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CHAPTER 14: FLOODPLAIN AND SHORELAND/WETLAND ZONING ORDINANCE

14.0100 INTRODUCTION

14.0101 Statutory Authorization

This ordinance is adopted pursuant to the authorization in Sections. 61.35 and 62.23, 62.231, 87.30 and 144.26 of the Wisconsin Statutes.

14.0102 Finding of Fact and Purpose

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- A. Protect life, health and
- B. d property;
- C. Promote the public health, safety, convenience, and general welfare;
- D. Minimize expenditures of public funds for flood control projects;
- E. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- F. Minimize business interruptions and other economic disruptions;
- G. Minimize damage to public facilities in the floodplain;
- H. Minimize the occurrence of future flood blight areas in the floodplain;
- I. Discourage the victimization of unwary land and homebuyers;
- J. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- K. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- L. Maintain the storm and flood water storage capacity of wetlands;
- M. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters;
- N. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- O. Prohibit certain uses detrimental to the shoreland-wetland area; and
- P. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling, and other earth moving activities.

14.0103 Title

This ordinance shall be known as the Floodplain and Shoreland/Wetland Zoning Ordinance for the City of Marinette, Wisconsin.

14.0104 General Provisions of Floodplain Districts

A. Areas to be Regulated

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

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.

B. 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 Marinette 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 non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Engineer, City of Marinette. If more than one map or revision is referenced, the most restrictive information shall apply.

C. Official Maps: Based on the Flood Insurance Study Map (FIS)

Flood Insurance Rate Map (FIRM), panel number 550261 0001 B dated March 15, 1978 with corresponding profiles that are based on the Flood Insurance Study (FIS) dated June 15, 1977.

D. 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 Floodfringe 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.

E. Locating Floodplain Boundaries

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to Article H. 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 14.0604 of the Ordinance and the criteria in (1) and (2) below.

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.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to the requirements of this Ordinance.

F. Removal of Lands from the Floodplain

Compliance with the provisions of this ordinance 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 Section 14.0605 of this Ordinance.

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).

G. Compliance

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

H. Municipalities and State Agencies Regulated

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

I. Abrogation and Greater Restrictions

This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

J. Repeal and Abrogation

This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

K. Interpretation

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

L. Warning and Disclaimer of Liability

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance 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 ordinance.

M. Severability

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

N. Annexed Areas for Cities and Villages

The Marinette County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

O. 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 ordinance.

14.0200 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

14.0201 Hydraulic and Hydrologic Analyses

- A. Except as allowed in par. (3) below, 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 sub. (3) are met.
- C. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Article H.

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.

14.0202 Watercourse Alterations

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. 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.

14.0203 Chapter 30, 31, Wis. Stats., Development

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., 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 Article H.

14.0204 Public or Private Campgrounds

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

- A. The campground is approved by the Department of Health and Family Services.
- B. A land use permit for the campground is issued by the zoning administrator.
- C. 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.
- D. 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.
- E. 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 sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- F. Only camping units are allowed.
- G. 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.
- H. 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.
- I. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

- J. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article C or Article D for the floodplain district in which the structure is located.
- K. 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.
- L. 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 flood proofed to the flood protection elevation.

14.0300 FLOODWAY DISTRICT (FW)

14.0301 Applicability

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to 14.0504.

14.0302 Permitted Uses

- A. The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if
 - 1. they are not prohibited by any other ordinance;
 - 2. they meet the standards in 14.0303 and all other requirements of the Marinette Code of Ordinances, and
 - 3. all permits or certificates have been issued according to the requirements of this Ordinance.
- B. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- C. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- D. 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 14.0303.
- E. Uses or structures accessory to open space uses, or classified as historic structures that comply with 14.0303 and 14.0304.
 - 1. Extraction of sand, gravel or other materials that comply with 14.0303.
- F. 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 chs. 30 and 31, Stats.
- G. Public utilities, streets and bridges that comply with 14.0303.

14.0303 Standards for Developments in Floodway Areas

A. General

1. Any development in floodway areas shall comply with 14.0200 and have a low flood damage potential.
2. Applicants shall provide the following data to determine the effects of the proposal according to 14.0201.
 - (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.
 - (c) 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 par. (b) above.

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 flood waters 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 14.0101.

D. Fills or Deposition of Materials

Fills or deposition of materials may be allowed by permit, if:

1. The requirements of 14.0101 are met;
2. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 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.

