reference, including penalty provisions.

(Compiled Ords. of 2009, § 9.24.060)

Secs. 26-419—26-449. - Reserved.

DIVISION 4. - RUNAWAY MINORS

Sec. 26-450. - Runaway defined.

The term "runaway," for the purpose of this division, means a minor under the age of 18 years who has been reported as a missing person-runaway to a law enforcement agency and whose whereabouts is/was unknown to the parents, guardian or legal custodian.

(Compiled Ords. of 2009, § 9.26.010)

Sec. 26-451. - Violation; penalty.

(a) Any person who violates this division shall, upon conviction for a first offense, be required to forfeit not less than $50.00 nor more than $200.00 together with costs of this action.

(b) Any person who violates this division shall, upon conviction for a second or subsequent offense, be required to forfeit not less than $100.00 nor more than $500.00 together with the cost of this action.

(c) Any person under the age of 18 years who violates any of the provisions of this division shall, upon conviction, be subjected to the penalties as provided in Wis. Stats. § 938.237.

(Compiled Ords. of 2009, § 9.26.030)

State Law reference— Taking suspected runaway child into custody, Wis. Stats. § 938.19; criteria for holding a juvenile in custody, Wis. Stats. § 938.208.

Sec. 26-452. - Prohibited acts; exception.

(a) It is unlawful for any person to do any of the following:

(1) Knowingly allow, permit or board any minor child at his residence, business or other property in his control, where the person knows or should have known the minor child to be a runaway from his parent, guardian or legal custodian;

(2) Knowingly assist, aid or abet a runaway child to escape apprehension or flee from his parents or authorities, including, but not limited to:

a. Provide transportation to said runaway child;

b. Provide money, clothing or any other useful instrument to the runaway child to aid the runaway child in escape;

c. Obstruct by providing false or untrue information regarding the location or plan of the runaway child;

d. Refuse to provide information to law enforcement officers when questioned about the runaway child which information was known to them at the time and would assist in the apprehension of said runaway child; or

e. Assist, aid or abet the runaway child in any other way for the purpose of hindering law enforcement officer or the child's parents, guardian or legal custodian from learning the whereabouts of the child.

(b) This section does not apply to the recipient of a placement by juvenile court intake staff or the court, providing that the law enforcement agency who originated the runaway child report is informed of said placement.

(Compiled Ords. of 2009, § 9.26.020)

Secs. 26-453—26-472. - Reserved.

DIVISION 5. - TRUANCY

State Law reference— Truancy, Wis. Stats. § 118.16; county authority to prohibit truancy and impose penalties, Wis. Stats. § 118.163.

Sec. 26-473. - Definitions.

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

Acceptable excuse shall mean an acceptable excuse as defined in Wis. Stats. §§ 118.15 and 118.16(4).

Habitual truant means a pupil who is absent from school without an acceptable excuse for either of the following:

(1) Part or all of five or more days out of ten consecutive days on which school is held during a semester;

(2) Part or all of ten or more days on which school is held during a school semester.

(Compiled Ords. of 2009, § 9.32.010)

State Law reference— Compulsory school attendance, Wis. Stats. § 118.15; school attendance enforcement, Wis. Stats. § 118.16.

Sec. 26-474. - Violation; penalty.

Upon finding that a child is a habitual truant, the court shall enter an order making one or more of the following dispositions:

(1) Suspend the child's operating privilege, as defined in Wis. Stats. § 340.01(40) for not less than 30 days nor more than 90 days. The judge shall immediately take possession of the suspended license and forward it to the state department of transportation, together with a notice stating the reason for and duration of the suspension;

(2) Order the child to participate in counseling, community service or a supervised work program under Wis. Stats. § 938.34(5g);

(3) Order the child to remain at home except during the hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his home if the child is accompanied by a parent or guardian;

(4) Order the child to attend an education program under Wis. Stats. § 48.435(12).

(Compiled Ords. of 2009, § 9.32.030)

Sec. 26-475. - Habitual truancy prohibited.

A child is prohibited from being a habitual truant.

(Compiled Ords. of 2009, § 9.32.020)

Chapter 27

(RESERVED)

Chapter 28 – Forestry and Parks

Article I – General

Sec. 28-1 - Purpose

Pursuant to Wis. Stat. 28.11 and 59.52(6), the purpose of this chapter is to promote the health, safety, and general welfare of the community and to protect, safeguard, and manage county forest and parks to provide for sustained use and benefits of soil and water conservation, scenic value, recreational benefits, and fish/game resources.

Sec. 28-2 – Definitions

(a) Terms used in this chapter shall have the following meanings:
- (1) Committee means Clark County Forestry and Parks Committee.
- (2) Department means Clark County Forestry and Parks Department.
- (3) Vehicle means any automobile, semi-trailer, mobile home, travel trailer, all-terrain vehicle, utility terrain vehicle, motorcycle, snowmobile, or any similar transportation device powered by a motor.

