

Ordinance No. 120621-03

**An Ordinance to Regulate Environmental Features**

The Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

**SECTION 1.** Section 18-101 of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby repealed and recreated in its entirety, to read as follows:

**Sec. 18-101. How to Use this Article**

A given property may lie within one or more overlay zoning district based on its geographic location. The provisions of this article are intended to be consulted before issuance of any building permit, site plan approval, conditional use permit, zoning permit, zoning change, or land division to ensure the intended use meets all of the requirements of any applicable overlay district, in addition to the underlying standard zoning district (see article II). For each overlay district established in this article, a definition of the resource or geographic area is provided, followed by the specific purposes of the protective regulations governing the resource or geographic location, the method of delineating the boundaries of the overlay district, and the mandatory development regulations. See Section 18-103, below, for a description of the use of resource mapping provided by government agencies to suggest the location of resources on a specific parcel, and the requirement for detailed delineation informed by on-site investigation, surveying, and mapping of each suggested resource.

**SECTION 2.** Section 18-103 of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby repealed and recreated in its entirety, to read as follows:

**Sec. 18-103. Map of Overlay Zoning Districts.**

- (a) Introduction. Except where otherwise indicated in this article, the overlay zoning districts for the Village of Fontana are represented on the official Overlay Zoning Map, adopted and from time to time amended by the Village of Fontana.
- (b) Suggested Boundaries for Overlay Zoning Districts. This map and its layers of information depict the suggested boundaries of each overlay zoning district. These suggested boundaries require refinement to survey and delineate the precise location of the boundary on parcels subject to development activity, per subsection (c), below. These suggested boundaries are provided on maps published by agencies including Federal Emergency Management Agency (FEMA), United States Geological Survey (USGS), Wisconsin Department of Natural Resources (WisDNR), the Southeast Wisconsin Regional Planning Commission (SEWRPC), and Walworth County.

(c) Refinement of Overlay Zoning District Boundaries by On-Site Delineation. Because the mapping of environmental and cultural resource areas protected by the Village of Fontana as provided by county, state, and federal sources is general and not provided at a surveyed level of accuracy, the boundary of each resource on a parcel proposed for development activity that is identified on the Village's Map of Overlay Zoning Districts and online map viewer shall be subject to a site visit and staking of each resource boundary located on the parcel. This staking shall be conducted by an expert in the resource officially recognized by the agency responsible for the general source mapping of that resource.

- (1) For the Wellhead Protection Area, the staking shall be done by the Village Engineer.
- (2) For any Archeological Site mapped by the Wisconsin Department of Natural Resources, the staking shall be done by an expert recognized by that agency.
- (3) For any Historical Site mapped by the Wisconsin Historical Society, the staking shall be done by an expert recognized by that agency.
- (4) For any Primary Environmental Corridor, Secondary Environmental Corridor, or Isolated Natural Feature mapped by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), the staking shall be done by that agency.
- (5) For any Wetland mapped by the Wisconsin Department of Natural Resources, the staking shall be done by an expert recognized by that agency.
- (6) For and Floodway, Flood Fringe, or Flood Storage Area identified by FEMA, for the Ordinary High Water Mark OHWM) of Geneva Lake, any Steep Slopes Area, any Woodland, and any stream or drainageway, the staking shall be done by a licensed surveyor or civil engineer.

(d) The mapping of all resource area staking shall be conducted by a licensed surveyor of civil engineer, and all resource areas present on the parcel shall be depicted on all site plans, grading and erosion control plans, and stormwater management plans required for submittal to the Village for development activity proposed for the parcel.

**SECTION 3.** Section 18-108(a) thru (g) of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby repealed and recreated, to read as follows:

**Sec. 18-108. Environmental Corridor (EC) Overlay Zoning District.**

- (a) Purpose. This district is intended to preserve, protect, and enhance lakes, ponds, wetlands, woodlands, wildlife habitat areas, areas of rough topography, and related scenic areas. The preservation, protection and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; protect wildlife habitat; protect native plant communities; avoid location of structures on soils which are generally not suitable for such use; control erosion and sedimentation; and maintain the natural beauty of the Village of Fontana. (a) Purpose. This district is intended to preserve, protect, and enhance lakes, ponds, wetlands, woodlands, wildlife habitat areas, areas of rough topography, and related scenic areas. The preservation, protection and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; protect wildlife habitat; protect native plant communities; avoid location of

structures on soils which are generally not suitable for such use; control erosion and sedimentation; and maintain the natural beauty of the Village of Fontana.

- (b) District boundary. The EC District encompasses those areas delineated as primary and secondary environmental corridors and isolated natural features by SEWRPC, as amended from time to time. The suggested boundaries are depicted on the Official Zoning Map. Refinement of these suggested boundaries is required by on-site delineation. See Section 18-103.
- (c) Components of environmental corridors. Environmental corridor lands contain the following natural resource components: natural streams and natural drainageways; steep slopes (greater than 12 percent); woodlands; archaeological and historic sites; floodplains; and wetlands.
- (d) Permitted uses. The following uses are permitted in the EC District:
  - (1) Construction and maintenance of fences, piers, docks, walkways, including those built on pilings.
  - (2) Hiking, fishing, trapping, hunting, swimming, and boating, unless prohibited by other laws or ordinances.
  - (3) Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, syrup, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
  - (4) Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.
  - (5) Existing agricultural uses, provided that they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided, that they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
  - (6) Ditching, tilling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system, only to the extent necessary to maintain the level of drainage required to continue the agricultural use.
  - (7) Maintenance, repair, replacement and reconstruction of existing streets, roads and bridges.
  - (8) Forest and game management.
  - (9) Park and recreational activities and recreational trails.
  - (10) Preservation of scenic, historic, natural areas and critical species habitat sites.
  - (11) Grading, filling, and slope stabilization methods and structures such as retaining walls (including the removal of vegetation in such areas) used to remove, reduce, and stabilize steep slope areas as depicted on a Grading and Erosion Control Plan approved by the Village Engineer.

