

Chapter 18.230

GROUNDWATER OVERLAY (G-O)

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18.230.010 Purpose. The residents of Eau Claire County depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this subtitle is to protect municipal water supplies and to promote the public health, safety, and general welfare of the residents of Eau Claire County. (Ord. 167-3, Sec. 1, 2023)

18.230.020 Authority. This subtitle is created pursuant to Wis. Stat. § 59.69 (1). The provisions of Wis. Admin. Code ch. NR 811 are incorporated as if fully set forth herein. (Ord. 167-3, Sec. 1, 2023)

18.230.030 Applicability. The regulations specified in this section shall apply to the unincorporated areas of Eau Claire County that lie within the recharge area of a municipal water supply and are in addition to the requirements in the underlying zoning district. If there is a conflict between this subtitle and other subtitles in Title 18, in general, the more restrictive provisions shall apply. (Ord. 167-3, Sec. 1, 2023)

18.230.040 Definitions. These definitions apply only within this subtitle and supersede any similar definitions elsewhere in Title 18. The following definitions shall apply in this subtitle unless the context dictates otherwise:

A. "Animal confinement facilities" means locations of confinement of livestock in at a density exceeding 4 animal units per acre, except as applies to livestock production facilities, which incorporate areas for manure application (at rates not to exceed the nutrient requirements of the crops grown thereon) as an integral part of the operation.

B. "Animal waste storage facility" means a waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure.

C. "Aquifer" means a saturated, permeable geologic hydro stratigraphic unit that contains and will yield usable quantities of water.

D. "Cone of Depression" means the area around a well, in which the water level has been lowered at least one-tenth of a foot by pumping of the well.

E. "Department" means the Eau Claire County Department on Planning and Development.

F. "Feedlot" means an open lot or enclosed building in which poultry or livestock are closely confined in excess of 45 days per year for the purpose of feeding or holding and where such confinement does not or is not intended to provide natural pasture for animals.

G. "Five-year time of travel" means the recharge area for which it is determined or estimated through accepted hydrological analysis that groundwater will take five years to reach a pumping well.

H. "Groundwater" means water occurring in saturated geologic material below the water table.

I. "Municipal water supply" means the municipal water supplies of a village, city, and town in Eau Claire County, as governed by Wis. Admin. Code ch. NR 811.

J. "Nutrient Management" means managing the amount, form, placement, and timing of applications of plant nutrients.

K. "Pasture" means grazing animals, on growing vegetation, with no supplemental feed, exceeding 4 animal units (or manure production equivalent as referenced in the Eau Claire County Technical Guide, specification 590) per acre; also rotation grazing systems (designed to periodically exceed 3 head per acre) which comply with the standards of the Eau Claire County Technical Guide adopted by the Eau Claire County Land Conservation Commission.

L. "Person" means an individual, partnership, association, corporation, municipality or state agency, or other legal entity.

M. "Recharge area" means the area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.

N. "Ten-year time of travel" means the recharge area for which it is determined or estimated through hydrological analysis that groundwater will take ten years to reach a pumping well.

O. "Thirty-day time of travel" means the recharge area for which it is determined or estimated through acceptable hydrological analysis that groundwater will take thirty days to reach a pumping well.

P. "Water table" means the surface in geological material at which the pore water pressure is atmospheric.

Q. "Well field" means a piece of land used primarily for the purpose of locating wells to supply a municipal water system.

R. "Zone of saturation" means geologic material that is saturated with water and constitutes groundwater. (Ord. 167-3, Sec. 1, 2023)

18.230.050 Establishment of a Groundwater Protection Overlay District.

A. A groundwater protection overlay district shall only be created at the request of a municipality to institute land use regulations and restrictions within a defined area, which contributes water directly to a municipal water supply and promotes public health, safety, and welfare. The district is intended to protect the groundwater recharge area for the existing and future municipal water supply from contamination.

B. The boundaries of the groundwater protection overlay district shall be shown on the map "Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County." This map will be an overlay of the "Official Zoning Maps of Eau Claire County, Wisconsin" as maintained by the department.

C. Whenever a municipality establishes the location of a new well or modifies an existing well resulting in a change to the public water supply recharge area for the municipality which extends into the unincorporated areas of the county, the municipality shall notify the department and submit a written request to the department to adopt a groundwater protection overlay district which shall include:

1. A 1-inch equals 2,000 feet (1:24,000) or larger scale map shall be used for municipal boundaries of the proposed wellhead protection zones, which conform to the provisions in this section.

2. A report describing the background information, research, and methodology used to develop the wellhead protection zones.

3. A wellhead protection plan for the well or wells within the proposed district.

4. An existing wellhead protection ordinance for the well or wells within the proposed wellhead protection district, effective within the incorporated areas of the municipality.

5. A list of tax parcels, any part of which falls within the proposed wellhead protection district.

6. An inventory of all existing facilities which may cause or threaten to cause groundwater contamination within the proposed wellhead protection district. The inventory shall include:

a. The county tax parcel number of each facility and the name and telephone number of a facility contact.

b. A list of the uses, activities, materials, structures, and facility type which may cause or threaten to cause groundwater contamination for each existing facility.

D. The county board shall create a groundwater protection overlay district, with the map "Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County" after receipt of recommendations made by the groundwater advisory committee and the committee on planning and development. (Ord. 167-3, Sec. 1, 2023)

18.230.060 Zones. The Groundwater Protection Overlay District is divided into three zones. All zone boundaries shall be normalized to road centerlines, railways, surface water features, and the public land survey lines of 1/2, 1/4, 1/8, 1/16 section lines. Each zone is described as follows:

A. Zone 1. Zone 1 is area of land, which contributes the water to a municipal well in question to the 30-day time of travel.

B. Zone 2. Zone 2 encompasses the area of land which contributes water to the well starting at the line which delineates the 30-day time of travel and ends at the line delineating the 5- year time of travel to a municipal well.

C. Zone 3. Zone 3 encompasses the area of land which contributes water to a municipal well at the line which delineates the 5-year time of travel and ends at the line delineating the 10-year time of travel to a municipal well. (Ord. 167-3, Sec. 1, 2023)

18.230.070 Permitted & prohibited uses. Permitted and Prohibited Uses in Zones 1, 2, and 3. Uses are specified in Table 1. (Ord. 167-3, Sec. 1, 2023)

	Zone 1	Zone 2	Zone 3
P = Permitted X = Expressly Prohibited			
Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks and follows an approved Nutrient Management Plan	P	P	P
Wildlife and natural and woodland areas	P	P	P
Biking, hiking, skiing, nature, equestrian, & fitness trails	P	P	P
Residential areas that are municipally sewered	P	P	P
Routine tillage, planting, and field management operations in support of agricultural crop production where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient needs. The combination of all nitrate sources applied or available on individual fields may not exceed University of Wisconsin Soil Test Recommendations for that field.	P	P	P
Single family residences on a minimum lot of 1 acre with a private on-site sewage system		P	P
Commercial establishments which are served by municipal sewer and water		P	P
Industrial establishments which are served by municipal sewer and water and without outside storage		P	P
Residential use of above and below ground LP gas tanks for heating not to exceed 1000 gallons		P	P
Salt storage, including sand-salt combinations			P
Above ground petroleum product storage tanks with leak detection			P
Above and below ground hydrocarbon, petroleum, or hazardous chemical storage tanks	X	X	
Cemeteries	X	X	X
Chemical manufacturers (Standard Industrial Classification Major Group 28)	X	X	X
Storage of extremely hazardous substance, radioactive materials or substances listed in Table 1, NR140 of the Wisconsin Administrative Code (Extremely hazardous Substances are identified by SARA/EPCRA criteria under 40 CFR Parts 302 and 355)	X	X	X
Coal storage	X	X	X
Dry cleaners	X	X	X
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Industrial lagoons and pits	X	X	X
Landfills and other solid waste facilities	X	X	X
Manure and animal waste storage facilities	X	X	X
Non-metallic earthen materials extraction sites	X	X	X
Pesticide and fertilizer dealer, transfer or storage	X	X	X
Railroad yards and maintenance stations	X	X	X
Rendering plants and slaughterhouses	X	X	X
Salt or deicing material storage	X	X	
Salvage yards and junkyards	X	X	X
Septage or sludge spreading, storage, or treatment	X	X	X
Septage, wastewater, or sewage lagoons	X	X	X
Private on-site wastewater treatment systems or holding tanks unless replacing an existing private on-site wastewater treatment system	X	X	X
Stockyards and feedlots	X	X	X
Stormwater infiltration basins without pre-treatment, which is defined to include vegetative filtration and/or temporary detention basins	X	X	X
Motor vehicle services, including filling and service stations, repair, renovation, and body work	X	X	X
Wood preserving operations	X	X	X

18.230.080 Separation distances

A. The following minimum separation distances as specified in Wis. Adm. Code § NR 811.12(5), shall be maintained within the groundwater protection overlay district.

1. Ten (10') feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of Wis. Adm. Code § ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under Wis. Adm. Code § ATCP 93.110.

2. Fifty (50') feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully low pressure air tested in place. Force mains shall be successfully pressure tested with water to 50 psi above normal operating pressure, 100 psi minimum.

3. Two hundred (200') feet between a well and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS). treatment tank or holding tank component and associated piping.

4. Three hundred (300') feet between a well and any farm underground storage tank system or other underground storage tank system with double walls and with electronic interstitial monitoring for the system; the system means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of Wis. Adm. Code § ATCP 93.260 and receive written approval from the Department of Safety and Professional Services or its designated Local Program Operator under Wis. Adm. Code § ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

5. Three hundred (300') feet between a well and any farm above ground storage tank with double walls, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double walls, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of Wis. Adm. Code § ATCP 93.260 and receive written approval from the Department of Safety and Professional Services or its designated Local Program Operator under Wis. Adm. Code § ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

6. Four hundred (400') feet between a well and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.

7. Six hundred (600') feet between a well and any farm underground storage tank system or other underground storage tank system with double walls and with electronic interstitial monitoring for the system; the system means the tank and any piping connected to it; any farm above ground storage tank with double walls, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of Wis. Adm. Code § ATCP 93.260 and receive written approval from the Department of Safety and Professional Services or its designated Local Program Operator under Wis. Adm. Code § ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

8. One thousand (1,000') feet between a well and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.

9. Twelve hundred (1,200') feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds Wis. Adm. Code § ch. NR 140 enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the Department of Safety and Professional Services or its designated Local Program Operator under Wis. Adm. Code § ATCP 93.110, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities. (Ord. 167-3, Sec. 1, 2023)

18.230.090 Changing technology & uses not listed.

A. The uses prohibited by this subtitle are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or non-risk materials or methods and by petition from the user of that technology, the committee on planning and development with recommendations from the groundwater advisory committee shall recommend removal of the use as a prohibited use and establish any performance standards that are deemed necessary.

B. Any use not listed specifically as permitted in this subtitle is considered prohibited use. Upon its own initiative or upon a request from a specific property owner, the committee on planning and development with recommendations from the groundwater advisory committee may recommend adding a use as a permitted or prohibited use to this subtitle and establish any performance standards that are deemed necessary. (Ord. 167-3, Sec. 1, 2023)

18.230.100 Requirements for existing uses.

A. Existing uses that are listed as prohibited in a zone but exist on the effective date of this ordinance are grandfathered in and will be allowed to upgrade to facilitate or enhance groundwater protection. The department must approve the proposed upgrade plans and all required permits shall be issued before work is initiated. Expansion of prohibited use is not allowed.

B. Owners and/or operators of existing nonconforming uses which exist within a zone at the time of enactment of this subtitle shall provide copies of all current, revised, or new federal, state, and local facility operation approvals, permits, or certificates, operational safety plans, and on-going environmental monitoring results, to the county and the municipality with wells in the wellhead protection district.

C. Owners and/or operators of existing nonconforming uses which exist within a zone at the time of enactment of this subtitle shall have the responsibility of devising, filing, and maintaining with the county a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause groundwater contamination that occurs at their facility, including notifying municipal, county, and state officials. (Ord. 167-3, Sec. 1, 2023)

18.230.110 Administration.

A. The county hereby designates the department to administer and enforce this subtitle. The department may seek the technical advice of the groundwater advisory committee in the administration and enforcement of this subtitle.

B. The department shall have the following duties in administering and enforcing this subtitle.

1. Inspection Authority. The department staff may enter the premises of a property under the terms of this Section in the performance of their duties or pursuant to a special inspection warrant issued under Wis. Stat. § 66.122, in order to inspect those premises and to ascertain compliance with this Section and permit or to investigate an alleged violation.

2. Enforcement Authority. The department may issue a compliance order, field directive, suspension order, or termination order to assure compliance with a permit or the provisions of this subtitle. Any permit revocation or stop work order shall remain in effect unless retracted by the department or by a court of general jurisdiction or until the activity is brought into compliance with this subtitle. The department is authorized to refer any violation of this subsection or a stop work order to the corporation counsel's office for commencement of further legal action. (Ord. 167-3, Sec. 1, 2023)

18.230.120 Penalties & enforcement.

A. Penalties. Any person who violates, neglects or refuses to comply with or resists the enforcement of any of the provisions of this subtitle shall be subject to a forfeiture of not less than \$500 nor more than \$2,500 per day plus cost of prosecution for each violation. Any violation includes failure to comply with any standard of this subtitle or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

B. Enforcement of Injunction. As a substitute or in conjunction with a forfeiture action, the county may seek enforcement of any part of this subtitle by court actions, an injunction or restraining order, the cost of which shall be charged to the defendant in such action.

C. Cleanup Costs. The county may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants, which may endanger or contaminate a municipal water supply system, shall immediately cease such discharge and immediately initiate clean up satisfactory to the county and other state or federal agencies. The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review, and documentation, including the county employees time, equipment, and mileage. (Ord. 167-3, Sec. 1, 2023)

18.230.130 Appeals. At the written request of any aggrieved person or the department, the county board of land use appeals shall hold a public hearing and decide on the merits of the appeal.

A. Appeals shall follow the applicable sections of the code as found in [Subtitle VI, Procedures](#).

B. Appeals shall be filed with the board of land use appeals and the department within 30 days after the date of written notice of the decision or the order of the department.

C. All appeals shall be filed on applications provided by the department. (Ord. 167-3, Sec. 1, 2023)

18.230.140 Groundwater Protection Overlay District - Village of Fall Creek.

A Groundwater Protection Overlay District is created for the Village of Fall Creek with the boundaries as shown on the map dated February 2, 2012 entitled “Map of the Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County-Village of Fall Creek” on file in the office of the department. (Ord. 167-3, Sec. 1, 2023)

18.230.150 Groundwater Protection Overlay District - Village of Fairchild.

A Groundwater Protection Overlay District is created for the Village of Fairchild with the boundaries as shown on the map dated September 25, 2012 entitled “Map of the Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County-Village of Fairchild” on file in the office of the department. (Ord. 167-3, Sec. 1, 2023)

18.230.160 Groundwater Protection Overlay District - City of Augusta.

A Groundwater Protection Overlay District is created for the City of Augusta with the boundaries as shown on the map (page 11) attached to the City of Augusta’s Wellhead Protection ordinance dated September 14, 2021, on file in the office of the department. (Ord. 167-3, Sec. 1, 2023)

18.230.170 Groundwater Protection Overlay District- City of Altoona.

A groundwater protection overlay district is created for the City of Altoona with the boundaries as shown on the map dated October 2023, entitled Map of the Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County – City of Altoona on file in the office of the department. (Ord. 168-32, Sec. 1, 2024)

Chapter 18.250

NONMETALLIC MINERAL MINE RECLAMATION (M-O)

Sections:

<u>18.250.010</u>	<u>Authority</u>
<u>18.250.020</u>	<u>Purpose & findings</u>
<u>18.250.030</u>	<u>Applicability</u>
<u>18.250.040</u>	<u>Exempt activities</u>
<u>18.250.050</u>	<u>Permitting</u>
<u>18.250.060</u>	<u>Project site modification & transfer of permits.</u>
<u>18.250.070</u>	<u>Reclamation standards</u>
<u>18.250.080</u>	<u>Public Notice of Right of Hearing</u>
<u>18.250.090</u>	<u>Permit decision and appeals process</u>
<u>18.250.100</u>	<u>Fees</u>
<u>18.250.110</u>	<u>Financial assurance</u>
<u>18.250.120</u>	<u>Administration and enforcement</u>
<u>18.250.130</u>	<u>Definitions</u>

18.250.010 Authority. Wis. Stats. §§ 295.13 and 59.02 grant the county the authority to establish a nonmetallic mining ordinance. (Ord. 167-3, Sec. 1, 2023)

18.250.020 Purpose & findings.

- A. Nonmetallic mineral mining is recognized as an important industry which contributes to the county's economic and social well-being.
- B. However, the long-term damage to the physical environment and tax base that can be caused by nonmetallic mining must be reduced.

It is the purpose of this section to establish regulations for nonmetallic mining site reclamation that will restore the site to a purposeful and acceptable landscape appearance and use. (Ord. 167-3, Sec. 1, 2023)

18.250.030 Applicability.

A. The requirements of this subtitle apply to all operators of nonmetallic mining sites within Eau Claire County operating on or commencing to operate after August 1, 2001 except as exempted in Section 18.230.060 and for nonmetallic mining sites located in a city, village or town within Eau Claire County that has adopted an ordinance pursuant to Wis. Stat. § 295.14 and Wis. Admin. Code § NR 135.32(2). This subtitle does not apply to nonmetallic mining sites where nonmetallic mining permanently ceases before August 1, 2001.

B. This subtitle applies to nonmetallic mining conducted by or on behalf of the state of Wisconsin, by or on behalf of a municipality, or for the benefit or use of the state or any state agency, board, commission, or department, except for the waiver of financial assurance in [18.250.110](#).

C. This section applies to a site located in more than one county if it is less restrictive than or equally as restrictive as the adjacent county's nonmetallic mining reclamation ordinance, or if the other county has no nonmetallic mining reclamation ordinance and shall apply to the entire site.

D. It is the responsibility of the operator to obtain all applicable local, state, and federal permits or approvals. (Ord. 167-3, Sec. 1, 2023)

18.250.040 Exempt activities. This section does not apply to the following activities:

A. Excavations or grading by a person solely for domestic use at their residence or farm operation.

B. Excavation or grading conducted for highway construction purposes within the highway or railroad right-of-way, excavating or grading done within the boundary of an airport or other transportation facility or for highway safety in or adjacent to a vision clearance triangle and where a reclamation plan is in place meeting the requirements of the Wisconsin Department of Transportation.

C. Preparing a construction site for a project which has been issued a building or zoning permit or is consistent with applicable zoning ordinances or restoring land following a flood or natural disaster.

D. Excavations for building construction purposes on the construction site for a project which has been issued a building or zoning permit.

E. Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs on a parcel over the life of the mine.

F. Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stat. ch. 293.

G. Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Wis. Stat. chs. 289 or 291. This section applies to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic mining site separate from the solid or hazardous waste disposal facility, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering, or constructing berms, dikes, or roads.

H. Any nonmetallic mining site or portion of a site which is subject to permit and reclamation requirements of the DNR under Wis. Stat. §§ 30.19, 30.195 and 30.20 and complies with Wis. Admin. Code ch. NR 340.

I. Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.

1. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements.

2. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

3. If a nonmetallic mining site covered under this subsection is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this subsection still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

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

K. Excavations subject to the permit and reclamation requirements of Wis. Stat. §§ 30.30 or 30.31. (Ord. 167-3, Sec. 1, 2023)

18.250.050 Permitting.

A. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in Section 18.250.040.

B. Local Transportation Site Permits. A permit shall be issued under this section for any nonmetallic mine that meets the following conditions:

1. The mine will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months.

2. The mine is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality. Municipality has the meaning defined in Wis. Stat. § 299.01(8).

3. The mine is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.

4. The mine is not a commercial source of nonmetallic minerals.

5. All applicable zoning requirements have been met.

6. The applicant shall provide the following information:

a. A copy of the contract which outlines the terms and conditions of the reclamation of the borrow site.

b. A scaled drawing that identifies the area that will be impacted by the contract.

C. Permit Requirements.

1. A permit application by the department.

2. The fees as specified in this title.

3. A reclamation plan conforming to this title.

4. A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by [18.250.110](#) upon granting of the reclamation permit and before mining commences.

5. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this title.

D. Application. All operators of nonmetallic mining sites shall apply for a reclamation permit from the department. The application for a permit shall be submitted to the department on forms provided by the department. The applicant shall submit 12 complete hard copies, along with 1 digital copy in PDF searchable form, of the application and required documents required by this section. The application for a mining reclamation permit shall be signed and dated by the applicant. All applications for reclamation permits under this section shall be accompanied by the following information:

1. Reclamation Plan. All operators who conduct or plan to conduct nonmetallic mining shall submit a reclamation plan to the department that meets all of the following requirements and complies with the reclamation standards of [18.250.070](#) and provide four copies of the required site information on maps drawn at a scale of no less than 1-inch equals 200 feet. The reclamation plan shall include site information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

- a. The extent of the deposit and the property boundaries of the operator's owned or leased land and the location of other owners' property boundaries at the point where they abut the boundary of the project site.
- b. Topography of affected lands at contour intervals no greater than 10 feet.
- c. Location and names of all streams, lakes, other water features and roads on or within 300 feet of the project site.
- d. The aerial extent with the boundaries of the nonmetallic mining site shown.
- e. The geologic composition and depth of the nonmetallic mineral deposit.
- f. Indicate the distribution, thickness, and type of topsoil.
- g. Identify the drainage patterns on a contour map.
- h. The approximate elevation of ground water, as determined by existing hydro-geologic information. In specific instances where the existing hydro geologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.
- i. Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
- j. Location of all man-made features on or adjacent to the site and the purpose for which each man-made feature and the adjoining land is used.
- k. For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.
- l. Location and description of mining site boundary stakes, which delineate the permit area and a permanent reference point.
- m. Location of phase boundary stakes if the site will be mined in phases.
- n. Location and description of the permanent reference point with all horizontal and vertical measurements.

o. Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.

2. Reclamation Permit Application Contents. The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the department prior to beginning operations.

a. The information required by [18.250.050 D.3](#).
b. The plan review and annual fees required by [18.250.100](#).
c. A reclamation plan conforming to 18.250.050 D.1.
d. A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by 18.250.050 D.5. upon granting of the reclamation permit and before mining begins.

e. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this section.

3. General Information.

a. The name, address, and telephone number of the operator, plus fax number and e-mail address if available.

b. Lease. A signed copy of the lease or a letter signed by the owner(s) of record which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this section. The expiration date of the lease or agreement shall clearly be indicated thereon.

c. Legal Description. A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.

d. A description of the nature of the deposit and the mining methods that will be used to extract and process the material.

e. The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.

f. A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by this section.

4. Reclamation Measures.

a. A description of the proposed reclamation and post-mine land use including methods and procedures to be used and a proposed timetable for completion of various stages of reclamation of the nonmetallic mining site including provisions for interim reclamation.

b. A plan drawing showing the location of erosion control practices necessary during reclamation including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures; including a description of anticipated topography, water impoundments, artificial lakes and anticipated post-mining land use. If necessary, a specific engineering analysis performed by a registered professional engineer as provided by [18.250.070 E](#).

c. Description of the volume of topsoil or topsoil substitute and other earth materials that will be necessary to complete the proposed reclamation, and the methods for stripping, storage, stabilization, reapplication and conservation methods that will be used during replacement. If off-site material will be used in site reclamation, a description of the source, nature and volume of material.

d. A statement from the applicable planning or zoning authority that the proposed post-mine land use is consistent with zoning and land use plans in effect at the time the application is submitted unless a change in the zoning or land use plan is proposed.

e. Description of plans for disposition of man-made features and related facilities after cessation of mining unless they serve to support the post-mine land use.

f. The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned.

g. A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.

h. A timetable of the commencement, duration, and cessation of reclamation activities.

i. Quantifiable standards for revegetation adequate to show that a suitable stand of vegetation has been established which will support the post-mine land use. Standards for revegetation may be based on the percent of vegetative cover, productivity, plant density, diversity or other applicable measures.

5. Certification of Reclamation Plan.

a. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. The landowner and lessee, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation, except as provided in b. below.

b. For the following situations, the landowner and lessee if different from the mine operator, are not required to submit a written certification in accordance with 1. For these situations, the operator shall provide written evidence that the landowner and lessee, if different from the operator, have been provided with a written copy of the reclamation plan.

i. The mine operator has a nonmetallic mine reclamation permit in compliance with this subtitle or has applied for a permit for an existing mine in accordance with [18.250.050 B](#).

ii. The operator has submitted a reclamation plan for a new or reopened mine which is located on land for which a lease agreement or memorandum of lease between the landowner and the applicant was recorded prior to August 1, 2001.

