

TREMPEALEAU COUNTY

SHORELAND

ZONING

ORDINANCE

ADOPTED 11-9-1971

Trempealeau County
 SHORELAND ZONING ORDINANCE
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SHORELAND ZONING ORDINANCE

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

1.1 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 59.97, 59.971, 59.99, 87.30 and 144.26, Wis. Stats.

1.2 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of navigable waters of Trempealeau 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 Trempealeau County, Wisconsin.

1.3 PURPOSE. For the purpose of promoting the public health, safety, convenience and welfare, this ordinance has been established to:

1.31 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.

1.32 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.

1.33 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.

1.34 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.

1.4 TITLE. Shoreland Zoning Ordinance for Trempealeau County, Wisconsin.

2.0 GENERAL PROVISIONS

2.1 AREAS TO BE REGULATED. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Trempealeau County which are:

2.11 Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Trempealeau County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Trempealeau County" or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

2.12 Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or stream, or to the landward side of the flood plain, whichever distance is greater. Rivers and streams in Trempealeau County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. 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.

2.13 Determinations of navigability and ordinary highwater mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary highwater mark.

2.14 Under s. 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river;
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in nonstructural agricultural use.

2.2 SHORELAND ZONING MAPS. The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Trempealeau County.

- (1) United States Geological Survey Quadrangle Maps for Trempealeau County (revised 1973).
- (2) Wisconsin Wetland Inventory maps stamped "FINAL" on June 28, 1985.
- (3) Floodplain zoning maps identified as Flood Hazard Boundary Maps and dated March 26, 1976.

2.3 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 filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 9.0 for standards applicable to nonconforming uses.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

2.4 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s. 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 s. 30.12(4)(a), Wis. Stats., applies.

2.5 ABROGATION AND GREATER RESTRICTIONS. The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under s. 59.97, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than s. 59.97, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

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

2.53 This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance will prevail.

2.6 INTERPRETATION In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment of the ordinance.

2.7 SEVERABILITY. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

3.0 LAND DIVISION REVIEW AND SANITARY REGULATIONS

3.1 LAND DIVISION REVIEW The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 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 and administrative code provisions.

3.2 LIMITED REZONING TO ACHIEVE REDUCED LOT SIZES AND SETBACKS

3.21 PURPOSE. In some instances where an individual lot or small tract of land has unique characteristics, such as unique terrain, which would result in unnecessary hardship as defined in section 13.2(14), if the owner were required to comply with one or more of the requirements for minimum lots sizes, width and setback, the board of adjustment may grant a variance. In other instances where larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by rezoning to establish a Planned Residential Unit Development overlay. The Planned Residential Unit Development is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

3.22 REQUIREMENTS FOR PLANNED RESIDENTIAL UNIT DEVELOPMENT. The county board may 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 is at least 40 acres in size.
- (2) Pollution Control. The location and nature of the septic systems which will service 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 in 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 restriction 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 the zoning ordinance. This figure shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot sizes required by section 4.0 of this ordinance.
- (5) Lot Sizes, Widths, Setbacks, and Tree-cutting. The lot sizes, widths, and setbacks shall not be less than those provided for in current status ch. H85, Wis. Adm. Code, and 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. Shore cover provisions in section 6.0 shall apply except that maximum width of a lake frontage opening shall be 100 feet.

3.23 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 3.22 shall be submitted to the county clerk with sufficient copies to provide for distribution by the clerk as required by section 3.23(2).

(2) Review and Hearing: The petition shall be submitted to the county zoning agency as required by s: 59.97(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 11.2 of this ordinance.

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 the zoning ordinance. 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 3.22. 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 section 3.22. The conditions of approval shall in all cases establish the specific 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 3.22 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.

3.3 SANITARY REGULATIONS The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (a) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 112, Wis. Adm. 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 the Trempealeau County Sanitary and Private Sewage System Ordinance and any amendments to that ordinance.

4.0 DIMENSIONS OF BUILDING SITES

4.1 LOTS NOT SERVED BY PUBLIC SANITARY SEWER

4.11 MINIMUM AREA AND WIDTH FOR EACH MAIN BUILDING. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary highwater mark.

4.12 SIDE YARDS. There shall be a side yard for each main building. The minimum width of one main side yard shall be 10 feet. The minimum combined width of both main side yards shall be 25 feet. There shall be a side yard of 5 feet for accessory structures excluding fences.

