

CHAPTER 21

SHORELAND-WETLAND ZONING

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21.01 STATUTORY AUTHORIZATION, FINDING OR FACT, STATEMENT OF PURPOSE AND TITLE

- (1) Statutory Authorization.** This chapter is adopted under the authority of §59.692, Wis. Stats., in order to satisfy the requirements of §59.692 and §87.30 Wis. Stats., and to implement §59.69, §59.694, §281.31 and §236.45, Wis. Stats.
- (2) Finding of Fact.** Uncontrolled use of the shorelands and pollution of the navigable waters of Marinette County would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by the County.
- (3) Purpose.** For the purpose of promoting the public health, safety, convenience and welfare, this chapter has been established to:
 - (a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - (1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - (2) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
 - (3) Controlling filling and grading to prevent serious soil erosion problems.
 - (4) Limiting impervious surfaces to control runoff which carries pollutants.
 - (5) Preserving wetlands to minimize runoff and soil erosion.
 - (b) Protect spawning grounds, fish and aquatic life through:
 - (1) Preserving wetlands and other fish and aquatic habitat.
 - (2) Regulating pollution sources.
 - (3) Controlling shoreline alterations, dredging and lagooning.
 - (c) Control building sites, placement of structures and land uses through:
 - (1) Separating conflicting land uses.
 - (2) Prohibiting certain uses detrimental to the shoreland area.
 - (3) Setting minimum lot sizes and widths.
 - (4) Regulating side yards and building setbacks from waterways.
 - (5) Controlling the expansion to non-conforming structures.
 - (6) Setting the maximum height of near shore structures.
 - (d) Preserve shore cover and natural beauty through:
 - (1) Restricting the removal of natural shoreland cover.
 - (2) Preventing shoreline encroachment by structures.
 - (3) Controlling shoreland excavation and other earth moving activities.
 - (4) Regulating the use and placement of boathouses and other structures

- (5) Preventing the destruction and degradation of wetlands.
- (6) Preserving native wetland plant/tree communities.
- (e) Protect and preserve wetlands through:
 - (1) Restricting the placement of fill material in wetlands.
 - (2) Encouraging avoidance and minimization of wetland impacts.
 - (3) Preserving native wetland plants and tree communities.
- (f) Prevent flood damage through:
 - (1) Restricting filling, grading, and the placement of structures in floodplains and wetlands.
 - (2) Preserving the ecological integrity of floodplains and wetlands.
 - (3) Restoring floodplains and wetlands to increase floodwater storage.
- (4) Title.** Shoreland/Wetland Zoning Chapter for Marinette County, Wisconsin.

21.02 DEFINITIONS

For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word “shall” is mandatory, not permissive. Words or phrases not defined specifically below but used in this chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application. All distances unless otherwise specified shall be measured horizontally. The measurement shall be taken from the closest part of the building or structure including, but not limited to, steps, decks, overhangs, eaves or landings to the location requiring the setback.

The following terms used in this chapter shall have the meanings indicated.

- (1) Access and Viewing Corridor.** The strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer area.
- (2) Accessory Structure or Use.** A subordinate structure which is attached or detached from the principal structure, the use of which is clearly incidental to, and customarily found in connection with the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.
- (3) Basement.** Any enclosed area of building having its floor subgrade on at least two sides.
- (4) Berth.** A single space at a berth structure where a boat is kept, secured, or lies at anchor in aid of navigation.
- (5) Berth Structure.** Any boathouse, boat shelter, boat hoist, boat lift, boat dolly, and track or similar system, pier, dock, mooring or mooring buoy on a navigable water or within the water line setback area from a navigable body of water where a boat is kept, secure, or lies at anchor in aid of navigation.
- (6) Boat.** Every description of watercraft used or capable of being used as a means of transportation on water, except seaplanes on the water, fishing rafts, sailboards, inner tubes or inflatable toys.
- (7) Boat Shelter.** Any structure in navigable waters designed and constructed to provide cover for a boat. It may include a roof and a boat hoist, but must not have walls or sides.

- (8) **Boathouse.** Any permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.
- (9) **Building.** See Accessory Structure and Habitable Structure.
- (10) **Buildable Area.** That portion of the lot which is suitable for construction of a structure(s). Buildable area does not include the shoreland setback, side yard setback and road setback areas, easements, wetlands and floodways as defined by this chapter.
- (11) **Building Envelope.** The three dimensional space within which a structure is built.
- (12) **Building Line.** That area on the lot which is between seventy-five (75) feet and one hundred twenty-five (125) feet landward of the ordinary high water mark, or for backlots that area on the lot which is between seventy-five (75) feet and one hundred twenty-five (125) feet from the centerline of road or access easement.
- (13) **Campground.** Any parcel or tract of land owned by a person, the state or a local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by two (2) or more camping units or by one (1) camping unit if the parcel or tract of land is represented as a campground.
- (14) **Camping Unit.** Any portable device, no more than four hundred (400) square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.
- (15) **Conditional Use.** A use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the County Zoning Agency or County Board.
- (16) **Condominium.** Property subject to condominium declaration including but not limited to land, buildings, or a part of the building or a group of buildings including all the land, jointly owned and operated with the law of the Wisconsin Statutes for the mutual protection and benefit of an association of all the members of ownership. The workings of this agreement are entitled in a condominium declaration.
- (17) **Condominium Unit.** A room or a group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use as living quarters for one family.
- (18) **County Zoning Agency.** That committee or commission created or designated by the County Board under §59.69(2)(a), Wis. Stats., to act in all matters pertaining to County Planning and Zoning.
- (19) **Department.** The Department of Natural Resources.
- (20) **Development.** Any man-made 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 structural improvements to buildings, structures or accessory structures; the placement of mobile homes; the development of mobile home parks, campgrounds or recreational vehicle parks; ditching, lagooning, dredging, filling, grading, paving, the modification of any area of the lot making such area impervious, excavation or drilling operations, and the deposition or extraction of earthen materials.

- (21) **Disable Person.** Any person with a physical or mental impairment that substantially limits one or more of his or her major life activities as defined by Americans with Disabilities Act.
- (22) **Drainage System.** One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (23) **Existing Development Pattern.** Means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (24) **Floodplain.** The land which has been or may be hereafter covered by floodway and the floodfringe as those terms are defined in Chapter NR 116, Wisconsin Administrative Code.
- (25) **Flowage.** A body of water formed by overflowing or draining of a river or stream or by construction of a dam at the outlet of a natural lake thereby raising the water level above its natural elevation.
- (26) **Footprint.** The land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115.
- (27) **Generally Accepted Forestry Management Practices.** Means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (28) **Habitable Structures.** Any building or portion thereof used for, or that could possibly be used for, human habitation.
- (29) **Human Habitation.** A human residence or dwelling.
- (30) **Impervious Surface.** A surface area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not considered impervious surfaces.
- (31) **Land Disturbing Activities.** Activities including filling, grading, excavating and other activities which temporarily or permanently disturb the land surface and prevent the establishment and growth of vegetation.
- (32) **Land Division.** Shall mean subdividing of a lot, parcel, or tract of land or the sale or exchange of land between adjoining property owners. It shall not mean the combination of existing tax parcels.
- (33) **Livestock.** Shall mean domestic animals, such as, but not limited to, cattle, rabbits, poultry, horses, sheep swine, deer, emu, ostrich or goats, raised for consumption, sale or profit.

- (34) **Lot.** Shall mean parcel, tax parcel, piece or portion of land defined by metes and bounds, certified survey, recorded land subdivision, plat or other means and separated from other lots, parcels, or similar units by such description.
- (35) **Lot Width.** The shortest distance between lot lines from any given point.
- (36) **Mitigation.** The balancing measures that are designed, implemented, and function to restore natural functions and values that are otherwise lost through development and human activities.
- (37) **Mobile Home.** A structure, transportable in one (1) or more sections, which is over four hundred (400) square feet, in area excluding the hitch, built on a permanent chassis, and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in it.
- (38) **Mobile Home Park or Park.** Any plot or plots of ground owned by a person, state government or a local government upon which three (3) or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of ownership and whether or not a charge is made for the accommodation, but excluding farms where the occupants of the mobile homes work on the farm or are related to the farm owner or operator as father, mother, son daughter, brother or sister.
- (39) **Navigable Waters.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters are navigable under the laws of this state. Under §281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under §59.69, Wis. Stats., and Chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to:
- a. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and;
 - b. Artificially constructed drainage ditches, ponds or storm water retention basins that are not hydrologically connected to a natural navigable water body.
- (40) **Nonconforming Structure.** An existing lawful structure which is not in conformity with the dimensional or structural standards of this chapter.
- (41) **Nonconforming Use.** An existing lawful use or accessory use of a structure, building or development which is not in conformity with the provisions of this chapter.
- (42) **Ordinary High Water 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 characteristics.
- (43) **Ordinary Maintenance and Repairs.** Ordinary maintenance and repairs include, but are not limited to: replacement of existing windows, skylights, doors, and similar fixtures, when such replacement does not require the alteration of a structural element of the building such as a header, stud, joist, rafter, truss, or similar structural element; painting and staining of existing

siding or replacement of deteriorated siding; replacement of damaged insulation; addition of insulation; repair or replacement of existing shutters, cabinetry, flooring, roof covering consisting of shingles, rolled, metal, fiberglass, tiles, and other similar roofing materials.

- (44) **Parcel.** A contiguous quantity of land in possession of, owned by or recorded as property of the same claimant person or company.
- (45) **Pier.** Any structure extending into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing a berthing or mooring place for watercraft or for loading or unloading cargo or passengers onto or from watercraft and may include a temporary boat hoist without roof or walls. Such a structure may include a boat shelter which is removed seasonally, §30.01(5), Wis. Stats.
- (46) **Primitive Campground.** Any parcel or tract of land owned by a person, state or local government and maintained, intended or used for the purpose of supplying overnight camping accessible by canoe, boat or by hiking, but not by campers' motor vehicles.
- (47) **Principal Structure.** The main structure on a lot, intended for primary use as permitted by the regulations of the district in which it is located. The principal structure does not include any accessory structure which is attached to the principal structure or located immediately adjacent to the principal structure.
- (48) **Recreational Unit or Recreational Vehicle.** See Camping Unit.
- (49) **Regional Flood.** A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every one hundred (100) years.
- (50) **Replat.** The process of changing or the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of such block, lot or outlot is not a replat.
- (51) **Routine Maintenance of Vegetation.** The normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (52) **Selective Cutting.** The cutting or removal of trees or shrubs that are mature, defective, inferior, or restricting the use of the view and access corridor.
- (53) **Shorelands.** Lands within the following distances from the ordinary high water mark of navigable waters:
 - a. One thousand (1,000) feet from a lake, pond or flowage.
 - b. Three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (54) **Shoreland Setback also known as the Shoreland Setback Area.** An area of shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of buildings or structures has been limited or prohibited under an ordinance enacted under section (59.692, Wis. Stats.)
- (55) **Shoreland-Wetland District.** The zoning district created as a part of this chapter, comprised of shorelands that are designated as wetlands on the

Wisconsin wetland inventory maps, which have been adopted and made a part of this chapter.

