

Florence County

Shoreland Zoning Ordinance



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**CHAPTER 10 SUBCHAPTER 2
CODE OF ORDINANCES OF THE COUNTY OF FLORENCE,
WISCONSIN
SHORELAND AND WETLAND ORDINANCE**

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Assistance Provided By:

Bay-Lake Regional Planning Commission

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

1.01 STATUTORY AUTHORIZATION

This ordinance is adopted under the authority of s.59.692, Wis. Stats. in order to satisfy the requirements of s 59.692 and s.87.30, Wis. Stats., and to implement pursuant to the authorization in ss. 59.69, 59.694, 281.31, and 236.45, Wis. Stats.

1.02 FINDING OF FACT

Uncontrolled use of the shorelands and pollution of the navigable waters of Florence 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 Florence County, Wisconsin.

1.03 PURPOSE

For the purpose of promoting the public health, safety, convenience and welfare, this ordinance 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) Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to aquatic life habit.

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.

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) Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to natural beauty and shore cover.

1.04 TITLE

Shoreland and Wetland Zoning Ordinance for Florence County, Wisconsin.

1.05 FLORENCE COUNTY COMPREHENSIVE ZONING ORDINANCE

Except as otherwise noted in this ordinance, the Florence County Comprehensive Zoning Ordinance provisions shall apply to the shoreland area and in the instance of conflicting requirements, the more restrictive of the conflicting requirements shall apply.

2.00 GENERAL PROVISIONS

2.01 AREAS TO BE REGULATED

Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Florence County which are:

- A. Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Florence County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Florence County" or are shown on United States Geological Survey quadrangle maps or other zoning base maps.
- B. Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Florence 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.
- C. Determinations of navigability and ordinary highwater mark location shall initially be made by the planning and zoning administrator. When questions arise, the planning and zoning administrator shall contact the appropriate regional office of the Department for a final determination of navigability or ordinary highwater mark.
- D. Under s.281.31(2m), 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:
 - (1) Such lands are not adjacent to a natural navigable stream or river;
 - (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

(3) Such lands are maintained in nonstructural agricultural use.

2.02 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 planning and zoning administrator for Florence County.

- A. United States Geological Survey Quadrangle Maps for Florence County dated September 1974.
- B. Wisconsin Wetland Inventory maps stamped "FINAL" on Jan. 15, 1986.
- C. Floodplain zoning maps identified as Florence County Flood Boundary and Flood Way Maps dated May 1, 1978.

2.03 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 12.00 standards applicable to nonconforming uses and structures.) 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.

2.04 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.

2.05 ABROGATION AND GREATER RESTRICTIONS

The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under s59.69, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than. 59.69, 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.

- A. This ordinance 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 ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- C. 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 shall prevail.
- D. The provisions of the Florence County Zoning, Sanitation and Health & Safety Ordinances are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

2.06 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally constructed 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 to this ordinance.

2.07 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.

3.00 LAND DIVISION REVIEW AND SANITARY REGULATIONS

3.01 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.

3.02 LIMITED REZONING TO ACHIEVE REDUCED LOT SIZES AND SETBACKS

A. 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 18.00 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.

B. 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 5 acres in size.
- (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 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 150% of 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 4.00 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 statutes or Comm 85, 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. The removal of shore cover provisions in Section 8.0 shall apply...

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 3.02.B, shall be submitted to the county clerk with sufficient copies to provide for distribution by the clerk as required by Section 3.02.C.
- (2) Review and Hearing: The petition shall be submitted to the county zoning agency established as required by s. 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 regional office of the Department as described in Section 16.00.B of this ordinance.

- (3) 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.
- (4) 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 3.02.B. 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 3.02.B. 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.
- (5) Planning Studies. A landowner or petitioner may at their own expense develop the facts required to establish compliance with the provisions of Section 3.02.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.

3.03 SANITARY REGULATIONS AND HEALTH & SAFETY ORDINANCES

For the preservation and enhancement or water quality refer to the Florence County Sanitary and Health and Safety Ordinances when they are more restrictive than this ordinance.

- A. Where public water supply systems are not available, private well construction shall be required to conform to ch. NR812, 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 a private sewage system ordinance adopted by the county under s.59.70(5), Wis. Stats.

3.04 BACK LOTS

All private lake accesses providing access to more than two dwelling units on back lots which do not front directly on the water shall meet the following requirements.

- A. Shall require a conditional use permit
- B. The access shall meet the minimum lot requirements contained in Section 4.00 of this Ordinance. However, in no circumstance shall the lot width be less than 100 feet at the ordinary high water mark.