6. Other Information. The department may require the submittal of such other information as may be necessary to determine the feasibility of the proposed reclamation. (Ord. 167-3, Sec. 1, 2023)

18.250.060 Project site modification & transfer of permits.

A. Site Modification. An operator may apply in writing for a modification or cancellation of a permit or for a change in the reclamation plan for a project site. The application for permit or plan modification shall be acted on using the standards and procedures of [18.250.050](#).

B. Transfer of Permit. When one operator succeeds to the interest of another in an uncompleted site, the department shall release the first operator of the responsibilities imposed by the permit only if:

1. Both operators are in compliance with the requirements and standards of this section.
2. The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.
3. Site enlargement. Any proposed enlargement shall be reviewed by the department and shall be approved only if it meets all of the standards and procedures of Section [18.250.050](#).
4. The new operator shows proof of financial responsibility. (Ord. 167-3, Sec. 1, 2023)

18.250.070 Reclamation standards. All nonmetallic mining sites subject to this section shall be reclaimed in conformance with the standards contained in this section.

A. General Standards.

1. Refuse & Other Solid Wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid waste shall be disposed of in accordance with applicable rules of the DNR adopted pursuant to Wis. Stat. chs. 289 and 291.

2. Area Disturbed & Contemporaneous Reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for reclamation of portions of the site while nonmetallic mining continues on other portions of the site.

3. Public Health, Safety, & Welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

4. Habitat Restoration. When the land use required by the reclamation plan approved pursuant to this section requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

5. Compliance with Environmental Regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning or land use control.

6. Standards Applied to All Permits.

a. Right of Access. The filing of an application shall grant the department the right of access onto the site and contiguous lands owned or leased by the applicant for any purposes relative to this section.

b. **Boundary Staking.** All excavation and phase boundaries shall be staked or otherwise marked and the operator shall notify the department that the site is staked at least 2 workdays prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the department. Stakes may be removed after reclamation is completed and accepted. Painted wood lath may be used for operations of one year or less. Staking may be waived with department approval if an operation boundary is the same as an existing fence line or other easily identifiable feature.

c. **Conflicts with Other Regulations.** The operator shall obtain any local, state and federal permits or approvals. Copies of these permits must be provided before a county nonmetallic mine reclamation permit will be issued.

d. **Compliance with Reclamation.** The operator shall comply with contemporaneous and final reclamation plans for the site.

e. **Notification of Completion of Reclamation.** The operator shall notify the department in writing that interim or complete reclamation has been completed. All stages within a site shall also comply with the notification requirements above. When a stage is complete, the operator shall notify the department for approval of the reclamation before entering the next stage.

f. **Fees & Financial Assurances.** Once a nonmetallic mining site or a portion of a nonmetallic mining site has been certified as reclaimed, no fees shall be assessed for the area reclaimed and the financial assurance for the area reclaimed shall be released or reduced.

g. **Hazardous Waste.** Unless permitted under State or Federal authority, no solid or hazardous waste shall be stored, buried, or deposited in or on any nonmetallic mining site.

h. **Other Standards.** The department may apply such other requirements as are reasonably necessary to ensure progressive and final reclamation in a manner consistent with this section and to limit environmental pollution including but not limited to the financial assurance provisions of this section.

B. Surface Water and Wetlands Protection. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the DNR's water quality standards for surface waters and wetlands contained in Wis. Admin. Code chs. NR 102 to NR 105. Before disturbing the surface of a nonmetallic mining site and removal of topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this section. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

C. Groundwater Protection.

1. **Groundwater Quantity.** A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters of a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

2. **Groundwater Quality.** Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Wis. Admin. Code ch. NR 140, to be exceeded at the point of standards application.

D Topsoil Management.

1. Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this section in order to achieve reclamation to the approved post-mining land use. Removal of onsite topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.

2. Volume. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this section.

3. Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this section, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbances or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

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

E. Final Grading and Slopes.

1. All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to [18.250.050](#) D.1., to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

2. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following:

- a. Alternative requirements are approved pursuant to Wis. Adm. Code § NR 135.26;
- b. Steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or

c. Stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

3. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

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

G. **Assessing Completion of Successful Reclamation.**

1. The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this section. Criteria to evaluate reclamation success shall be quantifiable.

2. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

a. On-site inspections by department staff.
b. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met.

c. A combination of inspections or reports.

3. In those cases where the post-mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

4. Revegetation success may be determined by:

a. Comparison to an appropriate reference area.
b. Comparison to baseline data acquired at the mining site prior to its being affected by mining.
c. Comparison to an approved alternate technical standard.

5. Revegetation using a variety of plants indigenous to the area is favored.

H. **Intermittent Mining.** Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to [18.250.050](#) is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed. An intermittent mine is a mine where the operator has periods of inactivity greater than one year but has a long-term mining operation plan for the site. Reclamation of the mined area is required.

I. Maintenance. During the period of the site reclamation, after the operator has stated that reclamation is complete, but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this section, or to meet the goals specified in the reclamation plan approved pursuant to this section. (Ord. 167-3, Sec. 1, 2023)

18.250.080 Public notice & right of hearing.

A. Public notice.

1. The department shall publish a public notice of application within 30 days of the receipt of a complete application for a nonmetallic mine reclamation permit.

2. The notice shall be published as a class 2 notice pursuant to Wis. Stat. § 985.07(2). The notice shall contain the following:

3. A description of the mining and reclamation planned at the proposed site.

4. The opportunity for a public hearing pursuant to this section.

5. The location at which the public may review the application.

6. Copies of the notice shall be forwarded by the department to the clerk of the municipality in which the proposed site is located, the land conservation division and owners of land within one-half mile of the boundaries of the parcel or parcels of land on which the proposed site is located.

B. Public hearing.

1. Sites Located in Towns Under County Zoning Jurisdiction. If a public hearing is required for a conditional use permit under [Chapter 18.103](#), an opportunity shall be provided to give testimony on reclamation related matters. The department shall consider the reclamation related testimony in deciding on a permit application pursuant to this section.

2. Sites Located in Municipalities That Are Independently Zoned. If a public hearing is required by the local zoning authority and if the local zoning authority requests that the department be represented at the public hearing, an opportunity shall be provided for the department to take testimony on reclamation related matters. The department shall consider the reclamation related testimony in deciding on a permit application pursuant to this section.

3. All Other Sites. If there was not an opportunity for the department to take testimony under 1. or 2., an opportunity for a public hearing shall be provided as follows:

a. Any person residing within, owning property within, or whose principal place of business is within 660 feet of the boundary of a parcel or parcels of land in which the nonmetallic mining site is proposed may request a public informational hearing.

b. The request must be made within 30 days of the date of the public notice specified in paragraph A.

c. The hearing shall be held no sooner than 30 days nor later than 60 days after being requested.

d. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comments from affected persons on the nature, feasibility and effects of the proposed reclamation.

4. The subject matter and testimony at this informational hearing, if it is held separately from any zoning related hearing, shall be limited to the reclamation of the proposed nonmetallic mine site. (Ord. 167-3, Sec. 1, 2023)

18.250.090 Permit decisions & appeal process.

A. Municipality notification. Upon receipt of a complete permit application or appeal, the department shall notify by mail the clerk of the town in which the operation is located.

B. Permit decisions.

1. Standard Procedure for Permit Application. Permits shall be granted or denied no sooner than 30 days nor later than 60 days following receipt of a complete application, where the department finds that the provisions of this section and the relevant standards have been met unless a public hearing is held per [18.250.080](#). If a public hearing is held, the permit decision shall be made no later than 30 days after the public hearing. One copy of all plans will be stamped "Approved" and returned to the applicant at the time of permit issuance. Failure of the applicant to notify the department within 5 workdays of the receipt of the permit will constitute acceptance of the permit and all conditions and amendments to the application and plans. Permits shall be denied where the provisions of this section have not been met or if the applicant has failed or continues to fail to comply in a significant manner with this section.

2. Walk-Through Procedure for Permit Application. Any person who wishes to obtain a permit more quickly than outlined in the standard procedure above, may request a walk-through appointment with the department. Plans and other pertinent documents will be reviewed at the time of the appointment and if the application is complete, the permit will be granted or denied within 30 days of the appointment unless a public hearing is required under [18.250.080](#). If a public hearing is required a decision shall be made within 10 workdays following the public hearing. All other conditions outlined in 1. shall apply.

3. Automatic permits shall be approved within 5 working days if the application meets the standards of [18.250.050](#) B.

C. Appeals Procedures.

1. Board of Land Use Appeals. At the written request of any aggrieved person, the operator, or the department, the board of land use appeals shall hold a public hearing.

2. Applicable sections of [Subtitle VI, Procedures](#), apply.

3. Appeals & application.

a. A notice of appeal and variances shall be filed with both the board of land use appeals and the department within 30 days after the date of written notice of the decision or the order of the department.

b. All appeals or variances shall be filed on applications provided by the department.

c. A variance shall include:

i. A map drawn to scale of no less than 1-inch equals 200 feet of the mineral deposit the property boundaries of the operators owned or leased land.

ii. Topography of affected lands at a contour interval no wider than 2 feet.

iii. Location and names of all navigable waters and roads within 500 feet of the project site.

iv. Location of all man-made features or structures on or adjacent to the site and their purpose and adjoining land use.

v. Boundaries of previous excavations, stockpiles, sediment basins, wash plants, or other land previously affected by nonmetallic mining on the site.

vi. Location and description of mining site boundary stakes which delineate the permit area and a permanent reference point.

vii. Location of phase boundaries stakes and a permanent reference point. (Ord. 167-3, Sec. 1, 2023) 790-134 7/18/2023

18.250.100 Fees.

A. Application & annual report fee.

1. An application for a permit shall be accompanied by a reclamation plan review fee. The reclamation plan review fee shall be as follows:

a. Plan Review Fees (one-time fee based on the life of the mine)

Size of Mine Site	Fee
1-10 acres	\$1,500
11-25 acres	\$3,500
26-50 acres	\$8,500
51-100 acres	\$12,500
101-200 acres	\$15,000
201-400 acres	\$18,000
401-600 acres	\$23,000
801-1,000 acres	\$27,000
1,000 acres or more	\$30,000

a. Fees are established as base rate fees. In addition to the plan review fee, applicants shall be responsible for the payment of all reasonable expenses of the department for retaining outside expert assistance in analyzing the applicant's application and its conformity to the requirements of this subtitle.

b. A separate plan review fee of \$1,000 shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to [18.250.060 A.](#)

c. Proposed changes to a previously approved reclamation plan shall be subject to plan review fees based on the area affected by the plan changes.

d. Mine size is in acres rounded to the nearest whole acre. Does not include mines less than 1 acre.

e. In addition to the stated fees, applicants shall be responsible for the payment of all reasonable expenses of the committee on planning and development for retaining outside expert assistance in determining conformity with the requirements of the Nonmetallic Mining Reclamation Ordinance.

f. Reclamation plans which include transportation facilities (i.e. railroad spurs/roads) and/or water features, including but not limited to lined ponds, wetland restorations, and lakes will be charged any additional costs exceeding the plan review fees under sub.(a) to fully process the permit application.

g. 2. The annual report fee shall be paid no later than January 31. The annual report fee is based on the unreclaimed acreage of the nonmetallic mining site from the previous year. A fee of \$100 per acre shall be submitted for each acre rounded to the nearest whole acre not released pursuant to [18.250.110 F.](#), but the total annual fee shall not be less than \$100.

h. 3. Walk-through and after-the-fact permit fees shall be double the application fees.

i. 4. Fees are not refundable after a permit has been issued.

B Reduced fee for inactive mines.

1. Any site on which no nonmetallic mining activity has taken place in the previous calendar year shall be assessed a fee as follows:

Size of Mine Site	Fee
1-5 acres	\$100
6-10 acres	\$200
11-15 acres	\$300
16-25 acres	\$400
26-50 acres	\$500
51-100 acres	\$600
101-200 acres	\$700
201 acres or more	\$800

2. For nonmetallic mining sites at which no nonmetallic mining has taken place in the previous calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

C. DNR fee. In addition to the fee listed in subsection A., the operator shall submit to the department an annual permit fee which shall be paid to the DNR as set forth in Wis. Admin. Code § NR 135.39(3).

D. Public notice and hearing fees.

1. Public notice fee. A public notice fee of \$800.00 shall accompany applications which require a public notice under this section.

2. Public informational hearing fee. A public informational hearing fee of \$300.00 shall be paid by the applicant when a public information hearing is required under this section.

3. All requests for a public hearing before the board of land use appeals shall be accompanied by a fee as set forth in Chapter 4.35. This fee is in addition to any other fee required by this section. (Ord. 167-3, Sec. 1, 2023)

18.250.110 Financial assurance.

A. Notification.

1. The department shall review the proposed financial assurance level submitted by the operator and determine the required financial assurance level of the project site and shall notify the applicant.

2. Following approval of the permit, and as a condition of the permit, except for governmental units and local transportation projects, the department shall require a financial assurance to be filed with the department equal to the estimated cost of fulfilling reclamation.

3. Upon notification of financial assurance levels by the department, but prior to commencing nonmetallic mining, the operator shall file with the department financial assurance conditioned on faithful performance of all requirements of this section, and the reclamation plan.

4. Upon notification by the department of bonding or deposit approval and conformance with permit conditions, the operator may commence nonmetallic mining and reclamation operations.

B. Bond requirements.

1. Bonds shall be issued by a surety company licensed to do business in Wisconsin. At the option of the operator, a performance bond or a forfeiture bond may be filed. Surety companies may have the opportunity to complete the reclamation in lieu of cash payment to the department.

2. Each bond shall provide that the bond shall not be canceled by the surety, except after not less than 90 days' notice to the department, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator must deliver to the department a replacement bond or approved alternate financial assurance in absence of which all nonmetallic mining shall cease.

3. The bond shall be payable to "Eau Claire County, Wisconsin."

4. Bond may be provided to the department for phases of a site, but in no instance shall the bond be for an area less than 1/2 acre. Nonmetallic mining shall be limited to the phases which have bonds approved for them.

C. Alternate financial assurance.

1. An operator may deposit cash, irrevocable letters of credit, irrevocable trusts, established escrow accounts, negotiable certificates of deposit or negotiable government securities with the department in lieu of a bond or may demonstrate financial responsibility by meeting net worth requirements as outlined in Wis. Stat. § 289.41. Certificates of deposit shall be automatically renewed or replaced with an alternate security before the maturity date. Any interest earned by the financial assurance will be paid to the operator. Interest will be paid on cash bonds annually according to county procedures.

2. Alternate financial assurance may be provided to the department for stages of a site but in no instance shall such assurance be for an area of less than 1/2 acre or for less than a one-month supply of material whichever is larger. Excavation and reclamation activities shall be limited to the stage(s) which have financial assurance approved for them.

D. Financial assurance reevaluation.

1. The department may reevaluate and adjust accordingly the amount of the project financial assurance. Reclaimed areas may be released from the bond coverage and the amount of the bond may be lowered proportionately.

2. The operator shall notify the department in writing at the time he or she determines that reclamation of a portion of the site or the entire site is complete.

3. The department shall notify the operator in writing within 60 days of receipt of the notification whether or not the reclamation is complete unless weather conditions or snow cover make a determination impractical.

E. Financial assurance on multiple projects. Any operator who obtains a permit from the department for two or more project sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance on each site. Any single financial assurance so posted shall be in an amount equal to the estimated cost to the county for reclaiming all sites the operator has under project permits. When an operator elects to post a single financial assurance in lieu of separate financial assurance previously posted on individual sites the separate financial assurance shall not be released until the new bond or deposit has been accepted by the department.

F. Multiple jurisdictions. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

G. Financial assurance release. The department shall release the operator's financial assurance if it finds, after inspection of the project site and review of documentation provided by the operator, that the operator has fully carried out and completed reclamation of the project site in accordance with the reclamation plan and has otherwise complied with this section.

H. Cancellation. The financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after no less than 90-day notice to the department in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the department a replacement financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

I. Changing methods of financial assurance. The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to this section. The operator shall give the department at least 60 days' notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the department.

J. Bankruptcy notification. The operator of a nonmetallic mining site shall notify the department by certified mail of the commencement of voluntary or involuntary proceedings under bankruptcy code, 11 USC, et seq., naming the operator as a debtor, within 10 days of commencement of the proceedings. (Ord. 167-3, Sec. 1, 2023)

18.250.120 Administration & enforcement.

A. Inspections.

1. Department staff may enter the premises of a nonmetallic mining site in the performance of their official duties or pursuant to a special inspection warrant issued under Wis. Stat. § 66.0119, in order to inspect those premises and to ascertain compliance with this section and permit or to investigate an alleged violation.

2. Each active project site shall be inspected by department personnel at least once annually to ensure that the site is in conformance with the operator's permit and shall make a report of the inspection. The report of the inspection shall contain a map or diagram which illustrates the area that has been affected by nonmetallic mining, the area that has been reclaimed and the unreclaimed area and shall document any activity that is inconsistent with the terms of the permit for the site. The operator shall be provided a copy of the information obtained during the inspection.

3. The department shall retain the inspection reports for a period of 10 years and shall make the information available to the DNR upon request.

4. The department shall inspect a nonmetallic mining site for which an operator has submitted a report under [18.250.070](#) A.6.e. of the completion of reclamation or interim reclamation within 60 days of receipt of the report and make a determination in writing. If it is determined that interim or final reclamation is complete, including revegetation meeting the quantifiable standard as specified in the reclamation plan approved under [18.250.050](#) D.1., the department shall issue the mine operator a written certification of completion.

B. Annual Operator Reporting. Annual operating reports that satisfy the requirements of this section shall be submitted by the operator of nonmetallic mining sites.

1. Contents. The annual report shall include the following:

- a. The name and address of the operator.
- b. The parcel identification number.
- c. The nonmetallic mine reclamation permit number.
- d. The acreage currently affected by nonmetallic mining and not yet reclaimed.

e. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.

f. A plan, map, or diagram, drawn to scale, accurately showing the acreage described in d. and e.

g. The following certification signed by the operator: "I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mine reclamation permit and Wis. Admin. Code ch. NR 135."

2. Deadline. The annual report shall cover the activities for a calendar year and be submitted within 60 days following the end of the year.

3. Annual reports shall be submitted by an operator for all active and intermittent mining sites to the department for each calendar year until the nonmetallic mine reclamation is complete and a notice as specified in [18.250.120](#) B. is filed with the department.

C. Enforcement.

1. The department may issue a compliance order, field directive, suspension order or termination order to assure compliance with a permit or the provisions of this section.

2. Special Orders. The department may issue a special order as set forth in Wis. Stat. § 295.19(1)(b) and (c). To enforce Wis. Stat. ch. 295, subch. I, Wis. Admin. Code ch. NR 135, or this subtitle, a permit issued pursuant to this subtitle or a reclamation plan required by Section 18.250.050 D. shall be considered a violation of Wis. Stat. ch. 295, subch. I and Wis. Admin. Code ch. NR 135 or this subtitle until the necessary permits are obtained.

3. Review of orders. A person holding a reclamation permit who is subject to an order pursuant to this section shall have the right to review the order in a contested case hearing under Wis. Stat. § 68.11. Notwithstanding the provisions of Wis. Stats. §§ 68.001, 68.03(8) and (9), 68.06, and 68.10(1)(b).

D. Waiver of liability.

1. In carrying out any of the provisions of this section or in exercising any power or authority granted to them thereby, there shall be no personal liability upon the department, its agents and employees.

2. In such matters, it is understood that they act as agents and representatives of the county.

3. In performing their duties, department staff, in so far as practical, shall conform to safety rules governing mining sites.

E. Penalties. Any operator who fails to comply with any provisions of this section or who fails to comply with any field directive, compliance order, suspension order or termination order issued by the department shall be subject to the penalties as directed in Chapters [18.153](#) and [18.154](#) with the exception that forfeitures of not less than \$500 or more than \$2,500 per day shall be imposed. (Ord. 167-3, Sec. 1, 2023)

18.250.130 Definitions.

A. These definitions apply only within this subtitle and supersede any similar definitions elsewhere in Title 18. The following definitions shall apply unless the context dictates otherwise:

1. "Board of land use appeals" means the Eau Claire County Board of Land Use Appeals as defined in [Chapter 18.144](#).
2. "Department" means the Eau Claire County Department of Planning and Development.
3. "DNR" means the Wisconsin Department of Natural Resources.
4. "Enlargement" means any vertical or horizontal increase beyond dimensions of the original application for the project site.
5. "Environmental Pollution" means the contaminating or rendering unclean or impure the air, land, or waters of the State or making the same injurious to public health, harmful for commercial or recreational use or deleterious to animal, or plant life.
6. "Highwall" means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that is steeper than 3:1.
7. "Licensed professional geologist" means a person who is licensed as a professional geologist pursuant to Wis. Stat. § 470.
8. "Modification" means any vertical or horizontal decrease within the dimensions of the original application for the project site.
9. "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.
10. "Nonmetallic mining" means operations or activities for the extraction from the earth of mineral aggregates and nonmetallic minerals and related operations or activities, including, but not limited to, excavation, grading, or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes including, but not limited to, stockpiling, crushing, screening, scalping, dewatering, and blending. It does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic mining minerals such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
11. "Nonmetallic mining reclamation or reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in an approved nonmetallic mining reclamation plan, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.
12. "Nonmetallic mining refuse" means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation that are to be removed from the nonmetallic mine prior to completion of the reclamation of the mine or incorporated into the post mine land use specified in the approved reclamation plan.

13. "Nonmetallic mining site, project site, or site" means the location where a nonmetallic mining operation is proposed or conducted including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation and by activities, including but not limited to, the construction or improvement of roads or haulage ways.

14. "Operator" means any person or business entity engaged in nonmetallic mining who/which applies for or holds a nonmetallic mine reclamation permit issued under a nonmetallic mining reclamation ordinance whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

15. "Permit" means any permit which may be required under this section of an operator as a condition precedent to commencing or continuing nonmetallic mining at a project site.

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

17. "Registered Professional Engineer" means a person who is registered as a professional engineer pursuant to Wis. Stat. §§ 443.04 and 443.09.

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

19. "Topsoil" means that material (normally the A and upper part of the B horizon) which, based upon the official national cooperative soil survey, is acceptable for respreading on the surface of regraded areas to provide a medium which sustains a dense plant growth and soil stability needed to achieve the approved post mining land use specified in the reclamation plan approved under this section.

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

21. "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed. However, the term does not include any areas described below:

a. Those areas where reclamation has been completed and certified as reclaimed.

b. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

c. Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this section but are not yet affected by nonmetallic mining.

d. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

e. For purposes of fees under [18.250.100](#), those areas within a nonmetallic mining site which the department has determined to have been successfully reclaimed on an interim basis in accordance with [18.250.070](#) A.6.f. (Ord. 167-3, Sec. 1, 2023)

Chapter 18.260

SHORELAND OVERLAY (S-O)

Sections:

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18.260.010 Title. This Chapter shall be known as the "Shoreland Overlay Protection Ordinance for Eau Claire County, Wisconsin." (Ord. 167-3, Sec. 1, 2023)

18.260.020 Authority. This subtitle is adopted pursuant to the authorization in Wis. Stat. § 59.692, to effectuate the policies and purpose(s) outlined in Wis. Stat. § 281.31. (Ord. 167-3, Sec. 1, 2023)

18.260.030 Findings of fact.

A. Uncontrolled use of the shorelands and pollution of the navigable waters of Eau Claire County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base.

B. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures, and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Eau Claire County, Wisconsin. (Ord. 167-3, Sec. 1, 2023)

18.260.040 Purpose & intent. This subtitle has been established for the purpose of promoting the public health, safety, convenience and welfare, and to promote and protect the public trust in navigable waters. Further, this ordinance has been established to: Wis. Admin. Code § NR 115.01.

A Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.

2. Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.