- (56) Shoreland Zone.** Lands meeting the definition of shorelands.
- (57) Structural Alteration or Structural Improvement.** Any modification or replacement of structural members of the existing exterior walls, roof, foundation internal partitions or structural members such as headers, studs, joist, rafters or trusses. The term does not, however, include either:
- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - b. Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components. For purposes of this definition, “structural improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.
- (58) Structure.** A principal structure or any accessory structure including a garage shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch, or fire pit.
- (59) Subdivision.** A division of a lot, parcel or tract of land by the owner thereof or the owner’s agent for the purpose of sale or of building development where:
- a. The act of division creates five (5) or more parcels or building sites of one and one-half (1 ½) acres each or less in an area; or
 - b. Five (5) or more parcels or building sites of one and one-half (1 ½) acres each or less are created by successive divisions within a period of five (5) years.
- (60) Tax Parcel.** Any parcel which is assessed and taxed as one (1) unit and assigned a single parcel number in the current tax year.
- (61) Travel Trailer.** A vehicular, portable structure built on a chassis and on wheels, having a maximum area of four hundred (400) square feet and used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes units with a fifth-wheel type of hitch.
- (62) Unnecessary Hardship.** Use Variance -Circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter. An unnecessary hardship is present where in the absence of a variance no reasonable use can be made of the property.
Area Variance- Circumstance where special conditions, which were not self-created, affect a particular property and strict conformity with restrictions governing area, setbacks, frontage, height, or density are unreasonable and

- would prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- (63) **Upland.** Those areas which are not considered below the ordinary high water mark or classified as wetlands.
 - (64) **Variance.** An authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter.
 - (65) **Vegetation Protection Area.** The area bounded by the ordinary high water mark and a line which is thirty-five (35) feet landward where native vegetation is protected for the purpose of providing fish and wildlife habitat, water quality protection and natural scenic beauty.
 - (66) **Vegetation Removal.** Cutting, mowing, digging, using chemical plant inhibitors, or otherwise removing, killing, or controlling the natural growth of vegetation.
 - (67) **Walkway.** A developed path at or above grade consisting of concrete, gravel, brick, wood, paving stones or other similar materials.
 - (68) **Watershed.** The entire region or area contributing runoff or surface water to a particular watercourse or body of water.
 - (69) **Wetlands.** Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
 - (70) **Wharf.** Any structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft, §30.01(8), Wis. Stats.
 - (71) **Wild River.** The Pike River from its mouth in Section 3, Town 34 North, Range 21 East, upstream to the headwater branches; one (1) branch beginning at the outlet of Coleman Lake in Section 17, Town 36 North, Range 18 East, and the other branch beginning at the outlet of North Pond in Section 20, Town 37 North, Range 18 East.
 - (72) **Zoning Administrator.** The Marinette County Land Information Director or any other staff member designated by the Director or Committee to administer the ordinance.
 - (73) **Zoning Department.** The Zoning Division of the Land Information Department.

21.03 GENERAL PROVISIONS

- (1) **Areas to be Regulated.** The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in § 61.353 and § 62.233, Wis. Stats. Unless specifically exempted by law, all cities, villages, towns, counties and, when § 13.48 (13), Wis. Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if § 30.2022 (1), Wis. Stats., applies. Areas regulated by this chapter shall include

all the lands (referred to herein as shorelands) in the unincorporated areas of the County which are:

- (a) Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds or flowages. lakes, ponds or flowages in Marinette County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water of Marinette County" or shown on the United States Geological Survey quadrangle maps or other zoning base maps.
- (b) Within three hundred (300) feet of the ordinary high water mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in the County shall be presumed to be navigable if they are designated as continuous or intermittent waterways on the U.S. Geological Survey quadrangle maps. If evidence to the contrary is presented, the County Zoning Administrator shall make the initial determination of whether or not the river or stream in question is navigable under the laws of the state. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, County soil survey maps or other existing County floodplain zoning maps shall be used to delineate floodplain areas.
- (c) Determinations of navigability and ordinary high water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate area office of the Department for a final determination of navigability or ordinary high water mark.
- (d) Under §281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, this chapter does not apply to:
 - (1) Lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river.
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.
 - (2) Lands adjacent to artificially constructed drainage ditches, ponds or storm water retention basins that are not hydrologically connected to a natural navigable water body.

(2) Shoreland Zoning Maps. The maps designated below are hereby adopted by reference and made part of this chapter. They are on file in the office of the Zoning Administrator for Marinette County.

- (a) United States Geological Survey 7-1/2 minute Quadrangle Maps for Marinette County.
 - Amberg, 1982
 - Armstrong Creek, 1972
 - Athelstane, 1972
 - Bear Point, 1982
 - Chapee Rapids, 1963
 - Coleman, 1973
 - Coleman Lake, 1972
 - Crivitz, 1973

Dunbar, 1972
 Dunbar NE, 1972
 Faithorn, 1982
 Goodman, 1972
 Goodman SW, 1972
 Green Island, 1982
 Harmony, 1982
 High Falls Reservoir, 1972
 Iron Mountain, 1955 (Photo revised 1982)
 Lehman Lake, 1972
 Loomis, 1982
 Marinette East, 1963 (Photo revised 1976)
 Marinette West, 1983 (Photo revised 1976)
 McAllister, 1982
 McCaslin Mountain, 1972
 Miscauno Island, 1982
 Mount Tom, 1972
 Norway, 1955
 Oconto East, 1974
 Oconto West, 1974
 Pembine, 1982
 Peshtigo Harbor, 1974
 Porterfield, 1982
 Porterfield SW, 1982
 Resort Lake, 1982
 Roaring Rapids, 1972
 Shay Lake, 1973
 Swanson, 1982
 Thunder Mountain, 1972
 Town Corner Lake, 1972
 Twelve Foot Falls, 1972
 Wausaukee North, 1982
 Wausaukee South, 1982
 White Potato Lake, 1973

- (b) Wisconsin Wetland Inventory maps dated May 1989 or as amended by the County. The most recent Wisconsin Wetland Inventory maps are depicted on the Department of Natural Resources Surface Water Data Viewer (<http://dnrm.wisconsin.gov/SL/Viewer.html?Viewer=SWDV&runworkflow=wetland>). All wetland maps are for informational purposes only.
- (c) The flood insurance rate maps (FIRM) of the County dated March 18, 1991 or as amended.

(3) Compliance. The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the installation of impervious surfaces, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, and the subdivision of lots shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. (See Section 21.10 for standards applicable to

nonconforming uses.) Any activities defined as development shall require a permit unless otherwise expressly excluded by a provision of this chapter. Property owners, builders and contractors are responsible for compliance with the terms of this chapter. The property owner or his designated agent shall give notice to the County Zoning upon commencing with construction and upon completion of construction.

- (4) Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply when §13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.2022(1), Wis. Stats., applies.
- (5) Abrogation and Greater Restrictions.** The provisions of this chapter supersede all the provisions of any County zoning chapter adopted under §59.692, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than §59.692, Wis. Stats., is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. The provisions of Chapter 17, Chapter 19 and Chapter 23 of this General Code are hereby incorporated by reference and shall, to the extent of greater restrictions only, be made as much a part of this chapter as if fully set forth herein.
- (a) This chapter shall not require approval or be subject to disapproval by any town or town board.
 - (b) If an existing town ordinance relating to shorelands is more restrictive than this chapter or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions, but not otherwise. However, all County zoning permits must be secured even though the town provisions may be more restrictive.
 - (c) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
 - (d) This chapter may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 21.01 (3) this chapter.
 - (e) The construction and maintenance of any property or equipment of a public utility, as defined in §196.01 (5) or a cooperative association organized under chapter 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light or power is considered to satisfy the requirements of the shoreland zoning ordinance if:
 - (1) The department has issued all required permits or approvals authorizing the construction or maintenance under Ch. 30, 31, 281, or 283.
- (6) Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any powers granted by the Wisconsin Statutes. Where a provision of this

chapter is required by a standard in Chapter NR115, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted in light of the Chapter NR115 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

- (7) **Severability.** If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

21.04 LAND DIVISION REVIEW AND SANITARY REGULATIONS

- (1) **Conformity with Chapter.** No lot, parcel or tract of land shall be subdivided or boundaries modified if such act creates a non-conformity in accordance with this chapter which does not exist prior to the subdivision of the lot, parcel or tract of land. Non-conformity shall include but not be limited to exceeding maximum impervious area, view and access corridor widths and/or minimum lot line setbacks to newly established lot line.
- (2) **Land Division Review.** The County shall review, pursuant to §236.45, Wis. Stats., all land divisions in shoreland areas which create three (3) or more parcels or building sites of five (5) acres or less within a five (5) year period. In such review the following factors shall be considered:
- (a) Hazards to the health, safety or welfare of future residents.
 - (b) Proper relationship to adjoining areas.
 - (c) Public access to navigable waters, as required by law.
 - (d) Adequate storm drainage facilities.
 - (e) Conformity to state law, administrative code provisions, Chapter 23 of the County Code of Ordinances and the provisions of this chapter.
- (3) **Authority and Purpose.** In order to achieve the purposes of Chapter 236 of the Wisconsin Statutes, sub. (1) of this section and to provide safe and orderly shoreland subdivisions, the following regulations are adopted pursuant to §59.692, §281.31 and §236.45 of the Wis. Stats.
- (4) **Map or Plat.**
- (a) All land divisions under sub. (1) above, with exception of subdivisions, shall be created by submitting a certified survey map or County Plat to the County Zoning Agency or the Zoning Administrator for approval.
 - (b) **CERTIFICATES.**
 - (1) The map shall include a certificate of the surveyor who surveyed and mapped the parcel as required by Chapter 236 of the Wisconsin Statutes.
 - (2) The map shall include a certificate by the owner(s) of the land in substantially the following form: “As owner I hereby certify that I caused the land described on this map to be surveyed, divided, mapped and dedicated as represented on this map.”
 - (3) The map shall include a certificate by the County in substantially the following form: “This survey map has been reviewed and approved by the County Zoning Agency or the Zoning Administrator this _____ day of _____ 20__.”

(c) RECORDING. The plat shall be recorded in the office of the Register of Deeds in the County Courthouse according to the requirements of §236.34, Wis. Stats.