- (e) Conditional uses. The following uses are permitted as conditional uses within the EC District:
- (1) Passive recreational uses.
  - (2) Public services and utilities.
  - (3) Land disturbing activity (other than grading, filling, and slope stabilization per (f)(11) above), meeting the requirements of this section.
- (f) Development regulations within the EC District. Development may be accommodated in the upland portions of the EC District (not located within a floodway, floodplain, flood storage area, or the buffer of a wetland, lake, pond, navigable stream, or other drainageway) as a conditional use. The following provisions shall apply:
- (1) All development shall comply with all of the requirements of the underlying standard zoning district, all other applicable Overlay Zoning Districts, and the requirements of this section specific to the EC District.
  - (2) All land disturbing activities shall comply with village land division regulations and the construction and erosion control ordinance.
  - (3) Development does not result in significant adverse water quality impacts or erosion potential as determined by the village engineer.
  - (4) Development of the remaining environmental corridor lands is prohibited by a conservation easement or deed restriction in a manner approved by the village attorney.
  - (5) The development shall not threaten the environmental integrity or function of the remaining corridor.
  - (6) Development is compact rather than scattered in nature.
  - (7) No structures shall be erected within the separation distances specified in subsection (g), below.
  - (8) No lands shall be disturbed within the separation distances specified in subsection (g), below.
  - (9) No vegetation shall be removed from the separation distances specified in subsection (g), below, except for invasive, non-native, dead or diseased vegetation. All development shall meet the separation distance requirements in subsection (g), below.
  - (10) The maximum density occurring within any new buildable lots shall be limited to a maximum of one dwelling unit per five acres. (See SEWRPC Guidelines for Development Considered Compatible with Environmental Corridors and Isolated Natural Resource Areas)
- (g) Separation distance requirements.
- (1) The disturbed or developed area shall be located a minimum of ten feet from woodlands.
  - (2) The disturbed or developed area shall be located a minimum of 20 feet from steep slopes.
  - (3) For the required setback of disturbed or developed areas from wetlands, floodplains, Geneva Lake, navigable water, navigable streams, and other drainageways that are not mapped as navigable streams, see Section 18-110(b).

**SECTION 4.** Section 18-109(c) of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby repealed and recreated, to read as follows:

Sec. 18-109. Wellhead Protection (WP) Overlay Zoning District.

- (c) Designation of Wellhead Protection Overlay District boundaries. The WP District shall include property located, in whole or in part, in those areas described in Exhibit A, attached to Ordinance No. 10-01-07-01 and incorporated herein by reference, and depicted on the official zoning map for the village. Refinement of the boundaries are required by on-site delineation. See Section 18-103.

**SECTION 5.** Section 18-110 of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby repealed and recreated in its entirety, to read as follows, including repealing and recreating the title to this Section:

Sec. 18-110. Water Resources Protection (WR) Overlay Zoning District.

- (a) Purpose. This district is intended to set forth requirements for the protection of the water quality and environmental integrity of Geneva Lake, and other lakes, streams, drainageways, and wetlands of less than five acres. This zoning district recognizes that the uncontrolled use and pollution of the land margins of lakes, navigable streams, other drainageways, and wetlands under five acres in size would adversely affect the public health, safety, convenience, and general welfare, and impair the tax base of the Village of Fontana. The Village finds that protection of these areas as required by this Section will promote the public health, safety, convenience, and general welfare; reduce water pollution by:
1. Protect the public and the environment from the harmful effects of construction site erosion through stormwater management zoning controls as provided for in Wis Stat 61.354(2);
  2. Providing vegetated buffers to filter sediments, nutrients, and contaminants in overland water flow infiltration feeding both surface and groundwater resources;
  3. Protecting fish and wildlife by preserving habitats along surface water margins;
  4. Prohibit certain uses detrimental to water margins;
  5. Preserve ground cover and natural beauty by restricting site disturbance, paved areas, and structures.
- (b) District boundary. The WR District is defined as:
- (1) All lands within 75 feet from the ordinary high-water mark of waters classified by WisDNR as "Exceptional Resource Waters" or "Outstanding Resource Waters" including Geneva Lake, Potawatomi Creek, and Van Slyke Creek.
  - (2) All lands within 50 feet of the ordinary high-water mark of any other navigable water (including lakes, navigable ponds, navigable streams, or other navigable features) as mapped by WisDNR.
  - (3) All lands within 30 feet of the top-of-bank of any other drainageway mapped by WisDNR, SEWRPC, or USGS which are not mapped as navigable by WisDNR..
  - (4) All lands within 30 feet of any wetland mapped by WisDNR of less than five acres in area.
  - (5) The detailed mapping of the overlay district the boundaries are required by on-site delineation. See Section 18-103.

- (c) Geneva Lake access. No lot in this overlay zoning district shall by deed, covenant, easement, or other device or agreement provide for access to Geneva Lake by other than the owner or legal occupant of the lot and his guests, except in the case of a public park or way, or public utility easement.
  - (d) Regulations. In addition to any other applicable use, site, or sanitary restrictions and regulations, including the Floodplain (Article VIII.) and Shoreland-Wetland Overlay Districts (Article IX.), the following regulations shall apply to all areas within this district. If there are any conflicts between the Water Resources Protection Overlay Zoning District and the Floodplain (Article VIII.) and Shoreland-Wetland Overlay Districts (Article IX.) occurs, the Floodplain and Shoreland-Wetland Overlay Districts shall apply.
- (1) Tree cutting and shrubbery clearing.
    - a. Tree and shrubbery cutting in an area parallel to the ordinary high-water mark, and extending 35 feet inland from all points along the ordinary high-water mark shall be limited in accordance with the following provisions:
      - 1. These activities shall be conducted in accordance with the Village of Fontana Zoning Ordinance.
      - 2. No more than 30 feet in any 100 feet, as measured along the ordinary high-water mark, may be clearcut to the depth of the 35-foot area.
      - 3. Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
    - b. Any path, road or passage within the 35-foot area shall be constructed and surfaced so as to effectively control erosion and result in the least removal and disruption of shoreland cover and the minimum impairment of natural beauty. Paths and trails shall not exceed ten feet in width.
    - c. From the inland edge of the 35-foot area to the outer limits of the shoreland, the cutting of trees and shrubbery shall only be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.
  - (2) Earth movements. Earth movements involving stream course changing, waterway construction or enlargement, channel clearing, or removal of stream or lake bed materials are conditional uses requiring review, public hearing, and approval of a Conditional Use Permit by the Village of Fontana Plan Commission and Village Board. However, such earth movements having a Wisconsin Department of Natural Resources permit under Wis. Stats. ch. 30, are exempt from this provision.
  - (3) Shoreyard setback. All structures except piers, boat hoists, wharves, patios, bridges, dams, walkways, and stairways which are necessary to provide pedestrian access to the

shoreline and such other exceptions as may be set forth in this subsection (d) shall be set back 75 feet from the ordinary high-water mark of Outstanding Resource Waters and Exceptional Resource Waters (including Geneva Lake, Potawatomi Creek, and Van Slyke Creek as of 2021), 50 feet from the ordinary high-water mark of other navigable waters, and 30 feet from the top-of-bank of other drainageways and wetlands of less than 5 acres, unless an existing pattern of development exists which is less than the setback requirement, in which case the average of the existing principal structure shore setback on either side of the principal structure within a distance of 100 feet may be used to compute the setback for the principal building only, but shall not be reduced to less than 40 feet from the ordinary high water mark of Geneva Lake, Potawatomi Creek, and Van Slyke Creek; not less than 30 feet from the ordinary high water mark of other navigable waters; and not less than 20 feet from the top of bank from other drainageways and wetlands of less than 5 acres. The method of computation shall be as follows:

- a. If there is a building which is nonconforming with respect to shoreyard setback with a similar use as the proposed building located on an adjacent parcel on one side of the proposed building or within 100 feet of the proposed building, the average of the shoreyard setback of that building of similar usage and the required minimum shoreyard setback shall apply.
  - b. If there are two buildings which are nonconforming with respect to shoreyard setback with similar uses as the proposed building located on adjacent parcels on each side of said building or within 100 feet of the proposed building, the average of the shoreyard setbacks of those buildings of similar usage shall apply.
  - c. In the case of a proposed addition to an existing building which has less than the required shoreyard setback, the shoreyard setback of such existing building may be used to determine the required shoreyard setback for the proposed building addition, as set forth above.
- (4) Boathouses. As of June 7, 2010, the village shall prohibit the construction of new boathouses located within the shoreyard setback. Existing boathouses located within the shoreyard setback shall be deemed existing nonconforming structures. The maintenance and repair of nonconforming boathouses shall comply with the requirements of Wis. Stats. § 30.121.
- (5) Patios and decks. Patios and decks are exempt from the shoreyard setback requirement from the ordinary high-water mark provided that:
- a. They shall be located so as to minimize earth-disturbing activities and shoreland vegetation removal during construction.
  - b. No permanent benches or tables shall be attached to the patio.
  - c. The patio shall not exceed a height of more than six inches above the original grade.

- d. No canopies, roofs or railings shall be attached to the patio.
  - e. The patio is placed within the 30 to 100-foot area that is allowed to be clear-cut and shall be no more than 150 square feet in area.
  - f. Within the VC Zoning District, patios and/or decks may be combined with walkways to cover up to 100 percent of the area within the Water Resources Protection Overlay Zoning District for the commercial lakefront area located between Lake Street and the ordinary high water mark of Geneva Lake.
- (6) Stairways, walkways, piers and wharves. Stairways and walkways and that portion of piers and wharves landward of the ordinary high-water mark are exempt from the shoreyard setback requirement provided that:
- a. The structure shall be necessary to access the shoreline because of steep slopes or wet, unstable soils;
  - b. The structure shall be located so as to minimize earth-disturbing activities and shoreland vegetation removal;
  - c. The structure shall be no more than 48 inches wide;
  - d. Open railings are permitted only where required for safety;
  - e. Canopies (except as allowed herein), roofs, and closed railings/walls on such structures are prohibited; provided, however, that one canopy constructed as an attachment or enlargement to an existing structure shall be permitted in the shoreyard so long as said canopy is constructed in support of a permitted use by right or approved conditional use, is less than 150 square feet in total area, is less than one foot in vertical width at it widest point, is completely removed, including all supporting substructure, between October 15 and the following April 15 and is limited to one such canopy per tax parcel; and
  - f. Landings for stairs or docks are permitted only where required for safety and shall not exceed 25 square feet in area.
- (7) Retaining walls. Retaining walls and terracing shall only be permitted to the extent that they resolve a continuing erosion problem and shall not be used to provide level outdoor living space in the near-shore area. The applicant shall successfully prove to the land conservation committee or the Wisconsin Department of Natural Resources that there is a current erosion problem that cannot be remedied by resloping and revegetation of the area or other means consistent with natural shoreline aesthetics.
- (8) Tillage, grazing, livestock watering and feeding, application of fertilizers, and stockpiling of manure. Tillage, grazing, livestock watering and feeding, application of fertilizers, and stockpiling of manure shall be prohibited unless conducted in accordance with the county's conservation standards and applicable state and federal laws, and when



such uses do not cause the discharge of animal wastes into drainageways or surface waters. Spreading of manure or fertilizer on frozen ground, stockpiling or stacking of manure, and the establishment of feedlots shall be prohibited when such practice would cause direct runoff of surface waters into a drainageway or watercourse.

- (9) Surface water withdrawal, diversion or discharge. Surface water withdrawal, diversion, or discharge for irrigation, processing, or cooling is prohibited except upon issuance of a special permit by the Wisconsin Department of Natural Resources under rules and regulations adopted pursuant to Wis. Stats. § 144.25(2).
- (10) Waste materials. No waste materials such as garbage, rubbish, gasoline, fuel oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be so located, stored, or discharged in a way that they would be likely to run off, seep, or wash into surface or groundwaters.
- (11) Ditching, tiling, dredging, excavating, or filling limited only to repair an existing shoreland and to maintain the level of drainage to protect the public health, safety, and general welfare as determined by the Village Engineer.
- (12) Maintenance, repair, replacement and reconstruction of existing streets, roads, bridges, and utilities.

**SECTION 6.** Section 18-153(a) of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby repealed and recreated, to read as follows:

Sec. 18-153. Shoreland-wetland zoning district.

- (a) Shoreland-Wetland zoning maps. The following maps are hereby adopted and made part of this article and are on file at Village Hall:
  - (1) Wisconsin Wetland Inventory Maps stamped "FINAL" November 1, 2007.
  - (2) Flood Boundary and Floodway Map: Village of Fontana, Walworth County, WI, dated October 2, 2009.
  - (3) United States Geological Survey Topographic Map for Walworth County, WI, dated 1986.
  - (4) Village of Fontana Official Zoning Maps. Refinement of the boundaries are required by on-site delineation. See Section 18-103.

**SECTION 7.** Section 18-13. Definitions of the Municipal Code of the Village of Fontana-on-Geneva Lake is revised to include the following new definitions and to eliminate the definition for "artificial stream", to read as follows:

*Natural channel:* Includes watercourses and drainageways. A natural channel does not become an artificial body by dredging or enlarging the original streambed or by damming the stream to create a flowage.

*Drainageway:* A natural channel having a bed, sides or banks, and usually discharges itself into some other stream or body of water. The term “drainageway” is typically associated with a determination as to whether the channel carries a natural water flow year-round (a “Perennial Drainageway”) or whether the channel carries a natural flow of water for only part of the year (an Intermittent Drainageway). Intermittent Drainageways and Perennial Drainageways are identified on the United States Geological Survey (USGS) Quadrangle Maps or on maps produced by the Wisconsin Department of Natural Resources (WisDNR). Some drainageways are mapped as navigable streams by the WisDNR, other are mapped as non-navigable streams.