- C. No structures are permitted
- D. A vegetation protection area shall be restored or maintained as specified in Section 8.02 of this Ordinance.
- E. There shall be a maximum of three residential units served by each access lot.
- F. The back lots having access to the water over the access lot must be situated so that they are contiguous to each other, excepting roadways and their furthest point must be no more than 1000 feet from the nearest lot line of the access lot.
- G. There shall be a 25-foot vegetative buffer strip along all side lot lines.
- H. The owner of the access lot shall show evidence that the proposed access lot is subject to enforceable deed restrictions, which restrictions shall:
 - (1) Recite in reasonable detail the specific purpose and use of said access lot if the conditional use is granted.
 - (2) List the number of existing and potential back lot dwellings whose owners or tenants are to use the access lots.
 - (3) State the violation of the deed restrictions shall subject the owner of the access lot to revocation of the conditional use permit and/ or penalties set forth in this Ordinance.
- I. Conditions that shall be required for an access lot shall include and are not limited to waste containment, sanitary facility, noise limits, screening, parking, parking controls, there shall be no parking within 75 feet of the ordinary high water mark, time requirements, lighting and identification of sites, fish cleaning, gasoline and oil handling and disposition of all waste materials. Any conditional use permit shall include approval as per Chapter 30 of the Wisconsin Statutes and NR 326.

4.00 DIMENSIONS OF BUILDING SITES

All development shall meet the dimensional requirement in the following table: Table 1 of Dimensional Requirement

Table 1: Dimensions of Building Sites

Use	Minimum Lot Size for Each Main Building					Yard Requirements ^{3,4, 11}							
						Setback OHWM ⁵				Side Yard			
	Total Area (sq. ft.) ¹	Width at building line (feet)	Width, Average (feet)	Width, Public access (feet) ²	Width at OHWM (feet)	Principal Use (feet)	Accessory Use (feet)	Vegetation Protection Area ⁶ (feet)	POWTS ⁷ (feet)	Lots not abutting Navigable Water Principal Use (feet) ¹⁰	Lots abutting Navigable Water Principal Use (feet)	Lots not abutting Navigable Water Accessory Use (feet) ¹⁰	Lots abutting Navigable Water Accessory Use (feet)
Lots Not Served By Public Sewer													
Multi-Family for each main building	1 acre plus 10,000 sq.ft. for each additional unit over 2 units	150	150	30	150 plus 15' for each additional unit (over 2 units)	75	75	35	75 plus 25' for each additional unit (over 2 units)		10 on side; 25 combined		5
All Other Uses Not Otherwise Specified	1 acre	150	150	30	150	75	75	35	50		10 on side; 25 combined		5
Business, Commercial, Manufacturing, Public, Semi Public	1 acre	150	150	30	75	75	75	35	75		10 on side; 25 combined		5
Laundries, Laundromats ⁸	1 acre	150	150	30	150	75	75	35	300 ³		10 on side; 25 combined		5
All Uses open to the public serving food or drink. ⁸	1 acre	150	150	30	100	75	75	35	75		10 on side; 25 combined		5
All uses employing more than 50 persons on the premises or with a capacity of more than 50 persons open to the public serving food or drink. ⁸	1 acre	150	150	30	150	75	75	35	300 ³		10 on side; 25 combined		5
Motels and Resorts ⁸	1 acre	150	150	30	150	75	75	35	300 ³		10 on side; 25 combined		5
One and Two Family Residence	1 acre	100	100	30	100	75	75	35	100		10 on side; 25 combined		5
Lots Served by Public Sewer													
All Other Uses Not Otherwise Specified	10,000	65	65	30	65	75	75	75	na		8 on a side, 20 combined		4
OW Wild Rivers Zone													
Single Family Residence	3 acres	300	300	30	300	100	100	100	100		100		100

Notes

- ¹ In square feet unless otherwise noted
- ² Lot with at public street or approved private street in a cluster subdivisions.
- ³ See Section 5.07 for additional setbacks for businesses, commercial and manufacturing structures served by POWTS.
- ⁴ See Sections 5.03 through 5.06 for additional setback requirements from OHWM for Bathhouses, Livestock Housing, Sawdust, Dumping and Disposal.
- ⁵ OHWM-Ordinary High Water Mark
- ⁶ See Section 8.02
- ⁷ POWTS- Private on site waste water treatment system
- ⁸ POWTS Must be setback 100 feet from any residential property line. See Section 5.08
- ⁹ Reserved
- ¹⁰ Most restrictive of this Ordinance and the Florence County Zoning Ordinance
- ¹¹ All lots must comply with setbacks from highways provisions of Florence County Zoning Ordinance

4.01 LOTS NOT SERVED BY PUBLIC SANITARY SEWER

A. MINIMUM AREA AND WIDTH FOR EACH MAIN BUILDING

The minimum lot area, the minimum average lot width, and minimum width at the OHWM shall be as shown in Table 1.