(5) General Provisions.

(a) COMPLIANCE.

(1) Any division of land which results in a subdivision as herein defined shall be in compliance with all provisions of this chapter and those sections of Chapter 236 of the Wisconsin Statutes, relating to subdivisions defined under §236.02(8), Wis. Stats., including review procedures by state agencies having authority to object to plats.

(2) When a replat of a recorded subdivision or part thereof is proposed, the subdivision shall be vacated or altered according to the provisions of §§236.40 through 236.445, Wis. Stats.

(b) EXCEPTIONS TO LAND DIVISION REVIEW.

(1) Transfers of interest in land by will or pursuant to court order.

(2) Leases for a term not to exceed ten (10) years and to mortgages or easements.

(3)

(6) Land Suitability. No land shall be subdivided which is held unsuitable for the proposed use by the County Zoning Agency for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community. The County Zoning Agency, in applying the provisions of this section shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability if he so desires at a public hearing as provided in Section 21.11 of this chapter. Thereafter, the County Zoning Agency may affirm, modify or withdraw its determination of unsuitability.

(7) Improvements. Before final approval of any plat, the subdivider shall install required street and utility improvements. If such improvements are not installed as required at the time that the final plat is submitted for approval, the subdivider shall, before recording the plat, enter into contract with the County agreeing to install the required improvements and shall file with said contract a surety bond meeting the approval of the County Corporation Counsel as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than one (1) year from the date of recording of the plat or later if specified. At the time each improvement is to be installed and upon its completion, the subdivider must notify the County Zoning Agency so that adequate inspections can be made.

(a) PUBLIC STREETS.

(1) Dedicate land. The subdivider may be required to dedicate land for and improve public streets. Public streets shall be designated and located to take into account.

(a) Existing and planned streets.

- (b) Topographic conditions including bearing capacity and erosion potential.
 - (c) Public convenience and safety including facilitating fire protection, snow plowing and pedestrian traffic.
 - (d) The proposed use of land to be served.
 - (e) Anticipated traffic volumes.
 - (f) Further re-division possibilities.
- (2) Width. Public streets shall be the right-of-way, roadway and surface width specified by the County Highway Commissioner and approved by the County Board. Town roads shall be at least four (4) rods right-of-way width, twenty (20) feet roadway width, and sixteen (16) feet surface width except where §86.26 of the Wis. Stats., require larger minimum standards.
- (3) Construction Standards.
- (a) Construction shall be according to local road standards. Where there are no local road standards, the minimum standards of the Wisconsin State Highway Commission shall apply.
 - (b) The subdivider shall grade the roadbeds in the roadway width to subgrade and shall surface all roadways to the width prescribed by these regulations. Such surfacing shall be done in accordance with plans and standard specifications approved by the Highway Commission.
- (4) Land Sales on Private Roads. No person shall sell any parcel of land located outside the corporate limits of an incorporated municipality, if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the town or County.
- (5) Water Facilities. Where there is an existing public water supply system on or near the subdivision, the local municipality furnishing such service and the County Zoning Agency shall determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system. Where there is no existing public water supply, individual water supply systems will be permitted in accordance with the minimum standards of Section 21.04(10)(a) of this chapter and regulations of the Department of Natural Resources.
- (6) Survey Monuments. The subdivider shall install survey monuments in accordance with the requirements of §236.15, Wis. Stats.
- (7) Storm Drainage. Storm drainage facilities, where needed, shall be designed to permit the unimpeded flow of natural watercourses, insure the drainage of all points along the line of streets and provide positive drainage away from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess run-off on adjacent property. The County Zoning Agency may require that easements or drainageways of widths sufficient to accommodate present and future storm water-runoff be provided.

(8) Dedication or Reservation.

- (a) All subdivision layouts shall be developed in proper relation to existing and proposed streets, the topography, surface water, vegetative cover, other natural features and the most advantageous development of adjoining areas. The County Zoning Agency may require that suitable sites, not to exceed fifteen (15%) percent of the total area of the subdivision, be dedicated or reserved for future public use such as parks, playgrounds, public access and open spaces as needed by the subdivision, subject to acceptance thereof by the County or town. Any part of a street, drainageway or other public way, which is indicated on a comprehensive plan or plan component, shall conform to the arrangement, width and location indicated, and shall be offered for dedication or the County or town.
- (b) Subdivisions abutting on a navigable lake or stream shall, according to the provisions of §236.16(3) Wis. Stats., provide access at least sixty (60) feet wide to the high water mark so that there will be public access which is connected to existing public roads at least one-half (1/2) mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the State Conservation Commission and the director, and excluding shore areas where public parks or open space streets or roads on either side of a stream are provided. The County Zoning Agency may require dedication at more frequent intervals at points designated by them.
- (c) The lands lying between the meander line, established in accordance with §236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge, shall be included as part of lots, out lots or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be subdivided, but also to all lands under option to the subdivider or in which he holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.
- (d) Reservation of land for public acquisition shall be for a period not to exceed three (3) years. Land so dedicated or reserved must be shown on the final plat.

(9) Procedure.

- (a) SKETCH PLAN. Prior to submittal of a preliminary plat the subdivider shall submit a sketch to the County Zoning Agency of sufficient scale and reasonable accuracy so that the following information is indicated: the boundaries of property being considered for sale; proposed roads and general lot layout including proposed dedications; areas with slopes over fifteen (15%) percent, general description of soil conditions, including wet areas and rock outcrops; proposed filling, grading, lagooning, dredging, wetlands, waterways, ordinary high water mark, shoreland boundary, a delineation of any floodplain area, and a description of all property owned or controlled by the subdivider contiguous to the proposed plat even though only a part of the area is proposed for immediate development.
- (b) PRELIMINARY PLAT.

- (1) The subdivider shall submit sufficient copies of the preliminary plat to the County Zoning Agency so the two (2) copies can be submitted by the County Zoning Agency to the agencies having authority to approve and review plats under the provisions of §236.10, §236.11, §236.12, and §236.13, Wis. Stats.
 - (2) The preliminary plat, based upon an exterior boundary survey by a registered land surveyor, shall include lot width and depths, existing and proposed streets, parks, public access, available community facilities and utilities, easements, land characteristics including soil information, wetlands and slopes over fifteen (15%) percent, proposed filling, grading, lagooning, dredging, and delineation of any floodplain area. The proposed layout shall be shown on a map at a scale of one (1) inch equals one hundred (100) feet and shall identify the improvements (grading, paving, installation of facilities including preplanned sites for water supplies and sewage disposal facilities if required by sub. (3) of this chapter and dedications or reservations of land) which the subdivider proposes to make and shall indicate when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be stated. The County Zoning Agency shall reject or approve conditionally the preliminary plat within forty (40) days, as provided by §236.11, Wis. Stats.
 - (c) FINAL PLAT. Sufficient copies shall be submitted to the County Zoning Agency within six (6) months of preliminary plat approval unless this requirement is waived by the County Zoning Agency. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification to those agencies having the authority to object to the plat as provided by §236.12, Wis. Stats. The final plat shall be accompanied by detailed construction plans of all improvements to be provided by the subdivider. Final plats shall be presented to the County Zoning Agency within sixty (60) days of their submission. Approved final plats shall be recorded in accordance with the requirements of §236.25 before lots are sold.
- (10) Planned Residential Unit Development.**
- (a) PURPOSE. The Planned Residential Unit Development is intended to permit smaller lots where the physical layout of the lots are so arranged as to accomplish larger shoreland buffers and greater shoreland setbacks on those lots adjacent to navigable waters. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.
 - (b) REQUIREMENTS FOR PLANNED RESIDENTIAL UNIT DEVELOPMENT. The County Board at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development either by approving first an overlay district and then a plat or by approving only a plat for the specific planned residential project upon finding, after a public hearing, that all of the following facts exist:

- (1) Area. The area proposed for the Planned Residential Unit Development shall contain at least five (5) acres and 200 feet of frontage.
 - (2) Pollution Control. The location and nature of the septic systems which will serve the homesites individually or collectively will assure that effluent from the septic systems will not reach the ground or surface waters in a condition which would contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of navigable waters.
 - (3) Preservation of Ground Cover. The location of homesites and the dedication of part of the land for use by the public or residents of the Planned Residential Unit Development will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion, and other pertinent factors. Land not used for lots and streets shall be dedicated perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the County, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restrictions placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
 - (4) Density. The number of platted homesites shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of this chapter.
 - (5) Lot Sizes, Widths, Setbacks and Vegetation Removal. The lot sizes, widths, and setbacks shall not be so small as to cause pollution or erosion along streets or other public ways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood. Increased shoreland setbacks shall be a condition of approval as a way of minimizing the adverse impacts of the development. Shore cover provisions in Section 21.07 shall apply except that maximum width of the view/access corridor shall not exceed thirty (30%) percent of the shoreland frontage or one hundred (100) feet whichever is less and the minimum vegetative buffer depth shall be increased to offset the impact of the proposed development..
- (c) PROCEDURE FOR ESTABLISHING A PLANNED RESIDENTIAL UNIT DEVELOPMENT DISTRICT. The procedure for establishing limited rezoning in the form of a Planned Residential Unit Development district shall be as follows:

- (1) **Petition.** A petition setting forth all of the facts required in Section 21.11(5) of this chapter shall be submitted to the County Clerk with sufficient copies to provide for distribution by the Clerk as required by Section 21.12 of this chapter.
 - (2) **Review and Hearing.** The petition shall be submitted to the County Zoning Agency established as required by §59.69(3)(d), Wis. Stats., which shall hold a public hearing and report to the County Board as required by law. Copies of the petition and notice of the hearing shall also be sent to the appropriate district office of the Department as described in Section 21.12 of this chapter. The County Zoning Agency's report to the County Board shall reflect the recommendations of any federal, state or local agency with which the County Zoning Agency consults. If a petition seeks approval of a Planned Residential Unit Development plat without first seeking the granting of an overlay district, a hearing shall be held on such plat as in any regular amendment to this chapter. If however, a hearing is first held on the overlay for a Planned Residential Unit Development District, a second public hearing need not be held in connection with the approval of a subsequent plat or plats which comply with the overlay district as approved.
 - (3) **Findings and Conditions of Approval.** The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 21.11(5)(b) of this chapter. If the petition is granted in whole or part, the County Board shall attach such written conditions to the approval as are required by and consistent with Sections 21.11(5)(b) of this chapter. The conditions of approval shall, in all cases, establish the specified restrictions applicable with regard to minimum lot sizes, width, setbacks and the location of septic systems and the preservation of ground cover and open space.
 - (4) **Planning Studies.** A landowner or petitioner may, at his own expense, develop the facts required to establish compliance with the provisions of Section 21.11(5)(b) or may be required to contribute funds to the County to defray all or part of the cost of such studies being undertaken by the County or any agency or person with whom the County contracts for such work.
- (11) Sanitary Regulations.** The County has adopted sanitary regulations for the protection of health and the preservation and enhancement of water quality. (Chapter 15 of this General Code.)
- (a) Where public water supply systems are not available, private well construction shall be required to conform to Chapter NR812, Wisconsin Administrative Code.
 - (b) Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by Chapter 15 of this General Code and DSPS 383 of the Wisconsin Administrative Code.
- (12) Waste Disposal: General Provisions.**

- (a) All domestic, commercial and industrial wastes including, but not limited to, liquid wastes, garbage, rubbish, trash and other waste products shall be disposed of in a safe and healthful manner consistent with the provisions of this chapter and other applicable laws and regulations and in a manner to reasonably protect the scenic beauty of the navigable water and shorelands.
- (b) Malfunctioning domestic sewage disposal facilities, including privies, septic tanks, drainage beds and the like, are a menace to health and general welfare of the citizens of the County and are declared to be nuisances and shall be subject to the penalties and injunction provisions of this chapter.
- (c) No person shall discharge by any means whatsoever raw or partially treated liquid wastes into any surface waters, including lakes, flowages, ponds, streams and other natural watercourses, without written approval of the Department of Natural Resources, the County Zoning Agency and other agencies having jurisdiction.
- (d) Junkyards, dumps and sanitary fills are not allowed.

