

*Kenosha*



*County*

## COUNTY BOARD OF SUPERVISORS

### NOTICE OF MEETING

NOTE: UNDER THE KENOSHA COUNTY BOARD OF RULES OF PROCEDURE ANY REPORT, RESOLUTION, ORDINANCE OR MOTION APPEARING ON THIS AGENDA MAY BE AMENDED, WITHDRAWN, REMOVED FROM THE TABLE, RECONSIDERED OR RESCINDED IN WHOLE OR IN PART AT THIS OR AT FUTURE MEETINGS. NOTICE OF SUCH MOTIONS TO RECONSIDER OR RESCIND AT FUTURE MEETINGS SHALL BE GIVEN IN ACCORDANCE WITH SEC. 210(2) OF THE COUNTY BOARD RULES. FURTHERMORE, ANY MATTER DEEMED BY A MAJORITY OF THE BOARD TO BE GERMANE TO AN AGENDA ITEM MAY BE REFERRED TO THE PROPER COMMITTEE. ANY ITEM SCHEDULED FOR THE FIRST OF TWO READINGS IS SUBJECT TO A MOTION TO SUSPEND THE RULES IN ORDER TO PROCEED DIRECTLY TO DEBATE AND VOTE. ANY PERSON WHO DESIRES THE PRIVILEGE OF THE FLOOR PRIOR TO AN AGENDA ITEM BEING DISCUSSED SHOULD REQUEST A COUNTY BOARD SUPERVISOR TO CALL SUCH REQUEST TO THE ATTENTION OF THE BOARD CHAIRMAN.

**NOTICE IS HEREBY GIVEN** the **Regular County Board Meeting** of the Kenosha County Board of Supervisors will be held on **Wednesday, the 3rd of April, 2024 at 7:30 P.M.**, in the County Board Room located in the Kenosha County Administration Building, 1010 56th St, Kenosha, WI. The following will be the agenda for said meeting:

- A. Call To Order By Chairman Nudo
- B. Pledge Of Allegiance
- C. Roll Call Of Supervisors
- D. Citizen Comments

Documents:

[GUIDELINES FOR CITIZEN COMMENTS FOR COUNTY BOARD AND COMMITTEE MEETINGS.PDF](#)

- E. Announcements Of The Chairperson
- F. Supervisor Reports
- G. OLD BUSINESS

Ordinance - Second Reading, Two Required

12. From The Planning, Development & Extension Education Committee - An Ordinance Regarding Proposed Amendments To The Kenosha County General Zoning And Shoreland/Floodplain Zoning Ordinance Adopting The State/FEMA Model Floodplain Zoning Ordinance Including The Adoption Of The New Flood Insurance Rate Maps (FIRMs) And The New Flood Insurance Study (FIS)

Documents:

[O12 04032024 2ND READING.PDF](#)

#### H. NEW BUSINESS

##### Resolution - One Reading

123. From The Finance & Administration And The Public Works/Facilities Committees - Resolution Accepting Monsanto Settlement Funds, Establishing Fund For Improvements & Approving Expenditures

Documents:

[RESOLUTION ACCEPTING MONSANTO SETTLEMENT FUNDS.PDF](#)

124. From The Public Works/Facilities Committee - Resolution Approving The Re-Appointment Of Patrice Hall To The Traffic Safety Commission

Documents:

[RESOLUTION TO RE-APPOINT PATRICE HALL TO THE TRAFFIC SAFETY COMMISSION.PDF](#)

##### Ordinance - First Reading, Two Required

13. From The Legislative Committee Amendment Of MCKC Chapter 2 – County Board Rules Of Procedure

Documents:

[CHAPTER 2 COUNTY BOARD RULES.PDF](#)

#### I. COMMUNICATIONS

106. Communication From The Finance & Administration Committee - 2023 To 2024 Carryover And Annual Closeout

Documents:

[COMMUNICATION - CARRYOVER AND CLOSEOUT.PDF](#)

J. Approval Of The March 19, 2024 County Board Meeting Minutes By Supervisor Thomas

K. Adjourn

## **GUIDELINES FOR “CITIZEN COMMENTS” AT KENOSHA COUNTY BOARD AND COMMITTEE MEETINGS**

Please follow the guidelines for participating in Citizen Comments:

- Any person who wishes to address the county board during the “Citizen Comments” portion of the county board meeting must verbally state their name and residential address for the record.
- Citizens that speak during “Citizen Comments” must list their name and residential address on the sign-in sheet on the podium.
- Citizen Comments portion of the meeting will be for 1 hour, which may be adjusted by the County Board Chair at their discretion, if necessary.
- Each speaker is provided one opportunity to speak up to five (5) minutes in length or as announced by the County Board Chair at the beginning of the meeting. Stay within the time limits provided.
- Citizen comments should pertain to county operations.
- Comments should be made to the Board as a whole, and not to address individual Supervisors.
- Do not ask questions of the Board as a whole, or to individual supervisors, this is a time for public comments, not discussion or debate.
- Citizens must be courteous in their language and deportment and must avoid personalized remarks. Refraining from comments that are rude, obscene, or profane, personally attacking, or which demonstrate a lack of respect for others.
- The County Board Chair will not tolerate abusive language or disruptive behavior. The County Board Chair, for abusiveness or disruptive behavior, may terminate an individual’s public comments. The County Board Chair has the authority to rule speakers out of order for noncompliance with these guidelines and may call a short recess in disorderly situations.
- Citizens in the audience are not to audibly respond to comments being made or to make demonstrations either in support of or in opposition to a speaker or idea. Refraining from derogatory comments, inappropriate gesturing, or applause.

*Kenosha**County***BOARD OF SUPERVISORS****ORDINANCE NO. \_\_\_\_\_**

Subject: Proposed amendments to the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance adopting the State/FEMA model floodplain zoning ordinance which is compliant with the Code of Federal Regulations Title 44, Chapter I, Section 60 and the Wisconsin Administrative Code Chapter NR 116 including the adoption of the new Flood Insurance Rate Maps (FIRMs) and the new Flood Insurance Study (FIS).

Original ☐      Corrected ☐      2nd Correction ☐      Resubmitted ☐

Date Submitted: April 19, 2024

Date Resubmitted:

Submitted By: Planning Development &  
Extension Education Committee

Fiscal Note Attached ☐

Legal Note Attached ☐

Prepared By: Andy M. Buehler, Director  
Division of Planning & Development

Signature:

DocuSigned by:

6F9A89FDAE5542C...

WHEREAS, Kenosha County proposes to amend Chapter 12 of the “Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance” as set forth in the attached Exhibit “A, pertaining to adopting the State/FEMA model floodplain zoning ordinance as a stand-alone subsection of Chapter 12 superseding existing floodplain language in Chapter 12 and authorizing such pertinent language to be removed. Such model ordinance is compliant with the Code of Federal Regulations Title 44, Chapter I, Section 60 and the Wisconsin Administrative Code Chapter NR 116 including the adoption of the new Flood Insurance Rate Maps (FIRMs) and the new Flood Insurance Study (FIS).

WHEREAS, the Kenosha County Planning, Development & Extension Education Committee held a public hearing on the request February 14, 2024.

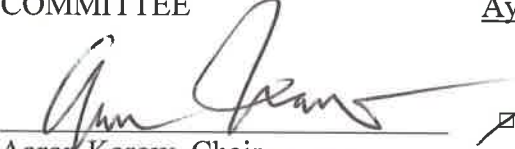
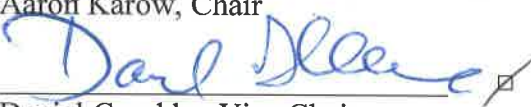

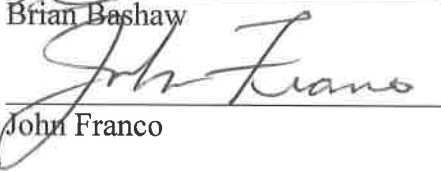
## Amendments - Chapter 12 of the Municipal Code of Kenosha County

Page 2

NOW, THEREFORE BE IT RESOLVED that pursuant to the authority granted by Sections 59.69 and 59.594(2)(a) of the Wisconsin State Statutes, the Kenosha County Board of Supervisors does hereby ordain that Chapter 12 of the Municipal Code of Kenosha County entitled "Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance" be amended, as set forth in the attached Exhibit "A, pertaining to adopting the State/FEMA model floodplain zoning ordinance as a stand-alone subsection of Chapter 12 superseding existing floodplain language in Chapter 12 and authorizing such pertinent language to be removed. Such model ordinance is compliant with the Code of Federal Regulations Title 44, Chapter I, Section 60 and the Wisconsin Administrative Code Chapter NR 116 including the adoption of the new Flood Insurance Rate Maps (FIRMs) and the new Flood Insurance Study (FIS).

Approved by:

PLANNING, DEVELOPMENT  
& EXTENSION EDUCATION  
COMMITTEE

	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Excused</u>
 Aaron Karow, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Daniel Gaschke, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Brian Bashaw	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 John Franco	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Ed Kubicki	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Floodplain Zoning Ordinance**  
**Kenosha County, Wisconsin**  
**Effective ()**

***Please fill in these sections after adoption***

Date of Public Hearing:\_\_\_\_\_ (Requires a Class 2 Hearing Notice of Publication or Posting)

Date of Adoption:\_\_\_\_\_

Dates of Publication or Posting:

Second/last date must be at least 7 days before hearing,  
see definition, Ch 985 Stats)

Date of Publication or Posting of Notice of Enacted Ordinance \_\_\_\_\_

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**1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS**

**1.1 STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authorization in s.59.69, s. 59.692, and s. 59.694. and the requirements in Wis. Stat. s. 87.30, Stats.

**1.2 FINDING OF FACT**

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

**1.3 STATEMENT OF PURPOSE**

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

**1.4 TITLE**

This ordinance shall be known as the Floodplain Zoning Ordinance for Kenosha County, Wisconsin.

**1.5 GENERAL PROVISIONS**

**(1) AREAS TO BE REGULATED**

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE, on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.

**(2) OFFICIAL MAPS & REVISIONS**

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO, on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the Kenosha County Division of Planning and Development, Kenosha County Center, Bristol, WI.

(a) OFFICIAL MAPS: Based on the Flood Insurance Study (FIS):

1. Flood Insurance Rate Map (FIRM), panel numbers 55059C0014D, 55059C0019D, 55059C0036D, 55059C0037D, 55059C0038D, 55059C0039D, 55059C0041D, 55059C0042D, 55059C0043D, 55059C0044D, 55059C0061D, 55059C0062D, 55059C0063D, 55059C0064D, 55059C0088D, 55059C0119D, 55059C0134D, 55059C0138D, 55059C0139D, 55059C0153D, 55059C0154D, 55059C0156D, 55059C0157D, 55059C0158D, 55059C0159D, 55059C0176D, 55059C0177D, 55059C0178D, 55059C0179D, 55059C0181D, 55059C0182D, 55059C0183D, 55059C0201D, 55059C0203D, 55059C0231D, 55059C0232D, 55059C0251D and 55059C0252D dated **06/19/2012**
2. Flood Insurance Rate Map (FIRM), panel number 55059C0184E dated 03/07/2017
3. Flood Insurance Rate Map (FIRM), panel numbers 55059C0012E, 55059C0016E, 55059C0017E, 55059C0018E, 55059C0089E, 55059C0107E, 55059C0109E, 55059C0110E, 55059C0116E, 55059C0117E, 55059C0118E, 55059C0126E, 55059C0127E, 55059C0128E, 55059C0129E, 55059C0131E, 55059C0132E, 55059C0133E, 55059C0136E, 55059C0137E, 55059C0143E, 55059C0151E, 55059C0152E, 55059C0202E, and 55059C0256E, dated 04/11/2024.
4. (Flood Insurance Study (FIS) volumes 55059CV001C, 55059CV002C and 55059CV003C for Kenosha County, dated 04/11/2024

Approved by: The DNR and FEMA

(b) OFFICIAL MAPS: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. Meyer KD Dam Failure analysis approved by the Department of Natural Resources on August 9, 2002, including:
  - i. Map dated no date and titled ("Inundation Map for Non-Failure, Dam Non-Existent and Dam Failure During the 100 Year flood"). (Use Dam Failure during the 100 Year Flood map).
  - ii. Floodway data table dated no date and titled ("Floodway Data Table for Dam Failure Analysis"). Use Maximum Stage Elevation Column
  - iii. Flood profiles dated no date and titled "Hydraulic Profiles for Failure, No Failure and No Dam Analyses for the 100-yr Flood". Use failure profile.
2. Bong Recreation Area 8 Dam Failure Analysis approved by the Department of Natural Resources on January 7, 2020 including:
  - i. Map dated January 2013, and titled, "Simplified Dam Failure Analysis for Bong Recreational Area Dam No. 8."
  - ii. Floodway data table dated, no date, and titled, "Table 6.1 – Water Surface Comparison", 100-year Flood Dam Failure Peak WSEL column indicates water surface elevations during dam failure.
  - iii. Flood profiles dated, no date, and titled, "Bong Recreational Area Dam No. 8 – Simplified Dam Failure Analysis."

3. Flood Storage Map - Kenosha County and incorporated areas Flood Storage Districts Panel 1 and 6, dated 4/11/2024, approved by the DNR.

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

The flood hazard areas regulated by this ordinance are divided into districts as follows:

- (a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).
- (b) The Floodfringe District (FF) is that portion of a special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.
- (c) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- (d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit (zoning or construction permit), whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre- development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 *Amendments*.

- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (b) Where flood profiles do not exist for projects, including any boundary of zone A, AO, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN

- (a) Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 *Amendments*.
- (b) The delineation of any of the Floodplain Districts may be revised by the

community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The zoning administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

1. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
  2. The fill must be contiguous to land outside the floodplain; Applicant shall obtain a shoreland permit, according to Section 12.09, before applying for a LOMR or LOMR-F;
- (c) Removal of lands from the floodplain may also occur by operation of § 87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(6) COMPLIANCE

- (a) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- (b) Failure to obtain a land use permit (zoning or construction permit) shall be a violation of these regulations and shall be punishable in accordance with s. 9.0.
- (c) Land use permit (zoning or construction permit) issued on the basis of plans and applications approved by the zoning administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the zoning administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.0.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the zoning administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway

data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(8) **ABROGATION AND GREATER RESTRICTIONS**

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 59.69, s. 59.692, and 59.694 for counties; or s. 87.30, Stats. which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) **INTERPRETATION**

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

(10) **WARNING AND DISCLAIMER OF LIABILITY**

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) **SEVERABILITY**

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

(12) **ANNEXED AREAS FOR CITIES AND VILLAGES**

The Kenosha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

**2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

- (1) No structures of any type shall be allowed, except for a pole sign in business zoning.

- (2) If a subdivision or other proposed new development is in a mapped floodplain area, the community shall assure that:
  - (a) such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
  - (b) public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  - (c) adequate drainage is provided to reduce exposure to flood hazards.
- (3) All land division proposals (including manufactured home parks), boundary adjustment proposals, and proposals to combine existing parcels shall include regional flood elevation and floodway data and meet all other requirements in s. 7.1(2).

## **2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

- (1) No floodplain development for a public highway or transportation project shall:
  - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (b) Cause any increase in the regional flood height due to floodplain storage area lost.
- (2) The zoning administrator shall deny permits for development other than a public highway or transportation project if it is determined the proposed development will obstruct flow or result in the net removal of flood storage capacity within the regulatory floodplain.
- (3) If compensatory storage is created to address the prohibition under s. 2.1(3)(b), the location of the compensatory storage must be outside of and contiguous to the pre-existing regulatory floodplain and the newly-created compensatory storage area shall be included within the regulatory floodplain through an amendment under ss. 1.5(5) and 8.0.

*Note:* Compensatory storage is not required to offset fill placed in the areas that are shown on the floodplain zoning maps as AE or AO for which the elevation was determined based on a coastal analysis if the areas are not also mapped floodplain areas.