B. SIDE YARDS

There shall be a side yard for each main building and for accessory structures excluding fences as shown in Table 1.

4.02 LOTS NOT SERVED BY PUBLIC SEWERAGE SYSTEM

The Minimum standards shown in Table 1 shall apply.

4.03 LOTS SERVED BY PUBLIC SANITARY SEWER

A. MINIMUM AREA AND WIDTH FOR EACH MAIN BUILDING

The minimum lot area, the minimum average lot width, and minimum width at the OHWM shall be as shown in Table 1.

B. 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. There shall be a side yard for each main building and for accessory structures excluding fences as shown in Table 1.

4.04 SUBSTANDARD LOTS

A. 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 planning and 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 the initial county shoreland ordinance, December 15, 1967
- (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 4.01 and 4.02 of this ordinance.

- (4) All other dimensional requirements of this ordinance (including side yard and setback) will be complied with.

B. SUBSTANDARD LOTS NOT SERVED BY PUBLIC SANITARY SEWER

A substandard lot not served by public sanitary 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 planning and zoning administrator if it meets all of the requirements of Section 4.04.A (1)-(4) of this ordinance.

C. OTHER SUBSTANDARD LOTS

Except for lots which meet the requirements of Sections 4.04.A or B, a building permit for the improvement of a lot having lesser dimensions than those stated in Sections 4.01 and 4.02 shall be issued only after granting of a variance by the board of adjustment.

4.05 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 3.02 of this ordinance.

4.06 (RESERVED)

5.00 SETBACKS FROM THE WATER

5.01 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 in accordance with the provision of Section 4.00. All distances, unless otherwise specified, should be measured horizontally. The measurement shall be taken from the ordinary high water mark to the closest point of the building or structure, including decks, overhangs, eaves or landings.

5.02 REDUCED BUILDING SETBACKS

A setback of less than that required by Section 5.01 may be permitted by the planning and zoning administrator, subject to a site plan prepared under Section 12.09 and implementation schedule that is approved by the planning and zoning administrator, where there is at least one main building on either side of the applicant's lot, 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 only be permitted by the granting of a variance by the board of adjustment pursuant to Section 14.05 of this ordinance.

5.03 BOATHOUSES

- A. Boathouses shall be designed and constructed solely for the storage of boats and related equipment and shall not be used for human habitation.
- B. Boathouses shall not be placed waterward beyond the ordinary highwater mark or more than 6 feet to the landward side of the ordinary highwater mark.
- C. One boathouse is permitted on a lot as an accessory structure.
- D. Boathouses shall not be constructed where the existing slope is more than 20%.
- E. Boathouses shall not exceed one story and 400 square feet in floor area.

5.04 LIVESTOCK HOUSING

Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located, designed and constructed as to prevent animal waste from entering the water courses, waterways or other navigable waters located not less than 100 feet from navigable waters.

5.05 SAWDUST

The depositing or burning of sawdust is prohibited within 300 feet of navigable waters. All areas for burning of sawdust shall be surrounded by an unobstructed plowed fire break 16 feet wide.

5.06 DUMPING AND DISPOSAL

The dumping or disposal of any fluid or viscous materials that are toxic, or in any manner would create a health hazard or a nuisance including the surface irrigation, lagooning or burial of sewage or other similar waste effluents or materials, is prohibited within 300 feet of a navigable waters and/or within the natural resource preservation zone. This provision does not include the spreading of fertilizer or the proper application of farm chemicals.

5.07 LOCATIONS OF STRUCTURES

Unless otherwise specified, all business, commercial and manufacturing structures not connected to a public sewage system shall be located at least:

- A. 100 feet from a residence other than that of the owner, their agent or employee.
- B. 75 feet from an existing residential property line or the boundary of any residential zoned district.
- C. 20 feet from any other property line.

5.08 LOCATION OF PRIVATE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

Unless otherwise specified, private sewage treatment and disposal systems for the following uses shall be located not less than 300 feet from navigable water and 100 feet from any residential property line:

- A. All uses open to the public serving food or drink.
- B. All uses employing more than 50 persons on the premises or with a capacity of more than 50 persons.
- C. Laundries
- D. Laundromat
- E. Motels
- F. Resorts

5.09 STAIRS, WALKWAYS, AND LIFTS

The Zoning Administrator may permit a stairway, walkway or lift in the shoreland setback area only when it is essential to provide pedestrian access to a pier, boat hoist or boathouse because of steep slopes, rocky or wet, unstable soils, and when the following conditions are met:

- A. There are no other locations or facilities on the property which allow adequate access to a pier, boat hoist or boathouse. Only one stairway or one lift is allowed, not both, except where there is an existing stairway and the lift will be mounted to or is immediately

adjacent to the existing stairway.