3. Controlling filling and grading to prevent soil erosion problems.

4. Limiting impervious surfaces to control runoff which carries pollutants.

B. Protect spawning grounds, fish and aquatic life through:

1. Preserving wetlands and other fish and aquatic habitat.

2. Regulating pollution sources.

3. Controlling shoreline alterations, dredging and lagooning.

C. Control building sites, placement of structures and land uses through:

1. Prohibiting certain uses detrimental to the shoreland-wetlands.

2. Setting minimum lot sizes and widths.

3. Setting minimum building setbacks from waterways.

4. Setting the maximum height of near shore structures.

D. Preserve and restore shoreland vegetation and natural scenic beauty through:

1. Restricting the removal of natural shoreland cover.

2. Preventing shoreline encroachment by structures.

3. Controlling shoreland excavation and other earth moving activities.

4. Regulating the use and placement of boathouses and other structures.(Ord.

167-3, Sec. 1, 2023)

18.260.050 Applicability.

A. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Eau Claire County 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 Eau Claire County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources (WDNR) publication FH-800 2009 "Wisconsin Lakes" book available electronically at the following web site: <http://dnr.wi.gov/lakes/lakebook/wilakes2009bma.pdf> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps. (See Wis. Admin. Code § NR 115.03(8)).

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 in Eau Claire County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas. (See Wis. Admin. Code § NR 115.03 (8)).

B. Determinations of navigability and ordinary high-water mark location shall initially be made by the Land Use Manager. When questions arise, the Land Use Manager shall contact the appropriate office of the WDNR for a final determination of navigability ordinary high-water mark. The county may work with surveyors with regard to Wis. Stat. § 59.692(1h).

C. Under Wis. Stat. § 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:

1. 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

2. Lands adjacent to artificially constructed drainage ditches, ponds or storm water retention basins that are not hydrologically connected to a natural navigable waterbody.

D. Comprehensive / General Zoning [Wis. Stat. § 59.69] and Regulation of Matters that are Not Shoreland Zoning Standards [Wis. Stat. § 59.692(1d)(b)].

1. In any town where the Eau Claire County Comprehensive Zoning Ordinance is effective:

a. The Eau Claire County Comprehensive Zoning Ordinance, Title 18 is incorporated herein by reference as if set forth in full.

b. The provisions of the Eau Claire County Comprehensive Zoning Ordinance apply and may be enforced in "shorelands" to the extent that its provisions do not regulate a "shoreland zoning standard" as specified in Wis. Stat. §§ 59.692(1)(c) & (1)(d).

2. In any town where the Eau Claire County Comprehensive Zoning Ordinance is not in effect, the regulation of matters that are not shoreland zoning standards consistent with Wis. Stat. §§ 59.692(1)(c) & (1)(d) is as follows:

a. Setback Requirements & Related Restrictions.
i. Road. No structure shall be placed within a road right-of-way or easement.
ii. Property / Parcel Boundaries. No structure shall be placed across a parcel boundary.
iii. Wetland. No structure shall be placed closer than the provisions of Section 17.06.085 Protective Areas A. 2. allow.

b. Height. No structure located 75 feet or further from the ordinary high-water mark shall be taller than 35 feet. (Ord. 167-3, Sec. 1, 2023)

18.260.060 Municipalities & state agencies regulated.

A. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this subtitle and obtain all necessary permits. Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stats. § 61.353 and 62.233. (Wis. Admin. Code § NR 115.02).

B. State agencies are required to comply with local shoreland zoning ordinances when Wis. Stat. § 13.48(13) applies.

C. The construction, reconstruction, maintenance, and repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances when Wis. Stat. § 30.2022 applies. (Ord. 167-3, Sec. 1, 2023)

18.260.070 Compliance.

A. The use of any land; the size, shape, and placement of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, and dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this subtitle and other applicable local, state, or federal regulations.

B. Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance.

C. Property owners, builders, and contractors are responsible for compliance with the terms of this subtitle. (Ord. 167-3, Sec. 1, 2023)

18.260.080 General shoreland standards. The following provisions of this section apply to the shoreland jurisdictional area as defined by Section 18.260.050.

A. Reasonable Accommodation of Persons with Disabilities.

1. The department may issue a special permit that waives specific requirements of this ordinance if it is determined that the requested accommodation:

a. Is necessary to afford accommodations of persons with disabilities equal housing opportunities or equal access to public accommodations as required by provisions of federal and state law;

b. Is the minimum accommodation that will give persons with disabilities adequate relief; and

c. Will not unreasonably undermine the basic purposes of this ordinance.

2. If the department issues a special permit that waives specified zoning provisions pursuant to this section, the permit will include a condition that the structure authorized by the permit (such as an entrance ramp) shall be removed not more than 30 days after the handicapped or disabled person vacates the property or the structure ceases to be a public accommodation.

3. The special permit will not become effective until the property owner records a deed restriction with the register of deeds setting forth the condition that the structure authorized by the permit shall be removed as required in subpar. 2. above.

4. If the department denies a permit requesting an accommodation under this subsection, the denial may be appealed to the board of land use appeals pursuant to Section 18.260.220.

B. Agriculture Fence.

1. Agriculture fences consisting of post and wire require no setback from the property line and can be constructed up to the OHWM;
2. Property must be actively used for agriculture pasturing of livestock on one side of the fence;
3. Maximum height of 4 feet from the adjacent grade within 75 feet from the OHWM.

C. Livestock Facilities. Livestock facilities housing animals, manure storage areas, barnyards, or feedlots shall meet the following requirements:

1. Such facility shall be 300 feet or more from the ordinary high-water mark;
- or
2. May be located 100 to 300 feet from the ordinary high-water mark, provided that:

- a. A plan for manure storage, barnyard and feedlot drainage that effectively prevents pollutants from entering the water be reviewed by the land conservation commission or its designee and implemented before use of the facility begins;

- b. The area between the facility and the water shall be fenced to prevent access to the water by animals. The fenced area shall parallel the water in both directions for a sufficient distance to prevent concentration of animals or manure or destruction of ground cover that would result in an increased probability for pollutants to reach the water;

- c. Construction and location of these facilities will be by permit issued by the department. The department shall inspect the facility before it is put to use to determine that the site and facility meet all requirements of this subtitle;

- d. All existing and future barnyards, feedlots or manure storage areas located within the shoreland area are subject to periodic inspection and review for possible pollution of water bodies. Waste collection and disposal systems may be required to prevent pollutants from reaching the water.

D. Sawdust Storage. Sawdust storage shall be at least 100 feet from the ordinary high-water mark of navigable waters.

E. Dumps & Sanitary Landfills. Dumps, sanitary landfills, junkyards, and salvage yards are prohibited within the Shoreland Protection Overlay District. (Ord. 167-3, Sec. 1, 2023)

18.260.090 Development standards.

A. Minimum Lot Size.

1. Purpose. Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

2. Minimum Lot Area and Average Lot Width. The minimum lot area and the minimum average lot width is specified in the table below. (See Wis. Admin. Code § NR 115.05 (1)(a)).

	Lot Area (min)	Average Lot Width (min)
Sewered Lots	10,000 sf	65 ft
Unsewered Lots	20,000 sf	100 ft

Notes: “min” = minimum required | “ft” = feet | “sf” = square feet

3. Calculating Lot Width.

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

- i. The ordinary high-water mark.
- ii. The building setback line.
- iii. One other location on the lot within 300 feet of the ordinary

high-water mark.

b. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included. (See Wis. Admin. Code § NR 115.05 (1)(a)).

4. Substandard Lots. A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply: (See Wis. Admin. Code § NR 115.05 (1)(a) 3).

a. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.

b. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

c. The substandard lot or parcel is developed to comply with all other ordinance requirements.

5. Other Substandard Lots. Except for lots which meet the requirements of subd. 4., a shoreland permit for the improvement of a lot having lesser dimensions than those stated in subd. 2. can only be used if a variance is granted by the county board of land use appeals.

B. Building Setbacks.

1. Shoreland Setbacks. Permitted building setbacks shall be established to conform to health, safety, and welfare requirements; preserve natural beauty; reduce flood hazards; and avoid water pollution. Unless exempt or reduced under this section, a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a building or structure shall be required for all buildings and structures. (See Wis. Admin. Code § NR 115.05 (1)(b)1).

a. Exempt Structures. All of the following structures are exempt from the shoreland setback standards in this section: (See Wis. Admin. Code § NR 115.05 (1)(b)1m).

i. Existing boathouses, constructed before the effective date of this ordinance, located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation. The roof of a boathouse may be used as a deck provided that:

- (a) The boathouse has a flat roof.
- (b) The roof has no side walls or screens.
- (c) The roof may have a railing that meets the

Department of Safety and Professional Services standards. (See Wis. Stat. § 59.692 (1k)(a) (6)).

ii. Boathouses, constructed after the effective date of this ordinance, located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.

(a) The construction or placement of boathouses below the ordinary high-water mark of any navigable waters shall be prohibited.

(b) Boathouses shall be designed and constructed solely for the storage of boats and related equipment.

(c) One boathouse is permitted on a lot as an accessory structure.

(d) The boathouse shall be setback ten feet from the ordinary high-water mark.

(e) Boathouses shall be constructed in conformity with local floodplain zoning standards.

(f) Boathouses shall not exceed one story, with a maximum side wall height of ten feet.

(g) The maximum square footage of a boathouse shall be 364 square feet, measured outside wall to outside wall, and a maximum width parallel to the shoreline of 14 feet.

(h) Boathouse roofs shall have a pitched roof that is no flatter than 4/12 pitch, and shall not be designed or used as decks, observation platforms or for other similar uses.

(i) Earth toned color shall be required for all exterior surfaces of a boathouse.

(j) The main door shall face the water.

(k) The side yard setback for a boat house is 5 feet.

(l) Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.

iii. Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in Wis. Stat. § 59.692(1v):

(a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.

(b) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.

(c) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

(d) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

iv. A fishing raft for which the WDNR has issued a permit under Wis. Stat. § 30.126.

v. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.

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

vii. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.

viii. Devices or systems used to treat runoff from impervious surfaces.

b. Existing Exempt Structures.

i. Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt, and remodeled if:

(a) the activity does not expand the footprint and

(b) does not go beyond the three-dimensional building envelope of the existing structure.

ii. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. (See Wis. Stat. § 59.692 (1k)(a)2m).

2. Reduced Principal Structure Setback. A setback less than the 75 feet required setback from the ordinary high-water mark shall be permitted for a proposed principal structure and shall be determined as follows: (See Wis. Stat. § 59.692 (1n))

a. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high-water mark provided all of the following are met:

i. Both of the existing principal structures are located on adjacent lots to the proposed principal structure.

ii. Both of the existing principal structures are located within 250 feet of the proposed principal structure and are the closest structure.

iii. Both of the existing principal structures are located less than 75 feet from the ordinary high-water mark.

iv. The average setback shall not be reduced to less than 35 feet from the ordinary high-water mark of any navigable water.

b. Where there is an existing principal structure in only one direction, the setback shall equal the average of the distances of the existing principal structure set back from the ordinary high-water mark and the required setback of 75 feet from the ordinary high water mark provided all of the following are met:

i. The existing principal structure is located on an adjacent lot to the proposed principal structure.

ii. The existing principal structure is located within 250 feet of the proposed principal structure and is the closest structure.

iii. The existing principal structure is located less than 75 feet from the ordinary high-water mark.

iv. The average setback shall not be reduced to less than 35 feet from the ordinary high-water mark of any navigable water.

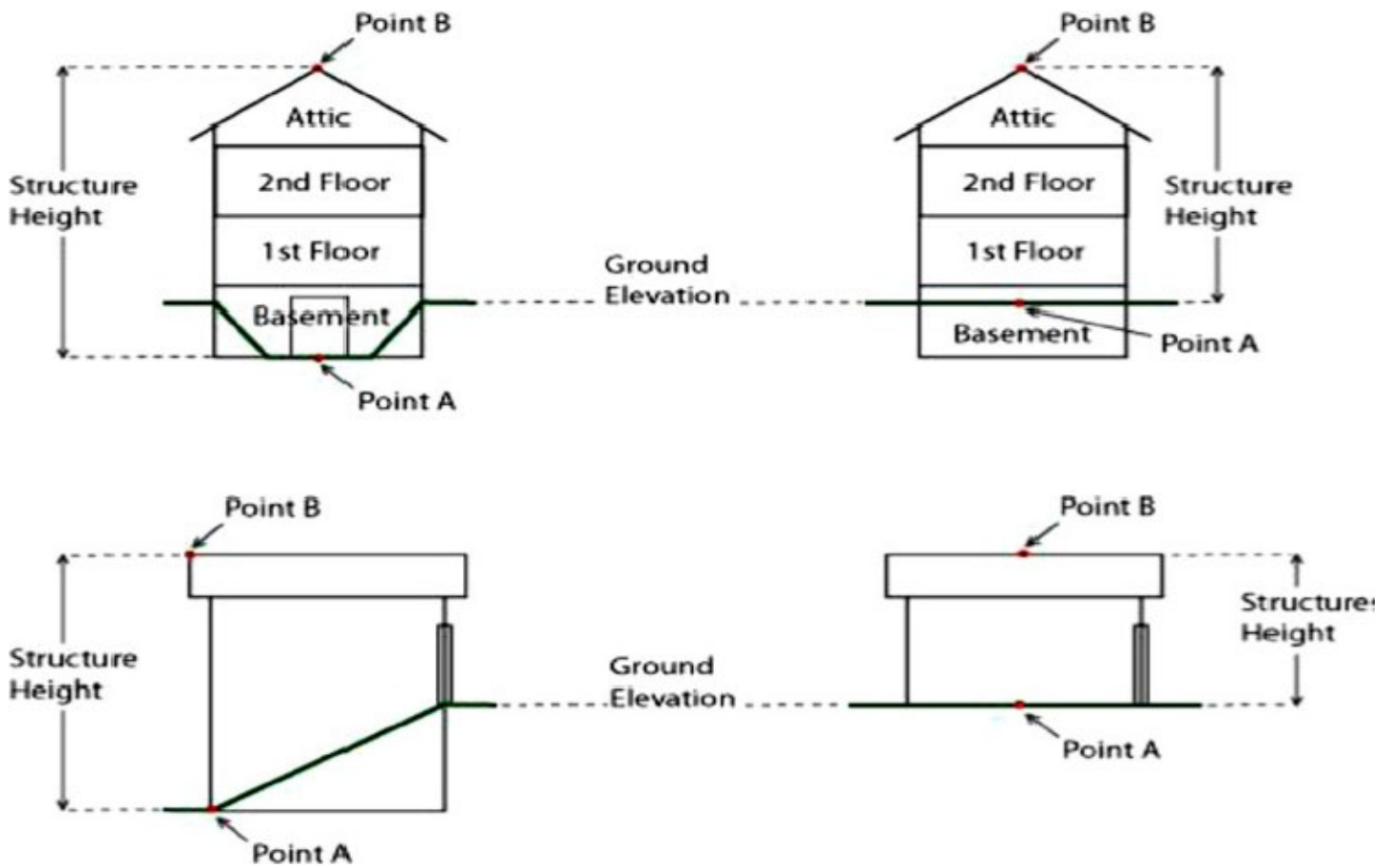
3. Floodplain Structures. Buildings and structures to be constructed or placed in a floodplain shall be required to comply with the county's floodplain zoning ordinance. (See Wis. Admin. Code § NR 115.05 (1)(b)2).

C. Height.

1. Maximum Structure Height. To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that results in a structure taller than 35 feet in the shoreland overlay protection district. (See Wis. Admin. Code § NR 115.05(1)(f). A.)

2. Structure Height Measurement. Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersection with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code. (Ord. 167-3, Sec. 1, 2023)

3.



18.260.100 Vegetation.

A. Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients. (See Wis. Admin. § NR 115.05 (1)(c)1).

B. Activities Allowed Within a Vegetative Buffer Zone. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high-water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows: (See Wis. Admin Code § NR 115.05 (1)(c)2).

1. Routine maintenance of vegetation is allowed.
2. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, dead diseased or damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
3. Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors is allowed. The access or viewing corridor may be up to 35% of the shoreline frontage. The access or viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
4. Timber harvest is allowed on a parcel with 10 or more acres of forested land, provided that the vegetative removal activity is consistent and follows “generally accepted forestry management practices” as defined in Wis. Admin. Code § NR 1.25 (2)(b), and described in WDNR publication “Wisconsin Forest Management Guidelines” (publication FR- 226).
5. The department may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subdivision paragraph shall require that all management activities comply with detailed plans approved by the department and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

C. Cutting More Than 35 feet Inland. From the inland edge of the 35-foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality. (Ord. 167-3, Sec. 1, 2023)

18.260.110 Filling, grading, lagooning, dredging, ditching, & excavating.

A. Filling, grading, lagooning, dredging, ditching, & excavating. Filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in accordance with the provisions of Wis. Admin. Code § NR 115.04, the requirements of Wis. Stat. § 30, and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty. (See Wis. Admin. Code § NR 115.05 (1)(d)).

B. General Standards. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under paragraph C. may be permitted in the shoreland area provided that:

1. It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer.
2. It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
3. Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of [18.260.150](#) D.2. and D.3. of this ordinance.
4. All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
5. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover, or a bulkhead.

C. Permit Required. Except as provided in paragraph B., a permit is required:

1. For any filling or grading of any area which is within 300 feet landward of the ordinary high-water mark of navigable water and which has surface drainage toward the water and on which there is either:

- a. Any filling or grading on slopes of more than 20%.
- b. Filling or grading of more than 1,000 square feet on slopes of 12%-20%.
- c. Filling or grading of more than 2,000 square feet on slopes less than 12%.

2. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway that is within 300 feet landward of the ordinary high-water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

3. Permits required under this section, may consider items listed under 17.05.100 B. of the county code to protect the site against erosion.

D. Permit Conditions. In granting a permit under paragraph C., the county shall attach the following conditions, where appropriate, in addition to those provisions specified in [18.260.180](#).

1. If bare ground must be exposed, it shall be exposed for as short a time as feasible.
2. Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
3. Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods deemed acceptable by the county shall be used to prevent erosion.
4. Lagoons shall be constructed to avoid fish trap conditions.
5. Fill shall be stabilized according to accepted engineering standards.
6. Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
7. Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated unless bulkheads or riprap are provided. (Ord. 167-3, Sec. 1, 2023)

18.260.120 Impervious surface standards.

A. Purpose. The purposes of these impervious surface standards are to:

1. protect water quality,
2. protect fish and wildlife habitat, and
3. protect against pollution of navigable waters.

B. Applicability. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

C. Calculation of Percentage of Impervious Surface. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark (SA-Impervious Surfaces) by the total surface area of that lot or parcel (SA-Total) and multiplying the result by 100. This calculation is represented by the following equation:

$$\frac{\text{SA-Impervious Surfaces}}{\text{SA-Total}} \times 100$$

1. Treated impervious surfaces described in paragraph G. shall be excluded from the calculation of impervious surface on the lot or parcel.
2. If an outlot lies between the ordinary high-water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface. (See Wis. Admin. Code § NR 115.05 (1)(e)1).

D. General Impervious Surface Standard. Except as otherwise allowed in this section, the county shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark. (See Wis. Admin. Code § NR 115.05 (1)(e)2).

E. Impervious Surface Standard for Highly Developed Shorelines. The county, at its discretion, may adopt an ordinance for highly developed shorelines allowing up to 30% for residential land use and up to 40% for commercial, industrial or business land uses for lands that meet one of the following standards: (See Wis. Admin. Code § NR 115.05 (1)(e)2m, and Wis. Stat. 59.692(1k)(am)2).

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

2. After conducting a hearing and receiving approval by the WDNR, the county has mapped additional areas of highly developed shorelines that are at least 500 feet in length and meet one of the following criteria:

- a. The majority of the lots are developed with more than 30% of impervious surface are
- b. Located on a lake served by a sewerage system as defined in Wis. Admin. Code § NR 110.03(30).
- c. The majority of the lots contain less than 20,000 square feet in area.

F. Maximum Impervious Surface Standard. A property may exceed the impervious surface standard under paragraphs D. and E. provided the following standards are met: (See Wis. Admin. Code § NR 115.05(1)(e)3).

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

2. For properties on shorelands where the impervious surface standard for highly developed shorelines applies under 20.9.4, a property owner may have more than 30% impervious surface but not more than 40% impervious surface for residential land uses. For commercial, industrial or business land uses a property owner may have more than 40% impervious surface but not more than 60% impervious surface.

3. For properties that exceed the standard under paragraphs D. or E. but do not exceed the maximum standard under subd. 1 or 2, a shoreland permit can be issued for development with a mitigation plan that meets the standards found in Section 18.260.180.

G. Treated Impervious Surfaces.

1. Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under paragraph C.: (See Wis. Admin. Code § NR 115.05(1)(e)3m, and Wis. Stat. 59.692(1k)(am))

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

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

2. To qualify for the statutory exemption, property owners shall submit a complete shoreland permit application that is reviewed and approved by the department. The application shall include:

a. The required runoff volume of the impervious surface (IS) must use a rainfall depth derived from the current NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2-year 24-hour rainfall event;

b. A calculation showing how much runoff is coming from the impervious surface area. The calculation of the runoff volume to treat or infiltrate is the area of the impervious surface (IS) multiplied by the runoff depth (2.80 inch or 0.23 feet)
Example: (1,000 square feet IS) x (0.23 ft. runoff depth) = 230 cubic feet (total volume to infiltrate/treat).

c. Documentation by a professional engineer that the runoff from the impervious surface is being treated by devices such as storm water pond, rain gardens other engineered system to standards, and for storm volumes exceeding the PFDS 2-year, 24-hour rainfall event will require a stable outlet; or documentation that the runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil;

d. Documentation that all applicable storm water BMP technical standards are met;

e. An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices, or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the register of deeds prior to the issuance of the permit.

3. The provisions in this subsection are an exemption from the impervious surface standards and as such should be read and construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device or internally drained.

a. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with this subsection will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance.

b. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt.

H. Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in paragraph or the maximum impervious surface standard in paragraph F., the property owner may do any of the following: (See Wis. Admin. Code § NR 115.05 (1)(e)4).

1. Maintain and repair the existing impervious surfaces;
2. Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
3. Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in paragraphs B. and C. (Ord. 167-3, Sec. 1, 2023)

18.260.130 Land division review. Eau Claire County has enacted local subdivision regulations under Wis. Stat. § 236.45. (See Eau Claire County Subdivision Control Ordinance). The Eau Claire County Subdivision Control Ordinance, [Subtitle V](#) of Title 18, applies to shorelands without regard to Wis. Stat. § 59.692(1d)(a), and Wis. Admin. Code § NR 115.05, (See Wis. Admin. Code § NR 115.05 (2)). In such review, all of the following factors shall be considered:

- A. Hazards to the health, safety or welfare of future residents.
- B. Proper relationship to adjoining areas.
- C. Public access to navigable waters, as required by law.
- D. Adequate storm water drainage facilities.
- E. Conformity to state law and administrative code provisions. (Ord. 167-3, Sec. 1, 2023)

18.260.140 Sanitary regulations. The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality. (See Wis. Admin. Code § NR 115.05(3)).

A. Where public water supply systems are not available, private well construction shall be required to conform to Wis. Admin. Code ch. NR 812.

B. Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Wis. Admin Code ch. SPS 383, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under Wis. Stat. § 59.70(5). (Ord. 167-3, Sec. 1, 2023)

18.260.150 Shoreland-Wetland District.

A. Designation. This district shall include all shorelands within the jurisdiction of this ordinance that are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the WDNR Surface Water Data Viewer, which is made part of this ordinance. The maps can be viewed at:

<http://dnrm.wisconsin.gov/SWDataViewer/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>

B. Locating Shoreland-Wetland Boundaries.

1. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the WDNR to determine if the map is in error.

2. If the WDNR determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland permit in accordance with the applicable regulations based on the WDNR determination as to whether the area is wetland.

3. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time. (See Wis. Admin. § NR 115.04 (b) 2.)

C. Purpose. This district is created to:

1. maintain safe and healthful conditions,
2. prevent water pollution,
3. protect fish spawning grounds and wildlife habitat,
4. preserve shore cover and natural beauty, and
5. control building and development in wetlands whenever possible.

When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

D. Permitted Uses. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Wis. Stat. chs. 30 and 31, and Wis. Stat. § 281.36, and the provisions of other applicable local, state and federal laws: (See Wis. Admin. § NR 115.04(3))

1. Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:

a. Hiking, fishing, trapping, hunting, swimming, and boating;
b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;

c. The pasturing of livestock;
d. The cultivation of agricultural crops;
e. The practice of silviculture, including the planting, thinning, and harvesting of timber; and

f. The construction or maintenance of duck blinds.