## **2.2 WATERCOURSE ALTERATIONS**

No permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 2.1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 8.0 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

## **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 8.0 *Amendments*.

## **2.4 PUBLIC OR PRIVATE CAMPGROUNDS**

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

- (1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
- (2) A land use permit (zoning or construction permit) for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or zoning administrator, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;
- (6) All mobile recreational vehicles placed on site must meet one of the following:
  - (a) Be fully licensed, if required, and ready for highway use; or
  - (b) Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
  - (c) Meet the requirements in either s. 3.0, 4.0 or 5.1, for the floodplain district in which the structure is located;

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
- (7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with 2.4(6) and shall ensure compliance with all the provisions of this section;



- (8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (9) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation; and
- (11) Standards for structures in a campground:
  - (a) All structures must comply with section 2.4 or meet the applicable requirements in ss. 3.0, 4.0 or 5.1, for the floodplain district in which the structure is located;
  - (b) Deck / landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with section 2.4(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - (c) Decks/patios that are constructed completely at grade may be allowed, but must also comply with applicable shoreland zoning standards.
  - (d) Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 2.4(4).
  - (e) Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 2.4(4).
- (12) A land use permit (zoning or construction permit) shall be obtained as provided under 7.1(2) before any development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

### **3.0 FLOODWAY AND FLOODFRINGE DISTRICTS (FW; FF)**

#### **3.1 APPLICABILITY**

This section applies to all floodway and floodfringe areas on the floodplain zoning maps and those identified pursuant to s. 5.1(5).

### **3.2 PERMITTED USES**

The following open space uses are allowed in the Floodway and Floodfringe Districts and the floodway and floodfringe areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
  - they meet the standards in s. 3.3 and 3.4; and
  - all permits or certificates have been issued according to s. 7.1.
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
  - (4) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 3.3 and 3.4.
  - (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
  - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
  - (7) Public utilities, streets and bridges that comply with s. 3.3(3).
  - (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.
  - (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
  - (10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
  - (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the regulatory floodplain that complies with the regulations for the area occupied.

### **3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY AND FLOODFRINGE DISTRICTS**

- (1) GENERAL
  - (a) Any development in the floodway or floodfringe shall comply with s. 2.0 and have a low flood damage potential.
  - (b) Applicants shall provide an analysis calculating the effects of the proposal on the regional flood height to determine the effects of the proposal according to

s. 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.

- (c) Any encroachment in the regulatory floodway or floodfringe is prohibited unless the data submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 1.5(5).
- (d) Any existing structure in the floodway or floodfringe must meet the requirements of s. 6.0 (Nonconforming Uses).

(2) **STRUCTURES**

Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (b) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
  - 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
  - 2. Have structural components capable of meeting all provisions of Section 3.3(2)(g) and;
  - 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 3.3(2)(g).
- (c) Must be anchored to resist flotation, collapse, and lateral movement;
- (d) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- (e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (f) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
  - 1. The lowest floor must be elevated to or above the regional flood elevation;
  - 2. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - 3. the bottom of all openings shall be no higher than one foot above the

lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.

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

(g) Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 3.4(4) and 3.4(5);
3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
5. Placement of utilities to or above the flood protection elevation.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

(a) Public utilities, streets and bridges in the floodway may be allowed by permit, if:

1. Adequate floodproofing measures are provided to the flood protection elevation; and
2. Construction meets the development standards of s. 2.1.

(b) All utilities, streets and bridges in the floodfringe shall be designed to be compatible with comprehensive floodplain development plans; and

1. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.
2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(4) FILLS OR DEPOSITION OF MATERIALS

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

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (d) The fill is not classified as a solid or hazardous material.

### **3.4 PROHIBITED USES**

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department- approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

## **5.0 OTHER FLOODPLAIN DISTRICTS**

### **5.1 GENERAL FLOODPLAIN DISTRICT (GFP)**

#### **(1) APPLICABILITY**

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 1.5(2)(a),

#### **FLOODWAY BOUNDARIES**

For proposed development in a zone A, or in a zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in s. 1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s. 5.1(5). If the development is proposed to encroach upon the regulatory floodway or the regulatory floodfringe, the development is subject to the standards of s 3.0.

#### **(2) PERMITTED USES**

Pursuant to s. 5.1(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway and Floodfringe Districts (s. 3.2) are allowed within the General Floodplain District, according to the standards of s. 5.1(4) provided that all permits or certificates

required under s. 7.1 have been issued.

(3) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT  
Section 3.0 applies to floodway and floodfringe areas, determined to pursuant to 5.1(5).

- (a) No new structures allowed except for a pole sign in business.
- (b) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.
- (c) All development in zones AO and zone AH shall meet the requirements of s. 4.0.

(4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within zone A, or within a zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the zoning administrator shall:

- (a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
- (c) A Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).
  - 1. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
  - 2. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

## 5.2 FLOODSTORAGE DISTRICT

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(1) APPLICABILITY

The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(2) PERMITTED USES

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 4.3.

(3) **STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS**

- (a) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- (b) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage, which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (c) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per s. 8.0 *Amendments* of this ordinance.
- (d) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

**6.0 NONCONFORMING USES**

**6.1 GENERAL**

(1) **APPLICABILITY**

- (a) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
  - (b) As permit applications are received for, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their equalized assessed value and a list of the costs of those activities associated with changes to those buildings.
- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
- (a) No modifications to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The word "modification" includes, but is not limited to, any alteration, , modification, structural repair, of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
  - (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
  - (d) No additions of any type shall be allowed. Modification to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its equalized assessed value, shall not be allowed.
  - (e) Change in roof pitch may be allowed by a land use permit (zoning or construction permit) if the total cost of the work does not equal or exceed 50% of the structure's equalized assessed value, at the time the structure became nonconforming, over the life of the structure.
  - (f) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
  - (g) If on a per event basis the total value of the work being done under (d) and (f) equals or exceeds 50% of the equalized assessed value the work shall not be permitted.
  - (h) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged by flood, it cannot be replaced, reconstructed or rebuilt.
  - (i) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall not be permitted.
- (3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1 (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
- (4) Floodproofing which elevates the first floor of a nonconforming structure may be allowed by a land use permit (zoning or construction permit); the entire structure shall be floodproofed by means other than the use of fill, in compliance with the standards set forth in Section 7.5



of this ordinance, to the flood protection elevation, which is 2 feet above the base flood elevation

## **6.2 FLOODWAY DISTRICT**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
  - (a) Has been granted a permit or variance which meets all ordinance requirements;
  - (b) Meets the requirements of s. 6.1;
  - (c) Shall not increase the obstruction to flood flows or regional flood height;
  - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and
  - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    4. The use must be limited to parking, building access or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and ch. SPS 383, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

## **6.3 FLOODFRINGE DISTRICT**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodfringe District or Coastal AE and AO zones unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.

- (2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of subd. (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
  - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) Human lives are not endangered;
  - (c) Public facilities, such as water or sewer, shall not be installed;
  - (d) Flood depths shall not exceed two feet;
  - (e) Flood velocities shall not exceed two feet per second; and
  - (f) The structure shall not be used for storage of materials as described in s. 4.3(5).
- (3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, s. 7.5 (3) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.
- (5) Any deposited material in the Floodfringe District must meet all the provisions of this ordinance.

#### **6.4 FLOOD STORAGE DISTRICTS**

No modification or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 5.2 (3) are met.

#### **7.0 ADMINISTRATION**

Where a zoning administrator, has already been appointed to administer a zoning ordinance adopted under ss. 59.69 or 59.692, Stats., these officials shall also administer this ordinance.

#### **7.1 ZONING ADMINISTRATOR**

##### **(1) DUTIES AND POWERS**

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (d) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
2. Documentation of certified lowest floor and regional flood elevations;
3. Floodproofing certificates.
4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
5. All substantial damage assessment reports for floodplain structures.
6. List of nonconforming structures and uses.

(e) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
2. Copies of case-by-case analyses and other required information.
3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(g) Submit copies of amendments to the FEMA Regional office.

(2) LAND USE PERMIT (ZONING OR CONSTRUCTION PERMIT)

A land use permit (zoning or construction permit) shall be obtained before any development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

(c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1. Zone A floodplains and in AE zones within which a floodway is not delineated.

a. Hydrology

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

b. Hydraulic modeling

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

- i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. channel sections must be surveyed.
- iii. minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
- iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
- v. the most current version of HEC-RAS shall be used.
- vi. a survey of bridge and culvert openings and the top of road is required at each structure.
- vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
- viii. standard accepted engineering practices shall be used when assigning

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

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

c. Mapping

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

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. Zone AE Floodplains

a. Hydrology

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

b. Hydraulic model

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

i. Duplicate Effective Model

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

ii. Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.

iii. Existing (Pre-Project Conditions) Model.

The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model.

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

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

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

c. Mapping

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

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

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

iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

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

vii. Both the current and proposed floodways shall be shown on the map.

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

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire no more than

180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.

(3) CERTIFICATE OF COMPLIANCE

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit;
- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 are met.
- (e) Where applicable pursuant to s. 5.1(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
- (f) Where applicable pursuant to s. 5.1(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 5.1(4).

(4) OTHER PERMITS

Prior to obtaining a land use permit (zoning or construction permit) the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

## **7.2 ZONING AGENCY**

(1) The Kenosha County Board of Adjustment shall:

- (a) oversee the administration of this ordinance; and
- (b) review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (c) publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place and subject of the public hearing.

(2) The Kenosha County Board of Adjustment shall not:

- (a) grant variances to the terms of the ordinance in place of action by the Board of

Adjustment; or

- (b) amend the text or zoning maps in place of official action by the governing body.

### **7.3 BOARD OF ADJUSTMENT**

The Board of Appeals created under Wis. Stat. s. 62.23(7)(e) is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

#### **(1) POWERS AND DUTIES**

The Board of Adjustment shall:

- (a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;

Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

- (b) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

#### **(2) APPEALS TO THE BOARD**

- (a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

#### **(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES**

- 1. Notice - The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

- 2. Hearing - Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3);
- b. Decide variance applications according to s. 7.3(4); and
- c. Decide appeals of permit denials according to s. 7.4.

- (c) DECISION: The final decision regarding the appeal or variance application shall:

- 1. Be made within a reasonable time;
- 2. Be sent to the Department Regional office within 10 days of the decision;
- 3. Be a written determination signed by the chairman or secretary of the Board;



4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
- (b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0 *Amendments*.

(4) VARIANCE

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  1. Literal enforcement of the ordinance will cause unnecessary hardship;
  2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  3. The variance is not contrary to the public interest; and
  4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- (b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:
  1. The variance shall not cause any increase in the regional flood elevation;
  2. The applicant has shown good and sufficient cause for issuance of the variance;
  3. Failure to grant the variance would result in exceptional hardship;
  4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- (c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district;
  2. Be granted for a hardship based solely on an economic gain or loss;
  3. Be granted for a hardship which is self-created.
  4. Damage the rights or property values of other persons in the area;
  5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.0 *Amendments*; and
  6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

#### **7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in s. 7.1(2);
  - (b) Floodway/floodfringe determination data in s. 5.1(5);
  - (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator; and
  - (d) Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
  - (a) Follow the procedures of s. 7.3;
  - (b) Consider zoning agency recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
  - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 8.0 *Amendments*; and
  - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

#### **7.5 FLOODPROOFING STANDARDS**

- (1) No permit or variance shall be issued for a principal structure to be floodproofed by means of elevating not on fill and designed to be watertight below the regional flood elevation until the applicant submits a plan meeting the following criteria: Floodproofing is not an alternative to the development standards in ss. 2.0, 3.0, , 5.1, or 5.3. (revisit

when renumbered)

(2) Plan Criteria

- (a) Is certified by a registered professional engineer or architect; and
- (b) Withstands flood pressures depths, velocities, uplift and impact forces and other factors associated with the 100-year recurrence interval flood; and
- (c) Assures protection to an elevation at least two (2) feet above the 100-year recurrence interval flood; and
- (d) Provide anchorage of structures to foundations to resist flotation and lateral movement: and
- (e) Minimize or eliminate infiltration of flood waters; and
- (f) Minimize or eliminate discharge into flood waters; and
- (g) Placement of mechanicals essential utilities above the flood protection elevation; and
- (h) Surface subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures; and
- (i) Cutoff valves on sewer lines and the elimination of gravity flow basement drains; and
- (j) Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwaters into such systems; and
- (k) Basement foundation use must be limited to parking, building access or limited storage; and
- (l) Foundation located below the flood protection elevation must be constructed of flood-resistant materials; and
- (m) Foundation designed to allow the entry of floodwaters,
  - 1. Having a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - 2. The bottom of all openings shall be no higher than one-foot above grade; and
  - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

## **7.6 PUBLIC INFORMATION**

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) Real estate transfers should show what floodplain district any real property is in.

## **8.0 AMENDMENTS**

Obstructions or increases, where not prohibited by this ordinance, may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments

are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.1.

## **8.1 GENERAL**

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in s. 1.5 (2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA; and
- (8) Addition of any compensatory storage area proposed to comply with s. 2.1(3)(b).

## **8.2 PROCEDURES**

Ordinance amendments may be made upon petition of any party according to the provisions of s. 59.69, Stats. The petitions shall include all data required by s. 5.1(5) and 7.1(2). A land use permit (zoning or construction permit) shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 59.69, Stats.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, where not prohibited by this ordinance, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

## **9.0 ENFORCEMENT AND PENALTIES**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the

creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

## **10.0 DEFINITIONS**

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

1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
5. ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
7. BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
9. BUILDING – See STRUCTURE.
10. BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
11. CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
12. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
13. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the

provisions of this ordinance.

14. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
15. CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
16. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
17. DEPARTMENT – The Wisconsin Department of Natural Resources.
18. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
19. DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
20. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
21. EQUALIZED ASSESSED VALUE - The full market value placed upon the structure or lot by the local Assessor as of the date that the nonconformity came into being, May 7, 1983. Such valuation by the local assessor shall be prima facie evidence of the assessed value of the structure or lot.
22. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
23. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
24. FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
  - The overflow or rise of inland waters;
  - The rapid accumulation or runoff of surface waters from any source;
  - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
  - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
25. FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in

any given year.

26. **FLOODFRINGE** – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
27. **FLOOD HAZARD BOUNDARY MAP** – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
28. **FLOOD INSURANCE STUDY** – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
29. **FLOODPLAIN** – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.
30. **FLOODPLAIN ISLAND** – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
31. **FLOODPLAIN MANAGEMENT** – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
32. **FLOOD PROFILE** – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
33. **FLOODPROOFING** – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
34. **FLOOD PROTECTION ELEVATION** – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD.)
35. **FLOOD STORAGE** – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
36. **FLOODWAY** – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
37. **FREEBOARD** – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
38. **HABITABLE STRUCTURE** – Any structure or portion thereof used or designed for human habitation.

39. **HEARING NOTICE** – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
40. **HIGH FLOOD DAMAGE POTENTIAL** – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
41. **HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
42. **HISTORIC STRUCTURE** – Any structure that is either:
- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
43. **INCREASE IN REGIONAL FLOOD HEIGHT** – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
44. **LAND USE** – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
45. **LOWEST ADJACENT GRADE** – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
46. **LOWEST FLOOR** – The lowest floor of the lowest enclosed area (including basement).
47. **MAINTENANCE** – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
48. **MANUFACTURED HOME** – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
49. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
50. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING** – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either



final site grading or the pouring of concrete pads.