Sec. 28-3 – Applicability; Designations

(a) Unless provided otherwise, this chapter applies to all real property, structures, facilities, and property owned, leased, and/or operated by the county and under the charge, supervision, and policy oversight of the Committee. This chapter also applies to all waterways which are adjacent to and contiguous with real property owned, leased, and/or operated by the county.
- (1) The properties subject to this chapter include, but are not limited to, the following, which are subject to change as determined by the Committee and Board:
  - i. County Forest

1. Property located in the Towns of Butler, Dewhurst, North Foster, South Foster, Hewett, Hixon, and Hoard, Levis, Mead, Mentor, Seif, Sherwood, Washburn, and Warner

ii. Parks/Recreational Areas

1. Black River Recreational Area
2. Bruce Mound Winter Sports Area
3. Clark County Fairgrounds
4. Greenwood Park and Campground
5. Knobby Ridge Motorcycle Trails
6. Levis Mound Recreational Area and Campground
7. Mead Lake Park and Campground
8. Rock Dam Park and Campground
9. Russell Memorial Park and Campground
10. Sherwood Park and Campground
11. Sherwood Shooting Range
12. Snyder Park and Campground
13. Wildcat Mound Park
14. Wild Rock Park and Campground

(b) A map and/or list of property, with legal descriptions, subject to this chapter shall be maintained by the Department.

(c) Any future lands acquired by the county and placed under the jurisdiction of this Committee will be subject to these ordinances.

Sec. 28-4 – Enforcement; Penalty

(a) Violations of ordinances in this chapter may be enforced through the issuance of a citation or a violation notice.

(b) Law enforcement and/or personnel as determined by the Department head may issue violation notices.

(c) The issuance of a violation notice shall not impose a penalty greater than $75.00 pursuant to a penalty schedule approved by the Committee.

(d) Violation notices shall provide for the following (if known): 1) Initials of issuer and date of issuance; 2) Full name, date of birth, and address of the alleged violator; 3) Ordinance allegedly violated; 4) Factual allegations, including time and place, describing the alleged violation; 5) Penalty; and 6) Where and when penalty shall be paid.

(e) Penalties under a violation notice shall be paid within thirty (30) days from date of issuance.

(f) Failure to timely pay the penalty under a violation notice may result in the issuance of a citation.

(g) The issuance of a citation for violation of any ordinance in this chapter shall be subject to a forfeiture of not more than $500.00.

Sec. 28-5 - Fees; Permits

(a) Department, as established and approved by the Committee, may determine when a fee and/or a permit/registration are required for the use of any property or facility subject to this chapter as long as the fee is reasonably related to the use permitted.

(b) A person or entity shall pay any required fee before using any facility or property.

(c) A person or entity shall obtain and properly display a permit/registration while using any facility or property and comply with all permit conditions before and during the use of any facility or property.

(d) Permits are non-transferable, non-refundable, and may be revoked at the Department's sole discretion.
(e) A list of fees and permits shall be maintained by the Department.
(f) All permits issued shall be subject to all provisions of this Code.
(g) Failure to pay a fee; to obtain and/or display a permit; or to comply with permit conditions is subject to enforcement as set forth in this chapter, including, but not limited to, the issuance of a citation.
(h) The Department head or designee shall have the authority to waive any fees or permits.

Secs. 28-6 – 28-20 – Reserved

Article II – General Regulations

Sec. 28-21 - Destruction; Entry

(a) No person shall disturb, vandalize, damage, deface, remove, attach to, or destroy any trees, shrubs, plants, rocks, gravel, sand, dirt, berms, or other natural materials.
    (1) This prohibition does not apply to the picking of edible fruits, nuts, or fungi.
    (2) Tree stands and game cameras may be attached to trees so long as the tree is not damaged.
(b) No person shall carve, paint, damage, or mark any rocks, trees, archeological or geological features, signs, walls, structure, or other county property.
(c) No person shall move, damage, or deface in any manner any structures, building, fences, signs, gates, posts, tables, or other county property unless expressly authorized by the Department.
(d) No person shall enter, tamper with, use, or damage any building, installation, or area under construction, locked, closed to public use, or contrary to posted notice.
(e) No person shall tamper with, use, or damage any water control structure, dam, or culvert.
(f) No person shall plant or cultivate any tree, shrub, ground cover, seed or plant.

Sec. 28-22 - Hours

(a) No person shall enter, remain, or use any county park, campground, recreation area, or any picnic area in any county forest between the hours of 11:00 PM and the following 6:00 AM or contrary to posted notice with the following exceptions:
    (1) Persons registered to camp;
    (2) Vehicles or watercraft owned by registered campers; or
    (3) Persons hunting or fishing where allowed.

Sec. 28-23 - Cleaning

(a) No person shall wash, clean, or process vehicles, persons, animals, clothing, cooking utensils, fish, or wild or domesticated game in any body of water, picnic area, playground, bathroom, shower building, park, boat landing, parking lot, roadway, or within 100 feet of any pump, fountain, or drinking water outlet unless expressly authorized in designated areas.
(b) If the processing of game is expressly authorized, persons shall properly discard cleaning remnants (i.e. animal carcass).

Sec. 28-24 - Disposal of waste

(a) No person shall discard, dispose, or leave any refuse, sewage, garbage, yard waste, or other waste materials in any manner unless said waste material is disposed of in a waste receptacle or area expressly designated for such purpose.

(b) No person shall discard, dispose, or leave any charcoal residue on the ground, in containers, or in other areas unless expressly designated for disposal of charcoal residue.
(c) No person shall discard, dispose, or leave any refuse, sewage, garbage, or other waste materials in any designated waste receptacle or area unless said waste materials were created, accumulated, or resulted from use of county facility or property.
(d) Persons utilizing county facilities and property shall exercise good faith efforts to dispose of recycling waste products in designated receptacles for the collection of recycled waste.