21.05 DIMENSIONS AND STANDARDS FOR LOTS

(1) Minimum Area and Width. Each newly created lot shall include the minimum lot area and minimum average lot width.

(a) LOT AREA.

- (1) Minimum lot area unsewered shall be twenty thousand (20,000) square feet – sewerred ten thousand (10,000) square feet and shall only include land above the ordinary high water mark.
- (2) Unsewered lots shall have a minimum buildable area of not less than seven thousand (7,000) square feet and sewerred lots shall have a minimum buildable area of not less than five thousand (5,000) square feet of contiguous upland.
- (3) Any portion of a lot having a width of less than fifty (50) feet and/or easements shall not be considered in calculating the minimum buildable lot area.

(b) LOT WIDTH/WATER FRONTAGE.

- (1) Minimum average lot width of unsewered lots shall be 100 feet and sewerred 65 feet. Measurement to determine minimum average lot width shall be the average of lot width at the road, mid lot and rear lot line (ordinary high water mark). Measurements used to determine the average lot width shall be the shortest distance between the lot lines at each location. Riparian lots shall have a minimum water frontage of one hundred (100) feet. Water frontage at the ordinary high water mark shall be measured as the lessor of a straight line connecting points where a lot's side lot lines intersect the ordinary high water mark or as the length of a cord which is perpendicular to the side lot line where it intersects the ordinary high water mark and terminates at the opposite side lot line.

(2) Lake Access Lots. The creation or use of land for a lake access shall be by zoning permit.

- (a) **PRIVATE LAKE ACCESS.** No lot, outlot, parcel, or tract of land shall be used as a private lake access lot by more than one (1) off water lot on any water body which has a surface water area of less than fifty (50) acres and/or any water body which has an existing public access. All private lake accesses; lake access easements; or outlots; deeded or contractual accesses for the purposes of lake access shall meet the following requirements:
 - (1) The access to a navigable waterway for backlot or off-lake development shall meet the minimum lot area, water frontage, and lot width requirements in Section 21.05(1).
 - (2) No structures are allowed on the lot.
 - (3) Comply with the screening provisions identified in S21.09 (2) (b) (10)
- (b) **PUBLIC LAKE ACCESSES.** All public lake accesses shall meet the following requirements.
 - (1) No structures are allowed on lots less than the twenty thousand (20,000) square feet in size.
 - (2) Structures and designated impervious parking areas shall meet applicable standards of this chapter.
- (3) Outlots.** Outlots abutting on navigable waterways and serving as an access for one (1) single family home, back lot, or unit shall have the minimum average lot width and frontage as identified in 21.05 (1) (b) 1..
- (4) Substandard Lots.** A legally created lot or parcel that met minimum area and average width requirements (see table 21.05-4) when created, but does not meet the current lot size requirements may be used as a building site if a variance has been granted by the Board of Adjustment or all of the following apply:
 - (a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - (b) The substandard lot or parcel has never been developed with one or more structures placed partly upon an adjacent lot or parcel.
 - (c) Such use is permitted in the zoning district and the lot or parcel is developed to comply with all other ordinance requirements.

TABLE 21.05-4

	On Record Prior to Sept. 16, 1967	On Record on or After Sept. 16, 1967
Lots Served by Public Sanitary Sewer	No Min. width No Min. sq. ft.	Min. 65 ft. width Min. 15,000 sq. ft.
Lots Not Served by Public Sanitary Sewer	No Min. width No Min. sq. ft.	Min. 100 ft. width Min. 20,000 sq. ft.

21.055 IMPERVIOUS SURFACE STANDARDS

(1) **Purpose.** Establish impervious surface standards to protect water quality, fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface that is or will be located within 300 feet of the ordinary high-water mark of any navigable waterway on any of the following:

- (a) A riparian lot or parcel.
- (b) A non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high water mark of any navigable water way.

(2) **Calculation of Impervious Surface.** Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the lot or parcel by the total surface area of the lot or parcel, multiplied by 100. If the lot or parcel includes all or a portion of a public road that area of the lot or parcel which is within the right of way of the public road shall not be used when calculating the percentage of impervious surface for the lot or parcel.

(3) **Impervious Surface Standard.** Not more than 15% impervious surface of any lot or parcel. Greater than 15% impervious surface of a lot or parcel is permitted provided the property owner can show that runoff from any impervious surface in excess of 15% is treated by devices, such as, storm water ponds, constructed wetlands, infiltration basins, other engineered systems or that the runoff discharges to internally drained pervious area that retains the runoff on the parcel to allow for infiltration into the soil or mitigation options identified in sub par. (4) below are utilized.

(4) **Impervious Surface Mitigation Options.**

(a) The 15% impervious surface standard shall be increased by five (5) percent for every twelve (12) feet of the vegetation protection area that exists or is created in accordance with the requirements of S21.07 (5) (a). An additional two (2) percent of impervious surface shall be granted for every twelve (12) feet the vegetation protection area reference above extends into the access and view corridor identified in S21.07 (2) (a). It is the property owner's obligation to create, maintain and/or preserve this vegetation protection area which shall be evidenced by an affidavit recorded in the County Register of Deeds Office prior to the issuance of the permit.

(b) A rain garden designed based on the following parameters: size of the rain garden shall be one quarter square foot of rain garden for every one square foot of impervious surface to be treated and the rain garden shall be no greater than 12 inches in depth nor less than 4 inches in depth as measured from original ground surface.

(c) At the discretion of the Zoning Administrator and with the approval of the Zoning Agency, up to 5% additional impervious surface may be approved for

an activity that provides significant benefits to meet the objectives of this Chapter.

- (5) **Existing Impervious Surfaces.** For existing impervious surfaces which were lawfully placed when constructed but that do not comply with the impervious surface standard in sub (3) the property owner may maintain and repair the existing impervious surface(s) or may do the following:
 - (a) replace existing impervious surfaces with similar surface(s) which meet applicable setbacks;
 - (b) modify an existing impervious surface with similar or different impervious surface(s), provided that the modification does not result in an increase in the percentage of impervious surface and the proposed modification meets the applicable setback requirements of this chapter.
 - (c) relocate an existing impervious surface, provided the relocation does not result in an increase in the percentage of impervious surface and the proposed relocation of the impervious surface meets the applicable setback requirements of this Chapter. In addition that portion of the impervious surface area that has been relocated shall be immediately restored to pervious surface area.
- (6) **Treated Impervious Surfaces.** The County shall exclude any impervious surfaces from the calculation under sub. (2) above, where the property owner can demonstrate utilizing generally accepted engineering standards that runoff from the impervious surface is treated by devices. Treatment devices shall include but not be limited to storm water retention ponds, constructed wetlands, infiltration basins, an internally drained pervious area that is of sufficient size, and soil conditions to retain the runoff and to allow for infiltration into the soil or other engineered systems.
- (8) **Plan Submittal Criteria.**
 - (a) All treatment devices or infiltrative areas shall be designed to accommodate a minimum of 2 inches of precipitation over a 24 hour period.
 - (c) Runoff coefficient used to determine runoff quantity shall be 1 for all impervious surfaces.
 - (d) A plan shall be submitted that identifies all aspects of the project including but not limited to site evaluation data, site plan, cross sections, soils, depth to limiting factor, setbacks from various objects (lot lines, roads, structures, private onsite wastewater treatment system, well, surface water), proposed revegetation plan, contingency plan, management plan and implementation schedule.
- (9) **Management.** Maintenance of storm water retention ponds, constructed wetlands, infiltration basins, rain gardens, and other engineered systems shall be the obligation of the property owner in accordance with the approved management plan and evidenced by an affidavit recorded in the County Register of Deeds Office prior to the issuance of the permit. Failure to conduct the required maintenance shall result in the County Zoning

Administrator rescinding the Zoning Permit and ordering the development allowed by the permit to be removed.

- (10) **Intent.** This section of the ordinance shall not be construed to supersede other provisions in the County Shoreland/Wetland Zoning Code. Maintenance, reconstruction, relocation and expansion of existing structures must comply with other provisions in the County Shoreland/Wetland Zoning Code, including but not limited to the shoreland setback standards in section 21.06 and the nonconforming structure provisions of section 21.10. The County Zoning Administrator shall determine whether the proposed storm water retention pond, constructed wetland, infiltration basin, rain garden, or other engineered system is capable of accepting and treating the anticipated quantity of storm water.

21.06 SETBACKS AND STRUCTURES

- (1) **Setbacks from Navigable Waters.** All buildings and structures, except: piers; boat hoists; boathouses; walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline that are a maximum of sixty (60) inches in width; broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two (2) meters or less in diameter; utility transmission; distribution lines; poles; towers; water towers; pumping stations; well pump house covers; private on-site wastewater treatment systems that comply with WI Admin. Code DSPS 83; and other utility structures that have no feasible alternative location outside of the setback area and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure, shall be setback a minimum of 75 feet from the Ordinary High Water Mark . All distances, unless otherwise specified, shall be measured horizontally. The measurement shall be taken from the ordinary high water mark to the closest point of a building or structure including, but not limited to, steps, decks, overhangs, eaves or landings.