14.0304 Prohibited Uses

- A. All uses not listed as permitted uses in 14.0302 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 ch. COMM 83, Wis. Adm. Code;
 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 chs. NR 811 and NR 812, Wis. Adm. Code;
 6. Any solid or hazardous waste disposal sites;
 7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
 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.

14.0400 FLOODFRINGE DISTRICT (FF)

14.0401 Applicability

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to 14.0504.

14.0402 Permitted Uses

Any structure, land use, or development is allowed in the floodfringe district if the standards in 14.0403 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in 14.0604 have been issued.

14.0403 Standards for Development In Floodfringe Areas

14.0201 shall apply in addition to the following requirements according to the use requested.

A. Residential Uses

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

1. 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;
2. 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;
3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
4. In developments where existing street or sewer line elevations make compliance with par.(c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - (a) The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - (b) The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

B. Accessory Structures or Uses

1. Except as provided in par.(b), 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.
2. 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 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 the following sections.

C. Commercial Uses

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of 14.0403. Subject to the requirements of 14.0403, 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.

D. Manufacturing and Industrial Uses

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in 14.0603. Subject to the requirements of 14.0403, 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.

E. 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 14.0716. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

F. Public Utilities, Streets and Bridges

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

1. 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 14.0716 to the flood protection elevation;
2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation

G. Sewage Systems

All on-site sewage disposal systems shall be floodproofed, pursuant to 14.0716, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

H. Wells

All wells shall be floodproofed, pursuant to 14.0716, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

I. Solid Waste Disposal Sites

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

J. Deposition of Materials

Any deposited material must meet all the provisions of this ordinance.

K. Manufactured Homes

1. 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.

2. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - (a) Have the lowest floor elevated to the flood protection elevation; and be anchored so they do not float, collapse or move laterally during a flood
3. 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 floodfringe in 14.0403(1).

L. 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 14.0403. 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.

14.0500 GENERAL FLOODPLAIN DISTRICT (GFP)

14.0501 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 floodfringe districts shall be delineated when adequate data is available.

14.0502 Permitted Uses

Pursuant to 14.0504, it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway 14.0302 and floodfringe areas 14.0402 are allowed within the general floodplain district, according to the standards of 14.0503, provided that all permits or certificates required under 14.0700 have been issued.

14.0503 Standards For Development In The General Floodplain District

14.0300 applies to floodway areas, 14.0400 applies to floodfringe areas. The rest of this ordinance applies to either district.

14.0504 Determining Floodway And Floodfringe Limits

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- A. 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 flood proofing measures;

- B. 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:
 - 1. 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;
 - 2. 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;
 - 3. Profile showing the slope of the bottom of the channel or flow line of the stream;
 - 4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- C. Transmit one copy of the information described in pars. (1) and (2) 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 14.0700 apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

14.0600 SHORELAND/WETLAND DISTRICT

14.0601 General Provisions

A. Compliance

The use of wetlands, and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable Local, State, or Federal regulations. (However, see 14.0603 of this ordinance, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

B. Municipalities and State Agencies Regulated

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a), Wis. Stats., applies.

C. Abrogation and Greater Restrictions

This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Section 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

D. Repeal and Abrogation

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.

E. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in Chapter NR117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Chapter NR117 standards in effect on the date of the most recent text amendment to this ordinance.

F. Severability

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

G. Annexed Areas

The Marinette County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Marinette County shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal Zoning Administrator.

14.0602 Shoreland/Wetland Zoning District Requirements

A. Shoreland/Wetland Zoning Maps

The following maps are hereby adopted and made part of this ordinance and are on file in the office of the municipal Clerk:

1. Wisconsin Wetland Inventory maps stamped "FINAL" on July 22, 1987, which shall control in case of discrepancies with the Official map, Marinette, Wisconsin.

2. Floodplain zoning maps titled, "U.S. Dept. of Housing and Urban Development Flood Boundary and Floodway Map for the City of Marinette, WI", and dated March 15, 1978.
3. United States Geological Survey maps dated 1963.
4. Official map, Marinette, Wisconsin, delineating Shoreland-Wetland and Wetland Districts, and Amended Wetlands to be Removed, as found in Tube File 29 of the Marinette City Engineer's office, dated May, 1988.