2. Uses that do not require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

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

b. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,

c. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;

d. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;

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

f. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

3. Uses that require the issuance of a conditional use permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:

i. The road cannot as a practical matter be located outside the wetland;

ii. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in paragraph F.;

iii. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and

iv. Road construction activities are carried out in the immediate area of the roadbed only.

b. The construction or maintenance of nonresidential buildings, provided that:

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

ii. The building cannot, as a practical matter, be located outside the wetland;

iii. Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and

iv. Only limited filling or excavation necessary to provide structural support for the building is authorized.

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

i. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Wis. Stat. ch. 29, where applicable;

ii. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in subd. 3.a.; and

iii. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

d. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

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

ii. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in paragraph F.

E. Prohibited Uses. Any use not listed in paragraph D. is prohibited unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with paragraph F. of this ordinance and Wis. Stat. § 59.69(5)(e). (See Wis. Admin. Code § NR 115.04 (4))

F. Rezoning of Land in Shoreland-Wetland District.

1. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the WDNR shall be provided with the following:

a. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;

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

c. A copy of the county zoning agency's findings and recommendation on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and

d. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued (See Wis. Admin. Code § NR 115.04 (2)).

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

- a. Storm and flood water storage capacity;
- b. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- d. Shoreline protection against soil erosion;
- e. Fish spawning, breeding, nursery or feeding grounds;
- f. Wildlife habitat; or
- g. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Wis. Admin. Code § NR 103.04, which can be accessed at the following website: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

3. If the Department of Natural Resources notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in subdivision. 2., that amendment, if approved by the county board, shall contain the following provision: "This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the WDNR. During that 30-day period the WDNR may notify the county board that it will adopt a superseding shoreland ordinance for the county under Wis. Stat. § 59.692(6). If the WDNR does so notify the county board, the effect of this amendment shall be stayed until the Wis. Stat. § 59.692(6), adoption procedure is completed or otherwise terminated." (Ord. 167-3, Sec. 1, 2023)

18.260.160 Nonconforming uses & structures.

A. Discontinued nonconforming use. If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance. (See Wis. Admin. Code § NR 115.05(1)(g)3).

B. Maintenance, Repair, Replacement, or Vertical Expansion of Nonconforming Structures.

1. An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure.

2. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. (See Wis. Stat. § 59.692(1k)(a)2,4 and (b)). A.)

C. Lateral Expansion of Nonconforming Principal Structures Within the Setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per [18.260.090](#) B.1. may be expanded laterally, provided that all of the following requirements are met: (See Wis. Admin. Code § NR 115.05(1)(g)5)

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

2. The existing principal structure is at least 35 feet from the ordinary high-water mark.

3. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.

4. The county shall issue a shoreland permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in [18.260.180](#).

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

D. Expansion of a nonconforming principal structure beyond the setback.

1. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under Section 18.260.090 B. may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per [18.260.090](#) B. and that all other provisions of the shoreland ordinance are met.

2. A mitigation plan is not required solely for expansion under this paragraph, but may be required per [18.260.120](#) F. (See Wis. Admin. Code § NR 115.05(1)(g)5m). A.)

E. Relocation of nonconforming principal structures. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 18.260.090 B.1. may be relocated on the property provided all of the following requirements are met: (See Wis. Admin. Code § NR 115.05(1)(g)6).

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

2. The existing principal structure is at least 35 feet from the ordinary high-water mark.

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

4. The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per Section 18.260.090.

5. The county shall issue a shoreland permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section 18.260.180 and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted relocation on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the county register of deeds.

6. All other provisions of the shoreland ordinance shall be met. (Ord. 167-3, Sec. 1, 2023)

18.260.170 Maintenance, repair, replacement, or vertical expansion of structures that were authorized by variance.

A. A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the authorized structure.

B. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. (See Wis. Stat. § 59.692(1k)(a)2. and (a)4). A.) (Ord. 167-3, Sec. 1, 2023)

18.260.180 Mitigation.

A. When the county issues a shoreland permit requiring mitigation under [18.260.120](#) F.3., [18.260.160](#) C.4., and [18.260.160](#) E.5., the property owner must submit a complete shoreland permit application that is reviewed and approved by the county.

B. The application shall include the following: (See Wis. Admin. Code §§ NR 115.05 (1)(e)3, (g)5,(g)6)

1. A site plan which is designed and implemented to restore natural functions lost through development and human activities. The site plan shall include a scaled plot plan of the lot, including the following information:

a. Location of all existing and proposed structures, including paths, stairways, retaining walls, decks, patios, vegetative cover, etc. with accurate distances shown between the structures and all property lines.

b. Location of any areas of existing and proposed land disturbance.

c. Location of septic and well facilities.

d. Location of the viewing and access corridor.

e. Location of parking areas and driveways.

f. Location of ordinary high-water mark and any wetland areas.

g. Maps showing the existing and proposed topography and slope of the property.

h. Impervious surface calculations.

i. A minimum of four photos of the property.

i. These photos shall include a photo taken from the water, along the shoreline and from the principal structure.

ii. If necessary, the department may require additional photos and/or a site inspection of the property.

j. Properties which include flood hazard areas shall be required to submit documentation showing the base flood elevation and its location on the property.

2. Mitigation plans shall include enforceable obligations of the property owner to establish and/or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

3. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the register of deeds.

4. For the purposes of administration, and in order to meet the requirements of this subtitle, mitigation plans submitted to the department shall meet the requirements specified in "[Appendix A](#)" of this subtitle, which is on file with the department. (Ord. 167-3, Sec. 1, 2023)

18.260.190 Administrative provisions. The following administrative shoreland provisions are adopted by Eau Claire County: (See Wis. Admin. Code § NR 115.05(4))

A. The appointment of an administrator and such additional staff as the workload may require.

B. The creation of a zoning agency as authorized by Wis. Stat. § 59.69, a board of land use appeals as authorized by Wis. Stat. § 59.694, and a county planning agency as defined in Wis. Stat. § 236.02(3) and required by Wis. Stat. § 59.692(3).

C. A system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county Land Use Manager, unless prohibited by Wis. Stat. § 59.692(1k).

D. Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.

E. A variance procedure which authorizes the board of land use appeals to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship as long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland zoning ordinance.

F. A conditional use procedure for uses presenting special problems.

G. The county shall keep a complete record of all proceedings before the board of land use appeals and the committee on planning and development.

H. Written notice to the appropriate office of the WDNR at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under [18.260.130](#).

I. Submission to the appropriate office of the WDNR, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

J. Development and maintenance of an official map of all mapped zoning district boundaries, amendments, and recordings.

K. The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in Wis. Stat. § 59.69(11).

L. Pursuing the prosecution of violations of the shoreland ordinance.

M. Shoreland-Wetland Map Amendments According to Wis. Admin. Code § NR 115.04.

1. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency.

2. A copy of each petition shall be provided to the appropriate office of the WDNR within 5 days of the filing of the petition with the county clerk.

3. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the WDNR at least 10 days prior to the hearing.

4. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the WDNR within 10 days after the decision is issued. (Ord. 167-3, Sec. 1, 2023)

18.260.200 Shoreland permits.

A. When required. A system of permits for all new construction, development, reconstruction, structural alteration, or moving of buildings and structures is hereby established. A copy of all applications shall be required to be filed in the office of the county land use manager. Regular inspection of permitted work in progress shall be required to insure conformity of the finished structures with the terms of the ordinance. (See Wis. Admin. Code § NR 115.05(4)).

1. A shoreland land use permit is required for: all new construction, including additions; development; ditching, dredging, excavating, filling, grading, or lagooning; moving of buildings or structures; reconstruction; or structural alteration.

2. A mitigation permit or permits shall be required as described in [18.260.120](#) F.3., [18.260.160](#) C.4., and 18.260.160 E.5.

3. An impervious surface authorization permit shall be required in order to have surfaces designated as treated surfaces, as described in [18.260.120](#), or to exceed impervious surface ratio allowances.

B. Application. An application for a shoreland permit shall be made to the land use manager upon forms furnished by the department and shall include the following information:

1. Name and address of applicant and property owner.

2. Legal description of the property and type of proposed use.

3. A to-scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, centerline of abutting highways and the ordinary high-water mark of any abutting waterways.

4. Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

5. Plans for appropriate mitigation when required.

6. Payment of the appropriate fee.

7. Additional information required by the land use manager.

C. Application Acceptance. The land use manager will determine whether a complete application has been submitted and, no later than ten (10) business days after the application is submitted, notify the applicant in writing about the determination of completeness.

1. If the land use manager determines that the application is incomplete, the notice will state the reason for the determination and information necessary to make the application complete.

2. If the land use manager determines that the application is complete, s/he will provide to the applicant a notice of complete application, unless s/he has already issued the permit.

3. Once the applicant receives notice of an incomplete application, the applicant must submit the information requested by the land use manager within one hundred and eighty (180) calendar days. If the additional information is submitted within this time period, the land use manager shall re-initiate the process for a determination of completeness and notify the applicant within ten (10) business days of the receipt of the additional information whether the application is complete or incomplete.

4. If the applicant fails to submit the information requested by the land use manager within one hundred and eighty (180) days, the land use manager will send a letter to the applicant, informing the applicant that unless the information is received within thirty (30) calendar days from the date of the letter, a decision will be issued that the application has expired for lack of the information necessary to complete review and processing. The decision shall be sent to the applicant and will also state that the county will take no further action on the application.

5. The land use manager will make a final decision on an application within thirty (30) calendar days of the notice of complete application.

6. The applicant will submit as requested by the land use manager, at any time during the review process, additional information the land use manager finds to be reasonably necessary for review of the application.

7. If the applicant makes any material additions or alterations to the project for which the application has been submitted, any calendar day time limit begins anew.

D. Expiration of a Shoreland Permit. Shoreland permits are valid for two years to complete the construction. (Ord. 167-3, Sec. 1, 2023)

18.260.210 Conditional use permits.

A. Application for a conditional use permit. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the land use manager and a conditional use permit has been granted by the committee. To secure information upon which to base its determination, the committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. A plan of the area showing surface contours, soil types, ordinary high-water marks, groundwater conditions, subsurface geology, and vegetative cover.

2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space, and landscaping.

3. Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.

4. Specifications for areas of proposed filling, grading, lagooning, or dredging.

5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

6. Rationale for why the proposed special exception meets all of the special exception criteria listed in the ordinance.

B. Notice, Public Hearing, & Decision. Before deciding whether to grant or deny an application for a conditional use permit, the board of land use appeals shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the committee, shall be given as a Class 2 notice under Wis. Stat. ch. 985. Such notice shall be provided to the appropriate office of the WDNR at least 10 days prior to the hearing. The committee shall state in writing the grounds for granting or denying a conditional use permit.

C. Standards Applicable to All Conditional Use Permits. In deciding a conditional use permit, the committee shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.

2. The prevention and control of water pollution including sedimentation.

3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.

4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.

5. The location of the site with respect to existing or future access roads.

6. The need of the proposed use for a shoreland location.

7. Its compatibility with uses on adjacent land.

8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.

9. Location factors under which:
 - a. Domestic uses shall be generally preferred;
 - b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source; and
 - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility. Additional standards such as parking, noise, etc. maybe referred to the applicable part of their ordinance.

D. Conditions Attached to Conditional Use Permits.

1. Such conditions may include specifications for, without limitation because of specific enumeration:

- a. type of shore cover;
- b. specific sewage disposal and water supply facilities;
- c. landscaping and planting screens;
- d. period of operation;
- e. operational control;
- f. sureties;
- g. deed restrictions;
- h. location of piers, docks, parking and signs; and
- i. type of construction.

2. Upon consideration of the factors listed above, the committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance.

3. In granting a conditional use permit, the committee may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

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

F. Revocation of Conditional Use Permit.

1. If, in the opinion of the department or a member of the committee, the terms of a conditional use permit have been violated, or that the use is substantially detrimental to persons or property in the Shoreland Protection Overlay District, the committee shall hold a public hearing on the revocation of the permit.

2. If, upon written findings of fact that the terms of the permit have been violated, the committee may revoke, modify, or leave the permit unchanged.

3. The permit holder and/or the property owner shall be responsible for the fees associated with the revocation hearing. (Ord. 167-3, Sec. 1, 2023)

18.260.220 Board of Land Use Appeals.

A. Appointment of Board of Land Use Appeals. The county executive, county administrator, or chair of the county board shall appoint a board of land use appeals consisting of 3 or 5 members under Wis. Stat. § 59.694. The county board shall adopt such rules for the conduct of the business of the board of land use appeals as required by Wis. Stat. §59.694(3).

B. Powers & duties.

1. The board of land use appeals shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by Wis. Stat. § 59.694.

2. It 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.

3. It shall hear and decide applications for conditional use permits pursuant to Section 18.103.

4. It may grant a variance from the dimensional standards of this ordinance pursuant to the provisions of this section.

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

C. Appeals to the Board. Appeals to the board of land use appeals may be made by any person aggrieved or by an officer, department, or board of the county affected by any decision of the land use manager or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of land use appeals, a notice of appeal specifying the reasons for the appeal. The land use manager or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

D. Variances.

1. Variance Criteria to be Met. The board of land use appeals may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:

a. Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;

b. The hardship is due to special conditions unique to the property;

c. The request is not contrary to the public interest; and

d. The request represents the minimum relief necessary to relieve unnecessary burdens.

2. Notice, Public Hearing, & Decision. Before deciding on an application for a variance, the board of land use appeals shall hold a public hearing.

a. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Wis. Stat. § 985.

b. Such notice shall be provided to the appropriate office of the WDNR at least 10 days prior to the hearing.

c. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate office of the WDNR within 10 days of the decision. (See Wis. Stat. § 59.694(6)).

E. Hearing appeals & applications for variances & conditional use permits.

1. The board of land use appeals shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under Wis. Stat. § 985, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be provided to the appropriate office of the WDNR at least 10 days prior to hearings on proposed shoreland variances, conditional uses, and appeals for map or text interpretations.

2. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, conditional uses, and appeals for map or text interpretations shall be provided to the appropriate office of the WDNR within 10 days after they are granted or denied.

3. The final disposition of an appeal or application to the board of land use appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the board. The final disposition of an appeal or application to the board of land use appeals shall be in the form of a written decision document signed by the chairman and secretary of the board. The decision document shall either; affirm, deny, vary or modify the appeal and list the specific reasons for the determination.

4. At the public hearing, any party may appear in person or by agent or by attorney. (Ord. 167-3, Sec. 1, 2023)

18.260.230 Fees. Application and review fees under this subtitle shall be in accordance with the following:

A. The department will, except where another provision of this ordinance prohibits doing so, charge a fee for permits, approvals, or determinations.

B. The permit, approval, or determination fee must accompany the application or request. Otherwise, the application will not be considered complete and the request will not be considered.

C. Fees charged for permits, approvals, or determinations will be as determined by the Eau Claire County General User Fees Schedule, established by the county board of supervisors.

D. If the applicant applies for a permit or requests an approval after a project is begun or after it is completed, the department will charge an amount equal to twice the amount of the fee that it would have charged under this section. Subsequent violations shall be subject to the fees specified in the Eau Claire County Citation Code.

E. The department will only refund a permit, approval, or determination fee when approved by the director of planning and development.

Multiple fees may be applicable, and will be charged, to a project. (Ord. 167-3, Sec. 1, 2023)

18.260.240 Changes & amendments. The county board may from time to time, alter, supplement, or change the regulations contained in this ordinance in accordance with the requirements of Wis. Stat. § 59.69(5)(e), Wis. Admin. Code ch. NR 115, and this ordinance where applicable.

A. Amendments. Amendments to this ordinance may be made on petition of any interested party as provided in Wis. Stat. § 59.69(5).

B. Shoreland-Wetland map amendments.

1. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. (Ord. 167-3, Sec. 1, 2023)

2. A copy of each petition shall be provided to the appropriate office of the WDNR within 5 days of the filing of the petition with the county clerk.

3. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department Natural Resources at least 10 days prior to the hearing.

4. A copy of the county board's decision on each proposed amendment shall be provided to the appropriate office of the WDNR within 10 days after the decision is issued. (See Wis. Admin. Code § NR 115.04) (Ord. 167-3, Sec. 1, 2023)

18.260.250 Enforcement & penalty.

A. Violations & suspension of permits.

1. Any development, any building or structure constructed, moved, or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation.

2. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Wis. Stat. § 59.69(11). (See Wis. Admin. Code § NR 115.05(4)(j)).

3. Any person, firm, association, or corporation, causing a violation or refusing to comply with any provision of this subtitle will be notified in writing of such violation by the county land use manager or his designated zoning deputy.

a. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires.

b. If work cannot be completed in the 30-day period, an extension may be granted if reason of hardship prevail and can be verified.

c. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin.

d. The owner of record has the right to appeal any decision by the land use manager or his designated zoning deputy to the board of land use appeals for a variance from the strict rule of the subtitle within 30 days of receipt of a notice or order.

4. The land use manager or the county zoning agency shall refer violations to corporation counsel who shall expeditiously prosecute violations.

B. Penalty.

1. Any person, firm, association, or corporation, including those doing work for others, who violates or refuses to comply with any of the provisions of this subtitle shall be subject to a forfeiture of fifty dollars (\$50.00) per offense, together with the applicable costs, penalties, and assessments.

2. Each day a violation exists shall constitute a distinct and separate violation of this subtitle and as such, forfeitures shall apply accordingly.

C. Injunction. Any use or action which violates the provisions of this subtitle shall be subject to a court injunction prohibiting such violation.

D. Responsibility for compliance. It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this subtitle.

E. Emergency conditions.

1. Whenever the land use manager finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the land use manager may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency.

2. The land use manager shall notify the chairperson of the committee within 24 hours of such situations.

3. Notwithstanding any other provisions of this subtitle such order shall become effective immediately.

4. Any person to whom such order is directed shall comply therewith immediately.

5. Appeals or challenges to emergency orders maybe brought after emergency conditions have ceased, to the board of land use appeals. (Ord. 167-3, Sec. 1, 2023)

18.260.260 Abrogation & greater restrictions.

A. The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words, if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than Wis. Stat. § 59.692 does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions. (See Wis. Stat. § 59.692(5)).

B. Wis. Stat. § 59.692, and Wis. Admin. Code ch. NR 115.

1. Wis. Stat. § 59.692, and Wis. Admin. Code ch. NR 115, are incorporated herein by reference.

2. A particular provision of this ordinance does not apply and may not be enforced if said provision is inconsistent with Wis. Stat. § 59.692 and/or Wis. Admin Code Ch. NR 115. In such situations, the state statute or administrative code provision controls, but only to the extent of the inconsistency.

C. If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.

D. This ordinance may establish standards to regulate matters that are not regulated in Wis. Admin. Code ch. NR 115, but that further the purposes of shoreland zoning as described

E. This ordinance shall not require approval or be subject to disapproval by any town or town board.

F. 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.

G. Eau Claire County may not establish shoreland zoning standards that requires any of the following:

1. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.

2. Require any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

H. Consistent with Wis. Stat. § 59.692(1t), the county may not commence an enforcement action against a person who owns a building or structure that is in violation of this ordinance if the person can establish that the building or structure has been in place for more than 10 years.

I. The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the WDNR has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stats. §§ 30, 31, 281, or 283. (Ord. 167-3, Sec. 1, 2023)

18.260.270 Interpretation.

A. The provisions of this ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes.

B. Where a provision of this ordinance is required by statute and a standard in Wis. Admin. Code ch. NR 115, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and Wis. Admin. Code ch. NR 115, 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. (See Wis. Stat. § 59.69 (13)). (Ord. 167-3, Sec. 1, 2023)

18.260.280 Severability. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected. (Ord. 167-3, Sec. 1, 2023)

18.260.290 Definitions.

A. These definitions apply only within this subtitle and supersede any similar definitions elsewhere in Title 18. For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally. All measured distances shall be to the nearest integral foot or meter and increments of one-half or more of a foot or meter shall cause the next highest foot or meter to be applied. The following terms used in this ordinance mean:

1. "Access and viewing corridor" means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

B. "Alteration" means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

C. "Bed and breakfast establishment" means any place of lodging that provides 8 or fewer rooms for rent for more than 10 nights in a 12-month period, is owner-occupied and in which the only meal served to guest is breakfast.

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

E. "Building envelope" means the three-dimensional space within which a structure is built.

6. "Campground" means 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.

7. "Committee" means the Eau Claire County Committee on Planning and Development.

8. "Conditional use" means a use that is permitted by this ordinance provided certain conditions specified in the ordinance are met and a permit is granted by the committee.

9. "County zoning agency" means that committee or commission created or designated by the county board under Wis. Stat. § 59.69(2)(a), to act in all matters pertaining to county planning and zoning.

J. "Department" means the department of planning and development.

11K. "Drainage system" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

12. "Existing development pattern" means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

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

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

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

16. "Generally accepted forestry management practices" means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the WDNR publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

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

18. "Land Use Manager" means the employee of the county officially designated to administer this section or an agent designated by the Director of the Eau Claire County Department of Planning and Development.

19. “Lot” means a parcel of land, legally created, which is occupied or designed to provide space for one principal structure and approved uses, including the open spaces required by this subtitle. A lot includes all contiguous property under one owner and may consist of multiple deeds, abstracts, and tax statements.

20. “Lot of record” means a lot which has been legally created prior to the effective date of Title 18.

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

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

a. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and

b. Artificially constructed drainage ditches, ponds or storm water retention basins that are not hydrologically connected to a natural navigable water body

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

24. “Previously developed” means a lot or parcel that was developed with a structure legally placed upon it.

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

26. “Routine maintenance of vegetation” means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

27. "Shoreland" means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

28. “Shoreland setback” also known as the “Shoreland setback area” in Wis. Stat. § 59.692(1)(bn), means an area in a shoreland that is within a certain distance of the ordinary high- water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under Wis. Stat. §59.692.

29. "Shoreland-wetland district" means a zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the WDNR.

30. "Structural alteration" means any change in the supporting members of a building such as bearing walls, columns, rafters, beams, girders, footings, and piles.

31. “Structure” means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.

32. "Tourist Rooming House" means all lodging places and tourist cabins and cottages as regulated by the department of health and human services pursuant to Wis. Admin. Code ch. ATCP 72, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under Wis. Admin. Code ch. ATCP 73.

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

34. "Variance" means an authorization granted by the board of land use appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.

35. "WDNR" means the Wisconsin Department of Natural Resources.

36. "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. (Ord. 167-3, Sec. 1, 2023)

18.260.300 Appendix A.

Shoreland Activities That Require a Mitigation Plan

A. When Impervious Surface (IS) limits fall within the below % ranges: (Section 18.260.120 F.)

Percent IS Requiring Mitigation		
General Standard Shorelines	Highly Developed Shorelines (Residential)	Highly Developed Shorelines (Commercial)
15% - 30%	>30% - 40%	> 40% - 60%

1. A variance is required when the above IS % limits are exceeded.
2. The repair, replacement, or relocation of existing IS does not require mitigation.

B. A lateral expansion of a principal structure that is legal nonconforming to shore or wetland setback (200 sq. ft. max. allowed). (18.260.160 C.)

C. The relocation of a principal structure that is legal nonconforming to shore setback. Relocation is only available when no other more conforming location is available to accommodate a similar sized structure. (18.260.160 E.)

D. In order to make the above improvements to nonconforming structures, the following must be met:

1. The existing principal structure must be located at least 35 ft. from the ordinary high-water mark (OHWM) of a navigable waterway and wetland.
2. No portion of the addition or relocated structure may be closer to the shore than the existing structure.

Required Mitigation Practices - The Point System

A. Property owners must achieve a certain number of mitigation points in order to construct improvements that require mitigation in accordance with this appendix. Property owners are able to choose a range of practices, with each practice being worth a pre-determined number of points, to achieve the total number of points required for the proposed project.

B. Mitigation Points are cumulative. For example: A site with a code-compliant shoreline protection area twice as deep as required would get 1 point for the extra buffer area, as well as 2 points for the standard code-compliant vegetation protection area, for a total of 3 points.

Mitigation Point Requirements

A. Five (5) mitigation points are required when Impervious Surface (IS) limits fall within the below % ranges:

General Standard Shorelines	Highly Developed Shorelines (Residential)	Highly Developed Shorelines (Commercial)
15% - 30%	>30% - 40%	> 40% - 60%

B. Four (4) mitigation points are required for a lateral expansion of a principal structure that is legal nonconforming to shore or wetland setback (200 sq. ft. max. allowed).

C. Four (4) mitigation points are required for the relocation of a principal structure that is legal nonconforming to shore setback. Relocation is only available when no other more conforming location is available to accommodate a similar sized structure.