- B. Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas.
- C. Vegetation which stabilizes slopes or screens structural development from view shall not be removed.
- D. Reserved
- E. Canopies, roofs and sides are prohibited. Open railings may be provided where required for safety.
- F. A maximum width of four (4) feet (outside dimensions) is allowed for stairways, walkways and lifts.
- G. Landings are allowed where required for safety purposes and shall not exceed 40 square feet. Attached benches, seats, tables, etc. are prohibited.
- H. Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavations that is proposed must meet the requirements of Section 9.00 of this ordinance.

5.10 ACCOMMODATIONS FOR DISABLED PERSONS

Where strict interpretation of this ordinance would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance under Section 14.00 of this ordinance, the Planning and Zoning Committee may grant a Conditional Use Permit to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Fair Housing Act or the Wisconsin Fair Housing Act. The permit shall be subject to the following conditions:

- A. Only the minimum relaxation of dimensional, density or other standards needed to provide reasonable accommodation shall be approved.
- B. No use, structure or other relaxation of standards shall be approved that would violate or undermine the stated purposes of this ordinance.

5.11 CONSTRUCTION OR PLACEMENT OF A STRUCTURE IN A SHORELAND SETBACK AREA

The Planning and Zoning Committee shall by a conditional use permit grant permission for the construction or placement of a structure on a property in a shoreland setback area if all of the following apply:

- A. The part of the structure that is nearest to the water is located at least 35 feet from the ordinary highwater mark.
- B. The total floor area of all structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boat houses shall be excluded.
- C. The structure that is subject to the request for a conditional use permit has no sides or has open or screened sides.
- D. The county must approve a plan that will be implemented by the property owner to preserve a vegetative buffer zone that covers 70% of the half of the shoreland setback that is nearest to the water.

6.00 BUILDING ELEVATION

All structures intended for human habitation or occupancy shall have the lowest inhabitable floor constructed not less than two feet above the ordinary high watermark.

7.00 STORAGE

Storage within the shoreland area shall meet the following and when applicable the requirements of the Florence County Flood Plain ordinance.

7.01 ACCESSORY USE

All storage facilities shall be permitted only as an accessory use.

7.02 GRADE

Storage facilities shall not be less than two feet above the ordinary high water mark except underground tanks.

7.03 BULK MATERIALS

Bulk Materials, such as coal, sand, gravel, limestone or similar materials subject to erosion, shall be enclosed on three sides by a retaining wall in such a manner as to prevent erosion and it shall be drained away from navigable waters.

7.04 INDOOR STORAGE

Petroleum products, chemicals and chemical compounds, packages in paper, cardboard, glass or metal which do not require outdoor storage; plaster, lime and cement or similar products packaged in paper or cardboard containers shall be stored in an enclosed building when located within 300 feet of navigable waters.

7.05 OUTDOOR STORAGE

- A. Petroleum products, chemicals, chemical compounds and inflammables packaged in any type of container or delivered in bulk which may not be stored indoors by reason of fire codes, insurance or bulk, when stored above ground must have protective containment measures installed to prevent any spillage or leakage of the materials from entering any body of water or watercourse; or must be stored in an underground tank.
- B. In the interest of the public health, safety and general welfare and specifically for fire protection, outside bulk storage above ground of all volatile and highly flammable petroleum products in excess of ten gallons shall be kept locked by the owner and stored not less than 100 feet from any dwelling.

8.00 REMOVAL OF SHORE COVER

8.01 PURPOSE

The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, protect aquatic and shoreline habitat control erosion and reduce effluent and nutrient flow from the shoreland.

8.02 VEGETATION PROTECTION AREA

On each lot, in an area bounded by the ordinary high-water mark, and a line 35 feet from the ordinary highwater mark, land disturbing activities and vegetation removal (trees, shrubbery, undergrowth, and other ground cover) are prohibited with these exceptions.

- A. Boathouses (see Section 5.03) pier and wharf construction.
- B. Stairs and walkways providing pedestrian access (see Section 5.09) to the shoreline.
- C. Shoreline protection authorized by a state permit and erosion control measures designed to remedy significant, existing erosion control problems.
- D. Removal of dead, diseased, or dying trees which are a safety hazard and, where removed, such vegetation shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
- E. Path, road, or passage that meet the requirements of Section 8.03
- F. Accommodations for the disabled that meet the requirements of Section 5.10.