Sec. 28-25 - Noise

No person shall, through the means of sound amplifiers, instruments, devices, vehicles, or any activities, produce unnecessary sounds or noise which may annoy or disturb a person or interfere with a person's enjoyment.

Sec. 28-26 - Fires; Fireworks

(a) No person shall start, tend to, or maintain any fire or burn any refuse except for in designated fireplaces, fire rings, in the county forest or unless otherwise posted.
    (1) For fires in the county forest, fires shall not exceed three (3) feet in diameter and shall be surrounded by at least three (3) feet of mineral soil.
(b) No person shall leave unattended or abandon any fire or discard any matches, cigarettes, cigars, pipe ashes, embers, or other lit items without first completely extinguishing such items.
(c) No person shall have a campfire in any upright cooking grill.
(d) No person shall possess, fire, discharge, explode, or set off any squib, sparklers, cracker, or other explosive or pyrotechnic device containing powder or other combustible or explosive material unless expressly authorized or the law provides otherwise.

Sec. 28-27 - Firearms

It shall be unlawful for any person (except law enforcement officials) to discharge any firearm, bow, crossbow or dangerous weapon in any county campground or Fairgrounds.

Sec. 28-28 - Peddling, soliciting, advertising or doing business

No person or entity shall peddle, solicit, distribute material, or post signs to advertise a business, event, or sale of goods or service unless expressly authorized.

Secs. 28-29 – 28-50 - Reserved

Article III - Operation and Parking

Sec. 28-51 - Applicability

This article applies to all trails, roadways, and surrounding areas on any county park, campground, recreation area, or county forest.

Sec. 28-52 - Operation

(a) No person shall operate a vehicle that causes damage to soil or natural vegetation.
(b) No person shall operate an unauthorized vehicle on roadways or surrounding area that are gated, bermed, cabled, barricaded, closed, or posted prohibiting access.
(c) No person shall operate a vehicle on designated cross-country ski trails, hiking trails, bicycle trails, or wildlife trails unless expressly authorized.

(d) No person shall operate a vehicle on ATV/UTV trails, snowmobile trails, or similar trails unless such trails are posted allowing such operation.
(e) No person shall operate a vehicle on trails and routes not designated for such use. Operators shall abide by all trail and route signs.
(f) No person shall operate any vehicle at a rate of speed that is greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing.
(g) No person shall operate an ATV, UTV, snowmobile or motorcycle when the trail is closed or during a DNR ordered fire ban.
(h) No person shall operate an ATV, UTV, snowmobile, motorcycle, or other similar vehicle in the county forest during shooting hours of gun deer season as established by law.
(i) During non-shooting hours of the gun dear season, a person may operate ATVs or UTVs on designated ATV/UTV trails. Any operation off designated ATV/UTV trails during the gun deer season is strictly prohibited.
(j) During shooting and non-shooting hours of the bear season, ATVs and UTVs may be operated on designated trails and off designated trails for the sole purpose of retrieving and transporting a bear carcass. Any other operation off designated trails is strictly prohibited.
(k) No person shall cross county property to access private property with a vehicle unless permitted or the access road to private property is open to the public for use by vehicles.
(l) The Department may authorize by permit a person with physical disabilities to operate a vehicle as a mode of personal conveyance.
(m) A permit is not required for a person with physical disabilities to use a motorized wheel chair.

Sec. 28-53 - Parking

(a) No person, except authorized personnel, may park, stop, abandon, or leave (attended or unattended) any vehicle in any manner that blocks, obstructs, or limits use of any roadway or trail.
(b) Unless expressly authorized, any vehicle that is left unattended for 48 hours or more may be deemed abandoned property constituting a public nuisance and be subject to removal and disposition by Department in accordance with applicable state law.

Secs. 28-54 – 28-65 - Reserved

Article IV – Water Recreation

Sec. 28-66 – Swimming; Beach

(a) No person shall swim or float on or in water adjacent to county property outside a marked or designated area for such purpose; within 50 feet of any boat landing; or 15 minutes after sundown.
(b) No person shall swim, climb upon, or drive from/on or within 50 feet of any dam, boat landing, boat dock, or other water-based county structure unless expressly authorized.
(c) No person shall use or possess any glass containers on a designated beach or swim area.

Sec. 28-67 - Boundary buoy

No person shall disturb, vandalize, damage, or float upon any beach boundary, dam marker buoy, or any other markers or buoys in any swimming area, adjacent to any dam, or in any other such marked area.