51. **MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
52. **MOBILE RECREATIONAL VEHICLE** – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
53. **MODEL, CORRECTED EFFECTIVE** – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
54. **MODEL, DUPLICATE EFFECTIVE** – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
55. **MODEL, EFFECTIVE** – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
56. **MODEL, EXISTING (PRE-PROJECT)** – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
57. **MODEL, REVISED (POST-PROJECT)** – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
58. **MUNICIPALITY or MUNICIPAL** – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
59. **NAVD or NORTH AMERICAN VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1988 adjustment.
60. **NGVD or NATIONAL GEODETIC VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1929 adjustment.
61. **NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.
62. **NON-FLOOD DISASTER** – A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.
63. **NONCONFORMING STRUCTURE** – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the

floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

- 64. **NONCONFORMING USE** – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 65. **OBSTRUCTION TO FLOW** – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 66. **OFFICIAL FLOODPLAIN ZONING MAP** – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- 67. **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.
- 68. **ORDINARY HIGHWATER MARK** – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 69. **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 70. **PRIVATE SEWAGE SYSTEM** – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 71. **PUBLIC UTILITIES** – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 72. **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 73. **REGIONAL FLOOD** – A flood determined to be reative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 74. **START OF CONSTRUCTION** – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not

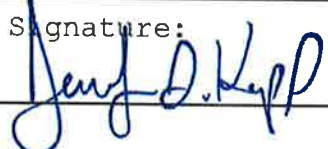
part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 75. **STRUCTURE** – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 76. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.
- 77. **SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 78. **SUBSTANTIAL IMPROVEMENT** – Any repair, , rehabilitation, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure as defined by this ordinance.. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- 79. **UNNECESSARY HARDSHIP** – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 80. **VARIANCE** – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 81. **VIOLATION** – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 82. **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.
- 83. **WATER SURFACE PROFILE** – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 84. **WELL** – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

# KENOSHA COUNTY

## BOARD OF SUPERVISORS

### RESOLUTION NO.

Subject: Resolution Accepting Monsanto Settlement Funds, Establishing Fund for Improvement Projects and Approving Expenditures	
Original <input checked="" type="checkbox"/> Corrected <input type="checkbox"/> 2nd Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted: March 4, 2024	Date Resubmitted:
Submitted By: Jennifer J. Kopp, First Assistant Corporation Counsel	
Fiscal Note Attached <input checked="" type="checkbox"/>	Legal Note Attached <input type="checkbox"/>
Prepared By: Jennifer J. Kopp, First Assistant Corporation Counsel	Signature: 

WHEREAS, a number of communities across the country filed a class action lawsuit against Monsanto Company, Solutia Inc. and Pharmacia LLC (hereinafter referred to as "Monsanto"), in the United States District Court of the Central District of California, *City of Long Beach et. al, v. Monsanto Company*, No. 2:16-CV003493 (the "Class Action Lawsuit"); and

WHEREAS, these communities claimed the defendants produced a class of polychlorinated biphenyls (PCBs) between 1930 and 1977 that led to environmental contamination; and

WHEREAS, Monsanto and the litigation plaintiffs agreed to a settlement in the amount of \$550,000,000 representing four (4) different allocations of settlement dollars that vary based on the amount of damages sustained from Monsanto PCBs, with each fund having a specific formula for calculation of payments: (1) the Monitoring Fund, which intends to pay for PCB sampling and/or other mitigation efforts; (2) the TMDL (Total Maximum Daily Load) Fund, which intends to compensate plaintiffs for restitution and remediation efforts, including mitigation of contaminated property, stormwater and/or stormwater systems; (3) the Sediment Fund, which intends to compensate plaintiffs for specific sites that have sedimentary contamination from PCBs; and (4) Special Needs Funds, which are broken down for various litigation costs of the plaintiffs that initiated the lawsuit and other litigation costs (the "Settlement"); and

WHEREAS, a number of Wisconsin counties and municipalities were not required to opt into the Class Action Lawsuit to participate in the Settlement, rather if a county or municipality met the requirements for the "class" participants, they received notice and were added to the Class Action Lawsuit unless the county or municipality specifically objected; and

WHEREAS, Kenosha County was one of the municipalities identified in Wisconsin as a "class participant." Kenosha County received a payment from the Settlement in the amount of \$969,080 from the TMDL funds; and

WHEREAS, the waterways identified in the Class Action Lawsuit in Kenosha County are in the Lake Michigan Basin and the Mississippi River Basin, but Kenosha County is not aware of and has not been informed of any specific PCB contamination issues in these waterways; and

WHEREAS, the Settlement funds are intended to promote remediation efforts and maintain compliance with the TMDL, which is the calculation of the maximum amount of pollutants that an impaired waterbody can receive on a daily basis and still meet water quality standards, but the receiving municipalities in the Class Action Lawsuit have discretion in how to use these funds for these broadly stated purposes; and

WHEREAS, the Kenosha County Administration (the "Administration") and the Public Works Department (the "Department") believe that remediation and mitigation efforts may be necessary in the future to meet and maintain water quality standards, address contamination issues and other environmental effects from the PCBs; and

WHEREAS, the Administration and the Department propose using the funds to address, monitor and mitigate, among other things, current and future environmental hazards caused by PCBs in Kenosha County. The Administration and the Department would also like to comply with daily TMDL limits, monitor and address contamination, stabilization and erosion in waterways and lakes and obtain cleanup and remediation for contaminated sites through the County as they become known. In addition, the Administration and the Department desire to support projects that improve water quality going into Kenosha County waterways and lakes through groundwater, surface water and/or base flow. There may be other specific environmental or stormwater quality projects, including but not limited to those set forth on Exhibit A; and

WHEREAS, the Administration and the Department have identified three specific projects involving contamination issues, which it may

use the funds for in 2024, including demolition costs for Hillside Hardware, environmental studies and demolition costs for Roosevelt Auto Body and dealing with the Poerio Park Area (the "orange ooze"). The estimated costs associated with these projects are \$431,300. A breakdown of the projects and anticipated costs associated with these projects are set forth on Exhibit B. Kenosha County has already spent considerable time and resources exploring remediation and use for these projects, including discussions with the City of Kenosha on partnering to address these site problems. Remediation and use of these sites will enhance quality of life for Kenosha County citizens; and

WHEREAS, certain expenditures in remediation are required by the Wisconsin DNR (WIDNR), such as Phase I or Phase II environmental testing and efficiency is heightened when these tests are done promptly and in conjunction with partners such as the WIDNR and other municipalities; and

WHEREAS, the Administration recommends placing the Settlement Funds in a separate, interest bearing account with the interest generated being kept separate from the general fund for use on separate environmental or contamination issues.

NOW, THEREFORE, BE IT RESOLVED, that the Kenosha County Board of Supervisors hereby accepts the Settlement Funds in the amount of \$969,080 and approves placement of these funds in a separate, interest bearing account with the principal and any future interest being kept separate from the general fund; and

BE IT FUTHER RESOLVED, that the Kenosha County Board of Supervisors authorizes the Administration to use a portion of the principal up to the amount of approximately \$431,300 to fund expenditures related to Hillside Hardware, Roosevelt Auto Body and Poerio Park Area as set forth on Exhibit B and approve the budget modification as detailed in the attached budget modification form; and

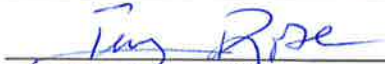
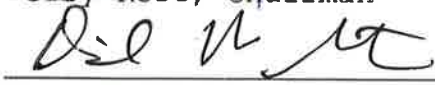
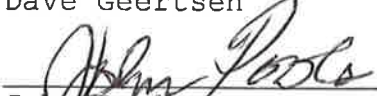

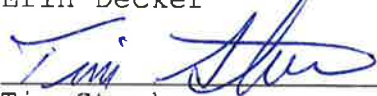

BE IT FURTHER RESOLVED, that any future projects similar to what is set forth on Exhibit A, pertaining to the use of the principal or interest generated by the Settlement Funds will be addressed in future budgets or come to the Kenosha County Board by way of separate resolution; and

BE IT FURTHER RESOLVED, by the Kenosha County Board of Supervisors, that the County Executive and the Director of Public Works are authorized to execute any contracts, agreements or other documents necessary to carry out the intent of this resolution.



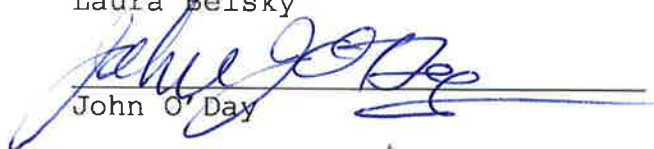
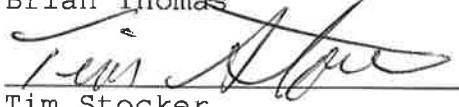
Dated at Kenosha County, Wisconsin, this 25<sup>th</sup> day of March, 2024.

Submitted By:

**Finance/Administration Committee**

	<u>Aye</u>	<u>No</u>	<u>Abstain</u>
 Terry Rose, Chairman	<u>X</u>	<u>    </u>	<u>    </u>
 Dave Geertsen	<u>X</u>	<u>    </u>	<u>    </u>
 John Poole	<u>X</u>	<u>    </u>	<u>    </u>
 Erin Decker	<u>X</u>	<u>    </u>	<u>    </u>
 Tim Stocker	<u>X</u>	<u>    </u>	<u>    </u>
 John Franco	<u>✓</u>	<u>    </u>	<u>    </u>
<u>    </u> Bill Grady	<u>    </u>	<u>    </u>	<u>    </u>

**Public Works/Facilities Committee**

	<u>Aye</u>	<u>No</u>	<u>Abstain</u>
 Mark Nordigan, Chairman	<u>✓</u>	<u>    </u>	<u>    </u>
 Zach Stock	<u>✓</u>	<u>    </u>	<u>    </u>
<u>Excused</u> Aaron Karow	<u>    </u>	<u>    </u>	<u>    </u>
<u>Excused</u> Laura Belsky	<u>    </u>	<u>    </u>	<u>    </u>
 John O'Day	<u>X</u>	<u>    </u>	<u>    </u>
<u>Excused</u> Brian Thomas	<u>    </u>	<u>    </u>	<u>    </u>
 Tim Stocker	<u>✓</u>	<u>    </u>	<u>    </u>

**Kenosha County  
Administrative Proposal Form**

**1. Proposal Overview**

Division: Planning & Development Department: Public Works

Proposal Summary (attach explanation and required documents):

Resolution Accepting Monsanto Settlement Funds, Establishing Fund for Improvement Projects and Approving Expenditures

Dept./Division Head Signature: \_\_\_\_\_

*S. Biemply*

Date: 3-8-24

**2. Department Head Review**

Comments:

Recommendation: Approval ☒ Non-Approval ☐

Department Head Signature: \_\_\_\_\_

*S. Biemply*

Date: 3-8-24

**3. Finance Division Review**

Comments:

Recommendation: Approval ☒ Non-Approval ☐

Finance Signature: \_\_\_\_\_

*Patricia Merrill*

Date: 3/8/24

**4. County Executive Review**

Comments:

Action: Approval ☒ Non-Approval ☐

Executive Signature: \_\_\_\_\_

*Dee Dee*

Date: 3/8/2024

*Samantha Keckman*



## EXHIBIT A

### Environmental Purposes

- Phase I and Phase II reports
- Site Investigation and Remediation Options Reports/Investigation
- Site Remediation including disposal or soil/insitu treatment costs
- Demolition and asbestos abatement if needed to reach contaminated sources
- Remediation efforts as needed to meet DNR/EPA regulations to get an impacted site to site closure

### Stormwater Quality Purposes

- Inspecting outfalls that appear to have contamination issues, tracking any contaminated outfalls to find source and implementing any remediation efforts to reduce/eliminate the contamination source
- Implementing green infrastructure projects to reduce TMDL or TSS loads
- Create, modify, improve or upgrade any stormwater quality basins to increase their TMDL and TSS removal/reduction rates
- Infrastructure improvements needed to meet DNR/EPA regulations in regards to Stormwater quality control
- Streambank and shoreline improvement projects to aid in the protection of property
- Increasing plantings that can aid in mitigating environmental pollution caused by PCBs

**Exhibit B**

**Proposed Use of Monsanto Funds  
2024**

<b>Location/Description</b>	<b>Estimated Cost</b>
<b>Hillside Hardware / 4614 52nd Street</b>	
Phase I ESA	4,255.20
Phase II ESA - range \$12,000 - \$15,000	15,000.00
Demo	110,000.00
<b>Roosevelt Auto Body/ 2907 W 63rd Street</b>	
Phase I ESA	5,000.00
Phase II ESA - range \$12,000 - \$15,000	15,000.00
Demo	160,000.00
<b>"Orange Ooze"/ 17th Court to Birch Road</b>	
Phase I ESA	22,000.00
Phase II ESA - range \$50,000 - \$100,000	100,000.00
<b>Total</b>	<b>431,255.20</b>

# **KENOSHA COUNTY EXPENSE/REVENUE BUDGET MODIFICATION FORM**

DOCUMENT #	G/L DATE	4/2/2024
BATCH #	ENTRY DATE	

DEPT/DIVISION: Dept. Of Public Works

PURPOSE OF BUDGET MODIFICATION (REQUIRED):

(1) ACCOUNT DESCRIPTION	(2)			BUDGET CHANGE REQUESTED		(5) ADOPTED BUDGET	(6) CURRENT BUDGET	(7) ACTUAL EXPENSES	AFTER TRANSFER	
	FUND	DIVISION	SUB DIVISION	MAIN ACCOUNT	(3) EXPENSE INCREASE (+) 431,300				(8) REVISED BUDGET	(9) EXPENSE BAL AVAIL 431,300
Other Professional Services	140	100	1010	521900					431,300	
EXPENSE TOTALS					431,300.00	-	-	-	431,300.00	431,300.00

REVENUES	FUND	DIVISION	SUB DIVISION	MAIN ACCOUNT	REVENUE DECREASE (+)	REVENUE INCREASE (-)	ADOPTED BUDGET	CURRENT BUDGET	REVISED BUDGET

COLUMN TOTALS (EXP TOTAL + REV TOTAL)

431,300.00

Please fill in all columns:

- (1) & (2) Account information as required
- (3) & (4) Budget change requested
- (5) Original budget as adopted by the board
- (6) Current budget (original budget w/past mods.)
- (7) Actual expenses to date
- (8) Budget after requested modifications
- (9) Balance available after transfer (col 8 - col 7).

SEE BACK OF FORM FOR REQUIRED LEVELS OF APPROVAL FOR BUDGET MODIFICATION.

PREPARED BY: Chris Walton FINANCE DIRECTOR: Dan Merz Date 3/8/24

DIVISION HEAD: Bill Impley Date 3-8-24

DEPARTMENT HEAD: Bill Impley Date 3-8-24

COUNTY EXECUTIVE: Scott Koenig Date 3/8/2024

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**MEMORANDUM**

**TO:** Interested Counties and Municipalities

**FROM:** Wisconsin Counties Association and League of Wisconsin Municipalities

**RE:** PCB Contamination and Monsanto Class Action Settlement: Guidance for Wisconsin's Counties and Municipalities

**DATE:** July 14, 2023

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**EXECUTIVE SUMMARY**

Some of Wisconsin's counties and municipalities have already received settlement checks from the *City of Long Beach et. al v. Monsanto Company*, No. 2:16-CV-03493 (United States District Court, Central District of California – Western Division) class action suit settlement involving damages arising out of Monsanto's design and manufacture of PCBs from the 1930s to the late 1970s. The participating counties and municipalities did not need to opt into the suit to participate in the settlement; rather, if a county or municipality met the requirements for the "class" participants, they received notice and were added unless the county/municipality sent an objection. As such, some counties and municipalities may be pleasantly surprised to learn that they may receive a part of the \$550 million dollar settlement.<sup>1</sup> However, receiving settlement funds also brings questions of spending constraints on the settlement funds, when the funds have to be spent, potential reporting requirements and other restrictions that may accompany the settlement.

This memorandum provides an overview of the Monsanto litigation, the settlement, and the rights and responsibilities that Wisconsin's counties and municipalities have upon receiving funds from the *Monsanto* settlement.

**ANALYSIS**

**I. Background: Litigation and Settlement**

**A. PCBs: A Primer**

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<sup>1</sup> See <https://pcbclassaction.com/> for a copy of the Settlement Agreement, additional pleadings, and other information in the *Monsanto* suit.