8.03 PATHS

Any path, road or passage within the vegetation protection area described in Section 8.02 shall be constructed and surfaced so as to effectively control erosion. If vegetation is completely removed from any portion of a path, road or passage in the vegetation protection area, that portion may not exceed 30 feet in width for any 100 feet of water frontage or any lot, whichever is most restrictive.

8.04 CUTTING PLAN

As an alternative to Section 8.02, a special cutting plan allowing greater cutting may be permitted by the planning and zoning committee by issuance of a Conditional Use permit, pursuant to Section 13.03. 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 committee 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 that guarantees the performance of the planned tree or shrubbery replacement by the lot owner.
- C. Cutting practices shall follow the practices in the Forestry Best Management Practices for Water Quality Field Manual. (The Forestry Best Management Practices for Water Quality Field Manual is available from the Wisconsin Department of Natural Resources and is found on the internet at http://www.dnr.state.wi.us/org/land/forestry/uses_of/bmp/bmptoc.htm.)

8.05 CUTTING INLAND OF THE VEGETATION PROTECTION AREA

From the inland edge of the vegetation protection 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 that protect water quality.

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

9.01 GENERAL STANDARDS

Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under Section 9.02 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 Sections 10.04.A and 10.04.B of this ordinance.
- C. All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- D. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

9.02 PERMIT REQUIRED

Except as provided in Section 9.03, a Conditional Use permit is required:

- A. For any filling or grading of any area which is within 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%.
- B. 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.

9.03 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE

- A. Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under Section 9.02 when designed and constructed to Natural Resources. Conservation Service technical standards.
- B. 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 Conditional Use permit under Section 13.03 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 of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

9.04 PERMIT CONDITIONS

In granting a Conditional Use permit under Section 9.02, the Planning and Zoning Committee shall attach the following conditions, where appropriate, in addition to those provisions specified in Sections 13.03.B and 13.03.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 floodway or destroy the flood storage capacity of a floodplain.
- G. 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 riprap are provided.

10.00 SHORELAND-WETLAND DISTRICT

10.01 DESIGNATION

This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of 2 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 2 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 2 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. This district shall include a 20-foot buffer zone from all wetlands regulated by this ordinance.

10.02 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 planning and zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the planning and zoning administrator that a particular area was incorrectly mapped either as a wetland or non-wetland, the planning and 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 planning and zoning administrator shall initiate a map amendment to correct the discrepancy.

10.03 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 whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland. Wetlands are seldom suitable as building sites for the following reasons:

- A. Septic tanks systems will not function because of high groundwater;
- B. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed by the soil;
- C. Foundations and road crack due to poor support capabilities and frost action;
- D. Flooding is common in spring and other times of high water.

10.04 PERMITTED USES

The following uses shall be allowed, subject to general shoreland zoning regulations contained in

this ordinance, the provisions of chs. 30 and 31, Wis. Stats. and the provisions of other applicable local, state and federal laws:

- A. 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 Sections 10.04.B and 10.04.C.
 - (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 duck blinds.

- B. 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 abnormally 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 use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
 - (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.

- C. Uses which require the issuance of a zoning permit under Section 13.03 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 minimize adverse impact upon the natural functions of the wetland enumerated in Section 10.06.B;
 - (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 10.04.C(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 10.06.B..

10.05 PROHIBITED USES

Any use not listed in Sections 10.04.A, B, or C is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 16.00 of this ordinance and s. 59.69(5)(e), Wis. Stats.

10.06 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT

- A. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate regional 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.

- B. 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.

C. 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 10.06.B 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. 692(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59. 692(6) adoption procedure is completed or otherwise terminated."

11.00 0-W WILD RIVERS ZONE

11.01 PURPOSE

This zone provides for the orderly and progressive re-establishment and maintenance of free flowing, relatively unpolluted, primarily primitive, generally inaccessible and esthetically attractive Wild Rivers in congruence with Wisconsin Statute 30.26.

11.02 ZONE AREA

This Zone embraces all land within four hundred (300) feet of the water area or to the visible horizon from water whichever is greater on either side of the river.

11.03 LOT SIZE REGULATIONS:

Minimum Area: 3 Acres

Minimum Width: 300 Feet.

11.04 HEIGHT REGULATIONS

No structure shall exceed 25 feet in height.

11.05 YARD AND SETBACK REGULATIONS

Minimum front yard: 100 feet

Minimum side yard: 100 feet

Minimum rear yard: 100 feet

Minimum water setback: 100 feet

11.06 PERMITTED USES

- A. Forestry practices that retain, preserve and continue a minimum of ninety square feet basal area vegetation growing stock within 100 feet of the river.
- B. Single family residence if rustic in design, unobtrusive in body and trim coloration, and at least 75% screened by vegetation as seen from the water during summer months and no poles to be allowed within the designated area as in Section 11.02.

