

APPENDIX F

Model Draft Shoreland Management Ordinance

Model Ordinance

Agricultural Shoreland Management Ordinance

Section 1: Introduction

1.01 Authority

This ordinance is adopted under the authority granted by section 92.17, Wisconsin Statutes.

1.02 Findings and Declaration of Policy

The Ozaukee County Land Conservation Department finds that agricultural and other activities conducted in close proximity to surface water can pollute Ozaukee County's water resources, and may result in actual or potential harm to the health of residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Ozaukee County.

1.03 Purpose

The purpose of this ordinance is to regulate agricultural activities within the agricultural shoreland management area in order to prevent surface water pollution and thereby protect the health of Ozaukee County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Ozaukee County.

1.04 Applicability

This ordinance applies to all lands and surface water in Ozaukee County that are in the agricultural shoreland management area, as defined in section 2. Ozaukee County shall use United States Geological Survey (USGS) quadrangle maps, with a scale of 1:24,000, to identify rivers, perennial streams, intermittent streams, lakes and ponds included under the jurisdiction of this ordinance.

1.05 Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Ozaukee County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.06 Severability

If any section, provision, or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.

1.07 Effective Date

This ordinance shall become effective upon adoption and publication by the Ozaukee County Board of Supervisors and upon approval by the Department of Agriculture, Trade and Consumer Protection.

1.08 Conflicts with Other Ordinances and Laws

Any conflict or inconsistency between this ordinance and Ozaukee County's Shoreland Zoning Ordinance will be governed by the more restrictive provision. In those areas of Ozaukee County within a drainage district regulated under Ch.88 of the Wisconsin Statutes, this ordinance shall apply to the extent not inconsistent with the powers, duties, and responsibilities of the Ozaukee County Drainage Board.

Section 2: Definitions

- 1) Agricultural lands means lands in agricultural use. Agricultural use has the meaning provided under s. 91.01 (1), Wisconsin Statutes.
- 2) Agricultural shoreland corridor means the land extending 20 feet from; the top of the bank on each side of a perennial stream or river, the centerline of an intermittent stream, or the ordinary high water mark of any lake or pond shown on a United States Geological Survey quadrangle map with a scale of 1:24,000.
- 3) Agricultural shoreland management area means all land that is within 300 feet of the following features as designated on United States Geological Survey quadrangle maps with a 1:24,000 scale:
 - a. The top of the bank of perennial streams or rivers,
 - b. The ordinary high water mark for ponds and lakes that are designated by name,
 - c. The ordinary high water mark for ponds that are not designated by name on the USGS quadrangle map.
- 4) Barnyard means a feedlot, dry lot or any area, other than a pasture, where animals have been, are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12 month period.
- 5) Best management practice means a practice included in the technical guide or an alternative best management practice that the Department of Agriculture, Trade and Consumer Protection determines to be the most effective, practicable means of preventing or reducing soil erosion or pollution from agricultural nonpoint sources to a level compatible with soil and water resource objectives.
- 6) Intermittent stream means a channel in which water does not flow continuously and that is identified as an intermittent stream on the United States Geological Survey quadrangle map with

a scale of 1:24,000.

7) Notice of availability of funds means a first class letter, return receipt requested, mailed by the Ozaukee County Land Conservation Department to the owner of the lands not meeting the ordinance standards, informing them of the availability of cost share funds under s. 92.14, Wisconsin Statutes.

8) Notice of problem means a first class letter, return receipt requested, mailed by the Ozaukee County Land Conservation Department to the owner of the lands not meeting the ordinance standards, informing the owner of the nature of the problem and the necessary process to correct it.

9) Ordinary high water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark. This may be erosion, absence of land plants, predominance of aquatic plants, or other easily recognized characteristics.

10) Pasture means land with a permanent, uniform cover of grasses or legumes used as forage for livestock. Pastures do not include areas where supplemental forage feeding is provided on a regular basis.

11) Perennial stream means a channel where water flows continuously and that is identified as a perennial or permanent stream on the United States Geological Survey quadrangle map with a scale of 1:24,000.

12) Technical guide means the United States Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide that is currently in effect.

13) Vegetative buffer means an area within the agricultural shoreland corridor that is maintained at a minimum level of 70 percent ground cover.

Section 3: Activities Subject to Regulation

3.01 General Requirement

Any person who conducts agricultural activities within the agricultural shoreland management area or who employs another person to do the same, on land subject to this ordinance, shall be subject to the provisions of this ordinance. All activities on land within agricultural shoreland management areas must be conducted in ways that prevent soil erosion and minimize the movement of suspended solids into surface water.