- (a) Existing exempt structures that were legally constructed may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.
- (b) The County shall grant special zoning permission (via a zoning permit) for the construction or placement of a structure on property in a shoreland setback area if all of the following apply:
- (1) The part of a structure that is nearest to the water is located at least thirty-five (35) feet landward from the ordinary high water mark.
 - (2) The total floor area of all structures in the shoreland setback area on the property shall not exceed two hundred (200) square feet (in calculating this square footage, boathouses and walkways essential to access the shoreline shall be excluded).
 - (3) The maximum height of the structure shall not exceed thirty-five (35) feet.

- (4) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - (5) The Zoning Administrator or the County Zoning Agency approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. Such plan shall be consistent with the mitigation provisions of Section 21.07(5) and shall include an implementation schedule.
 - (6) Any permit issued under this section shall not be valid until notice of its conditions is recorded by affidavit with the County Register of Deeds.
- (c) A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:
- (1) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:
 - (a) Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
 - (b) Both of the existing principal structures are located within 250' of the proposed principal structure.
 - (c) Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
 - (2) Where there is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the ordinary high water mark and the required setback of 75' from the ordinary high water mark provided all of the following are met:
 - (a) The existing principal structure is located on adjacent lot to the proposed principal structure.
 - (b) The existing principal structure is located within 250' of the proposed principal structure.
 - (c) The existing principal structure is located less than 75' from the ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
- (d) When a new principal structure qualifies for a reduced setback an accessory structure which is attached or immediately adjacent to the principal structure shall also qualify for the same reduced setback.
- (2) Setbacks from Highways.** For the purpose of determining the distance buildings and other structures shall be setback from streets and highways, the highways of the County are divided into the following classes:
- (a) CLASS A HIGHWAYS.

- (1) All State and Federal highways are hereby designated as Class A Highways.
 - (2) The setback from Class A Highways shall be one hundred ten (110) feet from the centerline of the highway or fifty (50) feet from the right-of-way line, whichever is greater.
- (b) CLASS B HIGHWAYS.
- (1) All County trunks are hereby designated as Class B Highways. For the purpose of this chapter, any road will be considered as a County trunk after it has been placed on the County trunk system by the County Board and approved by the Highway Commission.
 - (2) The setback from Class B Highways shall be seventy-five (75) feet from the centerline of such highway or forty-two (42) feet from the right-of-way line, whichever is greater.
- (c) CLASS C HIGHWAYS.
- (1) All town roads, public streets, County forest roads and highways not otherwise classified are hereby designated Class C Highways.
 - (2) The setback from Class C Highways shall be sixty-three (63) feet from the centerline of such highway or thirty (30) feet from right-of-way line, whichever is greater.
- (3) Reduced Roadway Setbacks.** A setback of less than that required by subpar. (2) may be permitted by the Zoning Administrator under the following provisions:
- (a) The roadway setback for a lot shall be reduced until a thirty (30) foot deep building site is established provided that:
 - (1) The resulting roadway setback is not less than half of the required right-of-way or road centerline setback, whichever is greater, and
 - (2) The reduced highway setback is approved by the highway authority
- (4) Lot Line Setbacks.** The minimum width of one (1) main side yard shall be ten (10) feet. The minimum combined width of both main side yards shall be twenty-five (25) feet. There shall be a side yard of ten (10) feet for accessory structures excluding fences. Refer to Section 21.09(2) for side yard setbacks for nonresidential structures.
- (5) Principal Structures.** No more than one (1) principal structure may be placed on a lot. If a lot has an existing principal structure, the permit for a new principal structure shall require that the existing structure be removed and the site restored as soon as practicable. No more than one (1) inhabited structure shall occupy a lot unless permitted under section 21.09 (3) of this chapter.
- (6) Boathouses.** Boathouses shall be located landward of the ordinary high water mark. The use of a boathouse for human habitation is prohibited. Boathouses shall be designed solely for storage of boats and related equipment. Boathouses with flat roofs constructed prior to October 1, 2016 may be used as decks provided the roof has no side walls or screens but may have a railing that meets the Department of Safety and Professional Services Standards. Boathouses shall not include plumbing or sanitary fixtures or any other similar features. The maximum wall height of a boathouse shall not exceed eight (8) feet and the maximum roof pitch shall not exceed a nine (9) to twelve (12) with a minimum roof pitch of three (3) to twelve (12) and the eave shall not

exceed twenty (24) inches. Boathouses shall not be larger than two hundred fifty (250) square feet. Boathouses shall have a minimum ten (10) foot side yard. Boathouses shall be located within the view/access. One (1) boathouse within the shoreland setback zone is permitted per lot or tax parcel.

- (7) **Fences.** Fences shall require a zoning permit. Fences shall not exceed six (6) feet in height and shall meet the requirements of Section 21.06(1) of this chapter. Fences shall be located within the owner's lot. The side of the fence facing the adjacent parcel shall be a finished side. If both sides have the same appearance, both sides shall be considered finished. Fences used for farming or agriculture purposes are exempt from the provisions of this chapter.
- (8) **Square Footage of Living Space.** All structures used for human habitation shall have a minimum of five hundred (500) square feet of living space. Attached garages and decks shall not be included in the calculation of living space. Recreational units located in campgrounds or recreational vehicle parks are exempt from this section.
- (9) **Stairways, Walkways and Motorized Units.** A stairway, walkway or lift is permitted in the shoreland setback area upon issuance of a zoning permit only when it is essential to provide pedestrian access to the shoreline because of steep slopes, rocky or wet, unstable soils, provided all of the following conditions are met:
- (a) There are no other locations or facilities on the property which allow adequate access to the shoreline. Only one (1) stairway, walkway, or motorized lift is allowed, except where there is an existing stairway and the lift will be mounted to or is immediately adjacent to the existing stairway.
 - (b) Vegetation which stabilizes slopes or screens structural development from view shall not be removed.
 - (c) Construction must be the minimum necessary to provide access and shall not include additional construction other than an open safety railing.
 - (d) A maximum width of no more than a five (5) feet outside dimension is allowed for stairways, walkways and lifts.
 - (e) Landings are allowed when required for safety purposes and shall not exceed forty (40) square feet. Only one (1) attached or unattached bench is allowed per landing.
 - (f) Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading, excavation that is proposed must meet the requirements of Section 21.08 of this chapter.
- (10) **Travel Trailers or Recreational Vehicles.** Travel trailers or recreational vehicles are permitted in the areas regulated by this chapter outside of the Residential Recreation District provided all of the following conditions are met:
- (a) The recreational unit must have valid registration.
 - (b) The recreational unit must meet all setbacks for structures as required by this chapter.
 - (c) Only one (1) recreational unit is allowed per lot outside of a Residential Recreation District.

- (d) The sanitary system or non plumbing sanitation system for the recreational unit must be in compliance with the County Sanitary Code, Chapter 15 – County Code of Ordinances.
- (e) The maximum length of time a recreational unit may remain on any property outside a Residential District is one hundred twenty (120) calendar days in any given year. Storage of a recreational unit on a lot outside of an enclosed accessory structure is permitted when a principal structure exists on the property and storage of a recreational unit on a lot inside an enclosed accessory structure is permitted under any circumstances.

21.07 REMOVAL OF SHORE COVER

- (1) Purpose.** The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland and protect aquatic and shoreline wildlife habitat.
- (2) Vegetation Removal or Modification.** On each lot, trees, shrubbery and groundcover vegetation shall be protected in an area bounded by the ordinary high water mark and a line which is thirty five (35) feet from the ordinary high water mark. Land disturbing activities and vegetation removal are prohibited within the vegetation protection area with these exceptions:
 - (a) Establishment by selective cutting and pruning of existing vegetation of one view/access corridor not to exceed thirty five (35%) percent of the shoreline frontage or one view and access corridor of thirty five (35) feet for every hundred feet of frontage. The view/access corridor shall be more or less perpendicular to the shore. Sufficient trees and shrubbery shall be retained to screen development from view from the water, while providing a filtered view of the water during the summer season and to protect aquatic and shoreline wildlife habitat, control erosion, and reduce effluent and nutrient flow from the shoreland. Clear cutting, filling, grading and other land disturbing activities are not permitted in the view/access corridor. If a view/access corridor already exists on the lot, it shall be restored with native vegetation to the extent practicable based on a plan approved in accordance with the requirements of subpar. (5) before another view/access corridor is established.
 - (b) One pedestrian access pathway to the shoreline is allowed provided:
 - (1) It is located within the view/access corridor unless such location is not feasible due to steep slopes, wet soils, or similar limiting conditions.
 - (2) It is no more than five (5) feet wide.
 - (3) It is constructed using the minimum amount of grading necessary to create an even walking surface. Access paths constructed of concrete, brick, stone, treated lumber or other manmade materials require a permit and must meet the requirements of Section 21.06(9) of this chapter and Section 21.055.
 - (4) It is located and constructed so as to avoid erosion.
 - (c) Removal of dead and diseased trees which are a safety hazard, or which threaten structures or forest health provided they are replaced with a tree species native to Wisconsin having a minimum height of three (3) feet as

measured from the ground to the top of the tree at the time of planting. Dead trees, standing or fallen, on the land or in the water, offer important benefits to the ecosystem. It is recommended that dead trees be left to naturally decompose when possible.

- (d) Removal of noxious and/or exotic species provided they are replaced with appropriate native species as soon as practicable.
 - (e) Shoreline buffer restoration and mitigation activities approved by the Zoning Department.
 - (f) Shoreline protection and erosion control activities authorized by the Zoning Department or the Department of Natural Resources which are designed to remedy existing, significant erosion problems.
 - (g) Construction of facilities which provide public access to navigable waters provided water quality, habitat, and aesthetic objectives of this chapter are addressed by project location and design, and include mitigation measures approved by the Zoning Department. Such activities may also require Department of Natural Resources permit.
 - (h) Timber harvesting prescribed by Department of Natural Resources approve Forest Stewardship Plans, management plans approved under the Managed Forest Law, or a plan consistent with Wisconsin's Forestry Best Management Practices for Water Quality field manual are permitted in the vegetation protection area on parcels of 10 or more acres of forest land.
 - (i) The maintenance and mowing of lawns which existed prior to the effective date of the chapter. Provided any maintenance and mowing is not inconsistent with the plan required and approved under sub. Section (5).
- (3) Cutting Plan.** As an alternative to subpar. (2), a special cutting plan allowing greater cutting may be permitted by the County Zoning Agency by issuance of a conditional use permit, pursuant to Section 21.11(5) of this chapter. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The County zoning Agency may grant such a permit only if it finds that such special cutting plans:
- (a) Will not cause undue erosion or destruction of scenic beauty and wildlife habitat.
 - (b) Will provide substantial visual screening from the water or dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the County Zoning Agency may require the submission of some form of financial responsibility such as a bond, irrevocable letter of credit, certificate of deposit or escrow account which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.
 - (c) Cutting plans shall follow the practices described in the Wisconsin's Forestry Best Management Practices for Water Quality field manual.
 - (d) An affidavit referring to or summarizing the plan, approved by the County Zoning Agency, shall be recorded in the County Register of Deeds Office.
- (4) Cutting Beyond the Shoreland Protection Area.** Removal of vegetation beyond the shoreland protection area may take place without approval of the Zoning Department provided such removal is in accordance with sound forest management and soil conservation practices. Wisconsin's Forestry Best

Management Practices for Water Quality field manual provides a useful reference.