B. District Boundaries

The shoreland-wetland zoning district includes all wetlands in the municipality which are five (5) acres or more, and are shown on the Official Map, Marinette, Wisconsin that has been adopted and made a part of this ordinance (which map is intended to accurately delineate at a larger scale wetlands of five (5) acres and larger shown on the final Wisconsin Wetland Inventory Map) and which are:

1. Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds, or flowages. Lakes, ponds, or flowages in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.
2. Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain zoning maps adopted in Section A.2 above shall be used to determine the extent of floodplain areas.

C. Navigability

Determinations of navigability and ordinary high-water mark location 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 ordinary high-water mark.

D. Discrepancies

If any discrepancy is identified between the shoreland-wetland boundaries shown on the Official Map, Marinette, Wisconsin, and the wetland boundaries shown on the final Wisconsin Wetland Inventory Map, other than in the areas delineated Amended Wetlands to be Removed, the wetland boundaries shown on the final Wisconsin Wetland Inventory Map shall control. When an apparent discrepancy exists between the wetland boundary shown on the final Wisconsin Wetland Inventory maps and actual field conditions at the time the

map was adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the wetland boundary as mapped is in error. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in Sections 3.24 and 3.25, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.

E. Filled Wetlands

Wetlands which are filled prior to July 22, 1987, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

F. Wetlands Landward of a Bulkhead Line

Wetlands located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982, under Sec. 30.11, Wis. Stats., are not subject to this ordinance.

G. Permitted Uses

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other Local, State, and Federal laws, if applicable:

1. Activities and uses which do not require the issuance of a zoning or conditional use permit, provided that no wetland alteration occurs:
 - (a) Hiking, fishing, trapping, swimming, snowmobiling, 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 practice of silviculture, including the planting, thinning, and harvesting of timber;
 - (d) The pasturing of livestock, but only on land which was zoned agricultural immediately preceding the enactment of this ordinance; and
 - (e) The cultivation of agricultural crops.
2. Uses which do not require the issuance of a Zoning or Conditional Use Permit and which may involve wetland alterations only to the extent specifically provided below:
 - (a) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;

- (b) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (c) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks were possible;
 - (d) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (e) The construction and maintenance of piers, docks, walkways, observation decks, and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (f) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in this ordinance; and
 - (g) The maintenance, repair, replacement, and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
3. Uses which are allowed upon the issuance of a Conditional Use Permit and which may include wetland alterations only to the extent specifically provided below (Zoning Permit not required):
- (a) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under this ordinance, provided that:
 - (1) The road cannot, as a practical matter, be located outside the wetland;
 - (2) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in this ordinance;
 - (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; and
 - (5) Any wetland alteration must be necessary for the construction or maintenance of the road.

- (b) The construction and maintenance of nonresidential buildings 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) The building does not exceed five hundred (500) square feet in floor area; and
 - (4) Only limited filling and excavating necessary to provide structural support for the building is allowed.
- (c) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - (1) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - (2) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches, or the construction of park shelters or similar structures is allowed;
 - (3) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Section 3.33(1) of this ordinance; and
 - (4) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (d) The construction and maintenance of electric and telephone transmission lines and water and gas distribution lines, and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:
 - (1) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - (2) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

- (3) Such construction or maintenance is done in a manner designed to minimize the adverse impacts upon the natural functions of the wetland listed in this ordinance.

H. Prohibited Uses

Any use not listed in Section 3.3 of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 6.0 of this ordinance.

The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

14.0603 Nonconforming Structures And Uses

The lawful use of a building, structure, or property which existed at the time of this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

The shoreland-wetland provisions of this ordinance authorized by Sec. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling, or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982, related to such a structure. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.

If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure, or property shall conform to this ordinance.

Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under Sections 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of this ordinance. However, such nonconforming use may not be extended.

The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Section 30.121, Wis. Stats.

Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

14.0700 ADMINISTRATION OF THE FLOODPLAIN

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

14.0701 Zoning Administrator

The City Assessor/Building Inspector is appointed Zoning Administrator for the purpose of administering and enforcing this ordinance.

- A. The zoning administrator is authorized to administer this ordinance 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 ordinance, 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
 - (d) All substantial damage assessment reports for floodplain structures.
 - (e) Submit copies of the following items to the Department Regional office:
 - (1) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - (2) 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.
 - (3) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - (f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (g) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

14.0702 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:

A. General Information

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification;
3. Whether or not a private water supply or sewage system is to be installed.