11.07 CONDITIONAL USES, BRIDGES AND ROADS NECESSARY FOR PUBLIC HIGHWAY PURPOSES

- A. Access roads necessary during the conduct of any permitted use.
- B. Overnight camping facilities necessary to maintain sanitary and safe conditions along the river.
- C. Control of serious stream bank erosion.

12.00 NONCONFORMING USES AND STRUCTURES

12.01 NONCONFORMING USES AND STRUCTURES

- A. **BUILDING REPAIR:** Provisions of this ordinance shall not be construed to prevent the customary and necessary maintenance or repairs of nonconforming buildings, utilities, or other nonconforming structures..
- B. **CONTINUATION OF NONCONFORMING USE:** Any nonconforming building, or other nonconforming structure or nonconforming use which existed lawfully at the time of the adoption of the ordinance and which remains nonconforming and any building, structure or use which shall become nonconforming upon the adoption of this ordinance or of any subsequent amendment thereto may be continued as provided in this Section. .

12.02 NONCONFORMING STRUCTURE, EXCEPT FOR SHORELINE SETBACK NONCONFORMITIES

- A. **LIMITATIONS:** No nonconforming structure shall be expanded or enlarged in excess of 50 percent of its current fair market value except in conformity with the regulation of this ordinance.
- B. **REPAIR:** When such nonconforming structure is damaged to the extent of more than 50 percent of its fair market value, it shall not be restored except in conformity with the regulations of the District in which it is located, unless Section 12.05 applies.
- C. **RELOCATION:** Should a nonconforming structure be moved, it shall thereafter conform to the regulations of the District to which it is moved.
- D. **LOT LINES:** The size and shape of a lot shall not be altered in any way so as to increase the degree of nonconformity of a building or use.
- E. 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.

12.03 SHORELINE SET BACK NONCONFORMITIES

- A. Principle Structure 0 to 35 feet from Ordinary High Water Mark.
 - (1) A principle structure which is nonconforming as to shoreline setback and which is located within 35 feet of the ordinary highwater mark may be improved internally without limitation, provided that the improvements take place within the existing footprint of the structure and that the improvements do not include new basements or stories. Replacement of roofing, siding, and windows, etc., and upgrading of insulation are permitted.

- (2) A plan meeting the requirements of Section 12.09 to mitigate the adverse effects of the nonconformity shall be developed and submitted prior to the improvement. The plan shall be approved by the planning and zoning administrator prior to the issuance of a zoning permit.

B. Principle Structure more than 35 feet from Ordinary High Water Mark

- (1) A principle structure which is nonconforming as to shoreline setback and which is located more than 35 feet of the ordinary highwater mark may be improved provided that the total footprint of the existing structure and any new additions do not exceed 1,500 square feet, and that any new additions are located in the landward side of the structure.
- (2) A plan meeting the requirements of Section 12.09 to mitigate the adverse effects of the nonconformity shall be developed and submitted prior to the improvement. The plan shall be approved by the planning and zoning administrator prior to the issuance of a zoning permit.

12.04 NONCONFORMING USE OF STRUCTURE

- A. **LIMITATIONS:** No nonconforming use shall be expanded or enlarged. No use shall be expanded within a structure which, as of the effective date of this ordinance, or amendment, was only partially designed for or devoted to carrying on such use.
- B. **DISCONTINUANCE:** If a nonconforming use is discontinued for 12 consecutive months or longer, any future use of the structure shall conform to the regulations of the District in which it is located.
- C. **TERMINATION:** If the building in which a nonconforming use is carried on is damaged to the extent of more than 50 percent of its current fair market value, it shall not be restored for use except in conformity with the regulations of the District in which it is located.

12.05 NONCONFORMING USE OF LAND

- A. **LIMITATIONS:** No nonconforming use of land shall be expanded or enlarged.
- B. **DISCONTINUANCE:** If any nonconforming use of land is discontinued for 12 consecutive months or longer, any further use of the land shall conform to the regulations of the District in which it is located unless otherwise specifically stated.

12.06 NONCONFORMING STRUCTURES DAMAGED OR DESTROYED BY VIOLENT WIND, FIRE, FLOOD, OR VANDALISM

As required by s. 59.692(1s), Wis. Stats., if a landowner can establish that a nonconforming structure has been destroyed or damaged after October 14, 1997 by violent wind, vandalism, fire or flood, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions.