*Watercourse:* Also known as a “stream”, which usually flows in a particular direction, though it need not flow continually and may sometimes be dry. The watercourse must flow in a definite natural channel, having a bed, sides or banks, and usually discharges itself into some other stream or body of water. The term “Watercourse” is typically associated with a determination as to whether the channel is navigable for all or part of a year (a “Navigable Watercourse or Stream”) or whether the channel is non-navigable for all of the year (a “Non-Navigable Watercourse or Stream”). Watercourses and streams are identified as “navigable” and “non-navigable” on maps produced by the Wisconsin Department of Natural Resources (WisDNR).

*Navigable water:* A surface water feature mapped or determined by on-site investigation by the Wisconsin Department of Natural Resources (WisDNR) as navigable. Navigable water means Lake Superior, Lake Michigan, all natural waters within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of the state, including the Wisconsin portion of the boundary waters, which are navigable under the laws of the state.

**SECTION 8.** Section 18-13. Definitions of the Municipal Code of the Village of Fontana-on-Geneva Lake, and the definition therein for “Lakeshore” shall be revised and replaced with a definition for “Shoreland” and to create a definition for “Shoreyard or Shore Yard”, to read as follows:

*Shoreland:* Lands lying within the following distances from the ordinary high-water mark of navigable waters:

- (1) One thousand feet from a lake, pond or flowage.
- (2) Three hundred feet from a river, stream, or to a landward side of the floodplain, whichever distance is greater.
- (3) Shorelands shall not include those lands adjacent to farm drainage ditches where such lands are not adjacent to a navigable water; those parts of such drainage ditches adjacent to such lands were not navigable water before ditching or had no previous stream history; and such lands are maintained in nonstructural agricultural use.

*Shoreyard or Shore Yard:* A type of front, rear, or side yard extending the full width of the ordinary high water mark of any navigable water to the depth required in the setback regulations of the Lakes, Streams and Other Water Bodies Overlay Zoning District or base zoning district in which such lot is located.

**SECTION 9.** Section 18-229.2(a)(8). of the Municipal Code of the Village of Fontana-on-Geneva Lake is repealed and recreated to read as follows:

## Section 18-229.2. – Applicability

- (a) Any land-disturbing or land developing activity shall be subject to the erosion and sediment control provisions of this section if:
  - (8) In those cases where land-disturbing construction activities lasting for more than seven days are located between the ordinary high-water mark of Geneva Lake and North Shore Drive or South Shore Drive, or in all such other places which are located within the 500 feet of the ordinary high-water mark of Geneva Lake, or within 200 feet of the ordinary high-water mark of any navigable water.

**SECTION 10.** Sections 18-117(2) and (3). of the Municipal Code of the Village of Fontana-on-Geneva Lake are repealed and recreated to read as follows:

(2) Official maps and revisions. The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see division 8, Amendments) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk, Village of Fontana on Geneva Lake. If more than one map or revision is referenced, the most restrictive information shall apply.

a. Official maps: Based on the FIS:

- 1. Flood Insurance Rate Map (FIRM), panel numbers 55127C0312D, 55127C0316D, dated October 2, 2009, and FIRM panel number 55127C0304E, dated September 3, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) Volume 55127CV000B, dated September 3, 2014. 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. Letter of map revision (case number: 08-05-2405P, date: July 16, 2008).

c. Refinement of the boundaries are required by on-site delineation. See Section 18-103.

(3) Establishment of floodplain zoning districts. The regional floodplain areas are divided into four 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 and are contained within AE Zones as shown on the FIRM.

- b. The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- c. The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, 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.

**SECTION 11.** Section 18-122.1 of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby created to read as follows:

**Section 18-122.1 Flooded Agriculture – Cranberry Farms (FA-C)**

(1) Statement of purpose. The Federal government created the National Flood Insurance Program (NFIP) to establish flood risk zones and to provide flood insurance to property owners in communities that adopt and enforce floodplain regulations in accordance with regulatory floodplain maps approved by the Federal Emergency Management Agency (FEMA). In recognition of the NFIP's requirements, the following ordinance shall apply to flooded agriculture– cranberry farms (FA-C).

(2) Cranberry farming uses extensive water management systems that are often located in areas designated as a Special Flood Hazard Area (SFHA). Within the SFHA, this ordinance establishes the minimum floodplain regulations, which apply to maintenance and FA-C development activities and it preserves the orderly and efficient use of land for agricultural purposes. The provisions of this ordinance are limited to floodplain management requirements. This section is designed to clarify permit procedures for routine activities related to cranberry culture.

(3) Applicability. The ordinance provisions for this district shall apply to all flooded agriculture - cranberry farms (FA-C) in the SFHA as identified on the effective Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) for the community. The intent of this district is to provide a consistent regulatory framework for both maintenance and development activities, which are required for the efficient management of a cranberry farming operation.

These provisions describe the activities associated with FA-C, the potential for each activity to impact the Base Flood Elevation (BFE) or floodway and the requirements for each activity. This ordinance does not apply to the construction, maintenance, repair or modification of any building in this district. Buildings and all other development activities not associated with cranberry farming are regulated by other sections of this floodplain zoning ordinance.

(4) Permitted use. Any use or FA development activity, which occurs in a FA-C must meet the requirements in this section.

(5) Definitions. In this section:

- a. "Department" means the Wisconsin Department of Natural Resources.
- b. "Existing cranberry farm" means the area of established cranberry farming as established pursuant to Section 2.5 (5).
- c. "FA-C" means the portions of the existing cranberry farm as defined in section 2.5(5) and that are subject to the SFHA regulations.
- d. "FA-C development activities" are development activities listed in Section 2.5 (6) (d). FA-C development activities do not include maintenance activities and do not include the construction, maintenance, repair or modification of any building.
- e. "Permit required" means that a FA-C Permit is required.
- f. "Perimeter dike" means the dike or system of dikes that are closest to the boundary line of the existing cranberry farm, usually the outermost dike.
- g. "Maintenance activities" are activities identified in Section 2.5 (7) (f) that take place within the boundary of an existing cranberry farm.
- h. "Special Flood Hazard Area (SFHA)" means an area having special flood hazards and is shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as an A, AE, AH or AO zone.

(6) Establishment of existing cranberry farm. The construction or maintenance of a building is not covered by this section. (For construction or maintenance, please refer to Sections 3, 4 and 5 of the ordinance.)

- a. To establish the boundary of an "existing cranberry farm," a person must file with the community a certified legal description of the farm boundary as it existed on <<INSERT the effective date of the adopted FIRM or FHBM>>. The area of existing use includes all farm production areas, all farm support land and all farm support areas including dikes, impoundments, water storage reservoirs, ditches, sand stockpiles and roads. The area of established use does not include buildings.