4.13 LOT ABUTTING THE BLACK RIVER. All lots abutting the Black River in the area from the Trempealeau-Jackson County line to State Trunk Highway 93 shall contain a minimum lot width of 200 ft. at the waters edge and a minimum lot area of 1.5 acres.

4.2 LOTS SERVED BY PUBLIC SANITARY SEWER

4.21 MINIMUM AREA AND WIDTH FOR EACH MAIN BUILDING. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet with at least 65 feet of frontage at the ordinary highwater mark.

4.22. SIDE YARDS. The minimum width of one main side yard shall be 8 feet. The minimum combined width of both main side yards shall be 20 feet. There shall be a side yard of 4 feet for accessory structures excluding fences.

4.3 SUBSTANDARD LOTS

4.31 SUBSTANDARD LOTS SERVED BY A PUBLIC SANITARY SEWER. A substandard lot served by a public sanitary sewer which is at least 7,500 sq. ft. in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the ordinary highwater mark may be used as a building site for a single family dwelling upon issuance of a zoning permit by the zoning administrator if it meets all of the following requirements:

- (1) Such use is permitted in the zoning district.
- (2) The lot was on record in the county register of deeds office prior to the effective date of this ordinance.
- (3) The lot was in separate ownership from abutting lands prior to the effective date of this ordinance. If abutting lands and the substandard lot were owned by the same owner as of the effective date of this ordinance, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance, including, minimum area and width requirements found in sections 4.1 and 4.2 of this ordinance.
- (4) All other dimensional requirements of this ordinance (including side yard and setback) will be complied with.

4.32 **SUBSTANDARD LOTS NOT SERVED BY PUBLIC SANITARY SEWER.** A substandard lot not served by public sewer which is at least 10,000 sq. ft. in area and at least 65 feet in width at the building setback line and at least 65 feet in width at the ordinary highwater mark may be used as a building site for a single-family dwelling upon issuance of a zoning permit by the zoning administrator if it meets all of the requirements of section 4.31(1)-(4) of this ordinance.

4.33 **OTHER SUBSTANDARD LOTS.** Except for lots which meet the requirements of sections 4.31 or 4.32, a building permit for the improvement of a lot having lesser dimensions than those stated in sections 4.1 and 4.2 shall be issued only after granting of a variance by the board of adjustment.

4.4 **LOTS IN CLUSTER SUBDIVISIONS** Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the county private sewage system ordinance pursuant to the procedures set forth in section 3.2 of this ordinance.

5.0 **SETBACKS FROM THE WATER**

5.1 **LOTS THAT ABUT ON NAVIGABLE WATERS** All buildings and structures except piers, boat hoists, boathouses and open fences which may require a lesser setback, shall be set back at least 75 feet from the ordinary highwater mark of navigable waters.

5.2 **REDUCED BUILDING SETBACKS** A setback of less than that required by section 5.1 may be permitted by the zoning administrator where there is at least one main building on either side of the applicant's lots, within 200 feet of the proposed site that is built to less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest main building on each side of the proposed site or, if there is an existing main building on only one side, the setback shall be the average of the existing building's setback and the required setback. Any other setback reduction may be permitted by the board of adjustment pursuant to section 10.5 of this ordinance.

5.3 **BOATHOUSES**

5.31 Boathouses shall be designed and constructed solely for the storage of boats and related equipment and shall not be used for human habitation.

5.32 Boathouses shall not be placed waterward beyond the ordinary highwater mark.

5.33 One boathouse is permitted on a lot as an accessory structure if floodplain zoning standards do not prohibit its use.

5.34 Boathouses shall not be constructed where the existing slope is more than 20%.

5.35 Boathouses shall be set back a minimum 25 feet from the ordinary highwater mark and shall be constructed in conformity with local floodplain zoning standards.

5.36 Boathouses shall not exceed one story and 500 sq. ft. in floor area.

5.4 Black River. On all lots abutting the Black River in the area from the Trempealeau-Jackson County line downstream to State Trunk Highway 93, the minimum setback for all buildings and structures, except piers and boathouses, which require a lesser setback as determined by the board of adjustment shall be 100 feet from the Ordinary highwater mark or 25 feet from the bluffline, whichever distance is more restrictive.

6.0 REMOVAL OF SHORE COVER

6.1 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. The provisions shall not apply to the removal of dead, diseased or dying trees or shrubbery at the discretion of the landowner, or to silvicultural thinning upon recommendation of a forester.