Polychlorinated biphenyls, or PCBs, are a group of man-made organic chemicals consisting of carbon, hydrogen and chlorine atoms, also known as "chlorinated hydrocarbons."<sup>2</sup> PCBs were manufactured throughout the United States from 1929 until manufacturing was banned in 1979. PCBs have a range of toxicity and consistency, and due to their non-flammability, chemical stability, high boiling point and electrical insulating properties, PCBs were used in hundreds of industrial and commercial applications, processes and products. While no longer domestically manufactured after 1979, PCBs may still be present in products and materials produced before the 1979 ban. These products range from highly complex products such as transformers and capacitors, to everyday products such as oil, electrical devices, appliances, cables, oil-based paint, caulking, floors and many variations of plastic. In addition, PCBs easily migrate out of the source material or enclosure, or "leak" into the surrounding surfaces, air, water, soil and other materials. As such, the release of PCBs into our environment occurs so long as these products are still used, and may still seep into soil and sediment for years after the release from the original source material. PCBs may also cycle through environments from evaporation of water into the atmosphere.

Studies have linked PCB contamination to a number of health issues in humans, animals, aquatic species and aquatic wildlife. When contaminated marine wildlife is eaten by humans, the PCB contamination passes through the food chain. Increased risk of liver cancer, breast cancer, melanoma, and non-Hodgkin's lymphoma have been linked to PCBs. Because PCBs tend to accumulate in the human body, particularly in the liver, skin, fat, breast milk, plasma and sperm fluid, PCB health-risks may pass via pregnancy from mother and father to the child. PCB exposure has been linked to lower IQ, lower birth weight, and lower behavioral assessment scores in children. In addition to these serious conditions, PCB exposure has been linked to lowered immune responses, deficits in neurological development, visual recognition, short-term memory loss, and affect thyroid hormone levels in both humans and animals.

The *Monsanto* case Plaintiffs raised all of these health issues and harms to establish why Monsanto was liable under several causes of action through its ongoing design and manufacturing of PCBs.

## **B. Monsanto Litigation**

Prior to being certified as a class action, the original Plaintiffs consisted of counties and municipalities that operated, owned, and/or managed stormwater and/or dry weather runoff systems, including municipal separate stormwater systems and/or combined sewer overflows that are contaminated with PCBs, discharged PCB-contaminated water into a body of water that is deemed "impaired" pursuant to the Clean Water Act, and have (or will) incur costs to test, monitor, investigate, sample, manage, remediate and/or remove the levels of PCBs in those discharges as set forth in required permits by the National Pollutant Discharge Elimination System ("NPDES"), pursuant to the Clean Water Act<sup>3</sup>.

Monsanto was the sole designer and manufacturer of PCBs from the 1930s – 1977, and therefore, Plaintiffs argued, Monsanto should be liable for the ongoing harm to both people and property due

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<sup>2</sup> See <https://www.epa.gov/pbcs/learn-about-polychlorinated-biphenyls#what>

<sup>3</sup> The Wisconsin Department of Natural Resources ("DNR") acts as the United States Environmental Protection Agency's (EPA) agent in the permit process.

to the long-term impacts of PCBs. Plaintiffs also argued that Monsanto knew of PCBs' danger as far back as 1937, but continually failed to do anything to stop the widespread contamination and danger to people, resources and the environment.<sup>4</sup> By failing to remove or reduce the harmful components, or warn the public of the dangers in using PCB-laden products or the proper disposal of such products, Plaintiffs alleged that Monsanto was liable for damages under the legal theories of public nuisance, trespass, negligence and strict liability due to design defect and withholding information from government regulatory authorities and the public regarding the health risks posed by PCBs.

After the filing of the original action, the matter was certified as an "opt-out" class action with notices mailed to potential class members in March 2022. As an "opt-out" class, any eligible member that received a notice would automatically be included in the class unless that entity specifically objected to inclusion and withdrew from the class by July 25, 2022. The only way a county or municipality could preserve any future claims against Monsanto was to withdraw from the class. As detailed below, many Wisconsin counties and municipalities were deemed eligible class members, and only a few objected to inclusion and withdrew as a class member.

Prior to trial, the parties agreed to settle the claims. While not admitting any wrongdoing, Monsanto has agreed to pay up to \$550,000,000 as the total and maximum dollar amount they will be obligated to pay to four different "Settlement Funds." A list of Wisconsin counties and municipalities receiving Settlement Funds is set forth in Exhibit A.

The Settlement Funds represent four (4) different allocations of settlement dollars that vary based on the amount of damage sustained from Monsanto PCBs, with each fund having a specific formula for calculation of payments: (1) the Monitoring Fund, which intends to pay for PCB sampling and/or other mitigation efforts; (2) the TMDL (Total Maximum Daily Load) Fund, which intends to compensate Plaintiffs for restitution and remediation efforts, including mitigation of contaminated property, stormwater and/or stormwater systems; (3) the Sediment Site Fund, which intends to compensate Plaintiffs for specific sites that have sedimentary contamination from PCBs; and (4) Special Needs Funds, which are broken down into Part A to pay for various litigation costs of the Plaintiffs that initiated the lawsuit and other litigation costs, and Part B, which is a general fund that the court-appointed parties overseeing the settlement distribution may "equitably allocate" as needed. These funds are described below while focusing on the funds that impact Wisconsin's counties and municipalities.

#### 1. Monitoring Fund:

The Monitoring Fund totals \$42,894,993.43 and provides a minimum payment to all class members, thereby securing a release of future claims through payment of some compensation.<sup>5</sup> The other funds set forth thresholds for payment, and any class member that does not meet

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<sup>4</sup> The Third Amended Complaint details Monsanto documents illustrating the company knew of the dangers of PCBs, and attempted to restrict that information from the public. <https://angeion-public.s3.amazonaws.com/www.pcbclassaction.com/docs/201-Plaintiffs'+Third+Amended+Complaint+for+Class+Actions.pdf>

<sup>5</sup> Only by ensuring payment to all class members could Monsanto secure waivers of all future claims from Plaintiffs and class members.

another fund's threshold is paid out of the Monitoring Fund. The purpose of the Monitoring Fund is to pay for PCB sampling or any other mitigation efforts. The class member has sole discretion how to use the funds, so long as the activities comply with applicable law.

Payments from the Monitoring Fund utilize the number of Phase I and Phase II permits in place prior to June 24, 2020, and the population of the governmental unit, to determine the amount paid. "Phase I" and "Phase II" permits refer to the National Pollutant Discharge Elimination System (NPDES) Stormwater program's 1990 Phase I and Phase II regulation of cities, towns, boroughs, villages, townships, counties, and independent port districts. Phase I permits address stormwater runoff from medium and large municipal separate storm sewer systems (MS4) generally serving populations of 100,000 or bigger, construction activity disturbing five acres of land or greater, and ten categories of industrial activity. Phase II permits address designated small construction activities that require a general permit. Phase II permits also require MS4 operators to identify and implement stormwater discharge management controls.

Seventeen Wisconsin counties and 103 municipalities are eligible for payments from the Monitoring Fund.<sup>6</sup> The payments are broken down into four levels:

- \$32,024.47 payment for Phase I permittees with a population equal to or greater than 100,000 and Phase I independent port districts. There are no Wisconsin counties and two municipalities<sup>7</sup> in this classification.
- \$22,024.47 for Phase I permittees with a population less than 100,000. There are no Wisconsin counties and seven municipalities<sup>8</sup> in this classification.
- \$27,024.47 for Phase II permittees with a population equal to or greater than 100,000, and Phase II independent port districts. There are 11 Wisconsin counties<sup>9</sup> and one municipality<sup>10</sup> in this classification.
- \$17,024.47 for Phase II permittees with a population less than 100,000. There are six Wisconsin counties<sup>11</sup> and 93 municipalities<sup>12</sup> in this classification.

## 2. TMDL Fund:

### a. What is a TMDL?

A "TMDL" (Total Maximum Daily Load) is a calculation of the maximum amount of pollutant that an impaired waterbody can receive on a daily basis and still meet water quality standards.

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<sup>6</sup> Kenosha County, Milwaukee County, Racine County and Sheboygan County are paid from the TMDL Fund, and therefore not eligible for payment from the Monitoring Fund. North Bay is the only municipality eligible for payment from both the Monitoring Fund and the TMDL Fund.

<sup>7</sup> Milwaukee and Madison.

<sup>8</sup> Brookfield, Fitchburg, Greenfield, Middleton, Monona, Pewaukee, and Stoughton.

<sup>9</sup> Brown County, Dane County, Eau Claire County, Fond du Lac County, La Crosse County, Marathon County, Outagamie County, Rock County, Washington County, Waukesha County, and Winnebago County.

<sup>10</sup> Green Bay.

<sup>11</sup> Calumet County, Chippewa County, Douglas County, Jefferson County, Ozaukee County, St. Croix County.

<sup>12</sup> See attached Exhibit A.

The Clean Water Act requires all states<sup>13</sup> to identify “impaired” waterbodies, meaning that the waterbody is not able to meet the state’s water quality standards through technology-based regulations and other required controls. Once an impaired waterbody is identified, a TMDL must be developed for each impaired waterbody.

In Wisconsin, the DNR uses water quality standards and water quality monitoring, along with the measured flow in a watershed, to calculate the current pollutant loads to a waterbody that does not meet water quality criteria.<sup>14</sup> The DNR uses computer modeling to calculate pollutant loads using inputs such as weather, topography, soil types, and land use. With these and other data inputs, the model simulates physical processes associated with the flow of water, sediment movement, nutrient cycling, and crop growth. Models can also be used to predict impacts of changes in land use, climate, and management practices on water quality. Once targets are set for the waterbody, the TMDL is established by allocating the allowable load between the point sources and the nonpoint sources, then adding a margin of safety. According to the DNR, the analysis can be expressed as a formula:

$$\text{TMDL} = \text{WASTELOAD ALLOCATION (WLA)} + \text{LOAD ALLOCATION (LA)} + \text{MARGIN OF SAFETY (MOS)}$$

The wasteload allocation (WLA) is the total allowable pollutant load from all point sources such as municipal, industrial, CAFOs, and stormwater. The load allocation (LA) is the allowable pollutant load from nonpoint sources, such as agricultural, CAFO off-site land spreading, and residential runoff. The margin of safety (MOS) accounts for uncertainty in the analysis.

Compliance with TMDL requirements occurs through the WPDES permit process for discharge from point sources. Nonpoint source regulation is a more complex process. DNR’s current goal of nonpoint source-related TMDL implementation “is to maximize opportunities for restoration of impaired waters by prioritizing and targeting available programmatic, regulatory (such as the NR 151 agricultural performance standards and manure management prohibitions), financial, and technical resources.”<sup>15</sup>

#### b. The TMDL Fund Compensation

The TMDL Fund totals \$250,000,000 and provides payment class members that had a TMDL, TMDL Alternative, or TMDL Direct-to-Implementation regulation promulgated or updated after January 1, 2010, but before June 24, 2020, wherein a PCB is a named constituent.

TMDL funds are intended to compensate recipients for restitution and remediation including mitigation of contaminated property, stormwater, and/or stormwater systems, including compliance with a TMDL. The allocation is determined by a specific algorithm developed to measure the impact of damage.<sup>16</sup> In addition, any TMDL Fund recipient that is a county and has

<sup>13</sup> 33 U.S.C. § 1251(a) collectively defines states, territories and authorized tribes as “states.”

<sup>14</sup> See TMDL Overview at <https://dnr.wisconsin.gov/topic/TMDLs/Overview.html>

<sup>15</sup> <https://dnr.wisconsin.gov/topic/TMDLs/npstmdls.html>

<sup>16</sup> Paragraph 78(b) of the Settlement Agreement sets forth the algorithm: multiply (1) the total jurisdictional area within any HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body with a PCB TMDL, by (2) the USGS Geodatabase Imperviousness of such jurisdictional area (known as “Weighted Imperviousness”). Then, proportionally normalize all Weighted Imperviousness values to calculate a weighted, relative percentage for



a population of more than 2 million or a municipality with a population greater than 1 million also receives a "Population Factor Award" of \$2,000,000.

Four (4) Wisconsin counties and 14 municipalities are eligible for payments from the TMDL Fund: Kenosha County, Milwaukee County, Racine County, Sheboygan County, Brown Deer, Caledonia, Cudahy, Fox Point, Glendale, Grafton, Howard, Mequon, Mount Pleasant, North Bay, Pleasant Prairie, Shorewood, Suamico, and Whitefish Bay. No Wisconsin counties or municipalities received the \$2,000,000 Population Factor Award given that none have the requisite population.

The TMDL Fund does not have any specific oversight provisions or restrictions on the use of the funds beyond the note that the funds are intended to "compensate Settlement Class Members for restitution and remediation including mitigation of contaminated property, stormwater, and/or stormwater systems, including compliance with a TMDL."

### 3. Sediment Sites Fund:

The Sediment Sites Fund is allocated \$150,000,000 and pays settlement class members that are impacted by PCB-contaminated sediments due to stormwater contribution and runoff. It is intended to compensate counties and municipalities for restitution and remediation, including mitigation of contaminated property, stormwater and/or stormwater systems, including compliance with regulatory processes. All eligible class members must apply to a court-appointed "Special Master" for payments. The Special Master must "equitably allocate" funds based on the totality and relativity of the specific PCB-caused factors, including past costs for remediation and other mitigation, evidence of future costs to be incurred, and other important factors deemed relevant by the Special Master.<sup>17</sup>

There are no Wisconsin counties or municipalities eligible to receive payment from the Sediment Sites Fund.

### 4. Special Needs Fund:

The Special Needs Fund totals \$107,105,006.57 and is separated into two parts: Special Needs Fund Part A and Part B.<sup>18</sup> Special Needs Fund Part A totals \$57,105,000 and is designated to

each TMDL Fund Entity. Lastly, multiply (1) the weighted, relative percentage for each TMDL Fund Entity, by (2) the total fund less Population Factor Awards. A 0.7 multiplier is applied to any TMDL Fund Entity with a population of less than one hundred thousand (100,000). Otherwise:

$$\left( \frac{\text{Class member's impervious TMDL land area}}{\sum \text{Impervious TMDL land areas of all TMDL fund class members}} \right) \times (\text{Total TMDL fund} - \text{Population Factor Awards})$$

<sup>17</sup> See Settlement Agreement at ¶30.

<https://angeion-public.s3.amazonaws.com/www.pcbclassaction.com/docs/2021-0617+%5B278-2%5D+Class+Action+Settlement+Agreement.pdf>

<sup>18</sup> See Settlement Agreement at ¶80.

compensate the original *Monsanto* case Plaintiffs' damages, costs and fees. Allocation is completed by a Special Master appointed by the court and according to the terms of the Settlement Agreement.

Special Needs Fund Part B totals \$50,000,006.57 and may be available to Wisconsin counties and municipalities because it is available to all settlement class members who apply and meet the required criteria. Applicants must show the Special Master that "a significant regional, state, or national benefit, cost, or contribution regarding 303(d) bodies of water impaired by PCBs through stormwater and/or dry weather runoff, and such benefit, cost, or contribution is not otherwise encompassed within any other part of this allocation."<sup>19</sup> As such, a county or municipality may request funding for special circumstances that have not otherwise been contemplated or addressed in the Settlement Agreement or with Settlement Funds. A requestor must comply with the application requirements, which may be found after registering at <https://pcbclassaction.com/special-needs-funds-part-b.php> and must submit the application by April 28, 2024.

After receiving and reviewing all the applications, the Special Master is required to "equitably allocate" the available funds in the Special Master's sole discretion, and render determinations based solely on the application and accompanying materials provided by the applicant. Appeals may be made from the Special Master's determinations.

## **II. Options for Settlement Funds**

According to a release from the Special Master, Settlement Claim Members started receiving checks from the Monitoring Fund and TMDL Fund in April 2023. It is unknown whether all checks have been sent. The Special Needs Fund Part B proceeds will not be paid until the application deadline passes, the Special Master renders determination on the distribution, and the appeal time passes. Again, the deadline for Special Needs Fund Part B applications is April 28, 2024.