B. Site Development Plan

1. 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 highwater mark of any abutting navigable waterways;
 - (c) Location of any structures with distances measured from the lot lines and street center lines;
 - (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 Article C or Article D 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 14.0201. This may include any of the information noted in 14.0303.

14.0703 Data Requirements to Analyze Developments

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 "subdivision" is defined in s. 236, Stats., and other

proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- A. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- B. A map showing location and details of vehicular access to lands outside the floodplain; and
- C. A surface drainage plan showing how flood damage will be minimized.
- D. 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.

14.0704 Expiration

All permits issued under the authority of this ordinance shall expire one year after issuance.

14.0705 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:

- A. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- B. Application for such certificate shall be concurrent with the application for a permit;
- C. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- D. The applicant shall submit a certification signed by a registered professional
- E. 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 14.0716.

14.0706 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 s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

14.0707 Zoning Agency

- A. The Plan Commission shall:
 - 1. Oversee the functions of the office of the zoning administrator; and
 - 2. Review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- B. This zoning agency shall not
 - 1. Grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
 - 2. Amend the text or zoning maps in place of official action by the Governing body.

14.0708 Board of Adjustment/Appeals

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

14.0709 Powers and Duties

The Board of Adjustment/Appeals 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 ordinance.
- 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.

14.0710 Appeals to the Board

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.

14.0711 Notice and Hearing for Appeals Including Variances

The board shall:

- A. Fix a reasonable time for the hearing;
- B. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- C. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- D. Hearing
Any party may appear in person or by agent. The board shall:
 - 1. Decide variance applications according to 14.0711.
 - 2. Resolve boundary disputes according to 14.0713.
 - 3. Decide appeals of permit denials according to 14.0715.

14.0712 Decision

The final decision regarding the appeal or variance application shall:

- A. Be made within a reasonable time;
- B. Be sent to the Department Regional office within 10 days of the decision;
- C. Be a written determination signed by the chairman or secretary of the Board;
- D. State the specific facts which are the basis for the Board's decision;
- E. 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;
- F. 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 proceedings.

14.0713 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 governing body for a map amendment according to Article H.

14.0714 Variance

The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

- A. Literal enforcement of the ordinance provisions will cause unnecessary hardship
- B. 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;
- C. The variance is not contrary to the public interest; and
- D. The variance is consistent with the purposes of this ordinance in 14.0102.
- E. In addition to the criteria in par. (a), 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 the ordinance.
- F. 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 ordinance or map(s) required in 14.0718.
 - 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- G. 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.

14.0715 To Review Appeals of Permit Denials

- A. The Board of Adjustment shall review all data related to the appeal. This may include:
 - 1. Permit application data listed in 14.0710.
 - 2. Floodway/floodfringe determination data in 14.00504.

3. Data listed in 14.0503 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 14.0708;
 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.

14.0716 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:
- C. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- D. Protect structures to the flood protection elevation;
- E. Anchor structures to foundations to resist flotation and lateral movement; and
- F. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- G. Floodproofing measures could include:
 1. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
 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 flood waters.
6. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

14.0717 Public Information

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

14.0718 Amendments

- A. The governing body may change or supplement the floodplain zoning district boundaries and this ordinance 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 s. NR 116.05, Wis. Adm. Code, 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 floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

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

14.0719 Procedures

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by 14.0504 and 14.0700.

- A. The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. 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 s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

- B. No amendments shall become effective until reviewed and approved by the Department.
- C. 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.
- D. 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.

14.0720 Enforcement and Penalties

Any violation of the provisions of this ordinance 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 \$500.00 together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance 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 s. 87.30, Stats.

14.0800 ADMINISTRATION OF THE SHORELAND/WETLAND DISTRICT

14.0801 Zoning Permits

- A. When Required
- B. Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 8.2(6), of this ordinance, or any change in the use of an existing building or structure is initiated.
- C. Application
- D. An application for a permit shall be made to the Zoning Administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - 1. General Information
 - (a) Name, address, and telephone number of applicant, property owner, and contractor, where applicable

- (b) Legal description of the property and a general description of the proposed use or development
- (c) Whether or not a private water supply or sewage system is to be installed

2. Site Development Plan

The site development plan shall be submitted as a part of the permit application form and shall contain the following information drawn to scale:

- (a) Dimensions and area of the lot;
- (b) Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
- (c) Description of any existing or proposed on-site sewage systems or private water supply systems;
- (d) Location of the ordinary high-water mark of any abutting navigable waterways;
- (e) Boundaries of all wetlands;
- (f) Existing and proposed topographic and drainage features and vegetative cover;
- (g) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
- (h) Location of existing or future access roads; and
- (i) Specifications and dimensions for areas of proposed wetland alteration.