6.2 SHORELINE CUTTING Tree and shrubbery cutting in an area parallel to the ordinary highwater mark, and extending 35 feet inland from all points along the ordinary highwater mark, shall be limited in accordance with the following provisions:

6.21 Not more than 30 feet in any 100 feet, as measured along the ordinary highwater mark, may be clear cut to the depth of the 35 foot area.

6.22 Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

6.23 Removal of shore cover exceeding the specifications established in section 6.21 may be permitted by the zoning administrator when necessary to implement approved S.C.S. practices, such as sloping and seeding, rock chutes, and rip-rapping of streambanks.

6.24 In the area along the Black River from the Trempealeau Jackson County line downstream to State Trunk Highway 93, no more than 30 feet for every 200 feet of shoreline may be clear cut.

6.3 PATHS Any path, road or passage within the 35 foot area shall be constructed and surfaced so as to effectively control erosion.

6.4 CUTTING PLAN As an alternative to section 6.2, a special cutting plan allowing greater cutting may be permitted by the board of adjustment by issuance of a special exception permit, pursuant to section 10.4. An application for such a permit shall include a sketch of the parcel providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The board 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
- (b) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the board may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the property owner.

6.5 CUTTING MORE THAN 35 FEET INLAND From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

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

7.1 General Standards Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 7.2 may be permitted in the shoreland area provided that:

7.11 It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

7.12 Filling, grading, lagooning, dredging, ditching or excavating in shoreland-wetland district meets the requirements of sections 8.32 and 8.33 of this ordinance.

7.13 All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.

7.14 Any fill placed in the shoreland area is protected against erosion by the use of rip-rap, vegetative cover or a bulkhead.

7.2 PERMIT REQUIRED Except as provided in section 7.3, a special exception permit is required.

7.21 For any filling or grading of any area which is 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:

- (1) Any filling or grading on slopes of more than 20%.
- (2) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.

(3) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.

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

7.3 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE

7.31 Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under section 7.2 when designed and constructed to Soil Conservation Service technical standards.

7.32 The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:

(1) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under section 7.22 is obtained.

(2) Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.

(3) Ditch banks shall be maintained in a sod cover and free of woody vegetation.

(4) A 10 foot wide buffer strip or untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

7.4 PERMIT CONDITIONS. In granting a special exception permit under section 7.2, the board of adjustment shall attach the following conditions where appropriate, in addition to those provisions specified in section 10.42 and 10.43.

7.41 The smallest amount of bare ground shall be exposed for as short a time as feasible.

7.42 Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

7.43 Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.

7.44 Lagoons shall be constructed to avoid fish trap conditions.

7.45 Fill shall be stabilized according to accepted engineering standards.

7.46 Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

7.47 Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or rip-rap are provided.

8.0 SHORELAND-WETLAND DISTRICT

8.1 DESIGNATION This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of 5 acres or more, (excluding point symbols) and which are shown on the Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance. A portion of a wetland which is less than 5 acres in size, and which is located in the unincorporated shoreland area within the county, shall be included in the shoreland-wetland district where the wetland as a whole is 5 acres or larger but extends across the corporate limits of a municipality, across the county boundary or across the shoreland limits, so that the wetland is not regulated in its entirety by the county.

8.11 LOCATING SHORELAND-WETLAND BOUNDARIES. Where 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 district office of the Department to determine if the shoreland district boundary as mapped is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The zoning administrator shall initiate a map amendment to correct the discrepancy.

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

8.3 PERMITTED USES The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of ch. 30 and 31, Wis. Stats. and the provisions of other applicable local, state and federal laws:

8.31 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 as allowed under sections 8.32 or 8.33.

- (1) Hiking, fishing, trapping, hunting, swimming, and boating.
- (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
- (3) The pasturing of livestock;
- (4) The cultivation of agricultural crops;
- (5) The practice of silviculture, including the planting, thinning, and harvesting of timber; and

- (6) The construction or maintenance of temporary duck blinds.

8.32 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:

- (1) Temporary water level stabilization measures necessary to alleviate abnormal wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
- (2) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.
- (3) The maintenance and repair of existing agricultural drainage systems, including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural uses. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that the dredged spoil is placed on existing spoil banks where possible. Maintenance of existing agricultural drainage systems must meet the construction standards specified in section 7.32;
- (4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
- (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
- (6) 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.