Sec. 28-68 - Boating

(a) Wis. Stat. 30.50 through Wis. Stat. 30.71 are adopted and wholly incorporated by reference.
(b) No person shall leave, abandon, or deposit any boat, skiff, or other watercraft in water adjacent to county property or on county property in any manner which is:
    (1) Blocking, obstructing, or limiting use of any roadways, parking lot, boat landing, or beach;
    (2) Outside any designated area for such purpose; or
    (3) Contrary to posted notice.
(c) Unless expressly authorized, any boat or other watercraft that is left unattended for 48 hours or more may be deemed abandoned property constituting a public nuisance and subject to removal and disposition by Department in accordance with applicable state law.
    (1) Any boat or other watercraft that is identified as abandoned or stolen shall be reported to the department of justice by local law enforcement pursuant to Wis. Stat. 30.543.
(d) No person shall operate or use a boat or other watercraft within areas designated for swimming by markers, buoys, or other posting.
(e) No person shall water ski on Sherwood Lake in the Town of Sherwood or on Arnold Creek in the Town of Dewhurst.
(f) No person shall operate any watercraft at a speed in excess of slow no wake speed on Sherwood Lake and Arnold Creek in the Town of Dewhurst.

Secs. 28-69 – 28-80 - Reserved

Article V – Hunting

Sec. 28-81 – Hunting; Shooting lanes

(a) No person shall take, catch, kill, shoot, hunt, trap, pursue, or otherwise disturb any wild animals or birds upon any county park, campground or the Clark County Fairgrounds unless the law provides otherwise.
(b) No person shall hunt migratory birds at any time in the Winx Flowage area described as the east ½ of Section 24, Township 24 North, Range 3 West in the Town of Hewett. Legally killed or crippled game may be retrieved by dog or hand from such area.
(c) No person shall cut, displace, or remove timber or other natural material for shooting lanes.
    (1) Minor pruning is allowed between September 1 and March 31 for the placement of tree stands only.
(d) No person shall hunt using any shooting lanes.

Sec. 28-82 – Tree stands

(a) No person shall install, occupy, or use any elevated hunting devices with the following exceptions:
    (1) Portable tree stands may be used and installed as long as such stands are installed no earlier than one week prior to the earliest designated bear or deer hunting season and removed no later than one week following the end of the latest bear or deer hunting season. The placement, usage, or removal of such tree stands shall not cause any damage to trees or other natural materials. Tree stands shall not be bolted, nailed, or screwed in any manner to a tree. Use of screw in tree steps are prohibited.
(b) Portable tree stands may be installed and left unoccupied as long as the following information is printed in English and attached to the tree stand in a clearly visible manner from the ground and kept legible at all times:

(1) Owner's Department of Natural Resources identification number; or
(2) Owner's name and address

(c) The installation of a portable tree stand does not warrant exclusive territorial hunting rights in such area.

Sec. 28-83 – Ground Blinds

(a) A person may install, occupy, or use any ground blind under the following conditions:
(1) Ground blind shall not be bolted, nailed, or screwed to any tree; and
(2) Ground blinds shall be installed no earlier than one week prior to the earliest designated bear or deer hunting season and removed no later than one week following the end of the latest bear or deer hunting season.

(b) Ground blinds may be installed and left unoccupied as long as the owner's Department of Natural Resources identification number or owner's name and address is attached in a clearly visible manner to such blind, printed in English, and kept legible at all times.

(c) Any tree stand or ground blind that is not marked appropriately or is not timely removed shall be deemed abandoned property and subject to removal and disposition by Department in accordance with applicable state law.

Secs. 28-84 – 28-95 - Reserved

Article VI – Animals

Sec. 28-96 – Waste

The owner or person having immediate control of an animal shall immediately remove and dispose of, in a sanitary manner, any waste left or deposited by the animal upon any county park, campground, recreation area, or the Clark County Fairgrounds.

Sec. 28-97 - Restraints

(a) The owner or person having immediate control of an animal shall keep such animal on a leash or restraint of not more than eight feet long in any county park, campground, recreation area, or the Clark County Fairgrounds.

(b) The owner or person having immediate control of an animal shall not allow any animal to enter any building, beach or swim area unless expressly authorized or the law provides otherwise.

Sec. 28-98 - Horses

(a) No person shall ride, lead, or cause a horse to be on any beach, swim area, or picnic area unless expressly authorized.

(b) No person shall tie a horse to any tree or improvement if a hitching post is available.
(1) If a horse is tied to a tree or improvement, no person shall allow a horse to damage any tree or improvement.

(c) No person shall ride or lead a horse in a careless, negligent or reckless manner so as to endanger the life or property of others.

(d) No person shall ride, lead, or cause a horse to be on any designated trail when the trail is closed.

(e) No person shall ride, lead, or cause a horse to be on any designated trail at Levis Mound Recreational Area unless expressly authorized.

Secs. 28-99 – 28-109 - Reserved

Article VII – Camping

Sec. 28-110 – Applicability
This article applies to camping on county property.

Sec. 28-111 – Policy
(a) The Committee shall adopt a camping policy regarding permitting, fees, reservations, conditions, and restrictions.
    (1) Such policy shall be maintained and administered by the Department.

Sec. 28-112 - Permit
(a) Camping shall only be allowed at designated campsites except for authorized camping in the county forest.
(b) Any party, on behalf of a camping party, must obtain a camping permit before setting up a camping unit and camping.
    (1) Any person obtaining a camping permit shall be 18 years or older.
    (2) All camping permits shall begin at 3:00 PM on the first day of the permit period and expire at 1:00 PM on the last day of the permit period.
    (3) The county reserves the right to grant an extension at the Department's sole discretion and extensions shall be requested prior to the expiration of any permit.
    (4) Permits are non-transferable, non-refundable, and may be revoked at the county's sole discretion.
    (5) All campers shall comply with permit conditions.