3.02 Compliance with Ordinance Requirements

Persons are in compliance with this ordinance if they install or follow best management practices on their land affected by the ordinance and meet the intent of the standards in section 4.

Section 4: Standards

4.01 Agricultural Activities in the Agricultural Shoreland Corridor

1) Vegetative buffer. Landowners or operators shall establish and maintain an adequate vegetative buffer or equally effective erosion control practice, in the agricultural shoreland corridor. When a vegetative buffer is chosen, it shall be established according to technical guide standard 393, Riparian Vegetative Buffer. If any activity disturbs a vegetative buffer in the agricultural shoreland corridor, the landowner must replant or restore the disturbed area to an effective vegetative buffer as soon as practicable. Row cropping and tillage practices are prohibited in the agricultural shoreland corridor, except that tillage practices are allowed to establish or re-establish a seedbed.

2) Barnyards. Livestock holding areas, other than pastures as defined in section 2, are prohibited within the agricultural shoreland corridor unless a barnyard runoff control system is installed that meets technical guide standard 312.

3) Cattle Access. If there is a pollution problem resulting from the grazing or pasturing of livestock, the landowner or operator will be required to erect a fence no closer than 16 feet to the edge of the navigable stream, or otherwise abate the pollution in such a manner as may be determined by the Land Conservation Department. If a fence has to be erected, provisions will be allowed for watering livestock and shall be of design deemed appropriate by the Land Conservation Department.

4.02 Agricultural Activities in the Agricultural Shoreland Management Area

1) Cropland areas with annually tilled crops. Erosion on cropland within the agricultural shoreland management area must not exceed the tolerable rate (T) for the predominant soil in the field.

2) Pastures. Pastures within the agricultural shoreland management area must comply with Technical Guide Standard 510 for pasture and hayland management. Rotational grazing must comply with the Technical Standard 528A, Managed Grazing.

3) Agricultural lands receiving manure and other nutrients. Agricultural lands within the agricultural shoreland management area must meet technical guide standard 590 if they receive manure and other nutrients through the application of commercial fertilizer, and other added nutrients. Sludge applications are not allowed in the agricultural shoreland management area.

Section 5: Administration

5.01 Delegation of authority

Ozaukee County hereby designates the Ozaukee County Land Conservation Department to administer and enforce the provisions of this ordinance.

5.02 Administrative duties

In the administration and enforcement of this ordinance, the Ozaukee County Land Conservation Department shall:

- 1) Inform all landowners or operators subject to this ordinance of the potential agencies, which may be available to provide technical or financial assistance.
- 2) Establish a procedure for landowners or operators to contact the Ozaukee County Land Conservation Department about conditions on their land that are not in compliance with the Ordinance and establish a procedure for landowners or operators to apply for funding.
- 3) Send notices of problems to landowners or operators that are not in compliance with the Ordinance.
- 4) Provide accomplishment reports to the State Department of Agriculture, Trade and consumer Protection on the activities related to this Ordinance and its effectiveness.
- 5) Investigate complaints relating to compliance with the Ordinance.
- 6) Perform other duties as specified in the Ordinance.

5.03 Inspection Authority

The Ozaukee County Land Conservation Department is authorized to enter upon any lands affected by this ordinance to inspect the land to determine compliance with this ordinance. If permission cannot be received from the landowner or operator, entry by the Ozaukee County Land Conservation Department shall be according to Sections 66.122 and 66.123, Wisconsin Statutes.

5.04 Enforcement Procedure

1. A notice of problem must be mailed to the landowner or operator stating that the standards of this ordinance have not been met. The Ozaukee County Land Conservation Department shall prepare a conservation plan with the landowner or operator including a schedule of implementation. The Ozaukee County Land Conservation Department must provide a notice of availability of funds to the landowner or operator when funds are available to implement or install the necessary practices. A minimum of one year must elapse after the landowner's plan and schedule has been developed before beginning any enforcement action. The one-year deadline for enforcement action may be extended upon agreement between the landowner and the Ozaukee County Land Conservation Department.
2. The Ozaukee County Land Conservation Department, administering the ordinance, must provide along with the notice of problem: a list of pertinent best management practices and associated average costs per unit as provided by the Ozaukee County Land Conservation

authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the Ozaukee County Land Conservation Department in administering the ordinance.

8.02 Procedure

The rules, procedures, duties, and powers of the Land Conservation Committee and Chapter 68, Wisconsin Statutes, shall apply to this ordinance.

8.03 Who May Appeal

Appeals may be made by any person having a substantial interest, which is adversely affected by the order, decision, or determination made by the Ozaukee County Land Conservation Department.