- b. Upon issuance of the FA-C permit, the FA-C development that is completed in accordance with the FA-C permit shall be established as an existing cranberry farm upon completion.

(7) Requirements for new development activities in flooded agriculture districts – cranberry farms (For construction or maintenance, please refer to Sections 3, 4 and 5 of the ordinance.)

- a. A Zones: FA-C development activities in an A Zone may not cause a cumulative impact on the base flood elevation (BFE) of more than 1.0 (one) foot at any point on the waterway. If any project causes an increase in flooding elevations that would impact other properties, then the provisions of the community's floodplain zoning standards apply. Increases equal to or greater than one foot would require submittal of the engineering study to FEMA for a Conditional Letter of Map Revision (CLOMR). It is the project sponsor's responsibility to contract for and submit the engineering study to the community. All studies shall be reviewed and approved by the Department at the community's request. It is the

community's responsibility to determine if the project meets the district criteria, determine if a permit is appropriate, and submit the CLOMR application to FEMA when necessary.

b. AE Zones: FA-C development activities in the designated floodway of an AE Zone must be analyzed using the current, effective hydraulic model to ensure that the project does not cause an increase to the BFE. If any project causes an increase in flooding elevations that would impact other properties, the provisions of NR 116.11(3) apply. Any increase requires submittal of the engineering study to FEMA for a Conditional Letter of Map Revision (CLOMR). It is the project sponsor's responsibility to contract for and submit the engineering study to the community. All studies shall be reviewed and approved by the Department at the community's request. It is the community's responsibility to determine if the project meets the district criteria, determine if a permit is appropriate, and submit the CLOMR application to FEMA when necessary.

c. All FA-C development activities require a FA-C permit in accordance with Section 2.5 (9).

d. FA development activities include:

1. New Dikes and Impoundments. Construction of a dike or an impoundment outside the boundary of existing cranberry farm. Includes the use of heavy machinery.

2. New Ditches. Construction of a new ditch outside the boundary of existing cranberry farm. Includes the use of heavy machinery to dig the ditch and the removal of plant and debris material.

3. New Farm Roads. Construction of a farm road outside the boundary of existing cranberry farm. Includes the placement of materials as appropriate to build a road that is adequate for expected loads.

4. New Reservoirs. Construction of a reservoir outside the boundary of existing cranberry farm. Includes the use of heavy machinery for excavation.

5. Sand Mining. Sand Mining outside the boundary of existing cranberry farm. Includes the extraction and stockpiling of sand using heavy equipment or hydraulic dredges.

6. New Water Control Structures. Placement of a water control structure in a ditch or reservoir outside the boundary of existing cranberry farm. Includes the placement of a bulkhead or other water control structure in a dike to control water movement in ditches and reservoirs. Rip rap and other material may be used to prevent erosion and failure of the structure.

7. New Bed Construction. Construction of a new cranberry bed outside of the boundary of an existing cranberry farm.

(8) Maintenance activities.

- a. Maintenance activities conducted in accordance with Section 2.5 (8) in the designated floodway of an A Zone or an AE Zone will not cause an increase in the BFE.
- b. Maintenance activities do not require an FA-C permit.

(9) Requirements for maintenance activities in flooded agriculture – cranberry farms.

- a. Maintenance activities must take place within the boundary of an existing cranberry farm and below the top of the existing perimeter dike.
- b. Maintenance of dikes or impoundments must be conducted such that the height of the existing dike or impoundment is maintained.
- c. No spoil materials may be placed such that the height of the top of the perimeter dike on an existing cranberry farm is increased above the established height of the perimeter dike. If spoils materials are placed outside of the existing farm perimeter dike but within the existing farm boundary, then they must be placed outside of the SFHA, must meet the cumulative impact requirement for an A Zone or must be in the non-floodway portion of an AE Zone.
- d. Maintenance activities include the following:
  - 1. New Bed Drainage within Boundary of Existing Cranberry Farm. Includes installation of drain tiles to improve water management; creation of perimeter ditches around the bed area (inside the impoundments) to direct water on and off the bed; and/or installation of water control structures on ends of beds to allow for flooding and drainage.
  - 2. Bed Drainage – Renovation within Boundary of Existing Cranberry Farm. Includes installation of drain tiles to improve water management; creation of perimeter ditches around the bed area (inside the impoundments) to direct water on and off the bed; and/or installation of water control structures on ends of beds to allow for flooding and drainage.
  - 3. New Bed Leveling within Boundary of Existing Cranberry Farm. Cranberry beds are leveled using heavy equipment and a laser level. Sand is deposited onto the bed surface as needed to achieve a level surface with a slight crown in the center such that water drains to the edges of the bed. Beds are entirely surrounded by dikes.
  - 4. Bed Leveling – Renovation within Boundary of Existing Cranberry Farm. Cranberry beds are leveled using heavy equipment and a laser level. Sand is deposited onto the bed surface as needed to achieve a level surface with a slight crown in the center such that water drains to the edges of the bed. Beds are entirely surrounded by dikes.

5. New Bed Planting within Boundary of Existing Cranberry Farm. Vines are planted into the bed surface using plugs, mechanical planting equipment and/or vines spread on the ground and pushed into the surface with a modified disc. Beds are entirely surrounded by dikes.
6. Bed Planting – Renovation within Boundary of Existing Cranberry Farm. Vines are planted into the bed surface using plugs, mechanical planting equipment and/or vines spread on the ground and pushed into the surface with a modified disc. Beds are entirely surrounded by dikes.
7. New Bed Removal of Materials or Scalping within Boundary of Existing Cranberry Farm. Existing plant material is removed. Plant material is loaded into trucks and removed.
8. Bed Removal of Materials or Scalping – Renovation within Boundary of Existing Cranberry Farm. Existing plant material is removed. Plant material is loaded into trucks and removed.
9. New Bed Sanding within Boundary of Existing Cranberry Farm. Sand is deposited onto the bed surface using heavy equipment to bring the planting surface to the desired level.
10. Bed Sanding – Renovation within Boundary of Existing Cranberry Farm. Sand is deposited onto the bed surface using heavy equipment to bring the planting surface to the desired level.
11. Dike – Seeding. Reservoirs and bed dikes are seeded to stabilize banks and prevent erosion. Most seeding is done with a hydro seeder after a suitable planting medium has been placed on the area to be seeded.
12. New Dike or Impoundment within Boundary of Existing Cranberry Farm. New construction of dikes and impoundments and placement of new water control structures within the established perimeter of an existing cranberry farm.
13. Dike or Impoundment – Repair / Maintenance of Existing Structures. Includes excavating adjacent to dikes to increase storage capacity and control of water flow, excavating sand from a reservoir to increase the water storage capacity, installation of splitter dikes to manage water flow and subdivide reservoirs, and replacement of existing water control structures.
14. Ditch – Cleaning and Maintenance of Existing Ditches. Drainage and irrigation ditches are cleaned using heavy equipment to remove plant material and debris. Spoils cannot be placed on the ditch side of any adjacent dike.
15. New Ditch within Boundary of Existing Cranberry Farm. New ditches are constructed using heavy machinery. Plant material and debris are removed.