- (5) Mitigation Activities.** The mitigation plan shall be approved by the Zoning Administrator or the County Zoning Agency. The plan shall include an implementation schedule and shall comply with the following requirements:
- (a) A shoreline buffer area of native vegetation shall be restored/maintained subject to the following conditions:
 - (1) The shoreline buffer shall be restored/maintained in an area from the ordinary high water mark to the required vegetation protection area line. If the principal structure is located within the setback the shoreline buffer shall be restored/maintained as stated above with the exception to that area within fifteen (15) feet of the principal structure.
 - (2) The plan shall preserve or establish a full range of water quality, habitat and natural shoreline beauty protection functions and shall specifically provide measures to screen structures from view as seen from the water and provide for permanent and effective erosion and sediment control.
 - (3) The shoreline buffer area shall be established and maintained consistent with applicable rules regulating the removal of shore cover in Section 21.07 of this chapter.
 - (b) Storm water and runoff shall be controlled in compliance with the current version of The Wisconsin Storm water Manual.
 - (c) Any grading, filling or dredging must comply with Section 21.08 of this chapter.
 - (d) The private onsite wastewater treatment system shall be evaluated and, if determined to be failing in accordance with §145.245(4), Wis. Stats., shall be replaced with a code compliant system.
 - (e) This mitigation plan and the property owner's obligation shall be evidenced by an affidavit recorded in the County Register of Deeds Office prior to the issuance of the permit.

21.08 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING

- (1) General Standards.** Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under subpar. (2) may be permitted in the shoreland area provided that:
- (a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
 - (b) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of Section 21.09(3)(c)2, and 3 of this chapter.
 - (c) All applicable federal, state and local authority shall be obtained in addition to a permit under this chapter. This includes, but is not limited to, the requirements of Chapter NR102 Water Quality Standards for Wisconsin Surface Waters and Chapter NR 103 Water Quality Standards for Wetlands.
 - (d) Any fill placed in the shoreland area is protected against erosion by the use of rip-rap, vegetative cover or a bulkhead.

- (2) Permit Required.** Except as provided in subpar. (3), a staff approved conditional use permit is required:
- (a) For any filling or grading of any area which is within three hundred (300) feet landward of the ordinary high water mark of navigable water which there is either:
 - (1) Any filling or grading on slopes of more than twenty (20%) percent.
 - (2) Filling or grading of more than two thousand (2,000) square feet on slopes of twelve (12%) – twenty (20%) percent.
 - (3) Filling or grading of more than five thousand (5,000) square feet on slopes less than twelve (12%) percent.
 - (4) Filling, grading or excavating within thirty-five (35) feet of the ordinary high water mark unless exempted under subpar. (3) below.
 - (b) For any construction or dredging of any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within three hundred (300) feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
- (3) Permit Exemptions.**
- (a) Soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for erosion control shall not require a permit under sub. (2) when designed and constructed to Natural Resources Conservation Service technical standards.
 - (b) Wetland restoration projects when designed and constructed in accordance with previously accepted restoration standards.
 - (c) Filling and grading within twenty (20) feet of a principal structure where the property owner obtained and maintains a valid County Shoreland/Wetland Zoning Permit for development and maintains erosion control until the site is revegetated or stabilized in a fashion that will prevent erosion.
 - (d) Any filling, grading and excavating required as part of an approved County mitigation plan provided erosion control practices are in place to control erosion until the site is adequately vegetated to prevent erosion. .
 - (e) Any filling and grading associated the installation of an approved and permitted private onsite waste water treatment system provided erosion control practices are in place to control erosion until the site is adequately vegetated to prevent erosion.
 - (f) Any filling and grading associated with the construction of a structure allowed in the vegetative protection area provided the property owner obtained a County Shoreland/Wetland Zoning permit and maintains erosion control until the site is revegetated or stabilized in a fashion that will prevent erosion.
- (4) Permit Conditions.** In granting a staff approved conditional use permit under subpar. (2), the County Zoning Administrator or designee shall attach the following conditions, where appropriate, in addition to those provisions specified in Section 21.11(5)(b) and (c):
- (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.

- (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
- (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing and other methods shall be used to prevent erosion.
- (d) Lagoons shall be constructed to avoid fish trap conditions.
- (e) Fill shall be stabilized according to accepted engineering standards.
- (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a flood-way or destroy the flood storage capacity of a floodplain.
- (g) Channels or artificial watercourses shall be constructed with side slopes of three (3) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or rip-rap are provided.

21.09 DISTRICTS

- (1) **General Purpose Districts.** These districts include all shorelands on lakes, ponds, flowages, rivers and streams within the jurisdiction of this chapter, which are not included in the Shoreland-Wetland District, Conservancy District or Residential-Recreational District.
 - (a) **PERMITTED USES.** These include commercial, agricultural, residential and recreational uses providing they comply with the provisions of this chapter and providing any non-residential structure be located at least seventy-five (75) feet from a property line or seventy-five (75) feet from the boundaries of any Residential-Recreational District.
 - (b) **CONDITIONAL USES.** These include industrial uses upon issuance of a conditional use permit by the County Zoning Agency as provided in Section 21.11(5) of this chapter. Any intended discharge of new waste into surface waters must be reported to the Department of Natural Resources and approved by the Department as provided in §144.555, Wis. Stats. Vegetation removal regulations as set forth in Section 21.07 of this chapter shall apply.
- (2) **Residential-Recreational District.** This district shall include all shorelands within the jurisdiction of this chapter which are defined as mobile home parks, recreational vehicle parks or campgrounds, condominiums, resorts, and other multi-unit development.
 - (a) Mobile home parks, campgrounds and recreational vehicle parks, condominiums, resorts, and other multi unit developments which where not in existence at the time of adoption of this chapter or which are proposing to expand shall obtain a conditional use permit approved by the County Zoning Agency in accordance with Section 21.11(5) . The County Zoning Agency shall consider the size, shape, depth, present and potential use of the lake, and the effect of the development on public rights in navigable waters when considering a conditional use permit application.
 - (b) **MOBILE HOME PARKS.** Mobile Home parks shall be subject to the following regulations:
 - (1) The minimum size of a mobile home park shall be five (5) acres and the maximum number of mobile homes shall be four (4) per acre.

- (2) The minimum water frontage shall be equal to 100 feet, plus twenty (20%) percent for each additional unit over two (2) units.
 - (3) Minimum dimensions of a mobile home site shall be four thousand five hundred (4,500) square feet.
 - (4) All drives, parking areas and walkways shall be hard-surfaced.
 - (5) There shall be a minimum lot line setback of forty (40) feet at all lot lines from each mobile home.
 - (6) The park shall conform to the requirements of ATCP 125 of the Wisconsin Administrative Code.
 - (7) No mobile home site shall be rented for a period of less than thirty (30) days.
 - (8) Each mobile home unit shall be separated from other mobile home units by a distance of not less than twenty-five (25) feet wide.
 - (9) There shall be two (2) hard-surfaced automobile parking spaces for each mobile home.
 - (10) Unless adequately screened by existing vegetative cover, each mobile home park shall be screened by temporary plantings of fast growing trees or shrubs capable of reaching a height of fifteen (15) feet or more, such as hybrid poplar, and a permanent evergreen planting, such as white or Norway pine, the individual trees to be such a number and so arranged that within ten (10) years they will have formed a screen equivalent in capacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than fifteen (15) feet. The screening provision shall not pertain to road and/or water park boundaries.
- (c) **CAMPGROUNDS AND RECREATIONAL VEHICLE PARKS.**
 Campgrounds and recreational vehicle parks shall be subject to the following regulations:
- (1) The minimum size shall be five (5) acres.
 - (2) The maximum number of sites shall be fifteen (8) per acre.
 - (3) The minimum water frontage shall be equal to 100 feet, plus ten (10%) percent for each additional unit over two (2) units.
 - (4) The minimum dimensions of a recreational vehicle site shall be fifteen hundred (1,500) square feet.
 - (5) Each recreational vehicle unit shall be separated from other recreational vehicle units by a distance of not less than twenty (20) feet wide.
 - (6) There shall be one and one-half (1 ½) automobile parking spaces for each site.
 - (7) There shall be a minimum lot line setback of forty (40) feet at all lot lines from each unit.
 - (8) The site shall conform to the requirements of Chapter DHS178 of the Wisconsin Administrative Code.
 - (9) The screening provisions for mobile home parks as specified in subpar. (b) 10 above shall be met.
- (d) **CONDOMINIUMS RESORTS AND OTHER MULTI-UNIT DEVELOPMENT.** Condominiums, resorts, and other multi-unit development shall be subject to the following regulations:

- (1) The minimum size of a condominium, resort, or other multi-unit development shall be five (5) acres. Maximum number of detached units shall be eight (4) per acre.
- (2) The minimum water frontage shall be equal to or exceed the minimums specified in the table of water class development standards in Section 21.09(1) of this chapter plus fifteen (15%) percent for each additional attached unit over two (2) units and twenty (20%) percent for each additional detached unit over two (2) units.
- (3) There shall be a minimum lot line setback of forty (40) feet at all lot lines from any structure.
- (4) The screening provisions for mobile home parks as specified in subpar. (b) 10 above shall be met.

(3) Shoreland-Wetland District.

(a) DESIGNATION.

- (1) This district shall include all shorelands within the jurisdiction of this chapter which are wetlands shown on the Wisconsin Wetland Inventory maps that are adopted and made a part of this chapter. The maps adopted as part of this ordinance show the general location of the wetlands and are intended to alert landowners if there is a high likelihood of the presence of a wetland. Maps do not represent the definitive presence and the boundaries of wetlands and cannot serve as a substitute for a delineation of wetland boundaries by a certified wetland delineator or a verification by the County Zoning, WDNR or US Army Corps of Engineers staff.
- (2) If an apparent discrepancy exists between the Shoreland-Wetland District boundary shown on the Wisconsin Wetland Inventory Maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate local office of the Department to determine if the Shoreland-Wetland District boundary as mapped is in error. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped either as a wetland or non-wetland, the Zoning Administrator immediately shall have the authority to grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. An amendment correcting the mapping error shall be initiated by the County Zoning Agency within a reasonable time.