Mitigation Schedule

Mitigation Type	Number of Points Awarded for Mitigation
A. Removal of a Non-Compliant POWTS (septic system)	3 points
B. Removal of improvements within 75 ft. of the OHWM and replace with vegetation. Examples: beaches, boathouse approaches, fire pits, fountains, impervious surfaces	1 point, 0-250 square feet, 2 points, 251-500 square feet, 3 points, 501 square feet and greater. (credit is not provided if removal is required as part of another accredited mitigation type)
C. Maintain existing or establish new native vegetative buffer adjacent to a navigable waterway (OHWM extended 35' landward)	3 points
D. Increase depth of existing compliant shoreland buffer	1 point for every 15-foot increase (max. 3 points)
E. Remove existing retaining walls located within 75 ft. of OHWM and replace with vegetation (low impact landscaping approach)	1 point per 25 lineal ft. of wall
F. Removal of seawall/riprap and replacement with natural, nonstructural stabilization materials	4 points for entire shoreline (for shorelines with greater than 100 feet of lineal shoreline) 2 points for 50 feet of lineal shoreline
G. Removal of Existing Shore lighting with installation of Downcast Shore Lighting	1 point
H. Increasing setback of structures from OHWM	1 point per 5' of increased setback beyond required (max. 4 points)
I. Decrease width of access & viewing corridor below 35%	1 point = 25 % view corridor 2 points = 15% view corridor (max. 2 points)
J. Passive restoration (natural recovery) of a compliant shoreland buffer	2 points
K. Installation of a rain garden or other engineered system designed to capture and treat/infiltrate storm water runoff	3 points for system designed and implemented to result in no net increase in storm water runoff. 5 points for systems designed and implemented to result in "0" storm water runoff.
L. Maintain existing or establish new shoreline habitat (fallen trees or fish sticks)	2 points per tree cluster as specified in the DNR Best Practices Manual
M. Alternative method approved by Department staff	Based on proposal

*See below for detailed explanation of mitigation items.

- D. Detailed explanations of mitigation items
 - 1. The benefits of mitigation of the following:
 - a. Provides water quality benefits by treating and reducing runoff;
 - b. Containing erosion and controlling sediment;

- c. Provide natural scenic beauty;
- d. Provide aquatic and diverse wildlife habitat;
- e. Restores natural topography;
- f. Improve and preserve water quality by offsetting the impacts

associated with surface runoff; and

- g. Restore natural shoreline vegetation to promote natural landscapes.

E. Removal of a non-compliant POWTS – Documentation indicating that a Private Onsite Wastewater Treatment System (POWTS) on the lot or parcel has failed and must show that the POWTS has caused or resulted in one or more of the following conditions (outlined in Wis. Stat. ch.145):

- 1. The discharge of sewage into surface water or groundwater.
- 2. The introduction of sewage into zones of saturation which adversely affects the operation of a private on-site wastewater treatment system.
- 3. The discharge of sewage to a drain tile or into zones of bedrock.
- 4. The discharge of sewage to the surface of the ground.
- 5. The failure to accept sewage discharges and back up of sewage into the structure served by the private on-site wastewater treatment system.

F. Removal of improvements within 75 feet of the OHWM and replace with vegetation – Removal of improvements such as, beaches, boathouse approaches, fire pits, fountains, impervious surfaces, unless there is a specific exemption in the code for such a structure.

G. Maintain existing or establish new native vegetative buffer adjacent to a navigable waterway (OHWM extended to 35 feet landward) – A written and approved shoreline restoration plan which restores all of the natural functions of the shoreline vegetation protection area in accordance with the standards contained in NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat and the provisions of this code, or verification that existing vegetation meets these standards. The department shall review the restoration plan or verify that existing vegetation is adequate to meet these requirements.

H. Increase depth of existing compliant shoreland buffer – The depth of an existing shoreland buffer may be increased beyond 35 feet through active restoration, passive restoration, or by maintaining existing vegetation already present in acceptable densities. Shoreland buffers may include a cleared view and access corridor. A written and approved shoreline restoration plan which restores all of the natural functions of the shoreline vegetation protection area in accordance with the standards contained in NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat and this code, or verification that existing vegetation meets these standards. The department shall review the plan or verify that existing vegetation is adequate to meet these requirements.

I. Remove existing retaining walls located within 75 feet of the OHWM and replace with vegetation (low impact landscaping) – Remove retaining wall and develop a plan to replace it. The restoration plan shall include a grading, vegetation and erosion control plan.

J. Remove of seawall/riprap and replacement with natural, nonstructural stabilization materials – Provide a plan and a copy of the WDNR permit for the removal of the seawall/riprap structures and replacement with natural, nonstructural stabilization materials.

K. Removal of existing shore lighting with installation of downcast shore lighting – Replace existing shore lighting with downcast or shielded shore lighting to eliminate light pollution at the property line. Light fixtures that are shielded on four sides and illuminate downward toward the earth will meet this mitigation practice.

L. Increase setback of structures from the OHWM – Increase structure beyond minimum required by Title 20.

Decrease width of access & viewing corridor below 35% - Submit a vegetation, management and erosion plan to reduce the viewing corridor less than 35%. The management plan shall indicate how invasive species are control.

NOTE: The remaining access and viewing corridor from the developed portion of the site to the water's edge can be maintained or established.

M. Passive restoration (natural recovery) of a compliant shoreland buffer - Passive restoration of a shoreland buffer involves restricting mowing, raking, and trimming and allowing natural regeneration of the landscape to occur from the ordinary high-water mark to a point that is at least 35 feet inland. A passive shoreland buffer may only serve as the restoration if tree, shrub and ground cover layers are already present in acceptable densities and the site is suited for natural regeneration. A compliant shoreland buffer should contain three distinct layers including a native tree canopy, shrub layer, and groundcover layer, except for closed canopy forest types such as pine and hemlock. Shoreland buffers may include a cleared view and access corridor. Passive restoration is not applicable on landscapes containing large concentrations of invasive species or in areas mainly vegetated with turf grasses.

N. Installation of a rain garden or other engineered system designed to capture and treat/infiltrate storm water runoff - A rain garden is a shallow depression landscaped with suitable native vegetation, engineered and designed to capture and infiltrate storm water. The rain garden must be located outside of the shoreland buffer, designed to conform to property constraints, and located a reasonable distance to septic systems, building foundations, and lot lines. A rain garden should capture and infiltrate the runoff volume for a minimum of a 10-year, 5-minute rain event. Rain gardens are not suitable on land containing impermeable soil types or steep slopes.

An engineered system may be designed to capture and treat/infiltrate storm water runoff. Engineered systems are not allowed in the shoreland buffer, unless there are no other feasible locations on the lot. Examples of an engineered systems include, but are not limited to, rain gardens, infiltration trenches, chambers, or dry wells, internally drained areas, pervious pavement, grass swales, and a plan that will result in no net increase in runoff from the site within 300 feet of the ordinary high water mark. The plan shall be designed to handle the storm water from the current NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2-year 24 hour rainfall event for Eau Claire County and shall include all engineered calculations to support the design, and in compliance with the “Controlling Runoff and Erosion from your Waterfront Property-A Guide for Landowners” copyright 2008 by Burnett County Land and Water Conservation Department, available on both the Eau Claire County and Wisconsin DNR websites.

An engineered system designed that will result construction storm water retention plan which will result in no runoff from any impervious surface on the site within 300 feet of the ordinary high water mark. The department shall review the plan to determine adequacy. This plan shall be designed to handle the storm water from a one-year storm as designated by NRCS for Eau Claire County, and in compliance with the “Controlling Runoff and Erosion from your Waterfront Property-A Guide for Landowners” copyright 2008 by Burnett County Land and Water Conservation Department, available on both the Eau Claire County and Wisconsin DNR websites.

O. Maintain existing or establish new shoreline habitat (fallen trees or fish sticks) – Develop a shoreland habitat plan in compliance with the standards set forth per the DNR Best Practices Manual for Fish Sticks.

P. Alternative method approved by the department - Applicant must demonstrate a connection between the proposed mitigation and the intent/purpose of the mitigation requirements of the Eau Claire Shoreland Protection and Overlay Ordinance. For example, an applicant could provide engineering information showing that the proposal could accomplish the same outcome as one of the mitigation strategies outlined. Points would be awarded in line with the comparable mitigation points. (Ord. 167-3, Sec. 1, 2023)

Appendix A Official Maps

This section includes illustrations referencing Section [18.200.050.D](#). for administration.

**Table 3
Flood Crest Summary**

Cross Section No.	River Mile	Maximum Water Surface Elevation (feet)			Time to Peak (hours)
		Dam Nonexistent	Dam In Place With No Failure (No Breach)	Dam In Place with Failure (Breach)	Dam In Place with Failure (Breach)
1 (Dam)	0.00	897.36	911.58	911.57	31.75
2	0.01	897.25	896.88	905.42	32.05
3	0.20	896.35	896.01	904.16	32.10
4 (STH 27)	0.28	896.05	895.71	903.76	32.10
5	0.40	895.64	895.31	903.04	32.15
6	1.04	892.96	892.70	898.08	32.30
7	1.78	889.63	889.44	893.33	32.80
8	2.72	884.98	884.82	887.99	33.05
9	4.16	880.44	880.34	882.14	34.50
10	5.61	877.50	877.40	879.19	35.15
11	8.03	870.01	869.92	871.45	37.00
12	9.03	868.59	868.50	869.99	37.55
13 (CTH D)	9.39	866.99	866.89	868.47	38.70
14	9.40	866.95	866.85	868.44	38.75
15	10.13	864.42	864.28	866.47	40.15
16	11.80	863.41	863.26	865.47	40.35
17	12.94	859.00	858.85	861.37	40.80
18	14.27	851.57	851.41	853.89	41.05
19 (CTH K)	14.43	848.80	848.63	851.17	41.10
20	14.44	847.39	847.23	849.73	41.15
21	14.64	844.84	844.68	847.07	41.20
22	15.64	833.97	833.85	835.54	41.95
23	16.76	829.72	829.59	831.42	43.30
24	18.24	827.23	827.10	828.85	43.70
25	19.08	825.37	825.25	826.90	44.00
26	19.83	822.17	822.08	823.32	44.55
27	20.68	819.85	819.75	821.15	45.15
28 (FIS F)	21.93	816.88	816.77	818.15	45.35
29 (FIS E)	22.50	813.22	813.11	814.37	45.45
30 (FIS D)	22.96	808.21	808.15	809.11	45.60
31 (FIS C)	23.22	805.68	805.59	806.94	45.60

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HAZARD RATING ASSESSMENT

The hydraulic shadow is that area of land downstream from a dam that water would inundate upon failure of the dam during the 100-year flood. The hydraulic shadow ends where the dam breach flood profile converges with the "dam nonexistent" flood or regional flood profile. The convergence tolerance is 1 foot for rural areas and zero within incorporated areas.

Referring to Table 3, the 100-year flood profile resulting from a dam failure is within 1 foot of the "dam nonexistent" flood profile at 22.96 miles downstream from the dam at Cross Section No. 30. The dam failure flood profile is less than the regional flood elevation of 810.2 according to the FIS at this section as well. This is the end of the hydraulic shadow. Table 4 lists the hydraulic shadow floodway data. This information was extracted from Table 3 and the information in Appendix B for the three conditions modeled. The hydraulic shadow map and profile are shown in Exhibits 4 and 5 respectively.

Table 4
Hydraulic Shadow Floodway Data

Cross Section No.	River Mile	Maximum Stage Elevation (feet)	Peak Discharge (cfs)	Maximum Velocity (feet/sec)	Floodplain Top Width (feet)
1 (Dam)	0.00	911.57	59365	8.46	260
2	0.01	905.42	59365	11.96	245
3	0.20	904.16	57341	8.99	245
4 (STH 27)	0.28	903.76	56730	8.27	300
5	0.40	903.04	55162	8.13	255
6	1.04	898.08	49619	8.78	290
7	1.78	893.33	46665	3.13	1780
8	2.72	887.99	43319	5.05	1210
9	4.16	882.14	39793	1.36	3890
10	5.61	879.19	36703	2.78	2750
11	8.03	871.45	35033	2.02	2540
12	9.03	869.99	34344	1.80	2350
13 (GTH D)	9.39	868.47	34124	6.57	2790
14	9.40	868.44	34124	7.29	2790
15	10.13	866.47	32277	0.89	3070
16	11.80	865.47	30602	2.60	850
17	12.94	861.37	30408	3.51	1380

TABLE 4
(Continued)

Cross Section No.	River Mile	Maximum Stage Elevation (feet)	Peak Discharge (cfs)	Maximum Velocity (feet/sec)	Floodplain Top Width (feet)
18	14.27	853.89	30329	5.26	360
19 (CTH K)	14.43	851.17	30328	9.13	270
20	14.44	849.73	30328	10.06	215
21	14.64	847.07	30326	6.07	440
22	15.64	835.54	30305	7.78	360
23	16.76	831.42	29991	1.17	1820
24	18.24	828.85	29644	3.45	1010
25	19.08	826.90	29547	2.02	1380
26	19.83	823.32	29503	5.83	410
27	20.68	821.15	29340	1.45	2670
28 (FIS F)	21.93	818.15	29231	4.01	550
29 (FIS E)	22.50	814.37	29225	4.24	1080
30 (FIS D)	22.96	809.11	29221	5.49	1030
31 (FIS C)	23.22	806.94	29220	6.74	1570

To determine the dam hazard rating, we compared the hydraulic shadow (see Table 4 and Exhibit 5) with the elevation of potentially affected structures and with the Lake Altoona Floodplain maps. This comparison indicated that several structures were located within both the hydraulic shadow and the dam nonexistent floodplain. The Lake Altoona Floodplain maps from the Eau Claire County Planning and Development Department indicate that several structures upstream of Lake Altoona are inundated by the regional flood. Based on these findings, the dam hazard rating for the Lake Eau Claire Dam is high or Class 3 with a major size classification according to NR 333 criteria. Zoning of the hydraulic shadow would be helpful to limit further development and minimize flood damage.

SPILLWAY CAPACITY

According to NR 333 criteria, a high hazard dam must be capable of passing the 100-year flood through the principal spillway and the 1,000-year flood through both the principal and emergency spillways. The "dam with no failure" condition indicates that the peak reservoir elevation during the 100-year flood is 911.58 feet with a peak outflow of 25,577 cfs. The top of the dam is at elevation 910.76 feet, approximately 0.8 foot lower than the peak reservoir elevation for the 100-year flood. Thus, the spillway can pass floods approximately equal to the 100-year flood.

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 DESIGN FILE #: 10/12/2000
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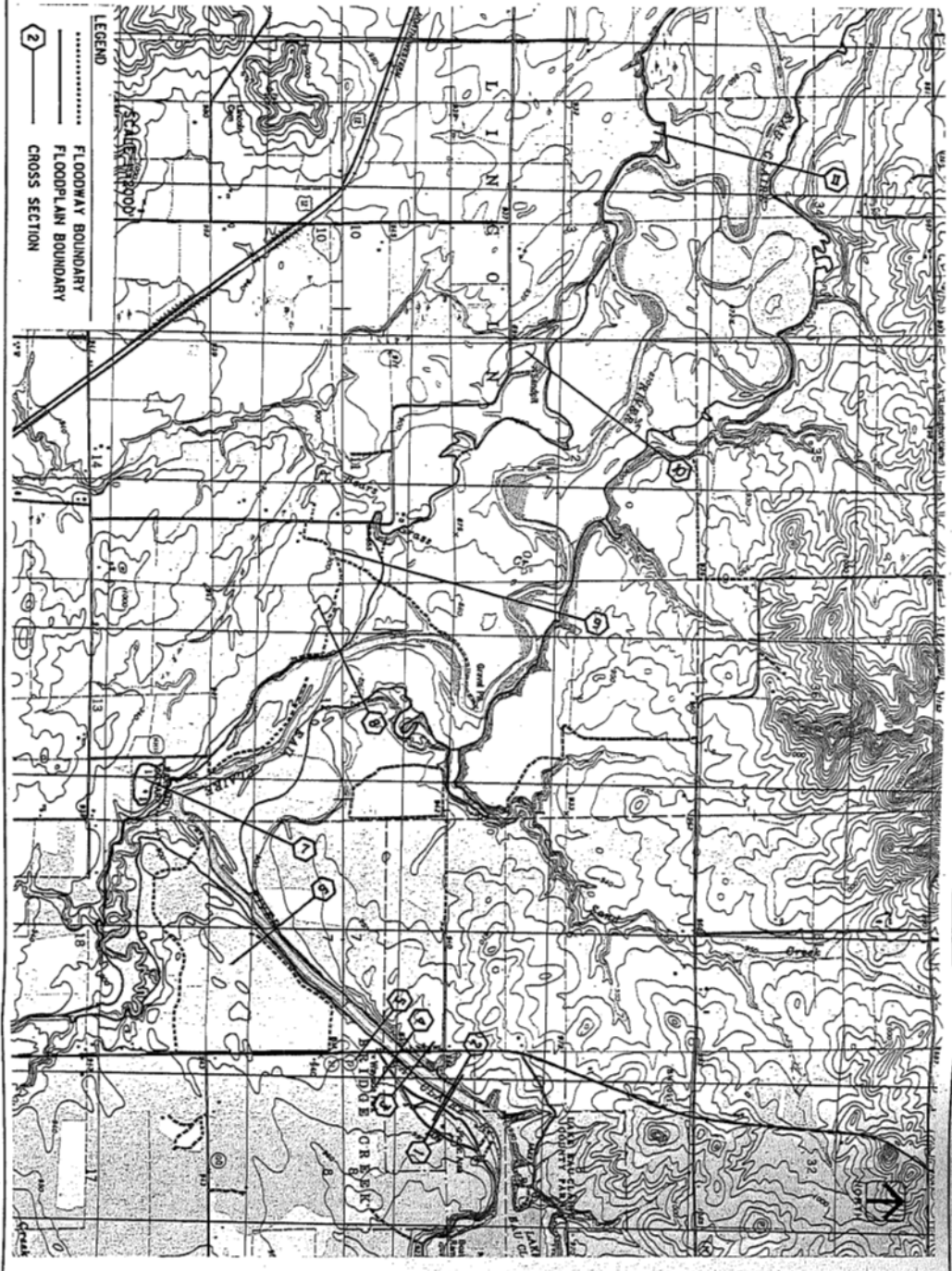


EXHIBIT NO. 4 SH. 1 OF 3	EAU CLAIRE RIVER LAKE EAU CLAIRE DAM EAU CLAIRE COUNTY, WISCONSIN		DRN. BY: R. FANDEL CDR. BY: D. STEPHEN DATE: DECEMBER 1997	HYDRAULIC SHADOW MAP

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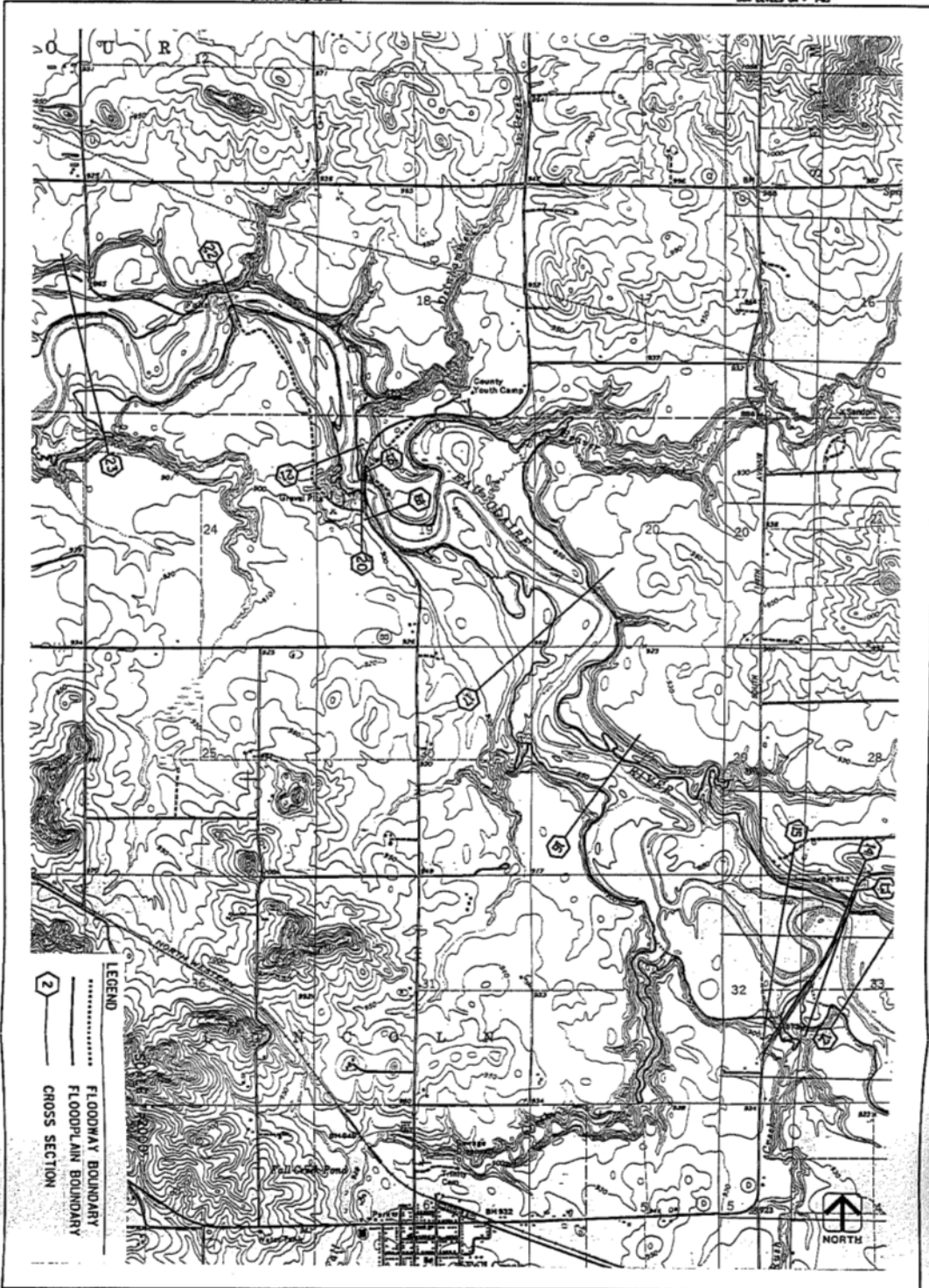


EXHIBIT NO. 4 SH. 2 OF 5	EAU CLAIRE RIVER LAKE EAU CLAIRE DAM EAU CLAIRE COUNTY, WISCONSIN		DRN. BY: R. FANGD. CHD. BY: D. STEDES DATE: DECEMBER 1997	HYDRAULIC SHADOW MAP