Once counties and municipalities receive the *Monsanto* case settlement funds, then what? As stated above, the Monitoring Fund and TMDL Fund do not set forth any oversight mechanisms, approval of spending processes, or reporting requirements once the funds are spent. The Settlement Agreement does not include language giving a state oversight authority over the use of funds.

So, what may the funds be used for? The Settlement Agreement specifically states that the Monitoring Fund may be used to pay for "PCB sampling and/or any other mitigation efforts in the Settlement Class Member's sole discretion, as part of compliance with applicable law."<sup>20</sup> This is a broad grant of power for counties and municipalities to use the Monitoring Funds they receive so long as that use is consistent with a mitigation effort under Wisconsin or other applicable law.

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<sup>19</sup> See *id.* at ¶80(h).

<sup>20</sup> Settlement Agreement at ¶77.

Unlike the Monitoring Fund recipients, TMDL Fund recipients do not have “sole discretion” to use the funds for any sampling or mitigation efforts. However, no specific guidance is provided and TMDL Fund recipients appear to have broad discretion when using the funds. The Settlement Agreement states the TMDL Fund is “intended to compensate Settlement Class Members for restitution and remediation including mitigation of contaminated property, stormwater and/or stormwater systems, including compliance with TMDL.” Based on this limited language, a county or municipality should look to any TMDL requirements, permit or orders it may be subject to from DNR or EPA. The work a county or municipality is obligated to do under such permits or orders would likely meet the threshold of “restitution and remediation” of contaminated property to comply with TMDL.

At this time, there is no further guidance or known restrictions on the use of the Monitoring Funds and the TMDL Funds. Once the Special Needs Fund Part B is released, recipients of those funds will have to comply with the award requirements and the conditions proposed in the award application.

While DNR has not promulgated any information or guidelines for use of the Settlement Funds, DNR does oversee a clean-up and restoration project of the Lower Fox River which runs through Brown County, Calumet County, Outagamie County and Winnebago County, which are all settlement fund recipients.<sup>21</sup> There is extensive PCB contamination in this area, and the contamination has spread downstream to other areas, Lake Michigan, and then into all the Great Lakes freshwater system, thereby making PCB remediation a large focus of this project. It is unknown whether DNR will require use of TMDL Funds if a county, or a settlement fund municipality located in one of those counties, is subject to the Lower Fox River Cleanup Project mandates.

The Special Master has not provided any reporting requirements or other compliance obligations at this time. Once the Special Needs Fund Part B is released, recipients of those funds will have to comply with the award requirements and the conditions proposed in the award application.

Counties and municipalities are encouraged to contact their corporation counsel/municipal attorneys to discuss specific questions regarding the use of Settlement Funds.

## CONCLUSION

Wisconsin counties and municipalities have faced increased costs due to environmental contamination for many years. The *Monsanto* case intends to compensate for some of those costs, and for future costs, of remediating the long-term impacts of PCBs. However, Wisconsin counties and municipalities should be mindful of how they spend any Monsanto Settlement Funds and ensure that the funds’ use complies with the Settlement Agreement, all applicable Wisconsin laws, and any specific WPDES permits or other orders they may be subject to.

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<sup>21</sup> <https://dnr.wisconsin.gov/topic/FoxRiver/Background.html>

If you have any questions surrounding this memorandum, please do not hesitate to contact the Wisconsin Counties Association or League of Wisconsin Municipalities. Our respective organizations appreciate the opportunity to be of service to our members.

## EXHIBIT A

### Wisconsin Counties and Municipalities Receiving Compensation

#### TMDL Fund Entities:

Class Member	State	Population	TMDL Fund Allocation
Brown Deer WI	WI	12,051	\$ 280,853
Caledonia WI	WI	24,841	\$ 518,588
Cudahy WI	WI	18,980	\$ 426,157
Fox Point WI	WI	6,705	\$ 129,170
Glendale WI	WI	13,078	\$ 362,552
Grafton WI	WI	11,583	\$ 323,548
Howard WI	WI	19,318	\$ 622,483
Kenosha County WI	WI	167,954	\$ 791,879
Mequon WI	WI	23,476	\$ 713,530
Milwaukee County WI	WI	948,301	\$ 4,034,109
Mount Pleasant WI	WI	26,699	\$ 266,217
North Bay WI	WI	237	\$ 5,404
Pleasant Prairie WI	WI	20,759	\$ 273,529
Racine County WI	WI	194,913	\$ 1,637,385
Sheboygan County WI	WI	115,099	\$ 761,910
Shorewood WI	WI	13,423	\$ 133,471
Suamico WI	WI	12,535	\$ 271,677
Whitefish Bay WI	WI	14,061	\$ 154,407

#### Monitoring Fund Allocations:

Class Member	State	Population	MS4 NPDES Phase I or II	REVISED Monitoring Fund Allocation
Algoma WI	WI	3,075	2	\$ 17,024.47
Allouez WI	WI	13,841	2	\$ 17,024.47
Appleton WI	WI	74,433	2	\$ 17,024.47
Ashwaubenon WI	WI	17,184	2	\$ 17,024.47
Bayside WI	WI	4,410	2	\$ 17,024.47
Bellevue WI	WI	15,570	2	\$ 17,024.47
Beloit WI	WI	36,691	2	\$ 17,024.47
Big Bend WI	WI	1,315	2	\$ 17,024.47
Brookfield WI	WI	39,200	1	\$ 22,024.47
Brown County WI	WI	259,546	2	\$ 27,024.47

Class Member	State	Population	MS4 NPDES Phase I or II	REVISED Monitoring Fund Allocation
Brown Deer WI	WI	12,051	2	\$ -
Burlington WI	WI	10,658	2	\$ 17,024.47
Butler WI	WI	1,821	2	\$ 17,024.47
Caledonia WI	WI	24,841	2	\$ -
Calumet County WI	WI	49,600	2	\$ 17,024.47
Cedarburg WI	WI	11,503	2	\$ 17,024.47
Chippewa County WI	WI	63,526	2	\$ 17,024.47
Chippewa Falls WI	WI	14,003	2	\$ 17,024.47
Combined Locks WI	WI	3,577	2	\$ 17,024.47
Cudahy WI	WI	18,980	2	\$ -
Dane County WI	WI	530,885	2	\$ 27,024.47
De Pere WI	WI	24,850	2	\$ 17,024.47
Delafield WI	WI	7,502	2	\$ 17,024.47
Douglas County WI	WI	43,351	2	\$ 17,024.47
Eau Claire County WI	WI	102,941	2	\$ 27,024.47
Eau Claire WI	WI	68,276	2	\$ 17,024.47
Eden WI	WI	874	2	\$ 17,024.47
Elmwood Park WI	WI	506	2	\$ 17,024.47
Fitchburg WI	WI	28,814	1	\$ 22,024.47
Fond du Lac County WI	WI	102,201	2	\$ 27,024.47
Fond du Lac WI	WI	42,853	2	\$ 17,024.47
Fox Point WI	WI	6,705	2	\$ -
Franklin WI	WI	36,262	2	\$ 17,024.47
Glendale WI	WI	13,078	2	\$ -
Grafton WI	WI	11,583	2	\$ -
Green Bay WI	WI	104,719	2	\$ 27,024.47
Greendale WI	WI	14,256	2	\$ 17,024.47
Greenfield WI	WI	36,943	1	\$ 22,024.47
Hobart WI	WI	8,555	2	\$ 17,024.47
Holmen WI	WI	9,843	2	\$ 17,024.47
Howard WI	WI	19,318	2	\$ -
Howards Grove WI	WI	3,245	2	\$ 17,024.47
Hudson WI	WI	13,605	2	\$ 17,024.47
Janesville WI	WI	64,029	2	\$ 17,024.47
Jefferson County WI	WI	84,485	2	\$ 17,024.47
Kaukauna WI	WI	15,941	2	\$ 17,024.47
Kenosha County WI	WI	167,954	2	\$ -
Kenosha WI	WI	99,485	2	\$ 17,024.47
Kewaskum WI	WI	4,153	2	\$ 17,024.47
Kimberly WI	WI	6,735	2	\$ 17,024.47
Kohler WI	WI	2,087	2	\$ 17,024.47
Kronenwetter WI	WI	7,587	2	\$ 17,024.47
La Crosse County WI	WI	117,733	2	\$ 27,024.47
La Crosse WI	WI	51,851	2	\$ 17,024.47
Lake Hallie WI	WI	6,625	2	\$ 17,024.47
Lannon WI	WI	1,167	2	\$ 17,024.47
Little Chute WI	WI	11,289	2	\$ 17,024.47
Madison WI	WI	252,485	1	\$ 32,024.47
Manitowoc WI	WI	32,845	2	\$ 17,024.47
Maple Bluff WI	WI	1,344	2	\$ 17,024.47
Marathon County WI	WI	135,057	2	\$ 27,024.47
Marinette WI	WI	10,615	2	\$ 17,024.47
McFarland WI	WI	8,427	2	\$ 17,024.47
Menasha WI	WI	17,698	2	\$ 17,024.47

<b>Class Member</b>	<b>State</b>	<b>Population</b>	<b>MS4 NPDES Phase I or II</b>	<b>REVISED Monitoring Fund Allocation</b>
Menomonee Falls WI	WI	36,755	2	\$ 17,024.47
Mequon WI	WI	23,476	2	\$
Merrill WI	WI	9,157	2	\$ 17,024.47
Merton WI	WI	3,599	2	\$ 17,024.47
Middleton WI	WI	19,062	1	\$ 22,024.47
Milton WI	WI	5,556	2	\$ 17,024.47
Milwaukee County WI	WI	948,301	1	\$
Milwaukee WI	WI	597,123	1	\$ 32,024.47
Monona WI	WI	8,170	1	\$ 22,024.47
Mosinee WI	WI	3,992	2	\$ 17,024.47
Mount Pleasant WI	WI	26,699	2	\$
Mukwonago WI	WI	7,823	2	\$ 17,024.47
Muskego WI	WI	24,867	2	\$ 17,024.47
Neenah WI	WI	25,845	2	\$ 17,024.47
New Berlin WI	WI	39,770	2	\$ 17,024.47
North Bay WI	WI	237	2	\$ 17,024.47
North Fond du Lac WI	WI	5,088	2	\$ 17,024.47
Oak Creek WI	WI	36,037	2	\$ 17,024.47
Oconomowoc Lake WI	WI	590	2	\$ 17,024.47
Oconomowoc WI	WI	16,558	2	\$ 17,024.47
Oliver WI	WI	407	2	\$ 17,024.47
Omro WI	WI	3,566	2	\$ 17,024.47
Onalaska WI	WI	18,627	2	\$ 17,024.47
Oshkosh WI	WI	66,517	2	\$ 17,024.47
Outagamie County WI	WI	184,755	2	\$ 27,024.47
Ozaukee County WI	WI	88,327	2	\$ 17,024.47
Paddock Lake WI	WI	2,984	2	\$ 17,024.47
Pewaukee WI	WI	14,332	1	\$ 22,024.47
Pewaukee WI	WI	8,184	2	\$ 17,024.47
Pleasant Prairie WI	WI	20,759	2	\$
Plover WI	WI	12,651	2	\$ 17,024.47
Port Washington WI	WI	11,656	2	\$ 17,024.47
Portage WI	WI	10,349	2	\$ 17,024.47
Racine County WI	WI	194,913	2	\$
Racine WI	WI	77,455	2	\$ 17,024.47
Richfield WI	WI	11,618	2	\$ 17,024.47
River Falls WI	WI	15,336	2	\$ 17,024.47
River Hills WI	WI	1,599	2	\$ 17,024.47
Rock County WI	WI	161,394	2	\$ 27,024.47
Rothschild WI	WI	5,310	2	\$ 17,024.47
Saukville WI	WI	4,465	2	\$ 17,024.47
Schofield WI	WI	2,184	2	\$ 17,024.47
Sheboygan County WI	WI	115,099	2	\$
Sheboygan Falls WI	WI	7,853	2	\$ 17,024.47
Sheboygan WI	WI	48,576	2	\$ 17,024.47
Sherwood WI	WI	2,873	2	\$ 17,024.47
Shorewood Hills WI	WI	2,039	2	\$ 17,024.47
Shorewood WI	WI	13,423	2	\$
South Milwaukee WI	WI	21,124	2	\$ 17,024.47
St. Croix County WI	WI	87,603	2	\$ 17,024.47
St. Francis WI	WI	9,471	2	\$ 17,024.47
Stevens Point WI	WI	26,363	2	\$ 17,024.47
Stoughton WI	WI	13,126	1	\$ 22,024.47
Suamico WI	WI	12,535	2	\$

<b>Class Member</b>	<b>State</b>	<b>Population</b>	<b>MS4 NPDES Phase I or II</b>	<b>REVISED Monitoring Fund Allocation</b>
Superior WI	WI	26,334	2	\$ 17,024.47
Superior WI	WI	660	2	\$ 17,024.47
Sussex WI	WI	10,773	2	\$ 17,024.47
Thiensville WI	WI	3,182	2	\$ 17,024.47
Twin Lakes WI	WI	6,062	2	\$ 17,024.47
Two Rivers WI	WI	11,211	2	\$ 17,024.47
Washington County WI	WI	134,386	2	\$ 27,024.47
Waukesha WI	WI	68,376	2	\$ 17,024.47
Waukesha County WI	WI	398,561	2	\$ 27,024.47
Waunakee WI	WI	13,581	2	\$ 17,024.47
Wausau WI	WI	38,430	2	\$ 17,024.47
West Bend WI	WI	31,654	2	\$ 17,024.47
West Milwaukee WI	WI	4,181	2	\$ 17,024.47
West Salem WI	WI	4,983	2	\$ 17,024.47
Weston WI	WI	15,099	2	\$ 17,024.47
Whitefish Bay WI	WI	14,061	2	\$
Wind Point WI	WI	1,703	2	\$ 17,024.47
Winnebago County WI	WI	169,637	2	\$ 27,024.47
Wisconsin Rapids WI	WI	17,898	2	\$ 17,024.47

**Kenosha**



**County**

**BOARD OF SUPERVISORS**

RESOLUTION NO. \_\_\_\_\_

Subject: Resolution to approve the Re-Appointment of Patrice Hall to serve on the Kenosha County Traffic Safety Commission	
Original <input checked="" type="checkbox"/> Corrected <input type="checkbox"/> 2 <sup>nd</sup> Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted: 03/25/2024	Date Resubmitted:
Submitted by: Public Works/Facilities Committee	
Fiscal Note Attached <input type="checkbox"/>	Legal Note Attached <input type="checkbox"/>
Prepared by:	Signature: <i>Clement Abongwa</i>

**WHEREAS**, pursuant to County Executive Appointment 2024-15, the County Executive has re-appointed Patrice Hall to serve on the Kenosha County Traffic Safety Commission, and


**WHEREAS**, the Public Works/Facilities Committee has reviewed the request of the County Executive for confirmation of the appointment of the above named to serve on the Kenosha County Traffic Safety Commission and is recommending to the County Board the approval of this appointment,

**NOW, THEREFORE, BE IT RESOLVED** that the Kenosha County Board of Supervisors confirms the appointment of Patrice Hall to the Kenosha County Traffic Safety Commission. Ms. Hall's appointment shall be effective immediately and continuing until the 1<sup>st</sup> day of March, 2027 or until a successor is appointed by the County Executive and confirmed by the County Board of Supervisors. Ms. Hall will be succeeding herself and will serve without pay.