(b) PURPOSE. This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

(c) PERMITTED USES. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this chapter, the provisions of Chapters 30 31, 281.31 and 281.37 Wis. Stats., and the provisions of other applicable local, state and federal laws:

- (1) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding,

draining, dredging, ditching, tiling or excavating except as allowed under subpar. 2 and 3.

- (a) Hiking, fishing, trapping, hunting, swimming and boating.
 - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 - (c) The pasturing of livestock.
 - (d) The cultivation of agricultural crops.
 - (e) The practice of silvaculture, including the planting, thinning and harvesting of timber.
 - (f) The construction or maintenance of duck blinds.
- (2) Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (a) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 - (b) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.
 - (c) The maintenance and repair of existing agricultural drainage systems where permissible by §30.20, Wis. Stats., including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that the filling is permissible by Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible.
 - (d) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 - (e) The construction or maintenance of piers, docks, or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - (f) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which require the issuance of a conditional use permit under Section 21.11(5) of this chapter and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - (1) The road cannot, as a practical matter, be located outside the wetland.

- (2) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in subpar. (e)2.
 - (3) The road is designed and constructed to minimize cross-sectional area practical to serve the intended use.
 - (4) Road construction activities are carried out in the immediate area of the roadbed only.
- (b) The construction or maintenance of nonresidential buildings provided that:
- (1) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals, or some other use permitted in the Shoreland-Wetland District.
 - (2) The building cannot, as a practical matter, be located outside the wetland.
 - (3) Such building is not designed for human habitation and does not exceed five hundred (500) square feet in floor area.
 - (4) Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (c) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that
- (1) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Chapter 29, Wis. Stats., where applicable.
 - (2) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in subpar. (a) above.
 - (3) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animals farms and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- (d) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
- (1) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
 - (2) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in subpar. (e)2.

- (e) The construction or maintenance of walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
- (d) PROHIBITED USES. Any use not listed in subpar. 4(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter and §59.69 (5) (e) Wis. Stats.
- (e) REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.
 - (1) For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the appropriate local office of the Department shall be provided with the following:
 - (a) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this chapter, within five (5) days of the filing of such petition with the County Clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory Map adopted as part of this chapter describing any proposed rezoning of a shoreland-wetland.
 - (b) Written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.
 - (c) A copy of the County Zoning Agency's findings and recommendations on each proposed amendment within ten (10) days after the submission of those findings and recommendations to the County Board.
 - (d) Written notice of the County Board's decision on the proposed amendment within ten (10) days after it is issued.
 - (2) A wetland or a portion thereof, in the Shoreland-Wetland District shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (a) Storm and flood water storage capacity.
 - (b) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
 - (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
 - (d) Shoreline protection against soil erosion.
 - (e) Fish spawning, breeding, nursery or feeding grounds.
 - (f) Wildlife habitat.
 - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types, and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04.
 - (3) If the Department notifies the County Zoning Agency that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in subpar. (2) above, that amendment, if approved by the County Board, shall contain the following provision: "This amendment shall

not take effect until more than thirty (30) days have elapsed after written notice of the County Board's approval of this amendment is mailed to the Department of Natural Resources. During that thirty (30) day period the Department of Natural Resources may notify the County Board that it will adopt a superseding shoreland ordinance for the County under §59.692(6), Wis. Stats. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the §59.692(6) adoption procedure is completed or otherwise terminated."

21.10 NONCONFORMING USES AND STRUCTURES

(1) General.

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

- (a) If the alteration, addition or repair of a building or structure with a nonconforming use or a nonconforming building or structure is prohibited by this section, the property owner may still make the proposed alteration, addition or repair if:
 - (1) A nonconforming use is permanently changed to a conforming use.
 - (2) The property owner appeals the determination of the Zoning Administrator and either the Board of Adjustment or the Circuit Court find in the property owner's favor under §59.694(4) or §59.694(10), Wis. Stats.
 - (3) The property owner successfully petitions to have the property rezoned by amendment to this chapter in accordance with Section 21.12 of this chapter and §59.69(5)(e), Wis. Stats.
 - (4) The property owner can demonstrate that the proposed alternation, addition or remodeling or reconstruction project is required to be allowed under the Federal Fair Housing Act, the Wisconsin Open Housing Law or the Americans with Disabilities Act.

(2) Nonconforming Uses.

- (a) A property owner claiming a nonconforming use and exemption from applicable regulations shall prove, by a greater weight of the evidence, that:
 - (1) The use predated zoning provisions with which it does not comply;
 - (2) The use was active and actual prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property in which case no vested right to continue the use shall have been required.
- (b) A nonconforming use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a structure which, on the date the use became nonconforming, was only partially devoted to such use.

- (c) If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this chapter.
- (d) If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommended.
- (e) Uses which are public nuisances shall not be permitted to continue as nonconforming uses.

(3) Nonconforming Structures.

(a) PURPOSE.

- (b) It is the intent of these provisions to balance the public objectives of this chapter with the interests of owners of nonconforming structures.
NON-SHORELINE SETBACK
NONCONFORMITIES.

- (1) Work on nonconforming accessory structures shall be limited to ordinary maintenance and repair. Such structures shall not be expanded.
- (2) Nonconforming principal structures may be improved internally without limitation and may be expanded provided that:
 - (a) The maximum building height does not exceed thirty-five (35) feet measured from the lowest exposed portion of the building to the highest point.
 - (b) A structure that is nonconforming as to the dimensional standards of this chapter shall not be expanded or enlarged so as to increase its dimensional nonconformity with exception to a vertical expansion within the footprint.

(c) SHORELINE SETBACK NONCONFORMITIES.

- (1) Nonconforming accessory structures may be maintained, replaced, restored, rebuilt or remodeled provided the activity does not expand the foot print of the structure. In addition the structure may be expanded vertically provided the height of the structure does not exceed thirty-five 35 feet as measured from the lowest adjacent grade to the highest point of the structure. A County Zoning Permit shall be required for any structural improvements beyond 75 feet of the ordinary high water mark or within the limits of the floodplain. Expansion of the footprint of the structure is permitted provided it can be demonstrated that such expansion is necessary to comply with applicable State or Federal requirements. Razing of a structure or any portion of a structure shall require a Razing Permit in accordance with S21.11 (3).
- (2) A principal structure which is nonconforming as to shoreline setback and which is located within thirty-five (35) feet of the ordinary high water mark may not be expanded horizontally, but may be maintained, replaced, restored rebuilt and remodeled or expanded vertically provided:
 - (a) Such modification does not enlarge the footprint, change the location or increase the height of the structure to greater than 35 feet as measured from the lowest adjacent grade to the highest point of the structure. Expansion of the footprint of the structure is

- permitted provided it can be demonstrated that such expansion is necessary to comply with applicable State or Federal requirements.
- (b) Razing of a structure or any portion of a structure shall require a Razing Permit in accordance with S21.11 (3).
 - (c) Such improvement shall not consist of any filling, grading or excavating unless in compliance with section 21.08 of this chapter.
 - (d) Structures subject to regulation under floodplain zoning shall not be reconstructed or repaired unless in compliance with Chapter 19 – Floodplain Zoning of the County Code of Ordinances.
 - (e) The private onsite wastewater treatment system shall be evaluated and, if determined to be failing in accordance with §145.245(4), Wis. Stats., shall be replaced with a code compliant system.
 - (f) A County Zoning Permit shall be required for any structural improvements beyond 75 feet of the ordinary high water mark or within the limits of the floodplain.
- (3) That portion of a principal structure which is nonconforming as to shoreline setback and which is located at least thirty-five (35) from the ordinary high water mark may be improved, reconstructed or expanded vertically in accordance with subsection 2 and may be expanded horizontally or relocated after obtaining a County zoning permit provided:
- (a) Any horizontal expansions within the setback area shall be limited to a maximum of two hundred (200) square feet over the life of the structure and no portion of the horizontal expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure. Such expansion shall comply with all side yard and road setbacks. Any portion of a horizontal expansion in excess of two hundred (200) square feet shall comply with all setbacks as required by section 21.06 of this chapter. In addition, mitigation shall be completed in accordance with S21.07(5).
 - (b) No principal structure shall be relocated within the shoreland setback area until a determination is made by the County Zoning Administrator that no other location is available on the lot or parcel for a structure of a comparable size (same square footage) that will result in either full compliance or improve compliance with the setback requirements of this chapter.
 - (c) The footprint of that portion of the structure which is relocated within the shoreland setback area may not exceed that portion of the structure which is being relocated.
 - (d) No portion of the replaced, reconstructed or relocated structure shall be located any closer to the ordinary high-water mark than the closest point of the existing structure.
 - (e) A plan to mitigate , in accordance with Section 21.07 (5) of this chapter, for the adverse effects of the shoreland setback nonconformity shall be implemented concurrently with the relocation of any structure, if any portion of the structure remains within the shoreland setback area.

- (f) All other provisions of this chapter shall apply.
- (4) The maintenance and repair of nonconforming boathouses that extends water ward beyond the ordinary high water mark of any navigable waters shall comply with the requirements of §30.121, Wis. Stats.

21.11 ADMINISTRATIVE PROVISIONS

(1) Zoning Administrator. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applicants as to the provision of this chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and certificates of compliance and inspect properties for compliance with this chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Submit copies of variances, conditional uses and decisions on appeals for map or text interpretations and map or text amendments within ten (10) days after they are granted or denied to the appropriate local office of the Department.
- (e) Investigate violations and work with the property owner to correct said violation(s).
- (f) When obtaining voluntary compliance fails, issue citations for violations of this chapter and work with the County Corporation Counsel to resolve and/or prosecute violations.

(2) Zoning Permits.