8.33 Uses which require the issuance of a zoning permit under section 10.2 and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:•

- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation provided that:
 - (a) The road cannot as a practical matter be located outside the wetland;
 - (b) The road is designed and constructed to minimized adverse impact upon the natural functions of the wetland enumerated in section 8.52;
 - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (d) Road construction activities are carried out in the immediate area of the roadbed only.

- (2) The construction or maintenance of nonresidential buildings, provided that:
- (a) 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.
 - (b) The building cannot, as a practical matter, be located outside the wetland;
 - (c) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - (d) Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (3) 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:
- (a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;
 - (b) 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 section 8.33(1)(a)-(d) and;
 - (c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- (4) 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:
- (a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - (b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 8.52.

8.4 **PROHIBITED USES** Any use not listed in section 8.31, 8.32 or 8.33 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment

of this ordinance in accordance with section 8.5 of this ordinance and s. 59.97(5)(e), Wis. Stats.

8.5 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT

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

- (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
- (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
- (3) A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and
- (4) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

8.52 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:

- (1) Storm and flood water storage capacity;
- (2) 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;
- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Shoreline protection against soil erosion;
- (5) Fish spawning, breeding, nursery or feeding grounds;
- (6) Wildlife habitat; or
- (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types.

8.53 If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a

significant adverse impact upon any of the criteria listed in section 8.52 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

“This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board’s approval of this amendment is mailed to the Department of Natural Resources. During that 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 s. 59.971(6), Wis. Stats. If the Department does not notify the county board, the effect of this amendment shall be stayed until the s. 59.971(6) adoption procedure is completed or otherwise terminated.”

9.0 NONCONFORMING USES AND STRUCTURES

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

9.11 If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.

9.12 The maintenance and repair of nonconforming boathouses that extend waterward beyond the ordinary highwater mark of any navigable waters shall comply with the requirements of s. 30.121, Wis. Stats.

9.13 If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommended.

9.14 Uses which are nuisances shall not be permitted to continue as nonconforming uses.

9.15 No structural alteration, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure, over the life of the building or structure, shall exceed 50 percent of its current estimated fair market value unless it is permanently changed to conform to the requirements of this ordinance.

9.16 If the alteration, addition or repair of a building or structure with a nonconforming use or a nonconforming building or structure is prohibited because it is in excess of 50 percent of the current estimated fair market value, 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 county board of adjustment or the circuit court find in the property owner’s favor under ss. 59.99(4) or 59.99(10), Wis. Stats.

(3) The property owner successfully petitions to have the property rezoned by amendment to this ordinance in accordance with section 11.0 of this ordinance and s. 59.97(5) (e), Wis. Stats.

10.0 ADMINISTRATIVE PROVISIONS

10.1 ZONING ADMINISTRATOR The zoning administrator shall have the following duties and powers:

10.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.

10.12 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.

10.13 Keep records of all permits issued, inspections made, work approved and other official actions.

10.14 Submit copies of variances, special exceptions and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted or denied to the appropriate district office of the Department.

10.15 Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.

10.2 ZONING PERMITS

10.21 WHEN REQUIRED. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 8.31 and 8.32), a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 13.2(5), or any change in the use of an existing building or structure, is initiated.

10.22 APPLICATION. An application for a zoning permit 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.
- (2) Legal description of the property and type of proposed use.
- (3) A sketch of the dimensions of the lot and location of buildings relative to the lot lines, center line of abutting highways and the ordinary highwater mark of any abutting watercourses and water level on a date specified.
- (4) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

10.23 EXPIRATION OF PERMIT. Zoning permits shall expire 12 months from date issued if no substantial work has commenced.

10.3 CERTIFICATES OF COMPLIANCE

10.31 No land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied, until a certificate of compliance is issued by the zoning administrator.

- (1) The certificate of compliance shall certify that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- (2) Application for such certificate shall be concurrent with the application for a zoning permit.
- (3) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.

10.32 The zoning administrator may issued temporary certificate of compliance for part of a building, pursuant to rules and regulations established by the county board.

10.33 Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.

10.4 SPECIAL EXCEPTION PERMITS

10.41 APPLICATION FOR A SPECIAL EXCEPTION PERMIT. Any use listed as a special exception in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a special exception permit has been granted by the board of adjustment.

10.42 STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS. In passing upon a special exception permit, the board of adjustment shall evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.