Respectfully Submitted:

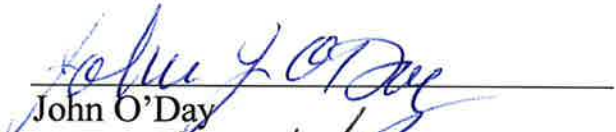
Committee:

  
Mark Nordigian, Chairperson

  
Zach Stock, Vice Chairperson

  
Laura Belsky

  
Aaron Karow

  
John O'Day

  
Tim Stocker

  
Brian Thomas

Aye

Nay

Abstain

Excused

☒☐☐☐☒☐☐☐☐☐☐☒☐☐☐☒☒☐☐☐☒☐☐☐☐☐☐☒



# COUNTY OF KENOSHA

OFFICE OF THE COUNTY EXECUTIVE  
Samantha Kerkman, County Executive

1010 – 56<sup>th</sup> Street, Third Floor  
Kenosha, Wisconsin 53140  
(262) 653-2600

## **ADMINISTRATIVE PROPOSAL**

### **COUNTY EXECUTIVE APPOINTMENT 2024-15**

#### **KENOSHA COUNTY TRAFFIC SAFETY COMMISSION**

TO THE HONORABLE KENOSHA COUNTY BOARD OF SUPERVISORS:


Placing special trust in the judgment and based upon the qualifications thereof, I hereby submit to the Honorable Kenosha County Board of Supervisors for its review and approval the name of

Patrice Hall  
Kenosha County Medical Examiner  
Public Safety Building  
1000 – 55<sup>th</sup> Street  
Kenosha, WI 53140

to serve on the Kenosha County Traffic Safety Commission beginning immediately upon confirmation of the County Board and continuing until the 1<sup>st</sup> day of March, 2027 or until a successor is appointed by the County Executive and confirmed by the Kenosha County Board of Supervisors.

This is a reappointment.

Respectfully submitted this 29<sup>th</sup> day of February, 2024.

  
Samantha Kerkman  
Kenosha County Executive

COUNTY OF KENOSHA  
OFFICE OF THE COUNTY EXECUTIVE  
SAMANTHA KERKMAN

**APPOINTMENT PROFILE**  
**KENOSHA COUNTY COMMISSIONS, COMMITTEES & BOARDS**

(Please type or print)

*Information marked with an \* will be redacted before this form is publicly posted.*

Name: Patrice A Hall  
First Middle Initial (optional) Last

\*Residence Address: [REDACTED]

Occupation: Kenosha County Medical Examiner  
Company Title

\*Business Address: 1000 - 55th Street, Kenosha, WI 53140

\*Telephone Number: Residence [REDACTED] \*Business [REDACTED]

\*Daytime Telephone Number: [REDACTED]

\*Email Address: [REDACTED]

Name of the Commission, Committee or Board for which you are applying:

Kenosha County Traffic Safety Commission

**Personal Statement:** Please indicate why you believe you would be a valuable addition to the Commission, Committee or Board for which you are applying. If more space is needed, please attach a separate sheet.

As the Kenosha County Medical Examiner, I have been a member of the Kenosha County Traffic Safety Commission since 2012. At each meeting that I attend, I provide the Traffic Safety Commission members with pertinent information about each traffic fatality that occurs in Kenosha County including the cause and manner of death, along with toxicology information. With this information provided to the Commission, I remain hopeful that the number of traffic fatalities can be reduced.

Kenosha County Commissions, Committees & Boards  
Appointment Profile - Page 2

Additional Information:

N/A

Nominee's Supervisory District: Supervisor John O'Day

Special Interests: Indicate organizations or activities in which you have a special interest but may not have been actively involved.

I volunteer at my daughter's elementary school for school related activities.

Do you or have you done business with any part of Kenosha County Government in the past 5 years? Yes ☐ No ☒ If yes, please attach a detailed explanation.

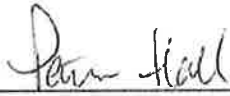
Affiliations: List affiliations in all service groups, public service organizations, social or charitable groups, labor, business or professional organization, and indicate if it was a board or staff affiliation.

I am a member of each of the following organizations: Kenosha County Traffic Safety Commission; Kenosha County Child Death Review Team; Kenosha County Substance Abuse Coalition; Kenosha County Overdose Fatality Review Team; Wisconsin Coroner and Medical Examiner Association; and the International Association of Coroners and Medical Examiners.

Governmental Services: List services with any governmental unit.

Kenosha County Medical Examiner from September 2011 to present.

Conflict Of Interest: It would be inappropriate for you, as a current or prospective appointee, to have a member of your immediate family directly involved with any action that may come under the inquiry or advice of the appointed board, commission, or committee. A committee member declared in conflict would be prohibited from voting on any motion where "direct involvement" had been declared and may result in embarrassment to you and/or Kenosha County.

  
\_\_\_\_\_  
Signature of Nominee

02/14/2024  
\_\_\_\_\_  
Date

Please Return To: Kenosha County Executive  
1010 – 56th Street  
Kenosha, WI 53140

# KENOSHA COUNTY

## BOARD OF SUPERVISORS

ORDINANCE NO.

Subject: Amendment of MCKC Chapter 2 - County Board Rules of Procedure	
Original <input type="checkbox"/> Corrected <input type="checkbox"/> 2nd Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted: February 6, 2024	Date Resubmitted:
Submitted By: Legislative Committee	
Fiscal Note Attached <input type="checkbox"/>	Legal Note Attached <input type="checkbox"/>
Prepared By: Joseph M. Cardamone III Corporation Counsel	Signature:

THE KENOSHA COUNTY BOARD OF SUPERVISORS DOES HEREBY ORDAIN that the Municipal Code of Kenosha County Chapter 2, the County Board Rules of Procedure, is hereby amended by being replaced by the attached.

Approved by:

Legislative Committee:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Excused</u>
_____ Brian Thomas, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ John Poole, Vice-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Amanda Nedweski	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Jeff Wamboldt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Andy Berg	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Daniel Gaschke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Monica Yuhas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Chapter 2

# COUNTY BOARD RULES

Sections:

- 2.01 Rules of Procedure.**
- 2.02 Meetings, time and place.**
- 2.03 Meetings, quorum, conduct of.**
- 2.04 Open meetings.**
- 2.05 Closed session at meetings.**
- 2.06 Board meeting agenda, order of business and minutes.**
- 2.07 Exercise of power and presentation.**
- 2.08 Motion Procedure.**
- 2.09 Appeals and motions to reconsider, rescind and to take from the table.**
- 2.10 Voting.**
- 2.11 Claims.**
- 2.12 Finance and budget.**
- 2.13 Standing committees (6/17/14).**
- 2.14 Rule changes, suspension of rules.**
- 2.15 Severability, prior rules, repeal, effective date, and publication.**
- 2.16 Penalty provision.**

**Addendum.**

### **2.01 Rules of procedure.**

The most recent version of Robert's Rules of Order (Newly Revised) shall govern the proceedings at all meetings of the Kenosha County Board of Supervisors and its committees and all other boards and commissions of Kenosha County Government except as set forth in these County Board Rules, also referred to herein as Board Rules, and except as otherwise provided by Wisconsin state statute.

### **2.02 Meetings, time and place.**

(1) *ORGANIZATIONAL MEETING AND DUTIES OF OFFICERS.*

(a) On the third Tuesday in April in even-numbered years, after each regular election at which members are elected for full terms, the County Board will meet and shall:

1. Meet for the purpose of organizing and for transacting general business.
2. Elect a member chair to perform the duties set forth in section 59.12(1) of the Wisconsin Statutes in addition to other duties established in these Rules or by the County Board from time to time. Specifically, without limitation, the chair may administer oaths to persons required to be sworn concerning any matter submitted to the County Board or a committee of the County Board or connected with their powers or duties. The chair shall countersign all ordinances of the County Board, and shall preside at meetings when present. When directed by ordinance the chair shall countersign all county orders, transact all necessary County Board business with local and county officers, expedite all measures resolved upon by the County Board and take care that all federal, state and local laws, rules and regulations pertaining to county government are enforced.
3. Elect a member vice-chair to perform the duties set forth in section 59.12(2) of the Wisconsin Statutes. Specifically, in case of the absence or disability of the chair, the vice-chair shall perform the chair's duties.

The organizational meeting may be adjourned in the same manner as prescribed for the adjournment of the annual meeting as set forth in section [59.11\(1\)](#) of the Wisconsin Statutes.

(b) Duties of Board Chair.

1. At the Biennial Organizational Meeting described in sec. 2.04(1)(a) or as soon thereafter as practicable, the Board Chair shall appoint members to the standing committees of the County Board and shall call upon the chairs of such standing committees to advise him or her from time to time as the need arises as members of the chair's advisory committee. The Board Chair has the authority, in his or her sole discretion, to remove members from committees and remove members as chair of a committee.
2. In the absence of the Board Chair and the Vice-Chair and where their presence is necessary to carry out the responsibilities of their office, the Kenosha County Board of Supervisors does hereby designate the most recent past chair present the responsibility to serve as chair pro tempore of a meeting of the County Board. In the absence of a past

chair, such responsibilities shall be carried out by the most senior member of the County Board. (10/7/86)

(c) The County Board shall also hold an organizational meeting on the third Tuesday in April in non-election years for the purpose of transacting business that is permitted at the annual meeting and for the further purpose of organizing or reorganizing as may be deemed necessary.

(2) *ANNUAL MEETING.* The County Board shall hold an annual meeting on the date established in section 59.11(1) of the Wisconsin Statutes.

(3) *REGULAR MEETINGS.* In addition to the organizational and annual meetings, the County Board shall meet at 7:30 p.m. on the first and third Tuesday of each month for the purpose of transacting business. The Chair, in his or her discretion, may cancel a regular meeting for any reason, including, but not limited to: a lack of agenda items, inclement weather, or other unforeseen circumstances. The Board Chair shall provide reasonably adequate notice to the Supervisors and the public in advance of any such meeting cancellation.

(4) *SESSION.* The two-year period of time between the organizational meetings in sec. 2.04(1)(a) hereof shall constitute a session of the County Board, and any business pending and upon which the Board has not acted prior to the close of a session can no longer be acted upon without being reintroduced. (3/20/18)

(5) *SPECIAL AND EMERGENCY MEETINGS.* Special and emergency meetings of the County Board may be held at the call of the Board Chair for any reason or otherwise pursuant to section [59.11\(2\)](#) of the Wisconsin Statutes, as amended. A written request delivered under section 59.11(2) of the Wisconsin Statutes may be signed and delivered electronically.

## **2.03 Meetings, quorum, conduct of.**

(1) A majority of the supervisors entitled to a seat on the Board or a committee thereof shall constitute a quorum. All questions shall be determined by a majority of the supervisors present unless otherwise provided.

(2) Where two or more committees of the County Board hold a joint meeting, no business shall be conducted unless there is a quorum from each committee present. Members of the County Board who are present and serving as members of more than one of the committees meeting jointly are to be considered present in determining whether there is a quorum of each committee of which they are a member.



(3) In those cases where a joint report or resolution is to be considered, those members serving on more than one of the committees meeting jointly shall be entitled to cast separate votes as a member of each committee upon which he or she serves.

(4) The Board Chair shall preside at all meetings, preserving order and decorum and shall decide all questions of procedure and order, subject to appeal to the Board. The Board Vice-Chair shall preside in the absence of the Chair. The Board Chair and Vice-Chair shall be entitled to vote on all matters presented to the Board. (5/17/16)

(5) The Corporation Counsel's office shall serve as parliamentarian for Board meetings.

(6) All matters referred to committee or committees must be returned to the Board within sixty days if supported by the committee. In the event of referral to more than one committee, action must be taken separately by each committee, although joint meetings may be held and joint reports may be made as outlined in subsections (2) and (3). An issue that does not receive an affirmative vote in committee may be reported back to the County Board during supervisor comments by the committee chair. (8/6/91)

(7) Persons wishing to make presentations to the County Board during the citizen comments portion of the meeting will limit their comments to one five-minute presentation and otherwise abide by the terms of the citizen comment rules in sec. 2.07(10). Persons requested to appear before the Board, the county executive and county department heads shall not be limited in the time required to provide the presentation. (4/17/90)

(8) *Supervisor Reports, Announcements, and Referrals* (4/12/05). After "Citizen Comments" at County Board meetings, an item shall appear on the agenda entitled: "Supervisor Reports, Announcements and Referrals." This item is intended to allow for committee reports by committee chairs, routine announcements, and matters that a supervisor would like referred to a committee or department. No debate or official action will be taken up on any matter announced under such agenda items.

(9) *Supervisor Comments* (4/12/05). Comments by Supervisors regarding matters on the agenda shall be made only at the time that the matter is properly before the Board. Supervisor comments on matters not on the agenda shall be specifically noted on the agenda with a description of the comments with enough specificity to comply with the Wisconsin Open Meeting Law. (5/17/16)

(10) *Rules for Citizen Comment*. The following rules apply to all periods of citizen comment at County Board and Committee meetings:

- 
- (a) Any person who wishes to address the County Board during the "Citizen Comment" portion of the agenda must complete the "Citizen Comment" sign-in sheet and verbally state their name and address prior to beginning comment.
  - (b) All comments shall be limited to five (5) minutes in length per speaker unless the Board Chair establishes a different time limit in his or her discretion, in which case the time limit will be announced.
  - (c) Comments should be directed to the Board as a whole and not addressed to individual Board or Committee Members.
  - (d) A commenter should refrain from asking questions of the Board or any individual Board or Committee Member.
  - (e) Commenters should be courteous in their language, avoid personalized remarks and refrain from comments that are rude, obscene, profane, personally attacking, and which demonstrate a lack of respect for others.
  - (f) The Chair reserves the right to terminate an individual's public comments if these rules are violated. As well, the Chair has the authority to rule speakers out of order where appropriate and may call a short recess in disorderly situations.

## **2.04 Open meetings.**

All meetings shall be open to the public and shall be held in conformance with section [59.11](#) and sections [19.81](#) through [19.98](#) of the Wisconsin Statutes, as amended.

## **2.05 Closed session at meetings.**

- (1) Any meeting may convene in closed session provided any such closed session complies with the provisions of section [19.85](#) of the Wisconsin Statutes as amended.
- (2) In accordance with section [19.89](#) of the Wisconsin Statutes and unless otherwise provided by law, no member of the Board may be excluded from any meeting of the Board, its committees or commissions provided, however, that a committee or commission may exclude a Board member that is not a member of the committee or commission from a closed session portion of a meeting upon majority vote of the committee or commission members present. The records, tapes and any other

materials distributed in any closed session of the Board or any of its committees, including without limitation the record of any official action taken or authorized, shall be available to all supervisors upon written request presented to the Board Chair or chair of the appropriate committee. (3/20/18)

(3) All motions and roll call votes taken in closed session must be recorded and preserved, but such recordings shall be impounded and left in the custody of the county clerk or recording secretary to the committee and, subject to Sec. 2.03(2), not distributed to anyone until the reason for the closed session has expired and secrecy is no longer allowed by law. Those Board or Committee members in attendance at a closed session shall have access to the record of any official action taken or authorized in the closed session and such record shall be deemed approved as recorded unless objected to at the next regular meeting of the Board or Committee. (8/21/90)

## **2.06 Board meetings agenda, order of business and minutes.**

(1) *Agenda and Inspection.* The Board Chair, in consultation with the County Clerk, shall establish the agenda for all meetings of the Board. In creating the agenda, the Board Chair shall include, among other matters, all items acted upon favorably by a committee. The Board Chair shall determine the process for referral to a committee. All reports, resolutions, ordinances, communications, etc., to be presented to the Board shall be filed with the county clerk no later than 10:00 a.m. on the Friday preceding the Board meeting and shall be open to public inspection upon filing. In the case of committees, all reports, resolutions, ordinances, communications, etc., shall be filed with a designee of the county clerk and shall be open to public inspection upon filing. The Board Chair may authorize the filing of any report, resolution, ordinance, communication, etc., at a later time than provided herein. The county clerk shall forward to the respective supervisors at least 48 hours prior to the start of a county board meeting copies of all agenda items which have been timely filed. A matter may be pulled from the agenda only by the Board Chair after polling and receiving a consensus of the committee members present during the Announcements of the Chair segment of the meeting. Removal of an item is not subject to debate. Where an item is not submitted by a committee but by an individual supervisor, that item may be removed from the agenda at the request of the presenter. (11/4/96) The Board agenda shall be kept on file with the Clerk, be posted on the county's website and published in the proceedings of the County Board as required by law.