16. Farm Road – Maintenance of Existing Roads. Farm roads are graded and repaired to maintain height, stability and width. Sand or gravel is placed in damaged areas. Culverts are replaced. Roads are mowed to prevent growth of brush or flowers that serve as competition for pollinators.
17. New Farm Road within Boundary of Existing Cranberry Farm. Farm roads are constructed using placement of materials as appropriate for the loads expected to be carried.
18. Harvest – Flood. Water is released from storage areas and gravity flowed or pumped into production (cranberry bed) areas. An initial “raking” flood of 6 to 12 inches is applied. After harvest machinery moves through the beds, the water level is increased above the vine canopy to allow the fruit to be corralled and removed.
19. Irrigation – Flood. Water is released from the reservoir or pumped onto the beds to provide a flood for insect control or protection during severe weather. Water is then returned to the reservoir or other water body.
20. Irrigation System Maintenance and Renovation. Periodic repair of cranberry bed sprinkler systems includes nozzle replacement; mainline replacement with aluminum or plastic materials; burial of laterals; upgrades to pumping systems and construction of pumping stations within the perimeter of the most-external impoundment of the farm.
21. Reservoir Maintenance and Construction of Reservoirs within the Boundary of Existing Cranberry Farm. Reservoirs are periodically excavated to alter or maintain depth levels. Heavy equipment is used for excavation.

(10) Fa-c permits. A FA-C permit shall be obtained before any development in the FA-C 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 of the proposed development area; and
3. Statement that the proposed use is cranberry farming.

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 proposed development area;
2. Location of the ordinary high water mark of any abutting navigable waterways;

3. Location of any structures with distances measured from the lot lines and street center lines; and

4. Location of SFHA floodplain and floodway limits as determined from the official floodplain zoning maps.

c. A zone application. An application for FA-C development activity in an A zone shall include a certificate of no-rise, or a technical analysis sufficient to show that the proposed development will not cause a cumulative impact on the base flood elevation (BFE) of more than 1.0 (one) foot within the regulatory floodway of a particular reach on the waterway.

d. Ae zone application. An application for FA-C development activity in an AE zone shall include submission of a certificate of no-rise. If the analysis shows the project will cause an increase greater than 0.00 feet in the BFE, then the project sponsor shall provide the community with information necessary for the community to evaluate the proposed project.

**SECTION 12.** Section 18-133.1 Flood Storage District of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby created to read as follows:

#### Section 18-133.1 Flood Storage 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. 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.

c. 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.

**SECTION 13.** Section 18-136.1 Flood Storage District of the Municipal Code of the Village of Fontana-on-Geneva Lake is hereby created to read as follows:

**Section 18-136.1 Flood Storage District**

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

**SECTION 14.** The charts in the figures referenced below shall remove the words “Minimum Shoreyard Setback” and replace those words with “Minimum Setbacks from Lakeshore, Navigable Streams, Other Drainageways, Wetlands, Woodlands, Steep slopes and Village wells”. The following figures are so revised: Figure 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41 and 42.


**SECTION 15.** Section 18-102. Overlay Zoning Districts, and the chart located therein is hereby amended to remove reference to the LS, Lake Shore Overlay District and replace it with WR, Water Resources Protection Overlay District (Section 118-110).

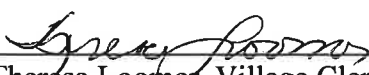
**SECTION 17.** Effective Date.

This Ordinance shall be in full force and effect upon its passage, approval and publication as required by law.

**PASSED AND ADOPTED** by the Village Board of the Village of Fontana-on-Lake Geneva, Walworth County, Wisconsin, this 6<sup>th</sup> day of December, 2021.