- A. A structure that is destroyed or damaged due to a deliberate act by the landowner or by their or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this ordinance.
- B. Except as provided in s. 87.30(1d), Wis. Stats., nonconforming buildings that are subject to regulation under a floodplain zoning ordinance may not be reconstructed or repaired except in compliance with the floodplain zoning ordinance.
- C. A plan to mitigate the adverse effects of nonconformity shall be developed and submitted prior to repair or reconstruction of any destroyed or damaged nonconforming structure. The plan shall be approved by the planning and zoning administrator prior to the issuance of a zoning permit. The plan shall comply with the requirements in Section 12.09.
- D. The Landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged nonconforming structure had immediately before the destruction or damaged occurred.
- E. Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire or flood, and only that portion of the nonconforming structure that has been destroyed may be reconstructed.

12.07 BURDEN OF PROOF

Any property owner asserting a defense to a charge of violating this ordinance that the property was a valid nonconforming use has the burden of demonstrating to a reasonable certainty by the greater weight of credible evidence that:

- A. The nonconforming use was legally in existence at the time the ordinance was passed or amended, and
- B. That the use of the property prior to the ordinance was so active and actual that it can be said the property owner acquired a vested interest in its continuance. For purposes of this ordinance, a property owner shall be deemed to have a vested right in the use of the property where that use at the time of the effective date of this ordinance or amendment thereto is both active and actual (not just contemplated) and a substantial degree of activity or expense had been undertaken prior to the effective date of this ordinance or amendment thereto.
- C. Reserved.
- D. That the use is substantially the same use that existed prior to the enactment of the ordinance or amendment thereto.

12.08 CHANGES AND SUBSTITUTIONS

Once a non-conforming use has been changed to a conforming use or a nonconforming structure has been altered so as to comply with the yard, height, parking, loading, and access provision of this ordinance, it shall not revert back to a non-conforming use or nonconforming structure. Once the Board of Adjustment has permitted the substitution of a more restrictive non-

conforming use for the existing non-conforming use, the prior existing use shall lose its status as a legal non-conforming use and the substituted use shall become subject to all the conditions required by the Board.

12.09 SITE PLAN

The site plan requirements are as contained in Section 10.00 of the Florence County Zoning Ordinance and are adopted as part of this Ordinance as if fully included herein. In addition, the following requirements shall apply:

- A. The nonconforming structure's sanitary system, if any, shall be brought up to current standards for new construction.
- B. A thirty-five foot buffer area of native vegetation shall be planted or restored to the extent possible. To the extent possible, such buffer shall comply with current Wisconsin Forestry Best Management Practices for Water Quality Field Manual, and shall provide effective, permanent erosion and sediment control. (The Forestry Best Management Practices for Water Quality Field Manual is available from the Wisconsin Department of Natural Resources and is found on the internet at http://www.dnr.state.wi.us/org/land/forestry/uses_of/bmp/bmptoc.htm.)
- C. Stormwater and runoff shall be controlled in compliance with the current version of The Wisconsin Stormwater Manual. (The Wisconsin Stormwater Manual is available from the University of Wisconsin-Extension, 630 W. Mifflin Street, Room 170, Madison, WI 53707; telephone: (608) 262-3346 or toll-free: (877) 947-7827.)
- D. Implementation schedule
- E. Any grading, filling or dredging associated with reconstruction or repair must comply with Section 9.00 of the Shoreland Zoning Ordinance for Florence County Wisconsin. Excess fill, rock or materials associated with reconstruction or repair shall be removed from the site and may not be deposited within the building setback required by Section 4.00 of the Shoreland Zoning Ordinance for Florence County Wisconsin.
- F. Any construction activities, including mitigation activities required by this Section, shall comply with all applicable standards of the current version of the Wisconsin Construction Site Best Management Practice Handbook. (The Wisconsin Construction Site Best Management Practice Handbook is available from Document Sales, Department of Administration, 202 S. Thorton Avenue, P.O. Box 7840, Madison, WI 53707-7840; telephone: (608) 266-3358 or toll-free: (800)362-7253.)

12.10 NONCONFORMING LOTS

See Section 4.04 SUBSTANDARD LOTS

13.00 ADMINISTRATIVE PROVISIONS

13.01 PLANNING AND ZONING ADMINISTRATOR

The planning and zoning administrator shall have the following duties and powers:

- A. Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- B. Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- C. Keep records of all permits issued, inspections made, work approved and other official actions.
- D. Provide copies of variances, conditional uses 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 regional office of the Department.
- E. Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.

13.02 ZONING PERMITS

- A. **WHEN REQUIRED.** Except where another Section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the planning and zoning administrator before any new development, as defined in Section 18.00, or any change in the use of an existing building or structure, is initiated.
- B. **APPLICATION.** An application for a zoning permit shall be made to the planning and 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.
 - (5) Location of existing vegetation, date of construction of each structure on the lot, location and type of materials of any, deck, patios, driveways or parking areas.