(2) The order of business as established by the rules of the County Board shall not be changed except by unanimous consent or by a vote of two-thirds of the members present.

(3) The County Clerk shall prepare and record minutes of County Board meetings including a record of any action taken, if any, during a closed session portion of the meeting. The chair of each

committee or his or her designee, in coordination with the county clerk shall prepare and record all minutes of all committee meetings including a record of any action taken, if any, during a closed session portion of the meeting. Final approved minutes of Board and committee meetings shall be posted to the county's website within five (5) business days of approval.

(4) Unless otherwise required by law, no item may be scheduled for inclusion on the agenda for a regular meeting of the County Board until the appropriate committee or committees has acted upon the item unless the Board Chair, in his or her discretion and after consultation with the item's submitter, determines that the matter is of a time sensitive nature requiring the Board's attention in which case the Board Chair may place the item on the agenda for a regular meeting without committee consideration. This section does not prevent a matter from being scheduled for the first of two required readings prior to committee consideration. (1/17/17)

(5) *Consent Calendar.* The Chair may place items of routine business on the consent calendar portion of the agenda. Unless an objection is raised by any member of the Board, all items on the consent calendar may be disposed of by a single motion approving the consent calendar. If an objection is raised to the consent calendar, the objector shall specify the individual items in the consent calendar that will be removed from the consent calendar and acted upon individually. Each agenda containing a consent calendar shall specify the matters being considered in the consent calendar.

## **2.07 Exercise of power and presentation.**

(1) The County Board shall act by way of ordinances or resolutions. Except as otherwise noted, ordinances and resolutions shall be adopted by majority vote of a quorum or by such other vote as may be required by statute or ordinance. Reports submitted by County Board committees or members shall be intended for informational purposes and shall not be used for the purpose of instituting policies or enacting laws.

Any paper presented to the Board requesting Board action shall have endorsed thereon the date of presentation, subject matter, and the name of the presenting member(s). The Board Chair or the Board clerk shall read the endorsement and the matter shall then be either referred or otherwise disposed of as directed by the Board.

(2) All committee resolutions and ordinances must be in writing and indicate the "yes" or "no" vote or abstention of every member of the committee present at the committee meeting where such resolution or ordinance was acted upon. Resolutions, reports and ordinances not sponsored by a

committee must be signed by the sponsoring member. If the County Board member initiating the resolution or ordinance or policy statement seeks additional support and sponsors he or she shall do so in compliance with the Open Meetings Law by having such resolution or ordinance or policy statement delivered to each Supervisor by the County Clerk, by mail or electronic delivery, as part of Board's meeting packet with a memorandum informing all Board members that they may co-sponsor and sign the resolution, ordinance or policy statement immediately prior to the next County Board meeting. [Opinions of the Attorney General, March 11, 1993, July 28, 1998, September 16, 2002] (1/8/08)

All committee resolutions and ordinances must also have a space for:

- (a) a fiscal note commenting on the financial impact of the proposal to be completed and signed by the County's Finance Department; and
  - (b) a legal note commenting on the legal authority relating to the proposal to be completed and signed by the Office of the Corporation Counsel.
- (3) Ordinances and resolutions may be adopted by a majority vote of a quorum or by such majority vote as may be required and ordinances shall commence as follows: "The County Board of Supervisors of Kenosha County do ordain as follows . . ."
- (4) *Readings and Notations.* Every resolution and report, except as otherwise noted, shall only require one reading. All ordinances and all resolutions which are intended to reflect policy (as determined by the Board Chair in consultation with the Corporation Counsel) or which are otherwise required by law to have more than one reading shall be read at two successive Board meetings. Zoning map amendments shall only require one reading. The County Board may suspend this rule requiring a second successive reading by two-thirds vote of the members present and consider such matter on the day presented. Notice of possible suspension of the second reading shall appear on all County Board agendas. In regards to ordinances and resolutions requiring two readings, no debate shall be permitted at the first reading. Unless otherwise indicated, all resolutions shall survive expiration of a session and remain in effect until such time as repealed. Any resolution intending to reflect the policy of the County Board shall be so duly noted and properly indexed and incorporated into a policy manual. When presenting these items for first reading, the County Clerk shall read them by number and title only, but when requested by any one member of the County Board, said item shall be read in its entirety. A copy of said resolution and ordinance shall be presented in writing to each supervisor at the time of the first reading. The County Board may take action on the proposed resolution or ordinance after the second reading. Any resolutions or ordinances shall be read by title

only unless any one supervisor requests a reading of the resolution or ordinance in its entirety, which request can be overridden by a 2/3 vote of the members present. (3/6/12)

(5) All resolutions, ordinances and reports shall be filed and indexed cumulatively, with said file and index reflecting the subject matter and number of the report or resolution, and the page number where said report or resolution is reported, in full, in the yearly Proceedings of the County Board pursuant to Wis. Stat. § 59.14.

(6) *Adoption.* Upon the adoption of any ordinance or resolution enacted by the County Board, it shall be countersigned by the Board Chair and the county clerk and forwarded to the county executive pursuant to the provisions of section [59.17\(6\)](#) of the Wisconsin Statutes. Upon approval or abstention by the county executive or in the event of his or her veto, upon the subsequent overriding vote of the County Board, the county clerk shall publish said resolution or ordinance and distribute copies pursuant to the applicable state statutes. If any resolution or ordinance is not returned by the county executive to the County Board at its first meeting occurring not less than 6 days, Sundays excepted, after it has been presented to the county executive, it shall become effective unless the County Board has recessed or adjourned for a period in excess of 60 days, in which case it shall not be effective without the County Executive's approval. If the County Executive vetoes, in whole or in part as allowed by law, any ordinance or resolution, the Board shall place the vetoed ordinance or resolution on the agenda for the next Board meeting for purposes of reconsidering the vetoed ordinance or resolution and if, after such reconsideration, 2/3 of the members-elect of the Board agree to adopt the vetoed ordinance or resolution, it shall become effective as provided therein but in no event earlier than the date of the meeting at which such ordinance or resolution is reconsidered.

(7) The Board Chair shall appoint a temporary County Executive, subject to Board confirmation, in the event of a vacancy in the office of County Executive.

## **2.08 Motion procedure.**

(1) After a motion receives a second and has been restated by the chair, it is in possession of the Board. Before the adoption of any amendment or decision on the question it may be withdrawn by the mover with the consent of a second. If any member objects to the withdrawal of the motion, it may be withdrawn only with the consent of the majority of the members present. A motion to amend a main motion, when in order, shall require a second and a vote of the body.

(2) Any item of business before the Board not otherwise required by law to be acted upon in a specific manner of voting may be acted upon by unanimous consent by the Board Chair asking if there is any objection. If no Board member objects, the item of business is adopted by unanimous consent. (3/20/18)

(3) The names of the mover and the seconder of every motion shall be entered on the minutes of the Board. A proposed ordinance or resolution appearing on the agenda with a positive recommendation from a committee shall not require a motion and second and the minutes shall reflect that the committee recommended and moved adoption of such ordinance or resolution.

(4) No debate shall be permitted until the Board Chair has stated a question. When the question is under debate, no motion is in order except as provided in the rules of order, and such motions shall have precedence in the order outlined in said rules of order.

(5) A motion to adjourn the Board is always in order except when the County Board is voting. A motion to close debate or move the previous question may not be made by the person making the motion or amendment or by the person who seconds the motion or amendment. Furthermore, no speaker may make a motion to close debate or to move the previous question immediately after speaking on the question. A motion to close debate or move the previous question, when in order, is not debatable and shall require two-thirds vote of the members present to be adopted. (6/6/95)

(6) A member has the floor only after he or she is recognized by the chair; and the member who wishes to be recognized shall seek recognition from the chair. When two or more members ask for recognition, the Board Chair shall determine the order in which such members shall speak. A member called to order shall immediately return to his or her seat and discontinue speaking unless permitted to explain by the chair.

(7) Any member may ask for the privilege of the floor for a non-Board member to address the County Board, and if no supervisor objects, the Board Chair shall grant the privilege to such non-Board member. If a member objects, any County Board member may move that the privilege of the floor be granted, and any member may second such motion. If the motion is adopted by a two-thirds vote of all members present, the County Board Chair shall grant the privilege of the floor to the non-Board member, and the Board Chair shall limit the time that such person can address the County Board.

## **2.09 Appeals and motions to reconsider, rescind and to take from the table.**

(1) Any two members have the right to appeal any decision of the Board Chair by one member making the appeal and another seconding it, at which point the question shall be taken from the Board Chair and vested in the County Board for final decision. Upon such motion for appeal made and seconded, the Board Chair shall state the question as "Shall the decision of the chair be sustained?" This motion is debatable, but each member may speak only once on the motion.

(2) No motion to reconsider is in order unless made by a member who cast a vote on the prevailing side of the question proposed to be reconsidered, or where the County Board is evenly divided by any member who voted in the negative, and such motion is made at the same meeting at which the original decision on that question was made or at the next meeting provided, however, that a motion to reconsider may be made in a committee meeting by a member of the committee that was absent from the meeting at which the question was presented. A motion to reconsider that fails shall not be renewed. The motion to reconsider and again place a prior motion before the Board shall require a majority vote. A motion to rescind or amend a prior action of the Board shall require prior notice and shall require the same vote as needed to adopt the original motion. Any supervisor intending and qualified to bring a motion to reconsider, rescind or amend a prior action of the Board at any meeting other than the meeting at which the report, resolution or ordinance was adopted shall notify the Board Chair and Clerk of his or her intent so that the motion may be properly placed on the appropriate agenda. Neither a motion to reconsider, rescind nor amend a prior action of the Board shall be in order if there has been action or an undertaking in furtherance of implementing the business that is the subject of the motion to reconsider, rescind or amend the prior action of the Board.

## **2.10 Voting.**



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- (1) *Voting Requirement.* Every member who is present at a Board meeting, including the Board Chair, shall cast a vote when the question is put before the Board Chair; when a vote is equally divided, the question is lost. This section shall not be construed to prohibit a supervisor from abstaining from voting for any reason. (3/16/93)
- (3) No member shall be permitted to vote on any question unless he or she is present or unless he or she appears, upon division of the Board, prior to the tally. A member wishing to absent him or herself from any meeting while the meeting is in session shall first obtain consent from the Board Chair who shall so notify the Board.
- (5) Unless otherwise specifically provided by statute, no secret ballot may be authorized to determine any election or decision of the Board except the election of officers of such Board in any meeting; except as so provided in the case of officers, any member of the Board may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.
- (6) The records of the county clerk after approval by a majority of the members of the governmental body and certification of such approval by the prescribed officer, shall be filed in the office of the clerk and in the case of committees with the chair of the committee or his or her designee. Records of closed session portions of meetings shall be impounded until the body by majority vote authorizes their release and inclusion in the regular public records file.
- (7) The motion and roll call votes of each meeting including closed sessions of the Board and its committees shall be recorded and preserved and open to public inspection to the extent prescribed in sec. [19.31](#) of the Wisconsin Statutes.
- (8) Unless otherwise specified or required by law, the majority vote shall consist of a simple majority of the votes cast and unless otherwise specified, a two-third vote shall consist of two-thirds of the members of the County Board; that is, not less than sixteen votes of the 23 member Board. (11/15/88)

(9) Any member of the Board or the Board Chair may move for consideration of a resolution or ordinance by paragraph or seriatim. Upon the adoption of said motion by majority vote, the Board Chair shall read the first subdivision or paragraph of the resolution or ordinance, after which reading the proponent shall be provided the opportunity to explain said paragraph or subdivision, after which the Board Chair shall inquire as to debate or amendment to that particular paragraph or subdivision. When there is no further debate or amendment to the first paragraph, each succeeding paragraph or subdivision shall be taken up in similar fashion. Amendments to each paragraph shall be voted on as they arise, but no paragraph as amended shall be acted upon (as to final adoption or review) at that time. After all parts have been considered, the Board Chair shall open the entire document to further amendment. All such amendments shall be corrected and inserted in the record by the county clerk, and after final debate and amendment, the entire resolution or ordinance shall be acted upon in a single vote.

## 2.11 Claims.

- (1) All claims against the county that are otherwise not acted upon by the Finance and Administration Committee as provided in these Board Rules shall follow the procedure set forth in sections [59.64](#) and [893.80](#) of the Wisconsin Statutes and amendments thereto.
- (2) The Corporation Counsel may recommend a compromise of any claim or lawsuit to the Board Chair and Vice-Chair of the Board, the chair of the finance committee and the chair of the standing committee of any department involved in the claim, who, together, shall advise the corporation counsel on a proposed settlement including the limits and conditions of settlement contingent upon approval of the Board if the proposed settlement is acceptable to the claimant or litigant. This provision is subject to any statutory requirements and/or contractual obligations related to any claim for which the County is insured. (5/17/16)

## 2.12 Finance and budget.

- (1) No later than the second Board meeting of April of each year, the county financial report for the previous year and the annual report of each department shall be presented. At or before the first meeting in June, the county executive shall be allotted sufficient time to present his or her message to the County Board as provided for in section [59.17\(5\)](#) of the Wisconsin Statutes.
- (2) Prior to October 15 of each year, the county executive shall submit his or her proposed budget to the County Board.
- (3) The annual budget shall be presented to the County Board for informational purposes and in accordance with the laws of the State of Wisconsin, acted upon by the Finance Committee, then presented at a public hearing and shall be then adopted by the County Board at its annual meeting held in November of each year, which budget shall be adopted by resolution and shall require a majority roll call vote for enactment. Upon adoption by the County Board, the budget shall be forwarded to the county executive pursuant to the provisions of section [59.17\(6\)](#) of the Wisconsin Statutes.
- (4) *Supervisor's and County Executive's compensation.* Any increase in the salary or compensation of County Board Supervisors or the county executive shall require a majority vote of the members-elect (as defined in sec. 65.90(5)(ag) of the Wisconsin Statutes), shall be made at or before the annual meeting and shall take effect after the next scheduled election for County Board Supervisors or county executive.

(5) Except as provided in Subsection [\(7\)](#), the amount of tax to be levied or certified, the amounts of the various appropriations and the purposes for such appropriations stated in such budget, shall not be changed thereafter unless authorized by a vote of two-thirds of the members-elect (as defined in sec. 65.90(5)(ag) of the Wisconsin Statutes) of the Board. Where such changes are made they shall be published as a class 1 notice under chapter 985 within 15 days thereafter or a notice of the changes is posted on the County's website within 15 days thereafter. Failure to give such notice shall preclude any changes in the proposed budget and alterations thereto made pursuant to Section 2.11(7).

(6) Subject to Section 2.11(7), all budget changes or appropriations of money as defined below shall be made only by the adoption of a resolution or ordinance passed in accordance with the laws of the State of Wisconsin, and may not be made by the adoption or acceptance of any committee report or motion; any such resolution or ordinance that will by its actions change the budget or appropriate additional funds so as to put it into effect, must contain the amount of money required, the account which it is to be transferred from, the account which it is to be transferred to, and the recommendation of the finance committee to either adopt or reject such resolution or ordinance. If the Finance and Administration Committee does not recommend adoption or rejection of the resolution or ordinance, then their inaction shall be deemed to be a recommendation to reject the resolution or ordinance. A budget change is defined as a transfer of moneys from the contingency or general fund to any other account, or a transfer of funds from one appropriation unit to another such unit. Within 15 days after adoption of such resolution or ordinance transferring moneys, the county clerk shall give notice thereof as required by section [65.90\(5\)](#) of the Wisconsin Statutes. Failure to give such notice shall preclude any changes in the proposed budget and alteration thereto. (6/21/88)

(7) Notwithstanding Section 2.11(6), the County Board's standing Finance and Administration Committee may, without further Board action, transfer in any one year up to an amount equal to 10% of the funds originally provided for an appropriation unit between appropriation units for an individual county office or department, if such units have been separately appropriated, and may, without further Board action, supplement the appropriations for a particular office, department or activity by transfers from the general or contingent fund of up to an amount equal to 10% of the funds originally provided for an appropriation unit in any budget year pursuant to Wisconsin Statutes, section [65.90](#) and its limitations. The publication provisions of subsection [\(5\)](#) shall apply to all committee transfers from the contingent fund and shall be reported to the Board.