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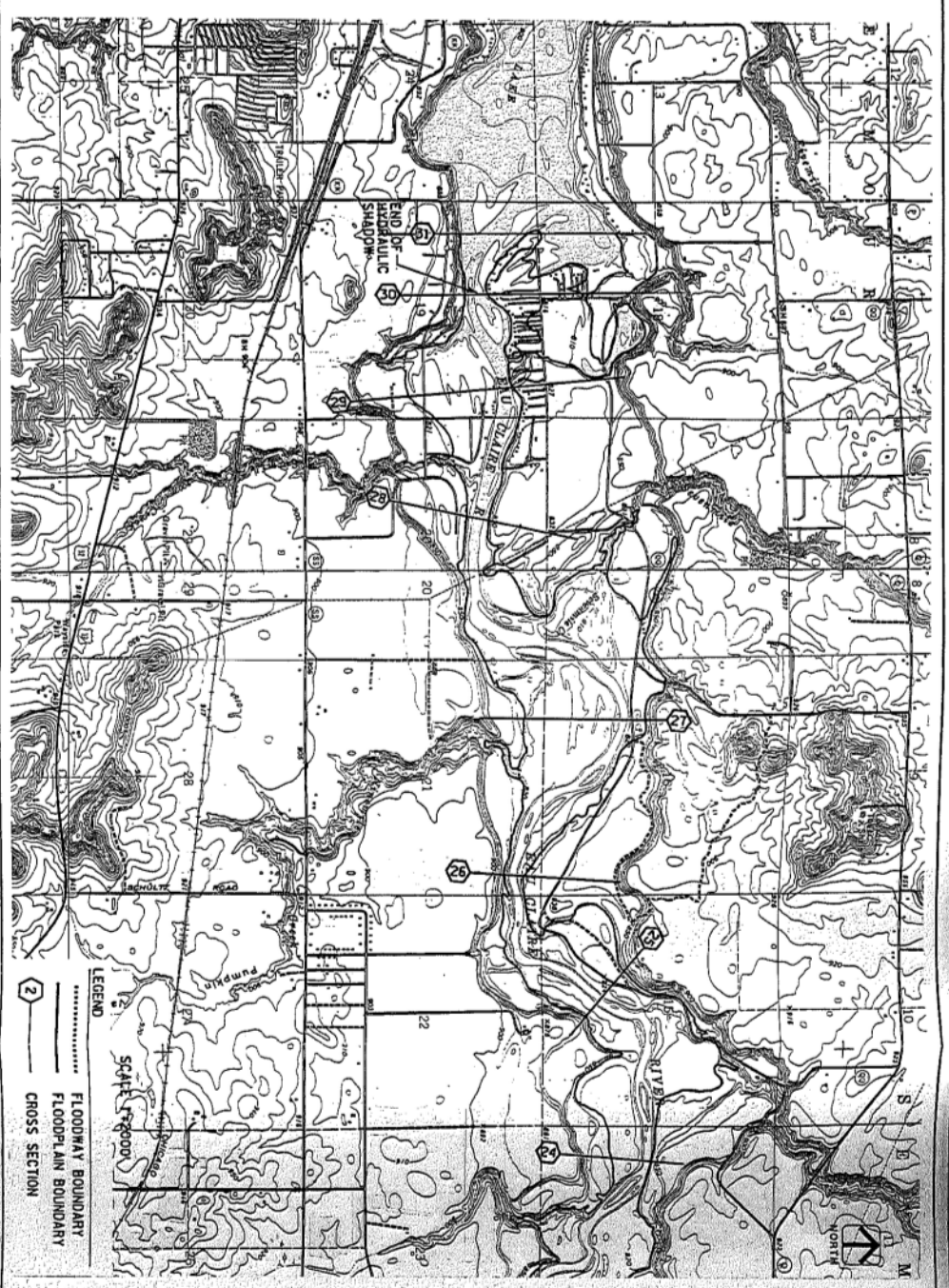
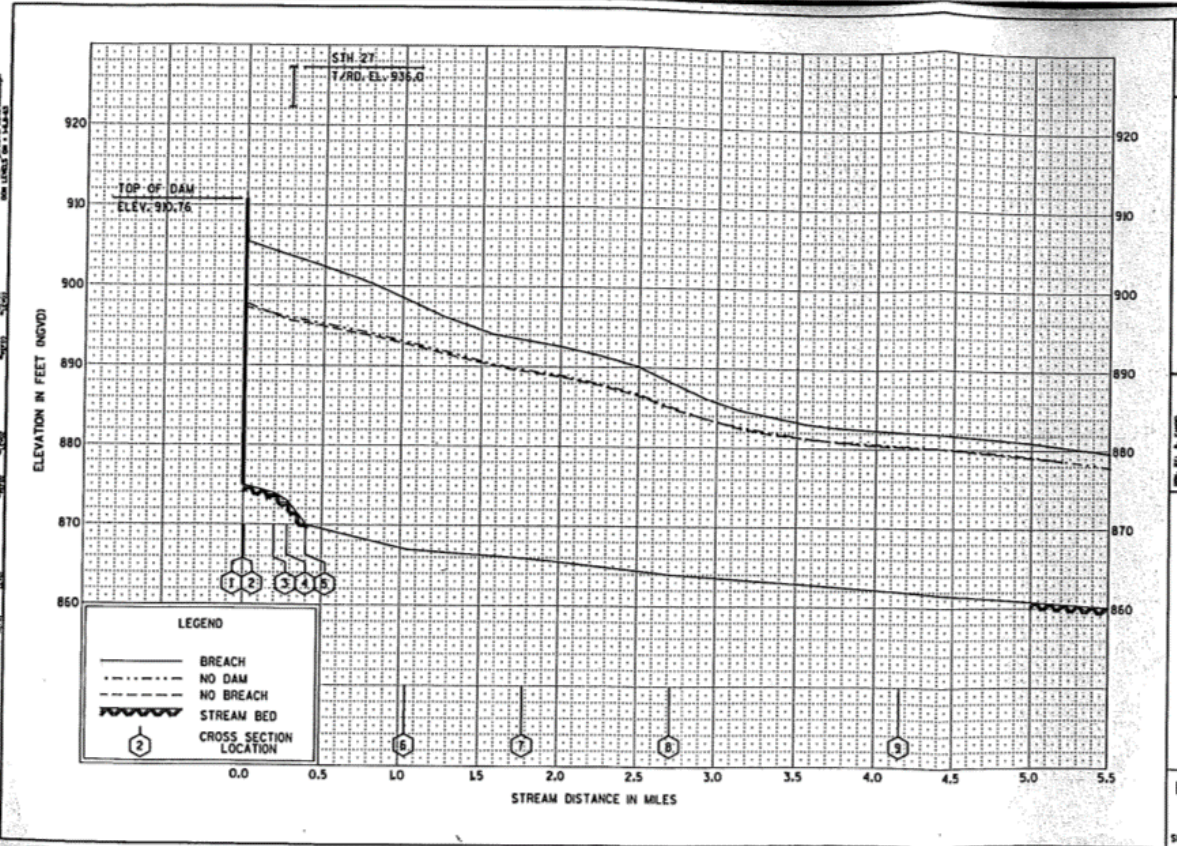


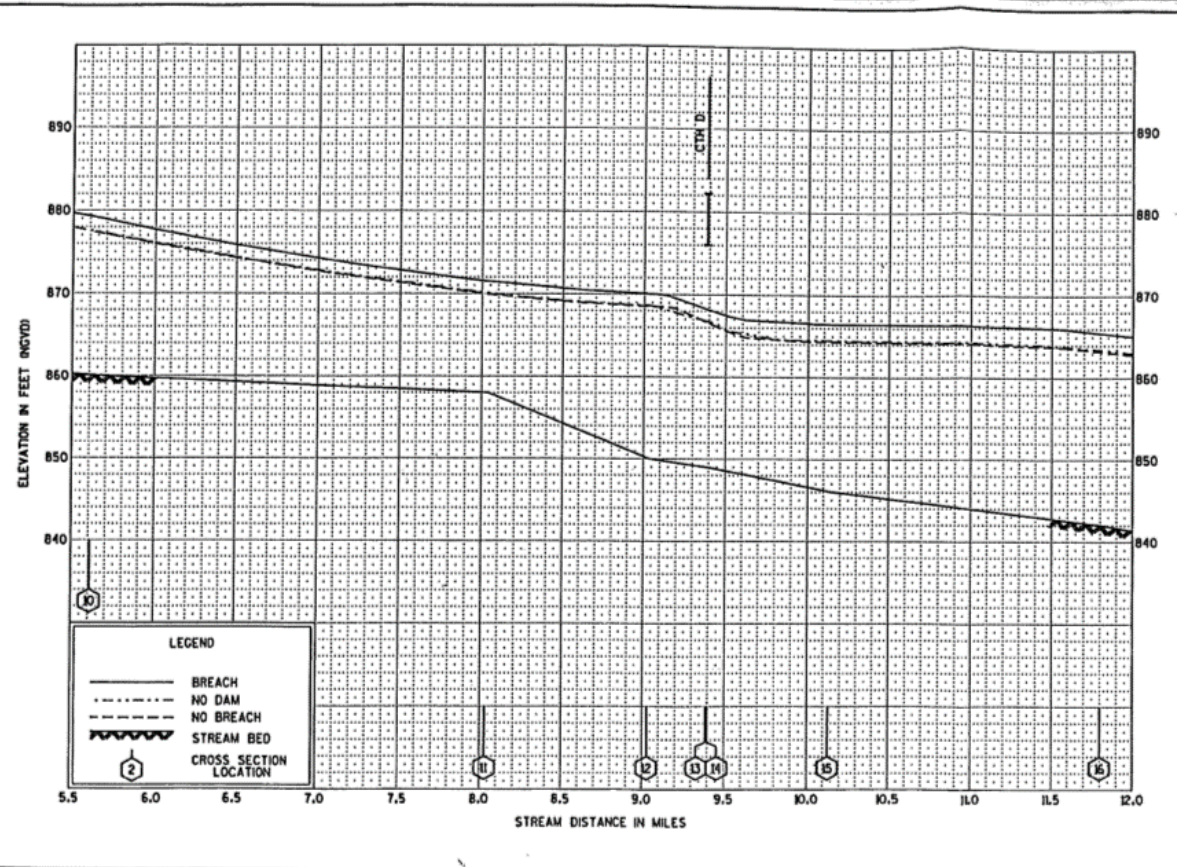
EXHIBIT NO. 4 SHT. 3 OF 3	EAU CLAIRE RIVER LAKE EAU CLAIRE DAM EAU CLAIRE COUNTY, WISCONSIN	DWG. BY: R. FANDEL	HYDRAULIC SHADOW MAP
		CHK. BY: G. STEWIS	
		DATE: DECEMBER 1997	
		ARES ASSOCIATES	



DAM BREAK
FLOOD PROFILES

EAU CLAIRE RIVER
LAKE EAU CLAIRE DAM
EAU CLAIRE COUNTY, WISCONSIN

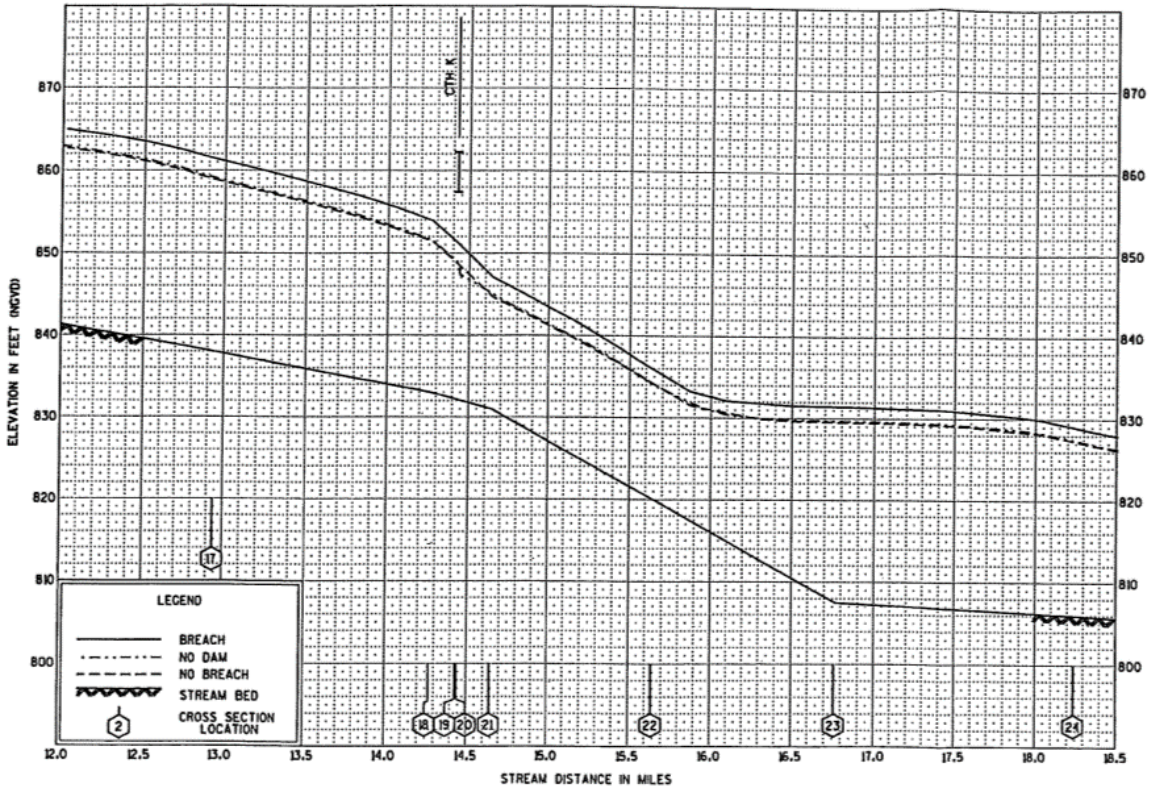
EXHIBIT
NO. 5
SHT. 1 OF 4



DAM BREAK
FLOOD PROFILES

EAU CLAIRE RIVER
LAKE EAU CLAIRE DAM
EAU CLAIRE COUNTY, WISCONSIN

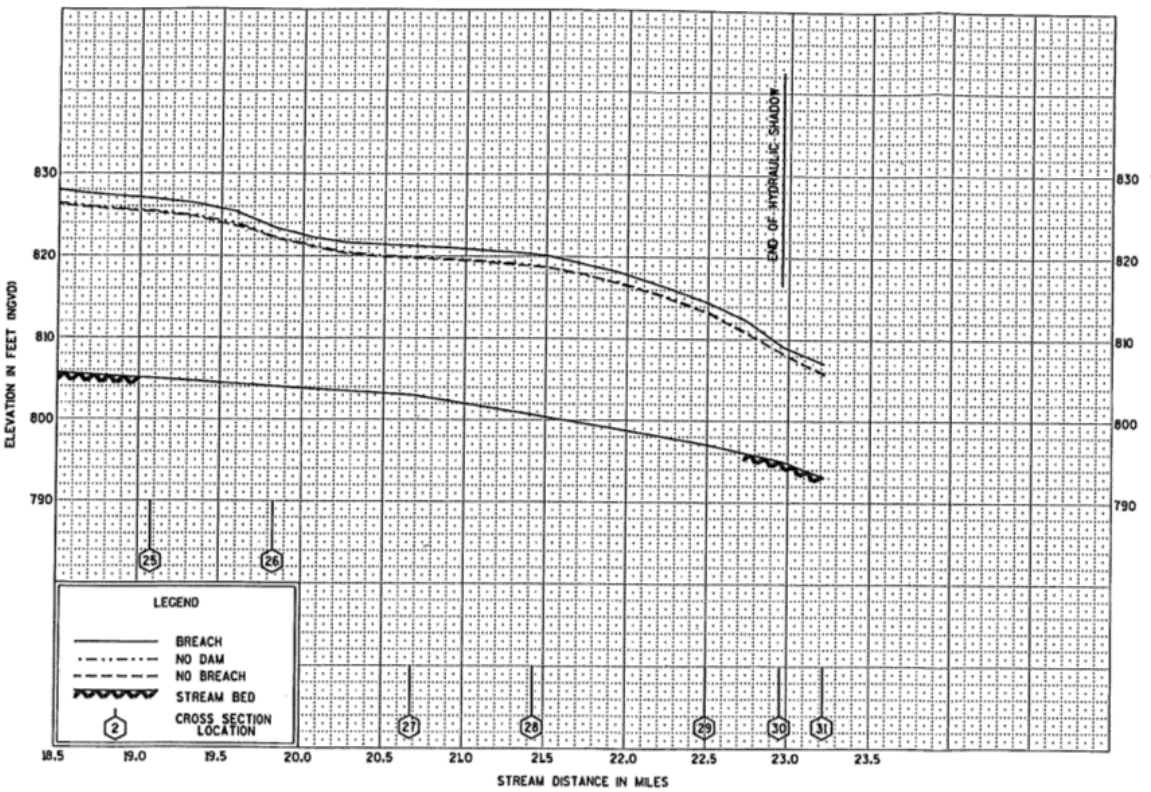
EXHIBIT
NO. 5
SHT. 2 OF 4



DAM BREAK
FLOOD PROFILES

EAU CLAIRE RIVER
LAKE EAU CLAIRE DAM
EAU CLAIRE COUNTY, WISCONSIN

EXHIBIT
NO. 5
SHT. 3 OF 4



DAM BREAK
FLOOD PROFILES

EAU CLAIRE RIVER
LAKE EAU CLAIRE DAM
EAU CLAIRE COUNTY, WISCONSIN

EXHIBIT
NO. 5
SHT. 4 OF 4

**Table 3
Hydraulic Shadow Floodway Data**

HEC-RAS River Station	River Mile Below Dam	Maximum Stage Elevation (feet)	Peak Discharge (cfs)	Maximum Velocity (feet/sec)	Floodplain Top Width (feet)
999	0	912.9	2,900	6.9	66
991	0.11	912.0	3,000	7.6	61
988	0.12	908.0	3,000	11.2	50
980	0.45	902.0	2,700	7.2	132
970	0.67	898.7	2,500	9.1	132
960	1.60	884.5	2,000	9.3	186
950	1.70	881.3	2,000	11.4	95
940	1.98	872.7	1,900	6.4	220
930	2.44	865.9	1,800	9.9	161
920	3.06	860.7	1,700	0.5	1010
910	3.07	860.3	19,000	5.5	973

One stream crossing was modeled in the routing reach. Table 4 summarizes the characteristics of the crossing.

**Table 4
Stream Crossing Summary**

Road Name	Distance Downstream of Dam (miles)	Low Chord Elevation (feet)	Maximum Water Surface Elevation During 100-year Dam Failure Flood (feet)
CTH K	0.11	917.77 (bottom of old bridge deck underneath new bridge)	909.8

Hazard Rating

Hazard ratings are divided into three classifications: high hazard, significant hazard, and low hazard.

A dam has a high hazard rating if

- (1) existing development within the hydraulic shadow would be inundated by more than two feet of water during the 100-year dam failure flood *or*
- (2) future development in the hydraulic shadow is not restricted.

A dam has a significant hazard rating if

- (1) existing development within the hydraulic shadow would be inundated by two feet of water or less during the 100-year dam failure flood *and*
- (2) future development in the hydraulic shadow is restricted.

A dam has a low hazard rating if

- (1) no existing development would be inundated during the 100-year dam failure flood *and*
- (2) future development in the hydraulic shadow is restricted.

Davy Engineering surveyed the lowest grade adjacent to structures at five different locations near Fall Creek downstream of the dam. As shown in Table 5, none of the structures are located within the hydraulic shadow.

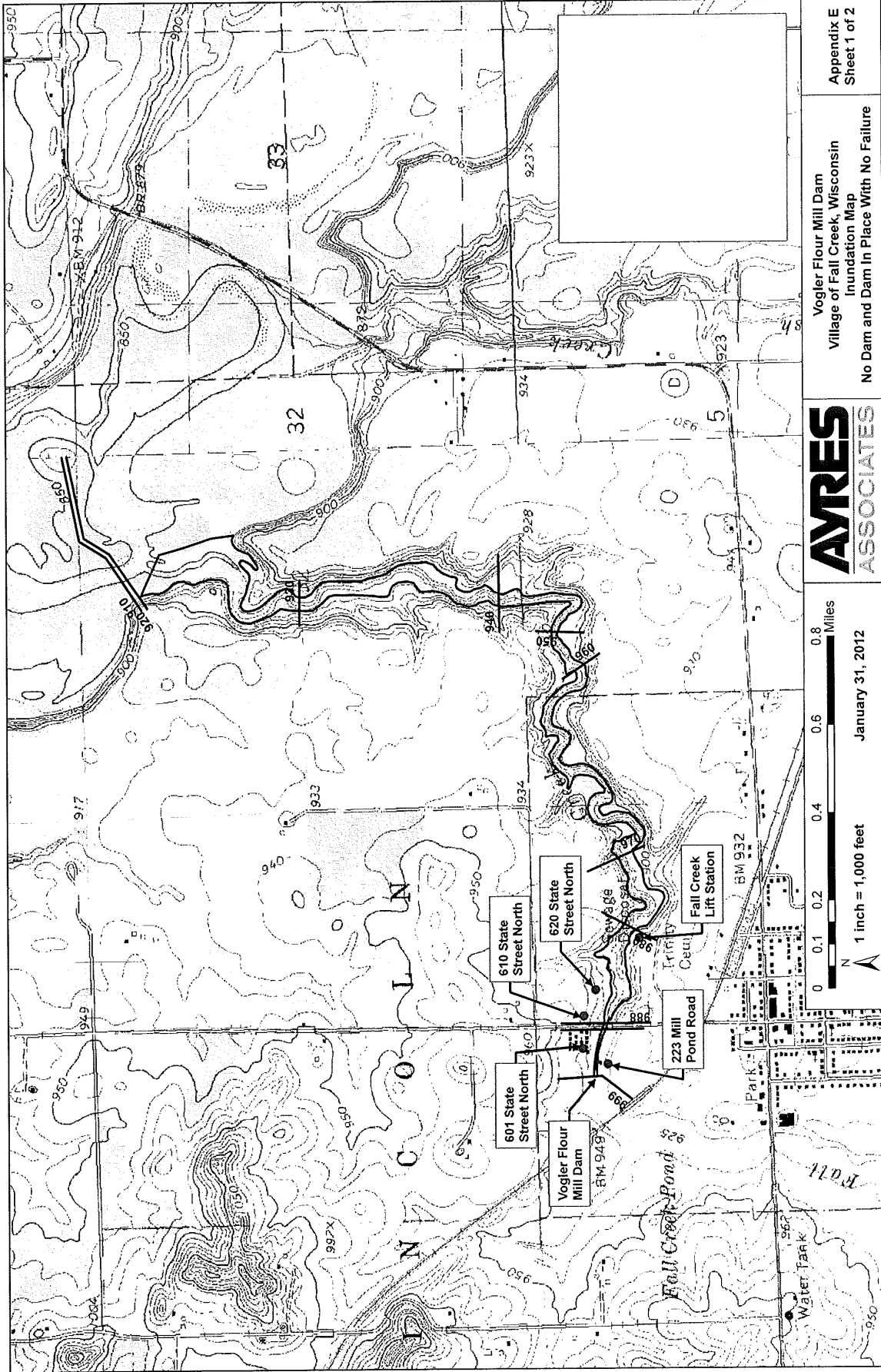
**Table 5
Potentially Affected Structures**

Address	Lowest Adjacent Grade (ft)	Linearly Interpolated Maximum Water Surface Elevation During 100-year Dam Failure Flood (feet)
223 Mill Pond Road	916.57	912.7
601 State Street North	935.30	912.5
610 State Street North	939.48	907.5
620 State Street North	911.00	905.3
Village of Fall Creek Main Lift Station	904.81	902.9

The Vogler Flour Mill Dam will have a high hazard rating until land use restrictions are adopted to prevent future development within the hydraulic shadow. If land use restrictions are adopted, the dam would be classified as low hazard.

Spillway Capacity

The required spillway capacities according to NR 333 criteria are shown in Table 6. The Vogler Flour Mill Dam will have a low hazard rating if land use restrictions are adopted.