14.0802 Expiration

All permits issued under the authority of this ordinance shall expire twelve (12) months from the date of issuance, by which time the proposed new development must be completed.

14.0803 Certificates of Compliance

Except where no Zoning Permit or Conditional Use Permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt, or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:

- A. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- B. Application for such certificate shall be concurrent with the application for a Zoning Permit or Conditional Use Permit.

- C. The certificate of compliance shall be issued within ten (10) days after the completion of the work specified in the Zoning or Conditional Use Permit, providing the building or premises and proposed use thereof conforms with all the provisions of this ordinance.

The Zoning Administrator may issue a temporary certificate of compliance for a building, premises, or part thereof, pursuant to rules and regulations established by the municipal governing body.

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 ordinance adoption, 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 ordinance.

14.0804 Conditional Use Permits

- A. Application

Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a Conditional Use Permit has been granted by the municipal planning agency following the procedures in Sections 5.82, 5.83, and 5.84 of this ordinance.

- B. Conditions

Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 3.33 of this ordinance, the municipal planning agency shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in Section 1.2. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas, and signs; and type of construction. To secure information upon which to base its determination, the municipal planning agency may require the applicant to furnish, in addition to the information required for a Zoning Permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

- C. Fees

The following fee schedule is hereby established for all Shoreland and Shoreland-Wetland Zoning Ordinances adopted or enforced by the City of Marinette, with each fee being required to be submitted by the applicant along with his application:

1. Zoning Permit - \$ 15.00.
2. Conditional Use Permit - \$ 30.00.
3. Plat Review - \$100.00.

4. Appeals to the Zoning Ordinance Board of Appeals,
5. Including Variances - \$150.00.
6. Sanitary Permit - \$120.00.

A double fee may be charged if work is started before obtaining the required permit.

D. Recording

Where a Zoning Permit or Conditional Use Permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

E. Revocation

Where the conditions of a Zoning Permit or Conditional Use Permit are violated, the permit shall be revoked by the municipal planning agency.

F. Board of Appeals

The city mayor shall appoint a Board of Appeals under Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the municipal governing body. The Board of Appeals shall adopt rules for the conduct of its business as required by Section 63.23(7)(e)3., Wis. Stats.

1. Powers and Duties

The Board of Appeals:

- (a) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this ordinance.
- (b) May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
 - (1) The literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
 - (2) That the hardship is due to special conditions unique to the property; and is not self-created or based solely on economic gain or loss;
 - (3) That such variance is not contrary to the public interest as expressed by the purpose of this ordinance and;
 - (4) That such variance will not grant or increase any use of property which is prohibited in the zoning district.

2. Appeals to the Board

Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the community affected by any order, requirement, decision, or determination of the Zoning

Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.

3. Public Hearings

- (a) Before making a decision on an appeal or application, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 Notice under Ch. 985, Wis. Stats., specifying the date, time, and place of the hearing and the matters to come before the Board. At the public hearing, any party may present testimony in person, by agent, or by attorney.
- (b) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.

4. Decisions

- (a) The final disposition of an appeal before the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, and signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, or modify the order, requirement, decision, or determination appealed, in whole or in part, dismisses the appeal for lack of jurisdiction or persecution.
- (b) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after the decision is issued.

14.0805 Amending Shoreland/Wetland Zoning Regulations

The municipal governing body may alter, supplement, or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of Section 62.23(7)(d)2., Wis. Stats., NR117, Wis. Adm. Code, and the following:

- A. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the municipal planning agency.
- B. All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held after Class 2 Notice as required by Section 62.23(7)(d)2., Wis. Stats. The

appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.