- (4) The erosion potential of the site based upon degree and direction of slope, soil type and vegetation cover.
- (5) The location of the site with respect to existing or future access roads.
- (6) The need of the proposed use for a shoreland location.
- (7) Its compatibility with uses on adjacent land.
- (8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
- (9) Location factors under which:
 - (a) Domestic uses shall be generally preferred;
 - (b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

10.43 CONDITIONS ATTACHED TO SPECIAL EXCEPTIONS. Upon consideration of the factors listed above, the board of adjustment shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Such 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; and type of construction. To secure information upon which to base its determination, the board of adjustment 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 highwater 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 the proposed use meets the requirements of this ordinance.

10.44 NOTICE PUBLIC HEARING AND DECISION. Before passing upon an application for a special exception permit, the board of adjustment shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come

before the board, shall be given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be mailed to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall state in writing the grounds for granting or refusing a special exception permit.

10.45 **RECORDING.** When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a special permit shall, be mailed to the appropriate district office of the Department within 10 days after it is granted or denied.

10.46 **REVOCATION.** Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the board of adjustment.

10.5 **VARIANCES** The board of adjustment may grant upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that literal enforcement of the provisions of the ordinance will:

- (1) Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
- (2) The hardship is due to special conditions unique to the property; and
- (3) Such variance is not contrary to the public interest.

10.51 **NO USE VARIANCE.** A variance shall not grant or increase use of property which is prohibited in the zoning district.

10.52 **NOTICE, HEARING AND DECISION.** Before passing on 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 ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department district office within 10 days of the decision.

10.6 **BOARD OF ADJUSTMENT** The chairman of the county board shall appoint a board of adjustment consisting of 5 members under s. 59.99, Wis. Stats. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by s. 59.99(3), Wis. Stats.

10.61 **POWERS AND DUTIES.**

- (1) The board of adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.99, Wis. Stats.
- (2) It shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of the ordinance.

(3) It shall hear and decide applications for special exception permits pursuant to section 10.4.

(4) It may grant a variance from the dimensional standards of this ordinance pursuant to section 10.5.

10.62 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.

10.63 HEARING APPEALS AND APPLICATIONS FOR VARIANCES AND SPECIAL EXCEPTION PERMITS.

(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 publishing a Class 2 notice under ch. 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 district office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.

(2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 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 lack of jurisdiction or prosecution or grant the application.

(4) At the public hearing, any party may appear in person or by agent or by attorney.

10.7 FEES General. The county board may, by resolution, adopt fees for the following:

- (1) Land use permits.
- (2) Building permits.
- (3) Certificates of compliance.
- (4) Planned Residential Unit Development reviews.

- (5) Public hearings.
- (6) Legal notice publications.
- (7) Special exception permits.

11.0 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 ordinance in accordance with the requirements of s. 59.97(5)(e), Wis. Stats., ch. NR 115, Wis. Adm. Code and section 8.5 of this ordinance where applicable.

11.1 Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.97(5) (e), Wis. Stats.

11.2 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 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 10 days prior to the hearing.

11.3 A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within 10 days after the decision is issued.

12.0 ENFORCEMENT AND PENALTIES Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. 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 ordinance shall be subject to a forfeiture of not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.97(11), Wis. Stats.

13.0 DEFINITIONS

13.1 For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows:

Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

13.2 The following terms used in this ordinance mean:

- (1) “Accessory structure or use” means a detached subordinate structure or a use 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.
- (2) “Bluffline” means a line along the top of a slope, connecting the points at which the slope, proceeding away from the river becomes less than 20%.
- (3) “Boathouse” means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.
- (4) “County zoning agency” means that committee or commission created or designated by the county board under s 59.97(2) (a), Wis. Stats., to act in all matters pertaining to county planning and zoning.
- (5) “Department” means the Department of Natural Resources.
- (6) “Development” means 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 substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.
- (7) “Drainage System” means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (8) “Floodplain” means the land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.
- (9) “Navigable waters” means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.971, Wis. Stats., and ch. NR 115, Wis. Adm. Code, do not apply to land adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river.
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (c) Such lands are maintained in nonstructural agricultural use.
- (10) “Ordinary highwater mark” means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

- (11) “Regional Flood” means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
- (12) “Shorelands” means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever is greater.
- (13) “Shoreland-wetland district” means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.
- (14) “Special exception (conditional use)” means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.
- (15) “Unnecessary hardship” means that circumstances where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
- (16) “Variance” means 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 ordinance.
- (17) “Wetlands” means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.