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7/18/2023

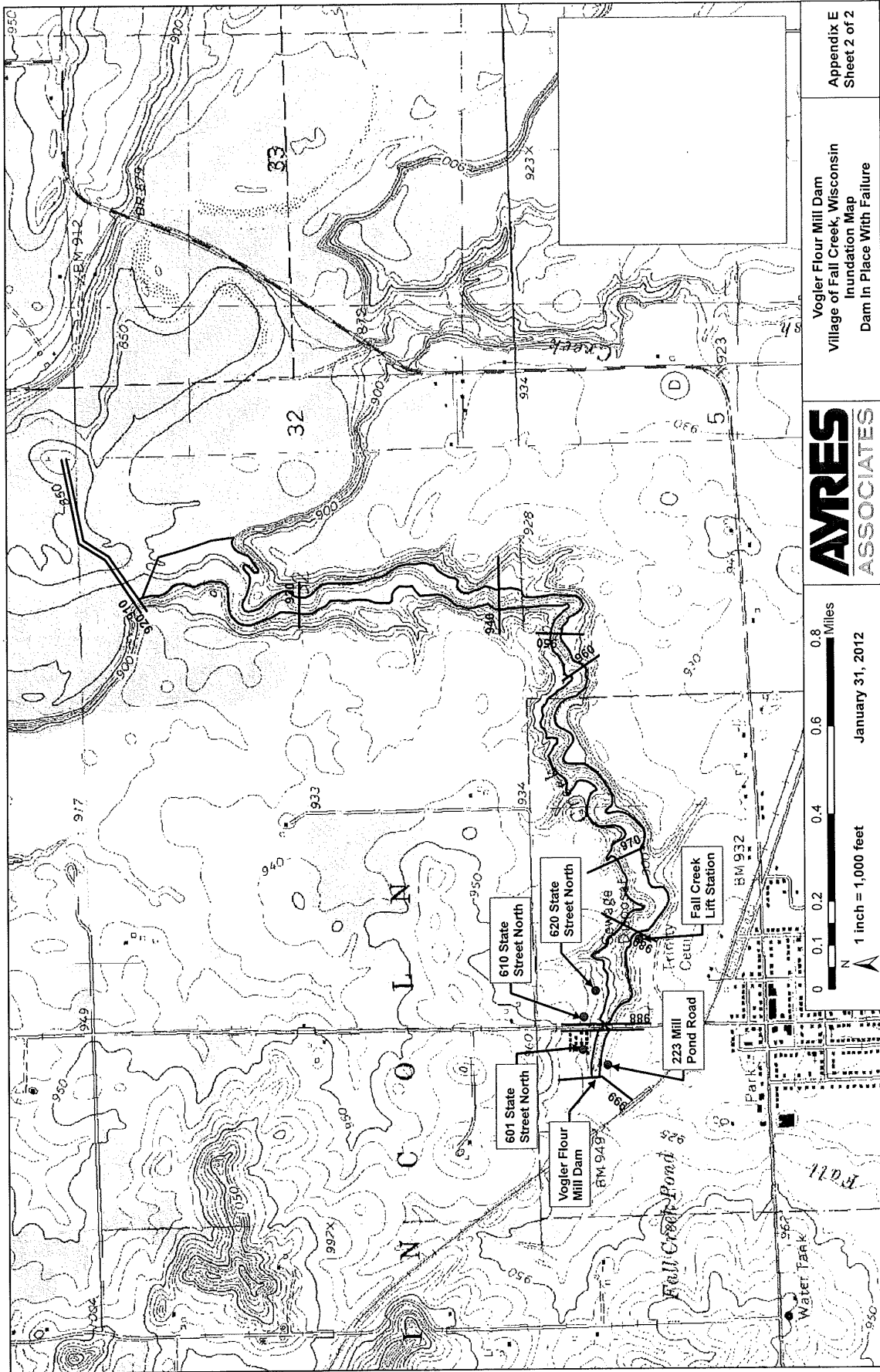
AYRES
ASSOCIATES

1 inch = 1,000 feet
0 0.1 0.2 0.4 0.6 0.8 Miles

January 31, 2012

Vogler Flour Mill Dam
Village of Fall Creek, Wisconsin
Inundation Map
No Dam and Dam In Place With No Failure

Appendix E
Sheet 1 of 2



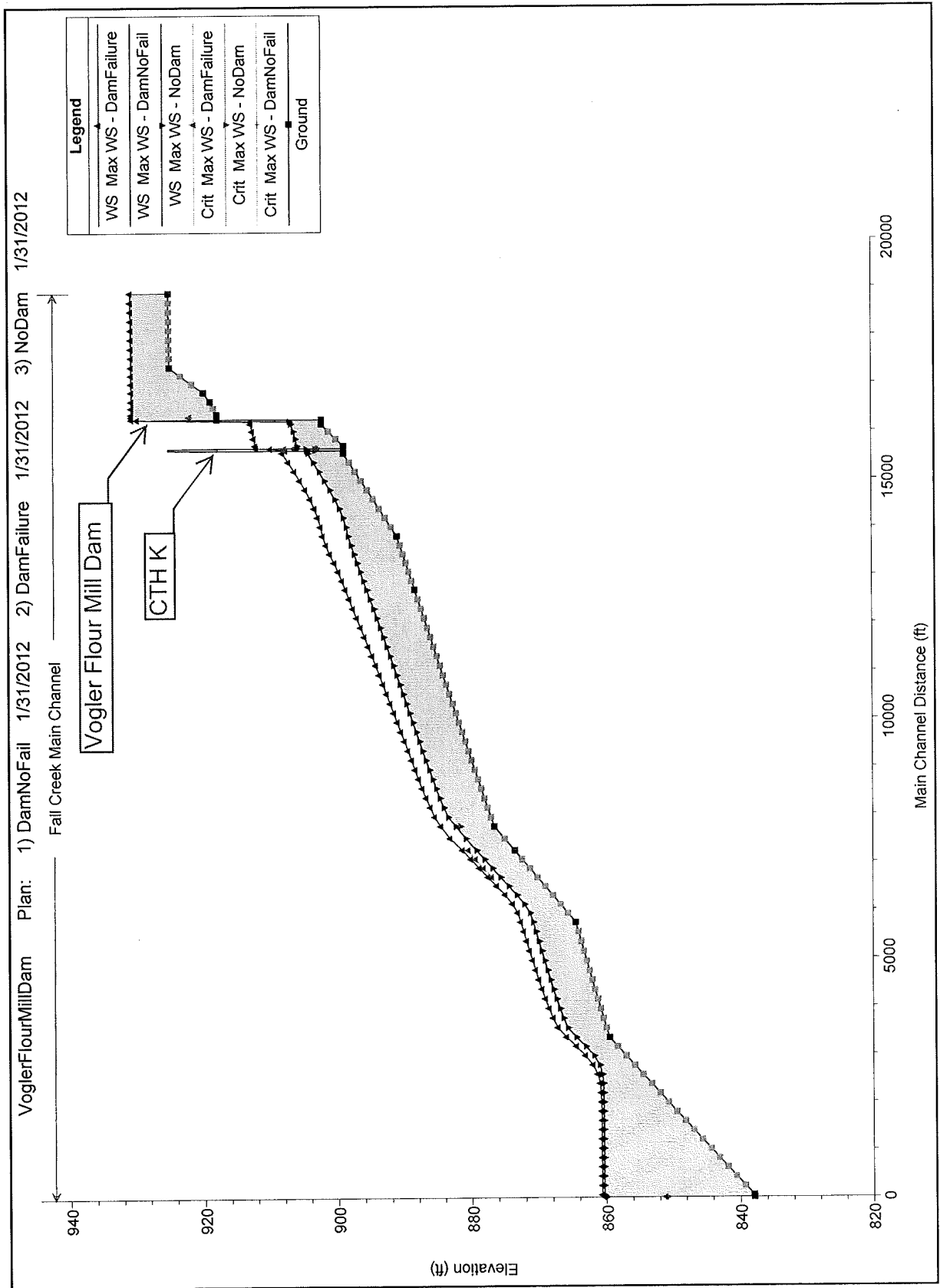
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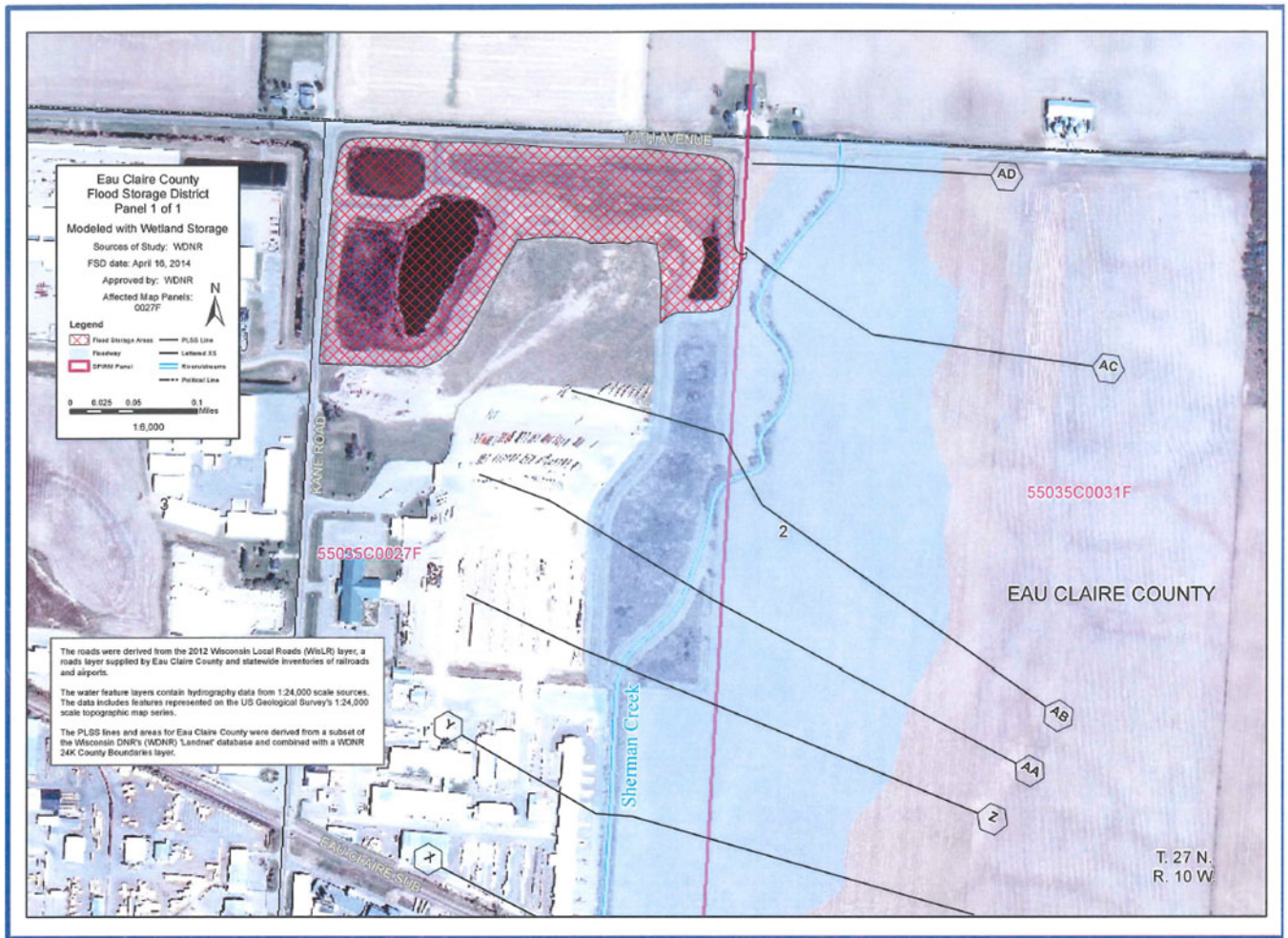
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0 0.1 0.2 0.4 0.6 0.8 Miles

January 31, 2012

Vogler Flour Mill Dam
Village of Fall Creek, Wisconsin
Inundation Map
Dam In Place With Failure

Appendix E
Sheet 2 of 2



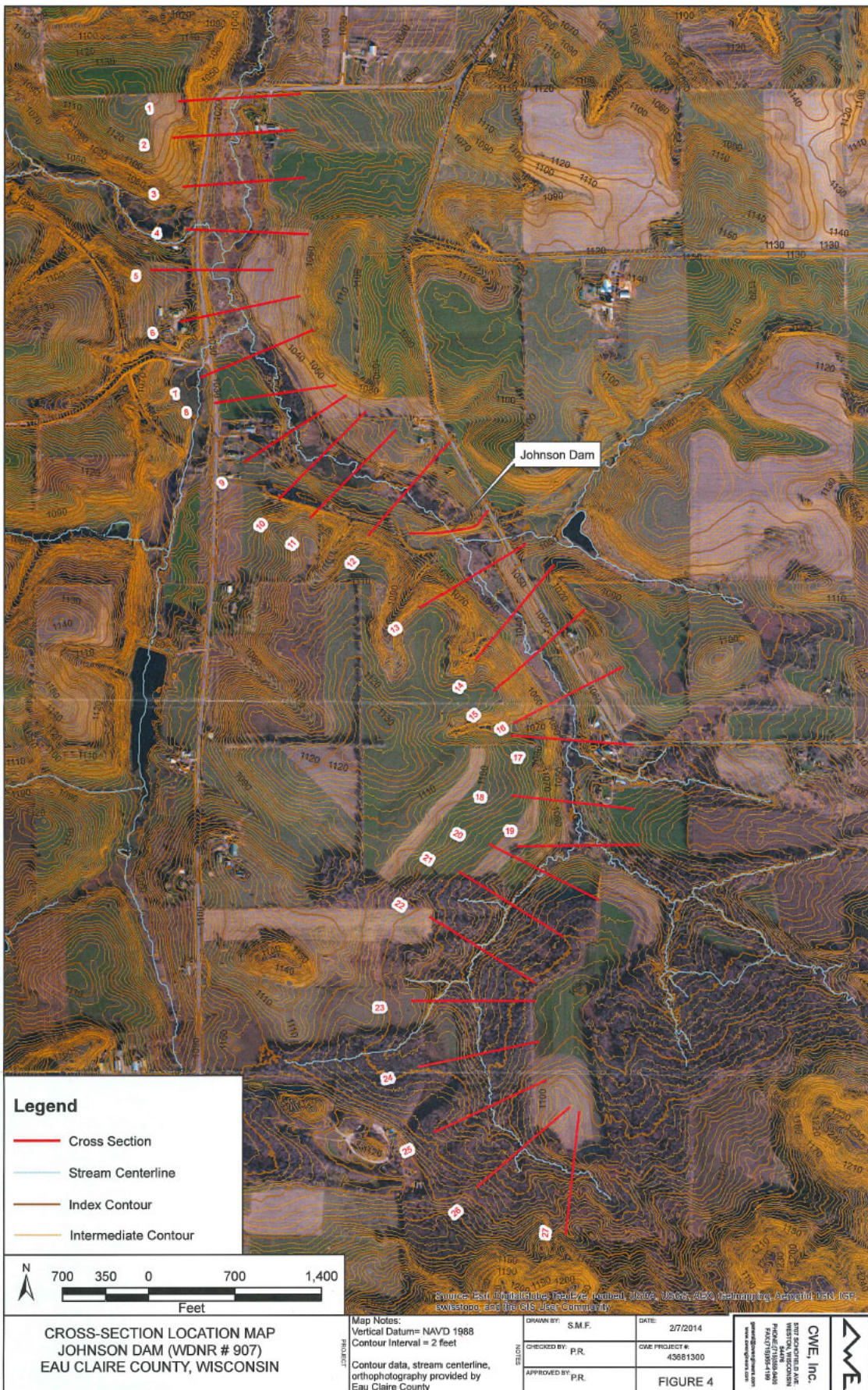


8.4 Summary

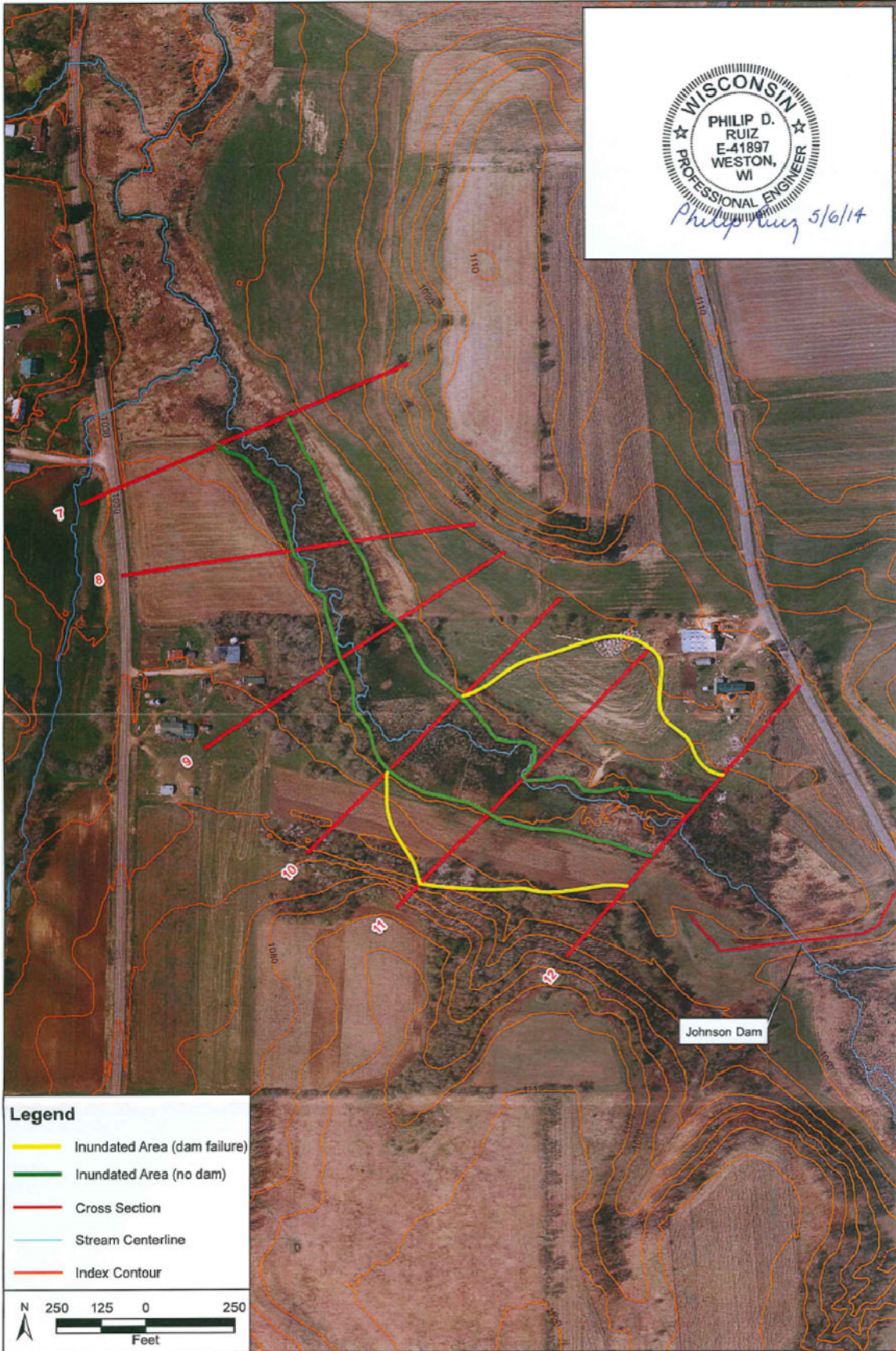
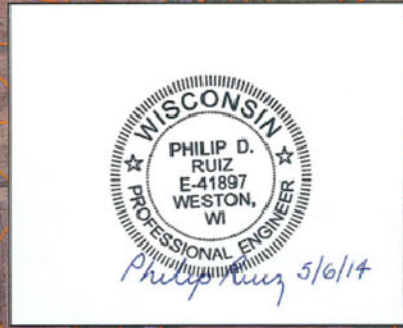
Table 5 summarizes the results of all three scenarios.

Table 5: Summary Floodway Data Table

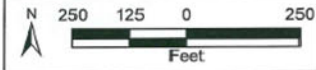
Cross Section Number	Distance Downstream of Dam (ft)	Floodway Top Width (ft)			Peak Water Surface Elevation (ft)		
		Dam Non-Existent	Dam In-Place	Dam Failure	Dam Non-Existent	Dam In-Place	Dam Failure
12	530	201	185	417	1031.55	1031.36	1037.65
11	1065	142	116	903	1029.87	1029.64	1052.28
10	1505	279	272	302	1028.47	1028.36	1029.23
9	2005	189	176	-	1026.54	1026.36	-
8	2505	167	154	-	1025.51	1025.29	-
7	3005	211	207	-	1024.81	1024.66	-



Part 1: 109P4714881300 Johnson Dam/Map/Map/Cross-Section Location Map.mxd



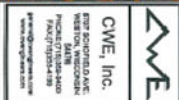
- Legend**
- Inundated Area (dam failure)
 - Inundated Area (no dam)
 - Cross Section
 - Stream Centerline
 - Index Contour



HYDRAULIC SHADOW
JOHNSON DAM (WDNR # 907)
EAU CLAIRE COUNTY, WISCONSIN

Map Notes:
 Vertical Datum= NAVD 1988
 Contour Interval = 10 feet
 Contour data, stream centerline,
 orthophotography provided by
 Eau Claire County

DESIGNED BY:	S.M.F.	DATE:	5/6/2014
CHECKED BY:	P.R.	CWE PROJECT #:	43681300
APPROVED BY:	P.R.	FIGURE #:	FIGURE 5

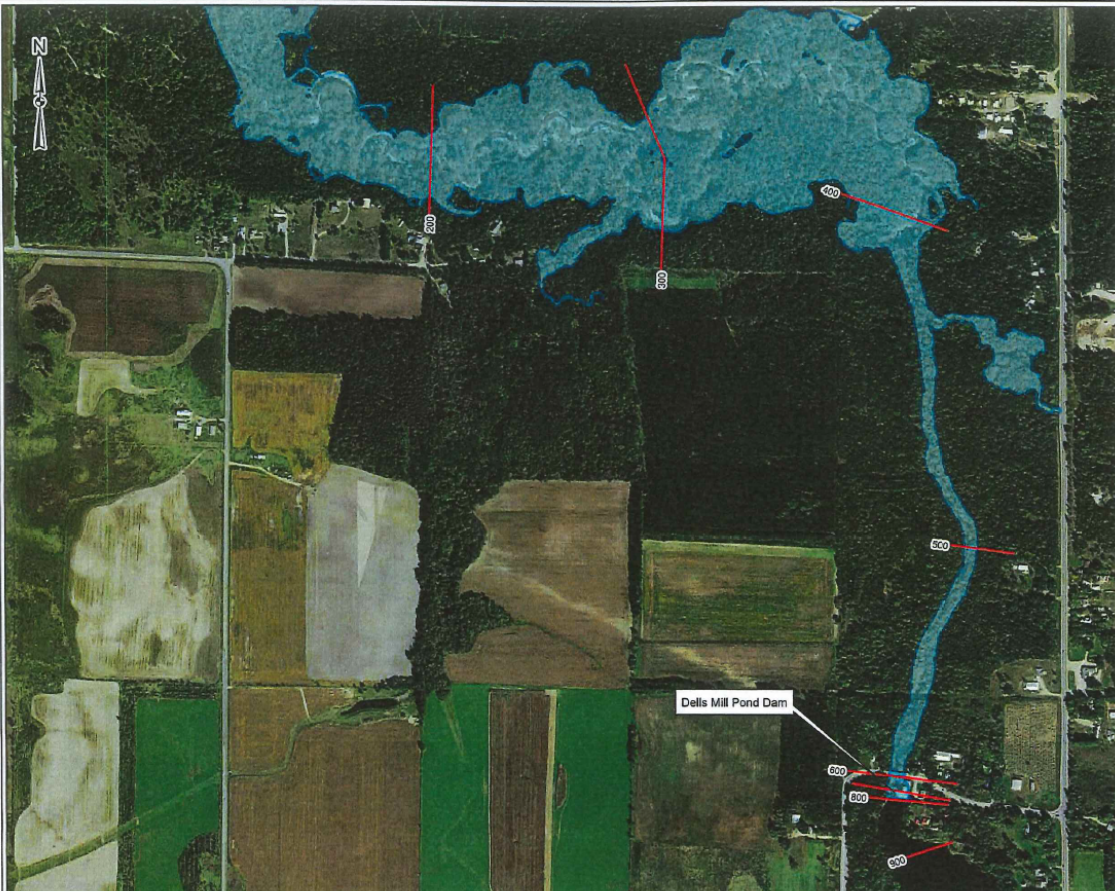


Floodway Data Table

The hydraulic shadow floodway data are presented in Table 5.