- C. In order to insure that this ordinance will remain consistent with the shoreland protection objectives of Section 144.26, Wis. Stats., the municipal governing body may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - 1. Storm and flood water storage capacity;
 - 2. Maintenance of dry season stream flow or 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;
 - 3. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters;
 - 4. Shoreline protection against soil erosion;
 - 5. Fish spawning, breeding, nursery, or feeding grounds;
 - 6. Wildlife habitat; or
 - 7. Areas of special recreational, scenic, or scientific interest, including scarce wetland types and habitat of endangered species.
- D. Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in this Ordinance, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.
- E. The appropriate district office of the Department shall be provided with:
 - 1. A copy of the recommendations and report, if any, of the municipal planning agency on a proposed text or map amendment, within ten (10) days after the submission of those recommendations to the municipal governing body.
 - 2. Written notice of the action on the proposed text or map amendment within ten (10) days after the action is taken.
- F. If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in this Ordinance, that proposed amendment, if approved by the municipal governing body, shall not become effective until more than thirty (30) days have elapsed since written notice of the municipal approval was mailed to the Department, as required by this Ordinance. If within the thirty (30) day period, the Department notifies the municipality that the Department intends to adopt a superseding shoreland/wetland zoning ordinance for the municipality as provided by Section 62.231(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6), Wis. Stats., is completed or otherwise terminated.

14.0806 Enforcement and Penalties

Any development, building, or structure or accessory building or structure constructed, altered, added to, modified, rebuilt, or replaced or any use or accessory use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the municipal planning agency and the municipal attorney who shall prosecute such violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture as provided in the Marinette Municipal Code, as amended together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the State, or any citizen thereof pursuant to Section 87.30(2), Wis. stats.

14.0900 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance 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" - 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" - 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" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

"Boathouse" as defined in Section 30.121(1), Wis. Stats., 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 structural parts.

"BUILDING" - See STRUCTURE

"BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the

original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

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

"CAMPING UNIT" - 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" - 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 ordinance.

"CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

“Class 2 Public Notice” means publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.

“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 by the planning agency.

"CRAWLWAYS" OR "CRAWL SPACE" - 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” – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

"DEPARTMENT" - The Wisconsin Department of Natural Resources.

"DEVELOPMENT" - 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.

“DRAINAGE SYSTEM” means one (1) or more artificial ditches, tile drains, or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

"DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the

floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

"ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.

"ENVIRONMENTAL CONTROL FACILITY" means any facility, temporary or permanent, which is reasonably expected to abate, reduce, or aid in the prevention, measurement, control, or monitoring of noise, air, or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads

"EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

"FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.

"Fixed Houseboat" - as defined in Section 30.121(1), Wis. Stats., means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

"FLOOD INSURANCE RATE MAP" (FIRM) - 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" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- a. The overflow or rise of inland waters,
- b. The rapid accumulation or runoff of surface waters from any source,
- c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
- d. 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" - 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.

"FLOODFRINGE" - 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" - 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 STUDY" - 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.

"FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

"FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

"FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

"FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

"FLOODPROOFING" - 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.

"FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

"FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

"FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

"FREEBOARD" - 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" - Any structure or portion thereof used or designed for human habitation.

"HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 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 (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

"HIGH FLOOD DAMAGE POTENTIAL" - 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" - Any structure that is either:

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

"INCREASE IN REGIONAL FLOOD HEIGHT" - 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" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

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

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

"MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

"NAVD" or "NORTH AMERICAN VERTICAL DATUM" – Elevations referenced to mean sea level datum, 1988 adjustment.

"NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.

"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 Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 62.221, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- a. Such lands are not adjacent to a natural navigable stream or river;
- b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- c. Such lands are maintained in nonstructural agricultural use.
- d. Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492(1952) and DeGaynor and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable, in fact, under the laws of this State through it may be dry during other seasons."

"NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by 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 an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

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

"NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies (Such as a residence in the floodway).

"OBSTRUCTION TO FLOW" - 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" - That map, adopted and made part of this ordinance, as described in 14.0104 which has been approved by the Department and FEMA.

"OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.

"ORDINARY HIGHWATER MARK" - 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" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

"PLANNING AGENCY" - means the municipal plan commission created under Section 62.23(1), Wis. Stats.

"PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of 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" - 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 flood waters 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" - 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.

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

"SHORELAND-WETLAND DISTRICT" - means the zoning district, created in this Shoreland-Wetland Zoning Ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this ordinance.

"START OF CONSTRUCTION" - 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" - 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 s. 236.02(12), Wis. Stats.

"SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

"UNNECESSARY HARDSHIP" - Where 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 the ordinance.

"VARIANCE" - 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" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. 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.

"WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.

"WATER SURFACE PROFILE" - 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.

"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.

"WETLANDS" - means those areas where water is at, near, or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

"WETLAND ALTERATION" - means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures, or dike and dam construction in a wetland area.