An appropriation unit is defined as the level of control at which a line item is adopted in the annual budget. The level of control shall be established in the annual resolution to adopt the county budget, or in a separate resolution approved by the County Board. (6/21/88)

(8) No committee or department of county government shall purchase any insurance or personal bond without prior approval of the administration committee.

## **2.13 Standing committees (6/17/14).**

(1) The Standing Committees of the County Board shall be as follows:

- (a) Finance and Administration Committee
- (b) Judiciary and Law Enforcement Committee
- (c) Public Works and Facilities Committee
- (d) Planning, Development and Extension Education Committee
- (e) Human Services Committee
- (f) Executive Committee
- (g) Legislative Committee

(2) *Oversight Authority, Areas of Responsibility, and Powers.*

(a) *Finance and Administration Committee.*

1. All matters relating to purchasing, finance, taxes, budgets, assessments, audits, the sale, lease, purchase or disposition of any county lands or buildings (except highway right-of-way), economic development, Deferred Compensation, the Office of the County Clerk, the Office of the County Treasurer, the Office of the Register of Deeds, the Housing Authority, and the following Divisions of the Department of Administration: Financial Services, Information Services, and the Office of the Director which are to come before the County Board shall be referred to the Finance and Administration Committee.

2. Pursuant to section [59.52\(12\)\(a\)](#) of the Wisconsin Statutes, the Finance and Administration Committee is delegated the power of the County Board in regard to current

accounts, claims, demands, or causes of action against the County where the amount does not exceed \$10,000.

3. All matters relating to personnel matters arising out of Wisconsin Statutes Chapter [111](#), employee classification, reclassification, labor contracts, collective bargaining, employee safety and working conditions, personnel policy, insurance, risk management, and the Department of Administration Division of Personnel Services which are to come before the County Board shall be referred to the Finance and Administration Committee.

(b) *Judiciary, and Law Enforcement Committee.*

1. All matters relating to law enforcement, the jail, the house of corrections, the court system, the Sheriff's Department, the Office of Juvenile Intake, the Department of Administration Division of Emergency Services, the Department of Corrections, Conservation Wardens, the Office of the Clerk of Courts, and the Office of the District Attorney which are to come before the County Board shall be referred to the Judiciary and Law Enforcement Committee.

2. The Judiciary, and Law Enforcement Committee shall have the authority to review and act upon licenses and permits as set forth in Chapter [8](#) of the Municipal Code of Kenosha County.

(c) *Public Works and Facilities Committee.*

1. All matters relating to highways, roads, dams, parks, recreation, and the Department of Public Works which are to come before the County Board shall be referred to the Public Works and Facilities Committee.

2. The Public Works and Facilities Committee shall have the powers of a county park commission as defined in Wisconsin Statutes, Chapter [27](#) and the powers of the county highway committee as defined in Wisconsin Statutes, Chapter [83](#).

3. The Public Works and Facilities Committee shall have the power to adopt rules and regulations for the administration of County Parks as set forth in section [10.20](#) of the Municipal Code of Kenosha County.

4. All matters relating to major repairs, remodeling, expansion, construction, demolition, purchase, sale, or lease of all county-owned buildings and grounds, including Kemper

Center, which are to come before the County Board shall be referred to the Public Works and Facilities Committee.

(d) *Planning, Development and Extension Education Committee.*

1. All matters relating to land use planning, development, shore land and floodplain issues, subdivision control, sanitation, interim reapportionment, the County Surveyor's Office, and the Department of Planning and Development, excluding the land conservation function, which are to come before the County Board shall be referred to the Planning, Development and Extension Education Committee.

2. The Planning, Development and Extension Education Committee shall act as the agent of the County Board in matters pertaining to county planning and development as outlined in the Wisconsin Statutes, section [59.69](#) as amended.

3. The Planning, Development and Extension Education Committee shall have the powers as set forth in Chapter [12](#) of the Municipal Code of Kenosha County in general and as set forth in section [12.03–12.04](#) of the Municipal Code of Kenosha County specifically.

4. All matters relating to the University of Wisconsin Cooperative Extension Office (including concerns related to agriculture, home economics, horticulture, 4-H youth development, and Community, Natural Resource, and Economic Development (CNRED)), soil and water conservation, and the Department of Planning and Development land conservation function which are to come before the County Board shall be referred to the Planning, Development and Extension Education Committee.

(e) *Human Services Committee.* All matters relating to community health, aging services, Brookside, the public welfare, child support, the Office of the Medical Examiner and the Department of Human Services which are to come before the County Board shall be referred to the Human Services Committee.

(f) *Executive Committee.* All matters relating to strategic planning for the greater good of Kenosha County and other matters as deemed necessary and proper by the Board Chair shall be referred to the Executive Committee.

(g) *Legislative Committee.* All matters relating to the policies and rules of procedure of the County Board, intergovernmental relations, intergovernmental communications, pending or

proposed legislation, the Office of the Corporation Counsel and other governmental matters which are to come before the County Board shall be referred to the Legislative Committee.

(3) *Committee Assignments.*

(a) Standing Committees of the County Board may at the discretion of the Board Chair consist of five (5) or seven (7) members except that the Finance and Administration Committee must have seven (7) members.

(b) Every supervisor shall serve on at least one committee unless otherwise determined by the Board Chair provided such determination is confirmed by the County Board.

(c) No supervisor shall serve on more than three standing committees.

(d) No chair of another standing committee may serve on the Finance and Administration Committee.

(e) The Finance and Administration Committee Chair may not serve on any other standing committee except the Executive Committee.

(f) No more than two members from any one standing committee may serve on the Finance and Administration Committee.

(g) The Executive Committee shall consist of the Board Chair, Vice-Chair and each Committee Chair. In the event the Vice Chair is also a Committee Chair, the Board Chair shall appoint another Supervisor of his or her choosing.

(h) No supervisor shall simultaneously serve as the chair of a standing committee and as the chair of a County affiliated board, committee, or commission. For avoidance of doubt, the Joint Services Board is not a County affiliated board, committee, or commission. (5/17/16)

(4) *Committee Operations.*

(a) At the time the Board Chair appoints members to the standing committees, the Board Chair shall also appoint a chair and vice-chair of each standing committee. (3/20/18)

(b) The committee chair shall set the time and place for all meetings of the committee during the session, check and list committee meeting dates with the County Clerk to avoid conflicts with other committee meetings, and report committee attendance to the County Clerk who shall



maintain a record thereof. Standing Committees of the County Board shall convene no earlier than 6:00 PM if a vote or legal action is to be taken. Standing Committee meetings may occasionally require alternate meeting times. In these rare situations, the committee chair will notify the County Board chair prior to noticing a meeting occurrence. This shall not be interpreted to hinder the duly noticed working session of the Planning, Development and Education Extension Committee.

(c) The committee chair shall preside over all committee meetings. The committee vice-chair shall act as chair in the absence of the chair. (3/20/18)

(d) It is the responsibility of the committee chair, in cooperation with the county clerk, to ensure that all proceeding minutes are recorded in the appropriate format and posted to the County website.

(e) All County Board standing or ad hoc committee open meetings and public hearings, board of health meetings and board of adjustment meetings shall be digitally recorded and such recordings shall be posted, in unedited form, to the county website within five (5) business days of the proceeding. Written minutes are required to note the start and end time of the committee proceedings as well as the approximate start time of each specific agenda item to allow the public to efficiently search the audio recordings for a full audio transcript of a specific topic. No portion of any closed session of a meeting shall be posted unless and until the confidentiality of any such recording is no longer necessary.

(f) All written minutes of a previous meeting must be approved by the committee at the next regularly scheduled committee meeting with all written minutes posted to the County website within five (5) business days of the date of the meeting at which the written minutes were approved. No draft meeting minutes shall be posted to the website.

The County Clerk shall keep minutes of County Board meetings and final approved minutes shall be posted within five (5) business days of approval; the Board agenda shall be kept on file with the Clerk, be posted on the county's web site and published in the proceedings of the County Board as required by law.

(g) No item may be scheduled for inclusion on the agenda for a committee meeting without the consent of the committee chair. Members of the County Board shall endeavor to file all reports, resolutions, ordinances, communications, etc., to be presented to the committee with the county clerk no later than 10:00 a.m. on the Thursday preceding the committee meeting.

The committee chair may authorize the filing of any report, resolution, ordinance, communication, etc., at a later time than provided herein.(h) While members of the County Board may attend any meeting of a committee or commission, subject to sec. 2.03(2), members of the County Board who are not members of the committee or commission shall not participate in discussion or debate on any matter presented to the committee or commission without the committee chair's approval.

(5) *General Duties and Powers of Committees.*

(a) Each standing committee shall study, conduct investigations, and make recommendations and shall perform such other duties as the County Board may from time to time direct relative to their areas of responsibility.

(b) Each standing committee shall meet as necessary with officials and staff of the appropriate divisions, departments, boards, or commissions.

(c) Each standing committee may refer matters relating to their areas of responsibility to the County Board. In order to sign a resolution or ordinance, as a committee member, a supervisor must have been in attendance of the committee meeting at which the measure was discussed.

(d) *Citizens' comments.*

1. Each standing committee shall place an item on every committee meeting agenda for citizens' comments.

2. Committee members shall not engage in debate concerning any matter raised during citizens' comments that is not on that meeting's agenda. Nonetheless, each standing committee shall endeavor to respond, or request that staff respond, to citizens' comments and inquiries when requested to do so by citizens.

(e) Each standing committee shall have the power to issue subpoenas in accordance with Wisconsin State statutes, but shall not exercise such power prior to consulting with Corporation Counsel.

(f) If the relevant committee chair requests and the Board Chair agrees to attend, the Board Chair's presence at a committee meeting shall be considered in determining if a committee quorum is present only if his or her presence is needed to obtain a quorum and in which case he or she shall be entitled to vote on said committee. In those instances where the Board Chair is

not needed to make a quorum, he or she may still vote to break a tie vote of committee members.

(6) All appointments, including reappointments, to boards, commissions, or department director positions by the County Executive and/or the Board Chair and all approvals of division head nominees which may come before the County Board shall be referred by the Board Chair to one or more appropriate standing committees. The committee(s) may investigate, study, and interview prospective appointees and nominees requiring County Board approval and shall perform such other duties as the County Board may from time to time direct relative to such reviews. The committee(s) may interview prospective appointees and nominees with respect to their familiarity with Kenosha County; their expertise and qualifications for service on the board, commission, or position in question; their understanding of the rules of procedure and due process; and their philosophy with respect to any issue or concern which the board, commission, department, or division in question will, in all likelihood, face or be subjected to.

## **2.14 Rule changes, suspension of rules.**

No Board Rule as herein adopted may be rescinded, or changed, nor any new rule or order added hereto except by amendment to this ordinance by a two-thirds vote. Any such proposed change to these Board Rules shall be provided to the Board members at least three (3) days before the meeting at which it is to be presented for the first reading. Any Board Rule not in conflict with state statutes may be suspended by a two-thirds vote of the members present.

## **2.15 Severability, prior rules, repeal, effective date, and publication.**

(1) If any provisions of this ordinance are found by final judgment by a court of competent jurisdiction, after exhaustion of all rights to appeal, invalid or unconstitutional, or in conflict with the Wisconsin Statutes, or if the application of this ordinance and these rules or ordinance is invalid or unconstitutional or conflicting said provision shall not affect the provisions or application of this ordinance which can be given effect without the invalid or unconstitutional provision. This ordinance shall be construed in accordance with the Wisconsin Statutes and in the event of any conflict between this ordinance and the Wisconsin Statutes, the Wisconsin Statutes shall prevail.

(2) All ordinances or resolutions or parts thereof in conflict herewith are hereby repealed.

(3) This ordinance shall take effect upon passage and publication as provided by law.

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**2.16           Penalty provision.**

The penalty provision of Chapter [25](#) of the Municipal Code of Kenosha County shall not apply to any violation of this chapter.

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**Addendum.**

## AGENDA FORM

NOTE: UNDER THE KENOSHA COUNTY BOARD RULES OF PROCEDURE ANY REPORT, RESOLUTION, ORDINANCE OR MOTION APPEARING ON THIS AGENDA MAY BE AMENDED, WITHDRAWN, REMOVED FROM THE TABLE, RECONSIDERED OR RESCINDED IN WHOLE OR IN PART AT THIS OR AT FUTURE MEETINGS. NOTICE OF SUCH MOTIONS TO RECONSIDER OR RESCIND AT FUTURE MEETINGS SHALL BE GIVEN IN ACCORDANCE WITH SEC. 2.10(2) OF THE COUNTY BOARD RULES. FURTHERMORE, ANY MATTER DEEMED BY A MAJORITY OF THE BOARD TO BE GERMANE TO AN AGENDA ITEM MAY BE DISCUSSED AND ACTED UPON DURING THE COURSE OF THIS MEETING AND ANY NEW MATTER NOT GERMANE TO AN AGENDA ITEM MAY BE REFERRED TO THE PROPER COMMITTEE.

Notice is hereby given that (the) (a) (annual, organizational, regular, special, emergency) meeting of the County Board will be held at \_\_\_\_ (a.m.) (p.m.) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at the \_\_\_\_\_ and that the following will be the agenda for said meeting,

- (1) Call to order.
- (2) Pledge of allegiance.
- (3) Roll call.
- (4) Approval of minutes from previous meeting(s).
- (5) Announcements and appointments of chair.
- (6) Elections.
- (7) Citizen comments. (Citizen comments are subject to the rules).
- (8) County Executive communications.
- (9) County supervisor reports and announcements.
- (10) Consent calendar.
- (11) Unfinished business (by committee in alphabetical order).
  - (a) Resolutions second reading

(b) Ordinances second reading

(12) New business (by committee in alphabetical order).

(Note: Under County Board rules of procedure, rules may be suspended and action taken after the first reading of any resolution or ordinance).

(a) Resolutions first reading

(b) Ordinances first reading

(c) Reports standing committees

Standing Committees:

Executive Committee

Finance and Administration Committee

Human Services Committee

Judiciary and Law Enforcement Committee

Legislative Committee

Planning, Development and Extension Education Committee

Public Works Committee

(d) Reports Special Committees

(13) Licenses and permits.

(14) Petitions.

(15) Communications.

(16) Claims.

(17) Supervisor Comments under Rule 2.07(9)

(18) Closed session, contemplated to consider, deliberate, confer, or take action upon matters pursuant to Wisconsin Statutes, section [19.85\(1\)](#) (\_\_\_), to-wit:

(19) Adjournment to \_\_\_\_\_.

(20) Meeting of \_\_\_\_\_ Committee to discuss item \_\_\_\_\_ of the agenda in room \_\_\_\_\_ following adjournment. (Wis. Stat. section [19.84\(6\)](#)).

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**The Municipal Code of Kenosha County is current through Ordinance 7 (2022), passed December 6, 2022.**

Disclaimer: The clerk of the Board's office has the official version of the Municipal Code of Kenosha County. Users should contact the clerk of the Board's office for ordinances passed subsequent to the ordinance cited above.

[County Website: www.kenoshacounty.org](http://www.kenoshacounty.org)

[Hosted by Code Publishing Company, A General Code Company.](#)

*Kenosha*



*County*

## **MEMORANDUM**

Communication to Kenosha County Board of Supervisors  
(For Informational Purposes Only)

***COMMUNICATION TO APPEAR ON COUNTY BOARD MEETING AGENDA: 04/03/2024***

***SUBJECT:*** 2023 to 2024 Carryover and Annual Closeout

***COMMITTEE:*** Finance/Administration

***SUBMITTED BY:*** Patricia Merrill

***RESOLUTION TO BE PRESENTED AT*** Finance/Administration ***COMMITTEE ON 04/11/2024***

***ADDITIONAL INFORMATION (optional):***