Sec. 28-113 - Time limits; Hours
(a) No person shall camp and no camping unit shall remain for a period in excess of 21 nights within a 28-day period unless expressly authorized.
(b) No camping party shall set up or take down its camping unit between the hours of 10:00 PM and the following 6:00 AM unless expressly authorized or in case of an emergency.
(c) No person shall be allowed in designated campground areas between the hours of 11:00 PM and the following 6:00 AM unless expressly authorized, in case of an emergency, or the person is a registered member of a camping party.

Sec. 28-114 - Site occupancy
(a) One camping party shall occupy only one designated campsite.
    (1) One camping party shall consist of no more than eight persons, regardless of age and shall include at least one adult.
(b) One designated campsite shall be occupied by only one recreational trailer, motor home, pickup camper, sleeping tent, or other authorized camping units unless expressly authorized.
    (1) Screen tents are permitted on a campsite in addition to a camping unit.
(c) All camping parties shall occupy a camping unit overnight.
    (1) Sleeping in a motor vehicle not designed for sleeping purposes or sleeping in sleeping bags outside of a camping unit is prohibited except for authorized camping in the county forest.
(d) No permitted camping party shall move from an assigned campsite to another campsite without prior authorization.

Sec. 28-115 - Parking

(a) No person shall park a vehicle or trailer outside the parking area designated at each campsite unless expressly authorized.
(b) No person shall park a vehicle or trailer overnight at any boat landing parking lot except while fishing.
(c) No campsite at a designated campground shall have more than the following number and types of transportation parked:
    (1) 2 car or trucks;
    (2) 4 motorcycles and no cars or trucks; or
    (3) 3 motorcycles and 1 car or truck.
(d) Types and numbers of transportation beyond these limits shall park in designated parking areas and pay a fee (if applicable).

Sec. 28-116 - Timber

(a) No person shall cut any timber for firewood unless expressly authorized.
    (1) Registered campers may gather and collect down and dead timber for firewood while camping at any designated campground or forest area.

Sec. 28-117 - Camping prohibited

(a) No person shall camp on county property except for campgrounds and areas designated for camping and in the county forest.
(b) No person shall camp within 250 feet of a trail located at Levis/Trow and Wildcat Mound or at the top of Levis/Trow and Wildcat Mounds.

Sec. 28-118 - Motorized devices

No person shall operate or use a golf cart, electric scooter, unlicensed vehicle or mini-bike unless expressly authorized.

Secs. 28-119 – 28-130 - Reserved

Article VIII – Timber and Forest Products

Sec. 28-131 - Policy

(a) The Committee shall adopt a policy governing the sale of timber, cutting of timber, and gathering of downed timber on county property.
    (1) Such policy shall be maintained and administered by the Department.

Sec. 28-132 - Permit

(a) No person or entity shall cut, remove, transport, or harvest in any manner timber without a permit or unless expressly authorized.
(b) Permits issued for harvesting timber are subject to the following conditions:
    (1) Permit holder is strictly limited to the harvesting activities and conditions specified in the permit.
    (2) Permits are revocable at the county's discretion.
    (3) Permits are non-transferable and non-refundable.
    (4) Forest products shall be harvested only in the area designated on the permit.
    (5) Forest products shall be harvested within the time period stated on the permit. After the permit expires, the permit and any rights shall be revoked.
    (6) Forest products harvested shall not be resold and shall be used for personal use only.

(7) Permit holder shall personally or in conjunction with the permit holder's household family harvest forest products under the permit.
(8) Permit holders shall have the permit in his/her possession when harvesting and transporting forest products.
(9) Use of ATVs, UTVs, tractors, skidders, or other timber harvesting equipment is prohibited.
(10) Permit holder and anyone working in conjunction with the permit holder shall indemnify and hold harmless the County, its officers, agents, employees and members, from and against any and all claims arising out of or related to the harvesting forest products.
(11) Permit holder shall be responsible for any damage to county property while harvesting forest products under a permit.

Secs. 28-133 – 28-140 - Reserved

Article IX – Gathering by Treaty Right

Sec. 28-141 - Purpose

To establish a permitting process enabling members of the Wisconsin bands of the Lake Superior Chippewa Indians the right to exercise the gathering of miscellaneous forest products on county property within the ceded territory.

Sec. 28-142 - Permit

(a) No treaty right participant may gather firewood, tree bark, maple sap, lodge poles, boughs, marsh hay, or other miscellaneous forest products (except fruits, seeds, or berries not enumerated in the Code) without a permit. Permits can be obtained by applying with the Department.
(b) Those treaty rights participants who seek to gather miscellaneous forest products shall provide proper identification and present a valid tribal membership card upon submitting an application for a permit.
(c) Upon receipt of an application, the Department shall respond to the gathering permit request no later than 14 days after receipt of said application. Said response shall either grant or deny the request or request additional information is the permit application is incomplete or incorrect.
    (1) The Department may not deny a permit request unless:
        i. The gathering is inconsistent with the forest management plan for said property;
        ii. The gathering will conflict with pre-existing rights of a permittee or other person possessing an approval to conduct an activity on the property, including a contractor of the county; or
        iii. Is otherwise inconsistent with conservation or public health or safety.
(d) The issued permit shall indicate the location of the material to be gathered, the volume of material to be gathered, and conditions on the gathering of the material necessary for conservation of the timber and other forest products on the department land or for public health or safety.