- (a) **WHEN REQUIRED.** Except where another section of this chapter specifically exempts certain types of development from this requirement, as in Section 21.09(4)(c)1 and 2 of this chapter, a zoning permit shall be obtained from the Zoning Administrator before any development, as defined in Section 21.02(2) of this chapter, or any change in the use of an existing building or structure is initiated.
- (b) **APPLICATION.** An application for a zoning permit, unless exempted by §59.692 (1k), Wis. Stats, shall be made to the Zoning Administrator upon forms furnished by the County and shall include for the purpose of proper enforcement of these regulations, the following data:
 - (1) Name and address of applicant and property owner(s).
 - (2) Legal description of the property and proposed use of property.
 - (3) A to scale drawing showing all improvements to the parcel to include but not be limited to existing and proposed structures, decks, patios, gazebos, stairways, walkways, driveways or other impervious surfaces relative to the lot lines, ordinary high water mark and centerline of abutting road (public or private).
 - (4) One set of floor plans (if inhabited structure).
 - (5) Location and description of any existing private water supply or sewage system or a copy of plans for any such installation.
 - (6) In situations where the applicant is requesting that certain zoning restrictions be waived in order to provide equal housing opportunities, or access to public accommodations for a handicapped or disabled person:

- (a) The nature of the handicap or disability with proof of same.
 - (b) An explanation of the need for a waiver of specified zoning restrictions.
 - (c) A discussion of alternative solutions that have been considered, if any.
- (c) EXPIRATION OF PERMIT. Zoning permits shall expire twelve (12) months from date issued unless work has commenced and is carried on with reasonable diligence.
- (3) Razing Permit.**
- (a) WHEN REQUIRED. A razing permit shall be required for the removal, relocation or demolition of any structure or portion of any structure within the jurisdiction of this chapter.
 - (b) APPLICATION. An application for a razing permit shall be made to the Zoning Administrator upon forms furnished by the County,
- (4) Permits That Authorize “Reasonable Accommodations” for Handicapped Person.**
- (a) The Zoning Administrator shall issue a zoning permit that waives specified zoning chapter requirements if the Zoning Administrator determines that both of the following conditions have been met:
 - (1) The accommodation, i.e., the waiver of zoning restrictions, that has been requested, or another less extensive accommodation, is necessary to afford equal housing opportunity, or equal access to private and public accommodations, for disabled or handicapped persons, and is the minimum accommodation that will give the handicapped or disabled persons adequate relief.
 - (2) The accommodation will not unreasonably undermine the basic purposes that the zoning chapter seeks to achieve.
 - (b) If the Zoning Administrator issues a zoning permit to a handicapped or disabled person or to the owner of a place of public accommodation that waives certain specified zoning requirements, the permit shall state that:
 - (1) Issuance of the permit is required by the Federal Fair Housing Act, and the Wisconsin Open Housing Law, or the Americans with Disabilities Act.
- (5) Conditional Use Permits**
- (a) APPLICATION FOR A CONDITIONAL USE PERMIT. Any use listed as a Zoning Agency approved conditional use in this chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the County Zoning Agency.
 - (b) STANDARDS APPLICABLE TO ALL CONDITIONAL USES. In passing upon a conditional use permit, the County Zoning Agency shall evaluate and consider:
 - (1) The effect of the proposed use on the maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including runoff of nutrients and sediment.
 - (3) The size, depth, shape, present and potential use of the affected water body as it relates to the proposed use.

- (4) The effect of the proposed use on public rights in navigable waters.
 - (5) The effect of the proposed use on shoreline and near shore fish and wildlife habitat.
 - (6) The effect of the proposed use on the aesthetic objectives of this chapter.
 - (7) Compliance with local floodplain zoning codes or ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
 - (8) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (9) The location of the site with respect to existing or future access roads.
 - (10) The need of the proposed use for a shoreland location.
 - (11) The proposed uses compatibility with uses on adjacent land.
 - (12) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
 - (13) Location factors under which:
 - (a) Domestic uses shall be generally preferred;
 - (b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (c) **CONDITIONS ATTACHED TO CONDITIONAL USES.** Upon consideration of the factors listed above, the County Zoning Agency or in the case of a staff approved conditional use permit the Zoning Administrator or designee shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; types of construction. To secure information upon which to base its determination, the County Zoning Agency may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:
- (1) A plan of the area showing surface contours, soil types, ordinary high water marks, ground water conditions, subsurface geology and vegetative cover.
 - (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
 - (3) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
 - (4) Specifications for areas of proposed filling, grading, lagooning or dredging.
 - (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.

- (d) **NOTICE AND PUBLIC HEARING.** Before considering an application for a Zoning Agency approved conditional use permit, the County Zoning Agency shall hold a public hearing. Notice of such public hearing through a Class 2 notice under Chapter 985, Wis Stats. Such notice shall specify the time, place and matters to come before the County Zoning Agency. Notice shall also be given to adjacent property owners, town involved, County Clerk and be mailed to the appropriate local office of the Department at least ten (10) days prior to the hearing.
- (e) **RECORD AND DECISION.** When a Zoning Agency approved conditional use permit is considered, an appropriate record shall be made of the hearing and decision. A copy of any decision on a Zoning Agency approved conditional use permit shall be mailed to the applicant and appropriate local office of the Department within ten (10) days after it is granted or denied.
- (f) **REVOCATION.** A conditional use permit shall be revoked by the County Zoning Agency if it is determined that the actions of the permittee or his/her designee are not in compliance with the plans and specifications submitted with the permit application, which was subsequently approved, or are in violation of the conditions the permit. If revocation of the permit is being considered by the Zoning Agency the County Zoning Administrator shall provide written notice to the permittee of the conditional use permit citing the violation(s) and/or compliance issue(s) and inform the permittee of the date, time, and location of the meeting at which the revocation of the permit will be considered. The Zoning Agency shall accept oral and/or written evidence at this meeting concerning the matter before making their decision. In the event of permit revocation the property shall be returned to its previous state by the property owner prior to issuance of the permit.
- (6) Variances.** The Board of Adjustment may grant, upon appeal, a variance from the dimensional standards of this chapter where an applicant demonstrates that literal enforcement of the provisions will result in unnecessary hardship on the applicant due to special conditions unique to the property, and that such variance is not contrary to the public interest.
 - (a) **NO USE VARIANCE.** A variance shall not grant or increase any use of property which is prohibited in the zoning district.
 - (b) **NOTICE, HEARING, AND DECISION.** Before considering an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Chapter 985, Wis. Stats. Such notice shall be mailed to the appropriate local office of the Department at least ten (10) days prior to the hearing. The Board shall state in writing the reasons for granting or refusing a variance and shall mail a copy of such decision to the appropriate Department local office within ten (10) days of the decision.
 - (c) **VARIANCES GRANTED FOR REDUCED SHORELAND SETBACKS.** Structures which received a variance prior to July 13, 2015 for reduced shoreland setbacks may be maintained, replaced, restored, rebuilt or remodeled provided the activity does not expand the foot print of the

structure. In addition the structure may be expanded vertically provided the height of the structure does not exceed thirty-five 35 feet as measured from the lowest adjacent grade to the highest point of the structure. A County Zoning Permit shall be required for any structural improvements beyond 75 feet of the ordinary high water mark or within the limits of the floodplain. Expansion of the footprint of the structure is permitted provided it can be demonstrated that such expansion is necessary to comply with applicable State or Federal requirements. Razing of a structure or any portion of a structure shall require a Razing Permit in accordance with S21.11 (3).

(7) Board of Adjustment. The Chairman of the County Board shall appoint a Board of Adjustment consisting of three (3) members under §59.694, Wis. Stats. The County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by §59.694(3), Wis. Stats.

(a) **POWERS AND DUTIES.**

(1) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all the powers conferred on such boards as by §59.694, Wis. Stats.

(2) The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this chapter.

(3) The Board of Adjustment may grant a variance from the dimensional standards of this chapter.

(b) **APPEALS TO THE BOARD.** Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be made within a reasonable time, as provided by the rules of the Board, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other officer whose decision is in question shall promptly transmit to the Board all the papers constituting the record concerning the matter appealed.

(c) **HEARING APPEALS AND APPLICATIONS FOR VARIANCES.**

(1) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice thereof by public notice thereof by publishing a Class 2 notice under Chapter 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate local office of the Department at least ten (10) days prior to hearings on proposed shoreland variances and map interpretations.

(2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the appropriate local office of the Department within ten (10) days after they are granted or denied.

- (3) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the Board. Such resolution shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for the lack of jurisdiction or prosecution or grant the application.
- (4) At the public hearing, any party may appear in person or by agent or attorney.
- (d) RECONSIDERATION.
 - (1) Resubmission: No appeal or application which has been dismissed shall again be considered unless the applicant can show a material change in circumstances.
 - (2) Rehearing: No rehearing of any issue already decided by the Board of Adjustment shall take place except upon the affirmative vote of a majority of the members of the Board upon finding that substantial material new evidence is submitted which could not have been reasonably presented at the previous hearing. Requests for rehearing shall be in writing and shall state the reasons for the request and be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements and fees as the original hearings.
- (8) Fees.** The County Zoning Agency, with approval of the County Board, shall establish fees for the following:
 - (a) Zoning Permits
 - (b) Conditional Use Permits
 - (c) Plat Review
 - (d) Planned Residential Unit Development Review
 - (e) Public Hearing
 - (f) Legal notice publication
 - (g) Appeals to Board of Adjustment
 - (h) Certified Survey Map Review
 - (i) Mobile home and recreational vehicle parks
 - (j) Copies of Shoreland/Wetland; Floodplain; Zoning and Sanitary Codes
 - (k) Triple fees for after-the-fact permits, review, or hearings

21.12 CHANGES AND AMENDMENTS

The County Board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this chapter in accordance with the requirements of §59.69(5)(e), Wis. Stats., Chapter NR115, Wisconsin Administrative Code, and Section 21.09(1)(e) of this chapter where applicable.

- (1) Amendment.** Amendments to this chapter may be made on petition of any interested party as provided in §59.69(5)(e), Wis. Stats.
- (2) Petition.** Every petition for a text or map amendment filed with the County Clerk shall be referred to the County Zoning Agency. A copy of each petition shall be mailed to the appropriate district office of the Department within five

(5) days of the filing of the petition with the County Clerk. Written notice of the public hearing to be held on a proposed amendment shall be mailed to the appropriate district office of the Department at least ten (10) days prior to the hearing.

- (3) Decision.** A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within ten (10) days after the decision is issued.

21.13 ENFORCEMENT AND PENALTIES

(1) Enforcement. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator or the County Zoning Agency shall refer violations to the District Attorney or Corporation Counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture as provided for in Section 25.04 together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense.

(2) Nuisance. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to §59.69(11), Wis. Stats.

(3) Statute of Limitations.

- (a) As required by §59.692(1t), Wis. Stats., where a building or structure violates the dimensional or use standards of this chapter, and the violating building or structure has been in place more than ten (10) years before an enforcement action is initiated no enforcement action shall be taken but the structure shall be classified as an illegal structure.
- (b) Any property owner asserting as a defense to a charge of violating this chapter that the alleged violation has been in place more than ten (10) years before enforcement action was initiated has the burden of proving that:
- (1) The building or structure that is in violation has been in place more than ten (10) years before enforcement action was initiated.
 - (2) That the building or structure (and its use, if the use is nonconforming) has remained essentially unchanged for at least ten (10) years.
 - (3) That the use of the building or structure has been active and continual for ten (10) years or more. If use was discontinued for more than twelve (12) months, that use shall not be considered active and continual.

(Ord #141 10/4/94, Ord #212 2/22/00, Ord #270 12/16/03, Ord #388-16 9/20/16 Effective 10/1/16)