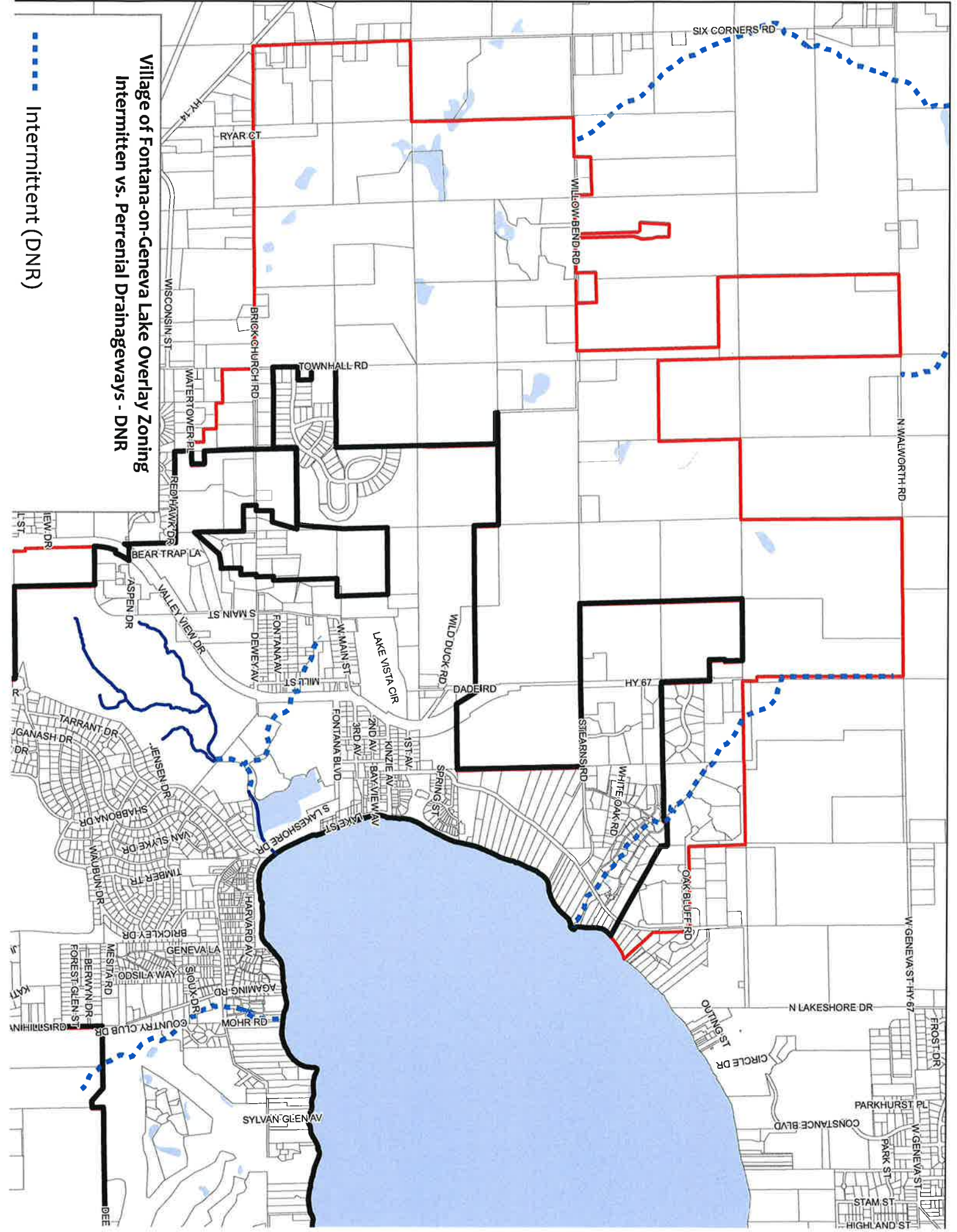
VILLAGE BOARD OF THE VILLAGE OF  
FONTANA ON-GENEVA LAKE

By:   
Patrick Kenny, Village President

Attest:   
Theresa Loomer, Village Clerk

**Village of Fontana-on-Geneva Lake Overlay Zoning**  
**Intermittent vs. Perennial Drainageways - DNR**

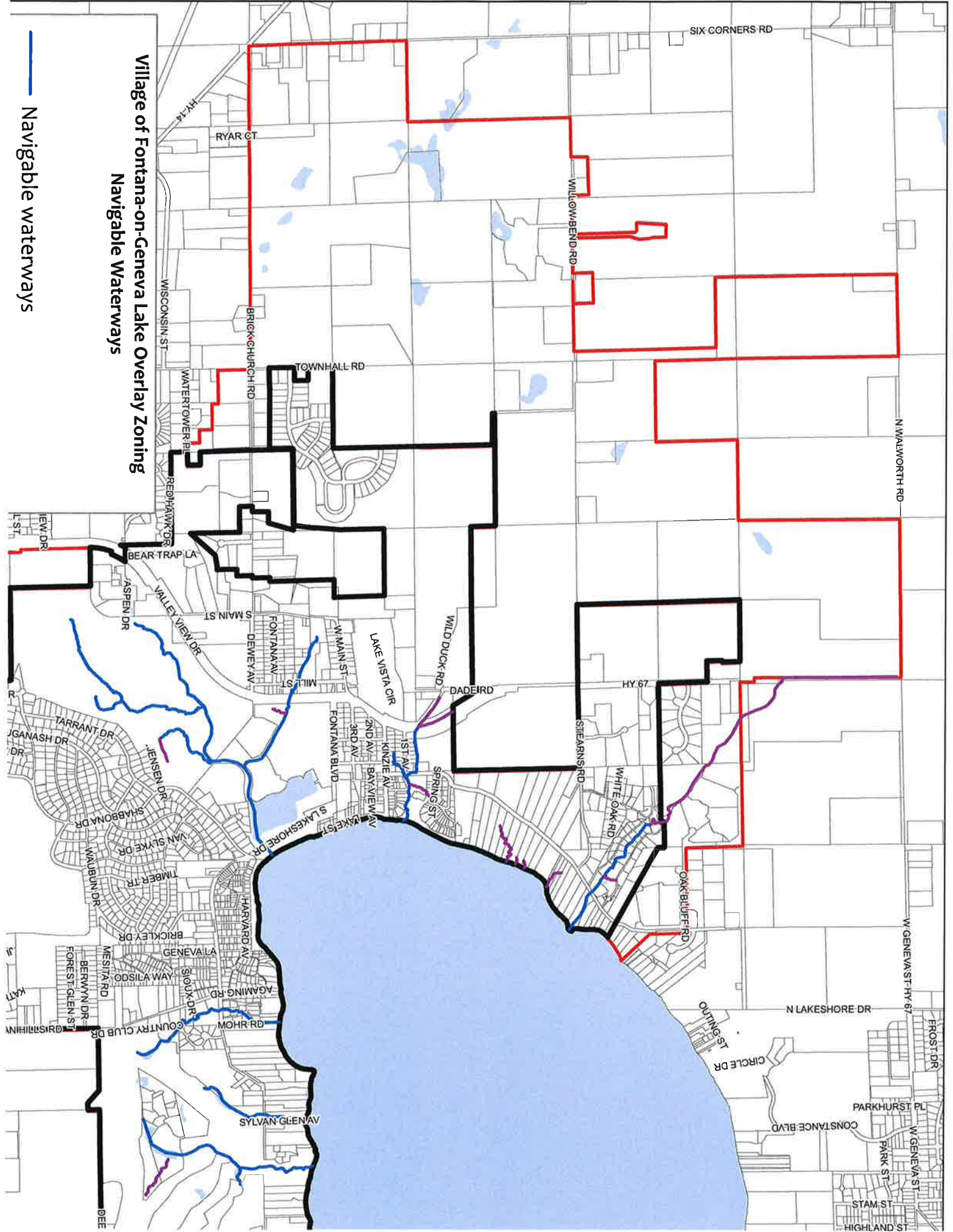
..... Intermittent (DNR)