Sec. 28-143 - Rights; Conditions

(a) Treaty rights participants engaged in gathering on county property may not impair or obstruct roadways, trails, or special use areas. Any forest products subject to gathering which are cut

and may impede or impair use of those trails or other special use areas shall be immediately removed by the treaty rights participant.

(b) Any treaty rights participant engaged in gathering shall present the permit authorizing gathering miscellaneous forest products, and his or her tribal identity card.

(c) Treaty right participants are limited to gathering forest products as stated on the permit.

(d) Treaty rights participants gathering miscellaneous forest products on county land may not be assisted in the gathering by any person other than another treaty rights participant. Treaty rights participants may not permit any person other than another treaty rights participant to tend or operate equipment involved in the gathering.

Secs. 28-144 – 28-150 - Reserved

Article X – Other Recreational Areas/Parks

Sec. 28-151 – Sportsman Lake

(a) The real property, including adjacent and contiguous waterways, known as Sportsman Lake, which is located in the Town of Hixon and Town of Hoard, shall be under the charge, supervision, and policy oversight of the Land Conservation Committee except for the property enrolled in Forest Crop Law, which is subject to Wis. Stat. 28.11.

(1) A map of Sportsman Lake shall be maintained by the Land Conservation Department.

(b) A portion of Sportsman Lake shall be designated as a "Wildlife Refuge", which is located in the N ½ of Section 19, Township 29 North, Range 1 West in the Town of Hoard and set forth below.

(1) The Wildlife Refuge at Sportsman Lake, which is marked in the referenced map, shall consist of the following real property:

i. NE ¼ - NW ¼, Section 19, T29N, R1W
ii. SE ¼ - NW ¼, Section 19, T29N, R1W
iii. NW ¼ - NW ¼, Section 19, T29N, R1W except that part starting at the NW corner of the NW ¼ - NW ¼, Section 19, T29N, R1W, thence south 280 feet to the point of beginning, thence east 320 feet, thence south 220 feet, thence west 320 feet, thence north 220 feet to the point of beginning.
iv. SW ¼ - NW ¼, Section 19, T29N, R1W except that part starting at the point of beginning at the SW corner of the SW ¼ - NW ¼, Section 19, T29N, R1W, thence north 298 feet, thence East 204 feet, thence South 298 feet, thence West 204 feet to the point of beginning.
v. NW ¼ - NE ¼, Section 19, T29N, R1W
vi. NE ¼ - NE ¼, Section 19, T29 N, R1W
vii. SE ¼ - NE ¼, Section 19, T29N, R1W
viii. A part of SW ¼ - NE ¼, Section 19, T29N, R1W, starting at SW corner of the SW ¼ - NE ¼, Section 19, T29N, R1W, thence north 60 rods to the point of beginning, thence east 80 rods, thence north 20 rods, thence west 80 rods, thence south 20 rods to the point of beginning.

(c) The Wildlife Refuge at Sportsman Lake shall be subject to the following restrictions/conditions:

(1) No person shall hunt birds of any kind including waterfowl.
(2) No person shall enter the designated area except from September 1 to December 31 to hunt deer during bow, gun, and muzzleloader deer hunting seasons.
(3) Persons may enter the designated area to retrieve legally killed or crippled game by dog or by hand.

Chapter 29

(RESERVED)

Chapter 30 - SOLID WASTE

(RESERVED)

State Law reference— Solid waste facilities generally, Wis. Stats. § 289.01 et seq.; solid waste reduction, recovery and recycling, Wis. Stats. § 287.01 et seq.; county authority to establish and operate solid waste management systems, Wis. Stats. § 59.70(2); solid waste defined, Wis. Stats. § 281.01(15); solid waste facilities as nuisances, Wis. Stats. § 823.085; littering, Wis. Stats. § 287.81.

Chapter 31

(RESERVED)

Chapter 32 – Streets, Roads, Sidewalks, and Other Public Places

Article I – ATV/UTV Routes and Operation

Sec. 32-1 – Authority; Intent

(a) Clark County adopts the following all-terrain vehicles (ATV) and utility terrain vehicles (UTV) routes and operation conditions pursuant to the authority set forth in Wis. Stat. 59.02 and 23.33 and Wis. Admin. Code NR 64.

Sec. 32-2 – Designated routes; Closure of routes

(a) All County highways under the County's jurisdiction are designated as ATV and UTV routes.

(b) The County Highway Commissioner shall have the authority to temporarily close routes for safety, maintenance, or any other appropriate reasons. Such closures shall be subject to review and final determination by the County Highway Committee. The County Highway department shall erect signage indicating route closure.

Sec. 32-3 – Operation of ATV/UTV on designated routes

(a) In addition to the provisions set forth in Wis. Stat. 23.33 and Wis. Admin. Code NR 64, which are adopted and wholly incorporated by reference, ATV and UTV operation on designated routes shall be subject to the following conditions:
    (1) ATV/UTV shall be operated on the paved portion of the highway only. Operation on the gravel shoulders, grassy in-slope, ditches, or other highway right-of-way is prohibited.
    (2) ATV/UTV shall be operated at or less than the posted speed limits.
    (3) ATV/UTV shall be operated in single file on the right hand side of the highway.
    (4) ATV/UTV operator shall carry liability insurance to cover the ATV/UTV.
    (5) ATV/UTV operator and/or passenger(s) shall not possess any opened or unsealed bottle or receptacle containing an intoxicating beverage.