Table 5: Hydraulic Shadow Floodway Data

HEC-RAS River Station	River Mile Below Dam	Maximum Stage Elevation (feet)	Peak Discharge (cfs)	Maximum Velocity (feet/sec)	Floodplain Top Width (feet)
700	0.0	919.20	21,300	8.0	145
600	0.02	917.72	21,200	13.6	97
CR-V					
500	0.31	905.94	20,400	17.3	92
400	0.73	897.97	16,900	3.8	573
300	1.66	889.85	11,600	3.3	703
200	2.25	886.15	10,300	3.0	429
100	2.89	884.30	13,600	1.8	1014
Eau Claire River Confluence – Harstad County Park					
50	3.15	883.03	22,300	4.8	722
25	3.44	882.17	22,100	4.3	861



**Hydraulic Shadow
(Sheet 1)**

**Dells Mill Pond Dam
Failure Analysis**

**Field File Number:
18.02**

Location
Eau Claire County, WI

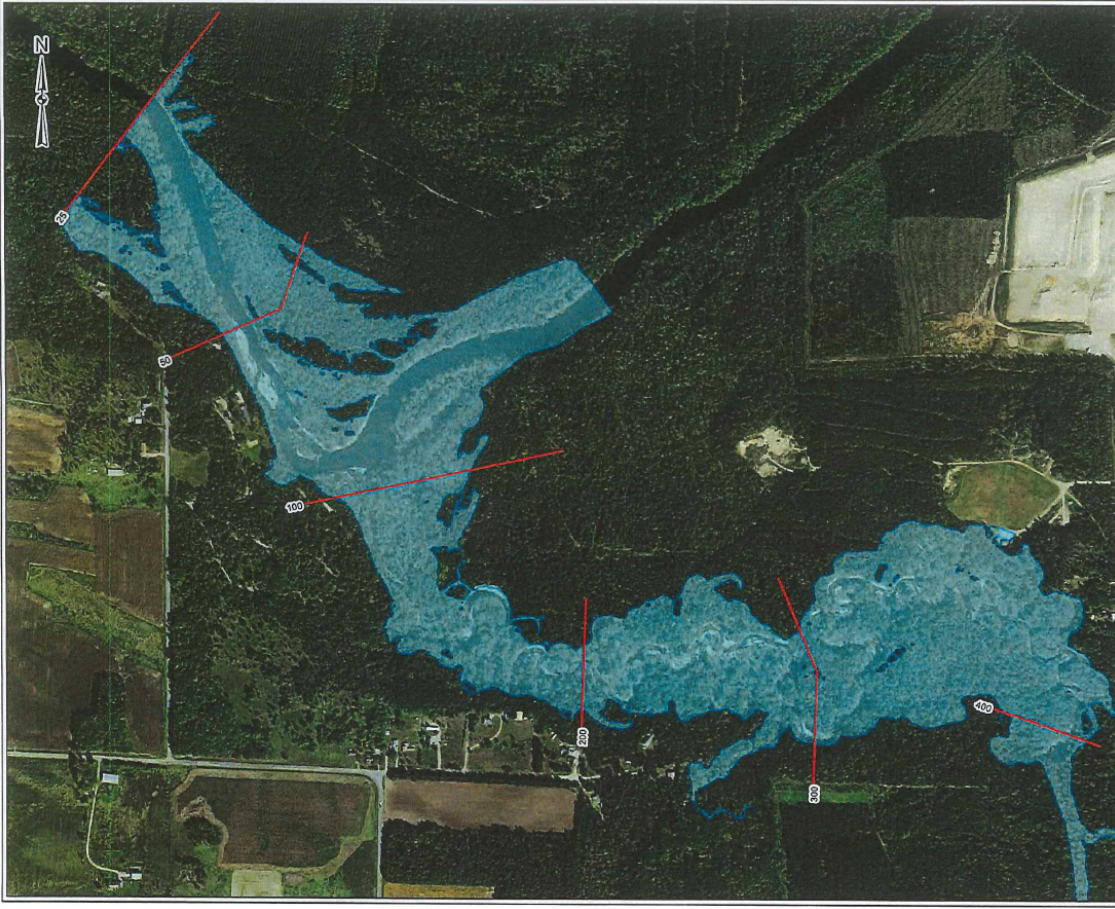
Project Information
Project Number: 26-0928.00
Modified: October 28, 2016

Legend

- Hydraulic Shadow
- Cross Sections



AYRES ASSOCIATES
3433 Oakwood Hills Parkway
Eau Claire, WI 54701



**Hydraulic Shadow
(Sheet 2)**

**Dells Mill Pond Dam
Failure Analysis**

**Field File Number:
18.02**

Location
Eau Claire County, WI

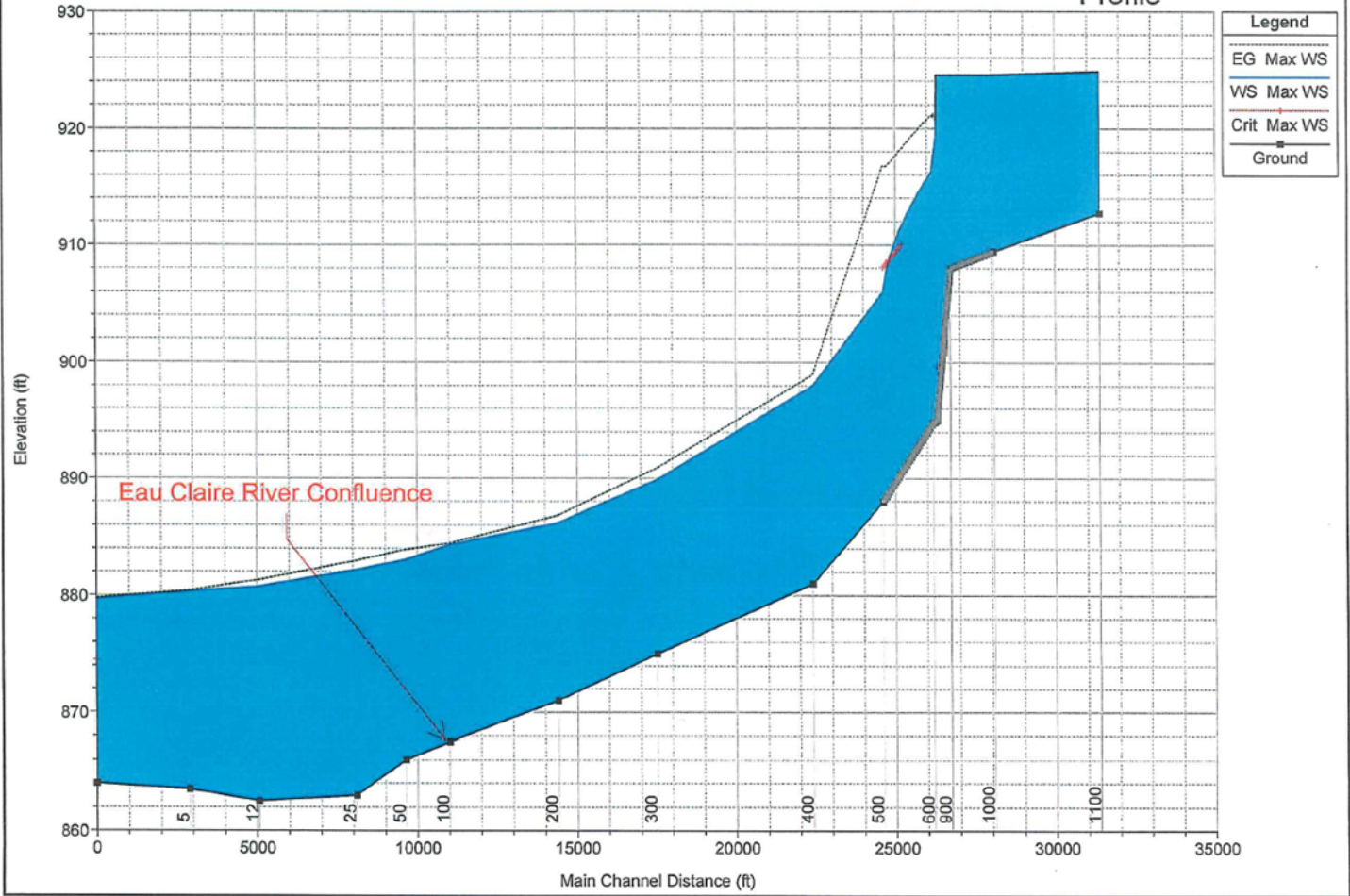
Project Information
Project Number: 26-0928.00
Modified: October 28, 2016

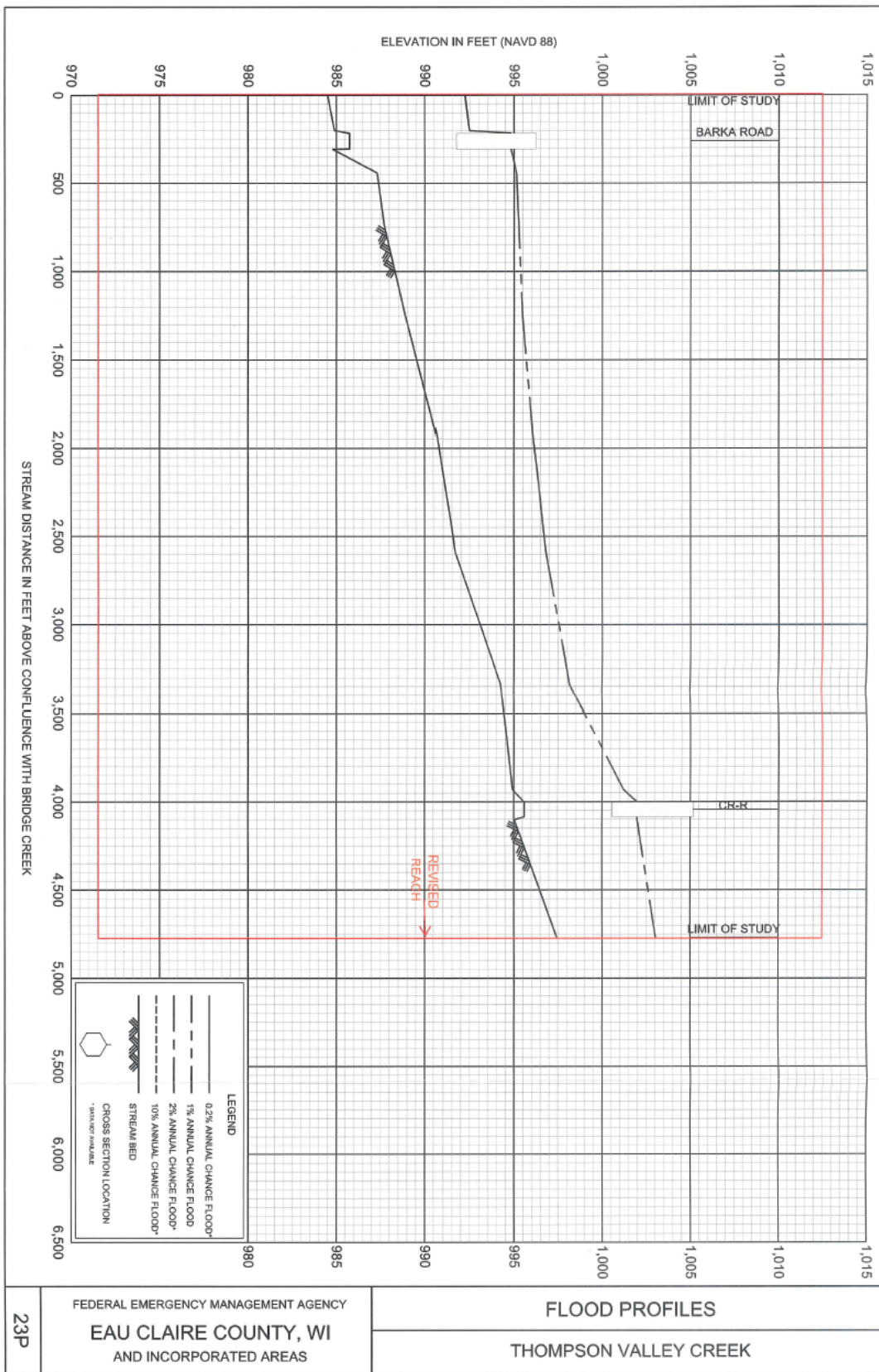
Legend

- Hydraulic Shadow
- Cross Sections



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Eau Claire, WI 54701
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Eau Claire County, Town of Otter Creek

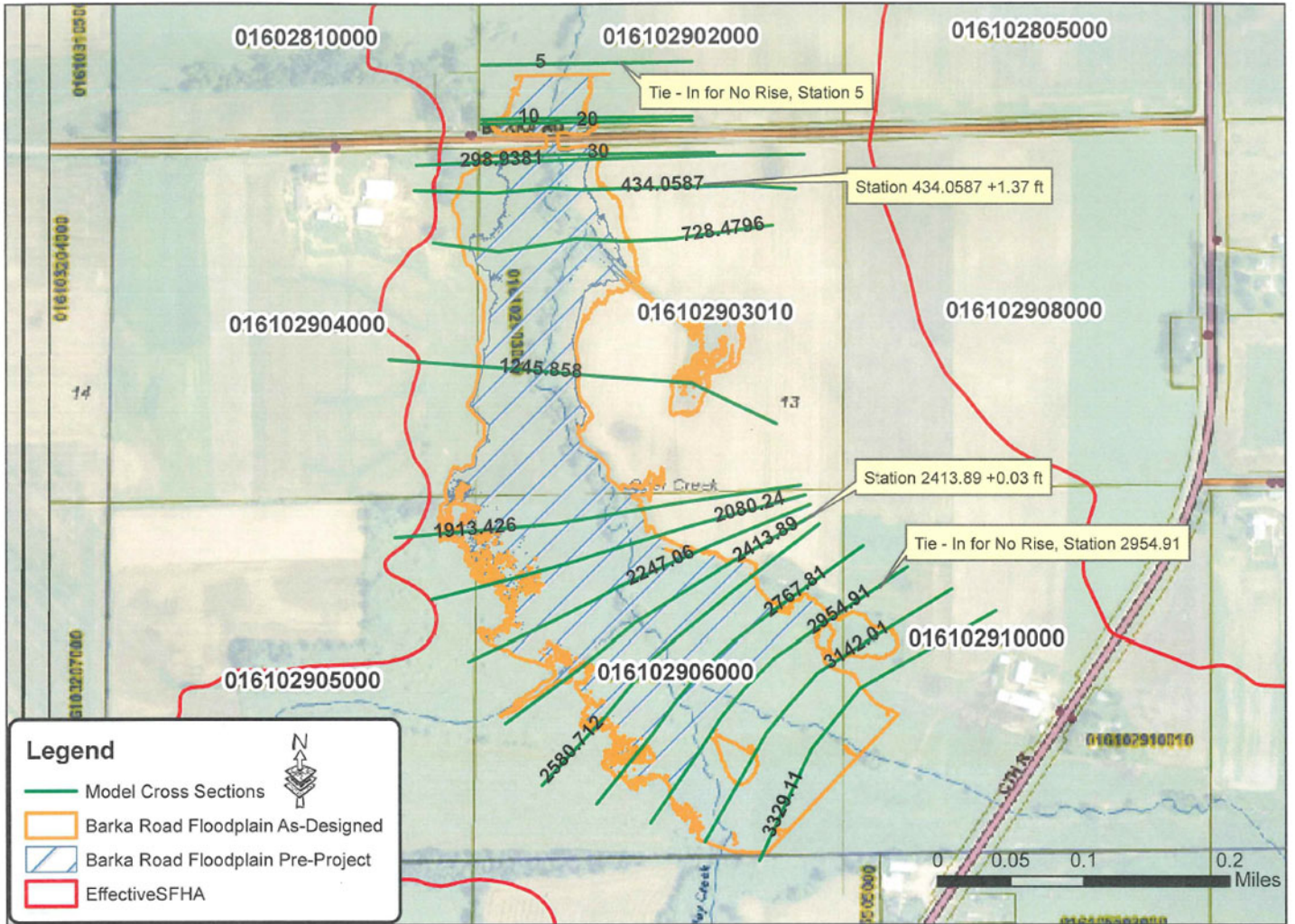
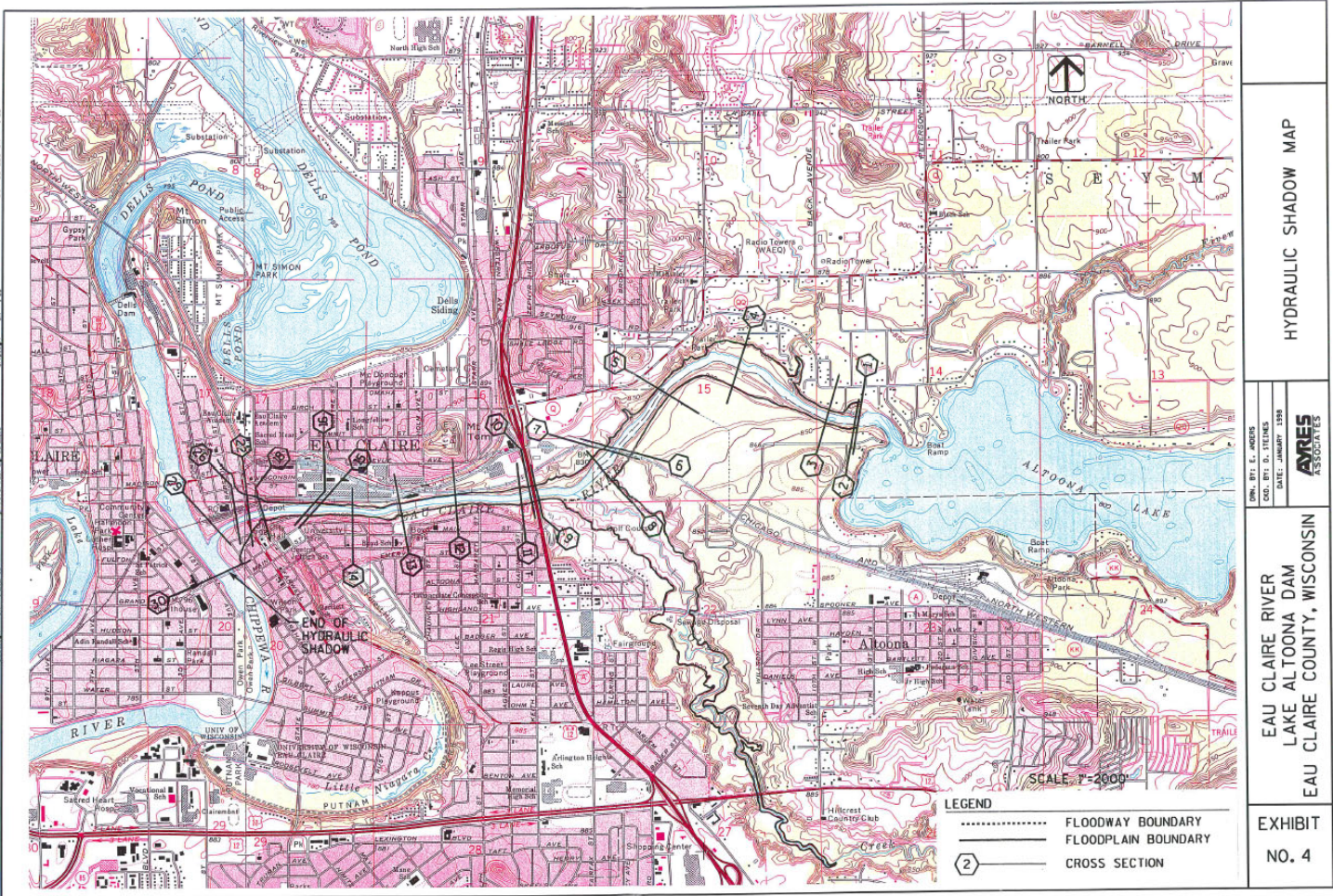


Table 4
Hydraulic Shadow Floodway Data

Cross Section No.	River Mile	Maximum Stage Elevation (feet)	Peak Discharge (cfs)	Maximum Velocity (feet/sec)	Floodplain Top Width (feet)
1 (Dam)	0.00	807.14	70114	10.42	235
2	0.02	803.55	70114	12.53	235
3	0.27	802.94	72009	12.24	325
4	0.63	803.01	62524	3.92	1060
5 (FIS M)	1.04	802.11	51950	8.46	335
6 (Railroad FIS L)	1.38	801.46	49247	6.76	380
7	1.39	801.11	49247	7.02	375
8 (FIS K)	1.48	801.09	48349	4.77	470
9 (USH 53 FIS J)	1.82	800.46	44992	6.06	355
10	1.84	800.02	44992	6.28	355
11 (FIS I)	1.87	800.02	44709	5.71	480
12 (FIS H)	2.17	799.36	41732	6.02	335
13 (Footbridge FIS G)	2.44	798.62	40717	5.56	335
14 (FIS F)	2.63	797.67	40579	6.96	240
15 (Railroad FIS E)	2.82	797.38	40524	5.03	265
16	2.83	793.92	40524	5.66	265
17	3.05	793.05	40499	6.01	260
18 (Dewey St. FIS D)	3.06	793.28	40499	4.82	330
19	3.07	790.26	40499	5.45	325
20	3.08	790.32	40498	4.15	995
21	3.12	790.08	40492	4.42	805
22 (Farwell St. FIS C)	3.13	790.23	40490	3.26	1350
23	3.135	789.20	40490	3.62	1270
24	3.14	789.13	40489	4.28	950
25	3.18	788.88	40482	4.44	875
26 (Barstow St. FIS B)	3.186	788.80	40482	4.63	720
27	3.19	786.55	40482	5.52	620
28	3.20	786.46	40481	5.56	940
29 (FIS A)	3.27	785.71	40477	5.58	1530
30 (Chippewa R. FIS Z)	3.48	781.23	108067	8.13	680



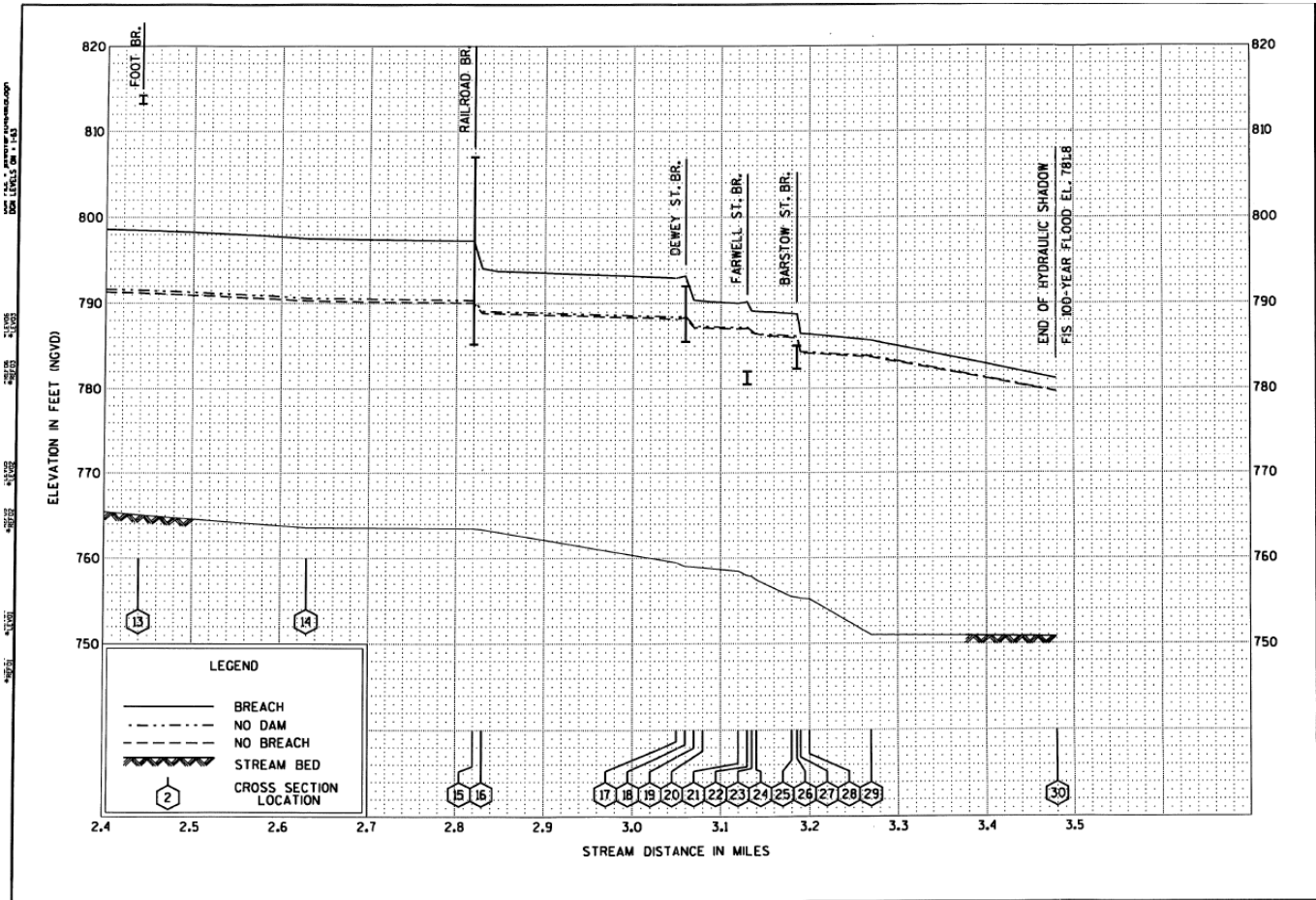
HYDRAULIC SHADOW MAP

EAU CLAIRE RIVER
 LAKE ALTOONA DAM
 EAU CLAIRE COUNTY, WISCONSIN

EXHIBIT
 NO. 4

790-202

7/18/23



790-203

7/18/2023

EXHIBIT
NO. 5
SHT. 3 OF 3