# Village of Fontana-on-Geneva Lake Overlay Zoning Navigable Waterways

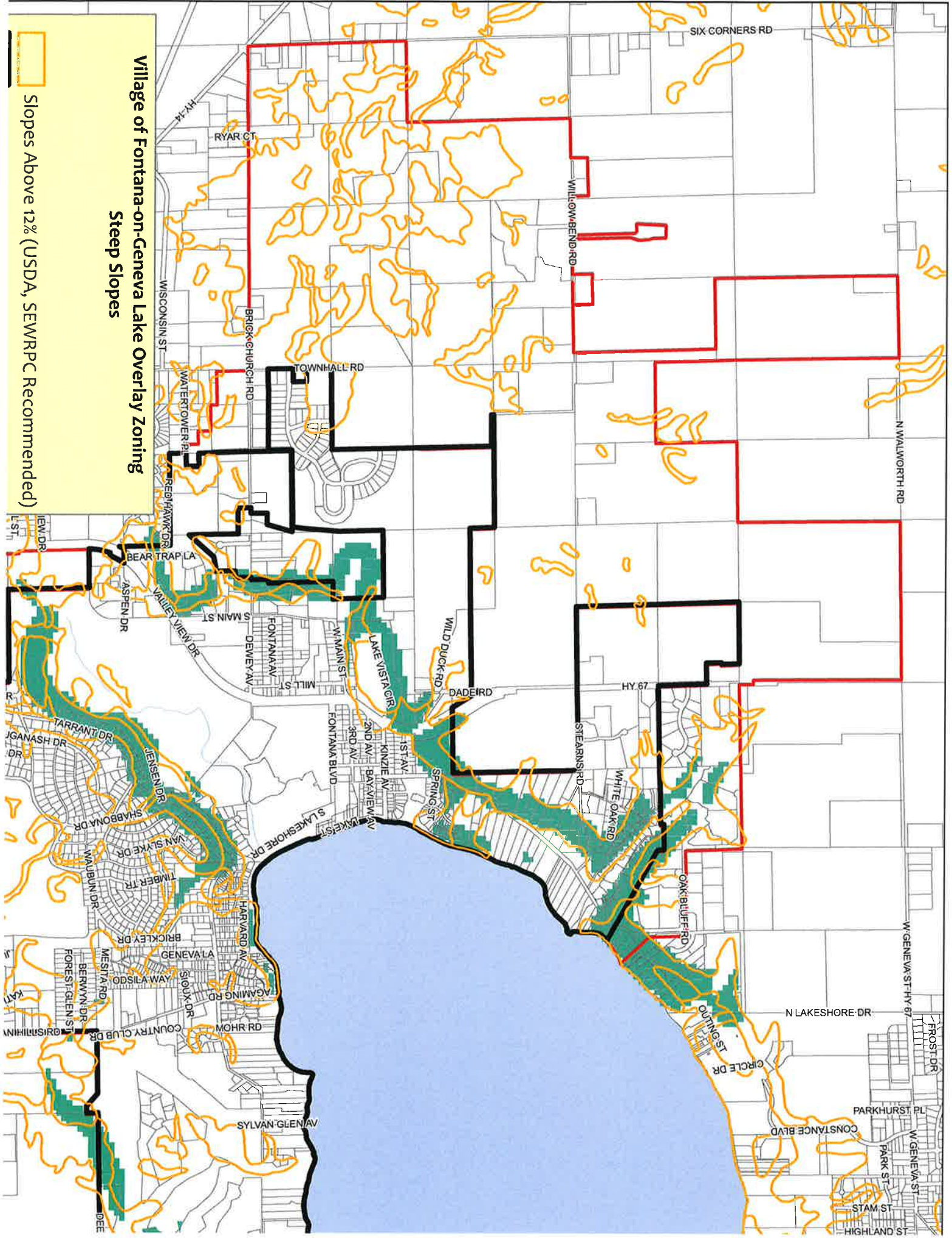
— Navigable waterways





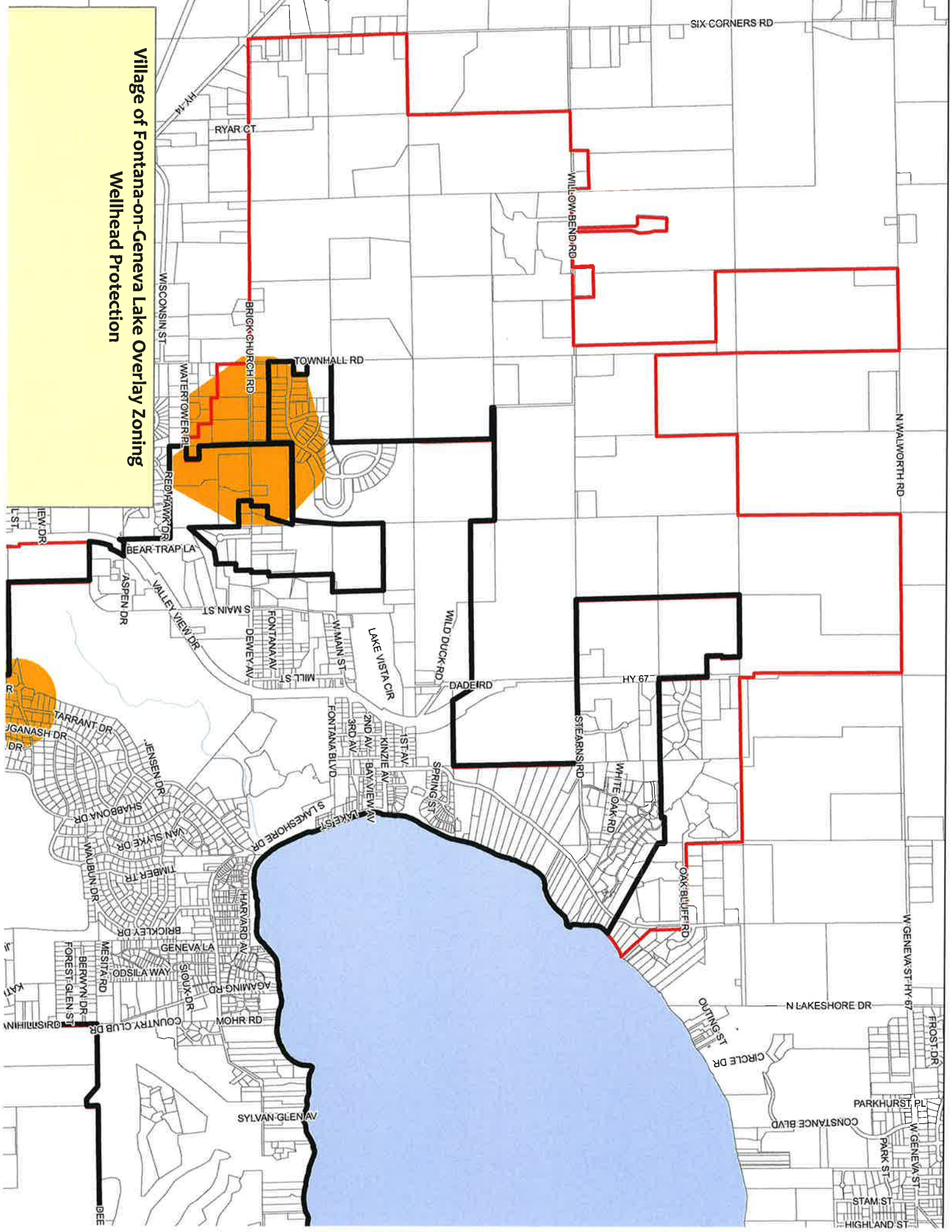
**Village of Fontana-on-Geneva Lake Overlay Zoning**  
**Steep Slopes**

 Slopes Above 12% (USDA, SEWRPC Recommended)





# Village of Fontana-on-Geneva Lake Overlay Zoning Wellhead Protection



**Village of Fontana-on-Geneva Lake Overlay Zoning  
Woodlands**