Sec. 32-4 – Signage

(a) County highways designated as ATV and UTV routes shall be signed in accordance with Wis. Stat. 23.33(8)(e) and Wis. Admin. Code NR 64.12.
(b) No person shall interfere and/or possess ATV and UTV route signage as set forth in Wis. Stat. 23.33(8)(f), which is adopted and wholly incorporated by reference.

Sec. 32-5 – Enforcement; Penalty
(a) This ordinance shall be enforced by any law enforcement official of the Clark County Sheriff's Office or any other law enforcement official as set forth in Wis. Stat. 23.33(12).
(b) The penalties as set forth in Wis. Stat. 23.33(13) are adopted and wholly incorporated by reference. Violations of any other provisions of this ordinance shall be subject to a forfeiture not to exceed $500.00.

Chapter 33

(RESERVED)

Chapter 34 – Taxation

Article I - General

Sec. 34-1 – Definitions
(b) Terms used in this chapter shall have the following meanings:
    (1) Committee means Clark County Public Property Committee.

Sec. 34-2 – Retention of overpayments; Determination of timely payment
(a) Pursuant to Wis. Stat. 59.54(24), the County authorizes the County Treasurer to retain any overpayments up to $5.00 over the amount due unless a specific request for a refund is requested by the payer.
(b) Pursuant to Wis. Stat. 74.69, the County Treasurer is authorized to determine the timeliness of a payment.

Secs. 34-3 - 34-18 - Reserved

Article II – Property Taxes

Sec. 34-19 - Penalty for delinquent property taxes and costs
Pursuant to Wis. Stat. 74.47(2), a 0.5 percent per month or fraction of a month penalty shall be imposed, in addition to the interest charged under Wis. Stat. 74.47(1), on any delinquent general property taxes, special assessments, special charges, and special taxes included in the tax roll. This article shall become effective on all taxes that are delinquent on or after January 1, 2003.

Secs. 34-20 - 34-41 - Reserved

Article III – Sales and Use Tax

Sec. 34-42 - County sales and use tax
(a) Pursuant to Wis. Stat. 77.70, there is hereby imposed upon all retailers a sales and use tax at the rate of 0.5 percent of the gross receipts from the sale, lease, or rental of personal property

as set forth in Wis. Stat. 77. Such sales and use taxes shall be imposed in their entirety according to the requirements of Wis. Stat. 77.

(b) All revenue from the county sales and use taxes shall be applied to property tax relief by the amount of the property tax as established annually by the Board.

Secs. 34-43 - 34-71 - Reserved

Article IV – Collection of Delinquent Taxes

Sec. 34-72 – Delinquent tax enforcement

(a) Pursuant to Wis. Stat. 74.53, 74.54, and 74.57(2), the County hereby authorizes and adopts the following enforcement provisions to collect delinquent taxes or other costs depending on what option is in the County's best interest:
    (1) Acquiring a tax deed pursuant to Wis. Stat. 75.14.
    (2) Commence a foreclosure action pursuant to Wis. Stat. 75.19.
    (3) From and after January 1, 2022, commence an in rem tax lien foreclosure action to enforce tax liens pursuant to Wis. Stat. 75.521.
    (4) Commence a civil action pursuant to Wis. Stat. 75.53 and/or Wis. Stat. 75.54.
    (5) Any other options that may be available by law.

(b) The County may charge a fee or costs for enforcement action under this section to cover the actual and reasonable costs to the County.

Sec. 34-73 - Right to repurchase

(a) If a property is not redeemed before the County acquires property through delinquent tax collection enforcement, the former owner(s) or heir(s) of the former owner(s) shall have the right to request the repurchase of such property within sixty (60) days after the property is acquired by the County.
    (1) This section shall not apply to property which has been improved or is dedicated to public use by the County subsequent to its acquisition thereof.

(b) Requests for repurchase shall be in writing and approved by the Committee upon terms that are in the best interests of the County.

(c) The repurchase price shall be the full payment (no installments) of the amount due at the time payment is remitted for taxes, interest, special charges, special assessments, special taxes, penalties, and costs. The costs shall include an administrative fee to cover the reasonable and necessary costs incurred by the County.

(d) Any sale made under this section shall be exempt from the provisions in Wis. Stat. 75.69.

(e) The Committee reserves the right to waive any provision in this section that is in the best interests of the County.

Sec. 34-74 – Sale of tax delinquent property

(a) Pursuant to Wis. Stat. 75.35, 75.36, and 75.69, the County shall diligently proceed to sell property acquired by the County through delinquent tax enforcement.

(b) The Committee shall manage and sell acquired property upon terms that are in the best interests of the County.
    (1) The Committee may retain a licensed real estate broker, a salesperson, or any other service (i.e. auction service) to assist in selling of such property.

(c) The Committee is authorized to appraise property acquired by the County through delinquent tax enforcement.

(d) Sale proceeds shall be dispersed pursuant to Wis. Stat. 75.36.

(e) In lieu of selling property acquired by the County through delinquent tax enforcement, the County may retain such property, in consultation with the Clark County Forestry and Parks Committee and approval of the Board, for public use as forest or park lands if the lands abut or adjoin or are partially or wholly contained within the county forest or park.

Chapter 35

(RESERVED)

Chapter 36 - TRAFFIC AND VEHICLES

State Law reference— Vehicles generally, Wis. Stats. § 340.01 et seq.; authority for adoption of local traffic regulations in conformity with state law, Wis. Stats. § 349.03; rules of the road, Wis. Stats. § 346.01 et seq.; restrictions on stopping and parking, Wis. Stats. § 346.50 et seq.; speed restrictions, Wis. Stats. § 346.57 et seq.; snowmobiles, Wis. Stats. § 350.01 et seq.; county emergency powers regarding traffic regulation, Wis. Stats. § 166.23; county authority to designate through highways, Wis. Stats. § 349.07; abandoned motor vehicles prohibited, Wis. Stats. § 346.94(13); removal and disposal of abandoned vehicles, Wis. Stats. § 342.40.

ARTICLE I. - IN GENERAL

Secs. 36-1—36-18. - Reserved.

ARTICLE II. - TRAFFIC REGULATIONS

Sec. 36-19. - State traffic provisions adopted.

(a) Vehicle and traffic regulation generally. Except as otherwise specifically provided in this chapter, all provisions of Wis. Stats. chs. 340 through 349 describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are adopted and by reference made a part of this article as if fully set forth in this article. The provisions of this article derived from the adopted provisions of Wis. Stats. chs. 340 through 349 shall be enforced in accordance with the provisions of Wis. Stats. §§ 345.20 through 345.53. Forfeitures for violation of any the provisions of this subsection adopted by reference shall conform to forfeitures for violation of the comparable state offense, including any variations or increases for second offenses.

(b) Snowmobiles. Except as otherwise specifically provided in this article, all provisions of Wis. Stats. ch. 350 describing and defining regulations with respect to snowmobiles for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are adopted and by reference made a part of this article as if fully set forth in this article. The provisions of this article derived from Wis. Stats. ch. 350 shall be enforced in accordance with the provisions of Wis. Stats. § 350.17. Penalties for violation of the provisions adopted in this subsection, together with the cost of prosecution, shall be as provided in Wis. Stats. § 350.11.

(c) All-terrain vehicles. Except as otherwise specifically provided in this article, the provisions of Wis. Stats. § 23.33 describing and defining regulations with respect to all-terrain vehicles, including penalties to be imposed and procedure for prosecution, are adopted and by reference made a part of this article as if fully set forth in this article. The provisions of this

article derived from Wis. Stats. § 23.33 shall be enforced in accordance with the provisions of Wis. Stats. § 23.33(12). Penalties for violation of the provisions adopted in this subsection, together with the cost of prosecution, shall be as provided in Wis. Stats. § 23.33(13).

(d) Offenses. The following statutory sections are adopted and by reference made a part of this article as if fully set forth in this chapter, together with penalties for violation as provided therein:

	Topic
Wis. Stats. § 110.075(7)	Producing and using inspection sticker fraudulently
Wis. Stats. § 134.06	Bonus to chauffeurs for purchases forbidden
Wis. Stats. § 218.0114	Used car dealers
Wis. Stats. § 218.0147	Purchase or lease of motor vehicle by minor
Wis. Stats. § 285.30(2)	Motor vehicle emissions limitations; inspections

(e) Abandoned vehicles. Except as otherwise specifically provided in this chapter, the provisions of Wis. Stats. § 342.40 describing and defining regulations with respect to all abandoned vehicles, including penalties to be imposed and procedure for prosecution, are adopted and by reference made a part of this article as if fully set forth in this article.

(Compiled Ords. of 2009, §§ 10.04.010—10.04.050, 10.08.010—10.08.070, 10.12.010—10.12.050, 10.14.010—10.14.050, 10.16.010)

Sec. 36-20. - Courthouse parking.

(a) Any county employees are prohibited from parking in the lot south of the fifth floor entrance to the courthouse during the course of their working hours or while performing duties or work on behalf of the county, state, or federal government.

(b) All nonhandicapped persons are prohibited from parking in marked or signed handicapped areas.

(c) This section does not apply to the following:

(1) Visiting judges;

(2) Handicapped employees or officers.

(d) Anyone violating this section shall be subject to a forfeiture of $10.00, except that any nonhandicapped person parking in a marked or signed handicapped area shall forfeit $50.00.

(Compiled Ords. of 2009, § 2.28.040)

Sec. 36-21. - Clark County Health Care Center grounds speed limit regulated.

The speed limit for all vehicles traveling on any roads, driveways or parking areas of the county health care center grounds shall be set at ten miles per hour. Violation of this subsection shall be subject to penalties as provided in section 1-25.

(Compiled Ords. of 2009, § 10.04.035)

Chapter 37

(RESERVED)

Chapter 38 - UTILITIES

(RESERVED)

State Law reference— Public utilities generally, Wis. Stats. § 66.0801 et seq.; water and sewer generally, Wis. Stats. § 281.01 et seq.; water and sewage facilities; septage disposal, Wis. Stats. § 281.41 et seq.; consolidation of municipal services, Wis. Stats. § 59.03.