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

13.03 CONDITIONAL USE PERMITS

A. APPLICATION FOR A CONDITIONAL USE PERMIT. Any use listed as a Conditional Use in this ordinance shall be permitted only after an application has been submitted to the planning and zoning administrator and a Conditional Use permit has been granted by the Planning and Zoning Committee.

B. STANDARDS APPLICABLE TO ALL CONDITIONAL USES. In passing upon a Conditional Use permit, the Planning and Zoning Committee 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 vegetative 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.

C. CONDITIONS ATTACHED TO CONDITIONAL USES. Upon consideration of the factors listed above, the Planning and Zoning Committee 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 Planning and Zoning Committee 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 if the proposed use meets the requirements of this ordinance.

D. NOTICE, PUBLIC HEARING AND DECISION. Before passing upon an application for a Conditional Use permit, the Planning and Zoning Committee 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 provided to the appropriate regional 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 conditional use permit.

E. RECORDING. When a conditional use 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, conditional use and property so described. A copy of any decision on a permit shall be provided to the appropriate regional office of the Department within 10 days after it is granted or denied.

F. REVOCATION. Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the Planning and Zoning Committee.

14.00 BOARD OF ADJUSTMENT

14.01 CREATION

There is hereby created a Board of Adjustment as authorized by s. 59.694, Wis, Stats. The County Board shall adopt such rules for the conduct of business of the board of adjustment as required by s. 59.694 (3), Wis. Stats .

14.02 MEMBERSHIP

- A. Size and appointment: The Chairperson of the County Board shall appoint a board of adjustment consisting of three members and two alternate members with the approval of the County Board of Supervisors under s. 59.694(2), Wis. Stats. Annually, the Chairperson of the County Board shall designate one of the alternate members as the first alternate and the other, the second alternate.
- B. Eligibility: Members of the Board of Adjustment shall reside in the unincorporated areas of the Florence County and no two members shall reside in the same town.
- C. Terms of office. The term of office shall be three years beginning July 1. However, these terms of office shall be staggered such that no more than one members' term of office expires in any one year.
- D. Officers. The Board of Adjustment shall choose its own chairperson, vice-chairperson, and secretary.
- E. Removal. Members may be removed by the chairperson of the County Board of Supervisors for cause upon written charges. Cause may include excessive absenteeism.

14.03 ORGANIZATION

The Board of Adjustment shall organize and adopt rules for the conduct of its business and to carry out into effect the provisions of this ordinance and s. 59.694, Wis. Stats.

- A. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine, at a fixed time and place.
- B. Open meetings: All meetings of the Board of Adjustment shall be open to the public, unless otherwise authorized by Wisconsin law.
- C. Minutes. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of adjustment and shall be public record.
- D. Voting:
 - (1) Majority Rule: A majority vote of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter which it is required to pass under this ordinance to effect any such variation to this ordinance.
 - (2) The first alternate shall act, with full power, only when a member of the board of adjustment refuses to vote because of a conflict of interest or when a member is absent. The 2nd alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the board of adjustment refuses to vote because of a conflict of interest or is absent.
- E. The chairperson or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.

14.04 POWERS OF THE BOARD

The Board of Adjustment shall have the following powers:

- A. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Section 59.69 or of any ordinance adopted pursuant thereto. In exercising the above-mentioned powers, the Board of Adjustment may, in conformity with the provisions of this Section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.
- B. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- C. To grant variances for renewable energy resource systems as provided in s. 59.694(7) (d), Wis. Stats. If the board denies an application for variance for such a system, the board shall provide a written statement of its reasons for denying the application. In this

paragraph, “renewable energy resource system” means a solar energy system, a waste conversion energy system, a wind energy system or any other energy system which relies on a renewable energy resource.

- D. A variance shall not grant or increase any use of property which is prohibited in the zoning district.
- E. The Board of Adjustment may grant a variance from the dimensional standards of this ordinance.
- F. The power to grant special exceptions and conditional uses is a power granted by the County Board solely to the Planning and Zoning Committee.
- G. The Board is bound to accept the zoning ordinance and map as being correct.

14.05 VARIANCE FROM THE REQUIREMENTS OF THIS ORDINANCE

A. Petition

A petition for a variance shall be filed by the property owner, or the owner's agent, using forms furnished by the Florence County Planning and Zoning Department. Such petition shall include the following:

- (1) Name and address of the property owner and petitioner (if different).
- (2) Signature of petitioner.
- (3) Location of property involved in the petition.
- (4) Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.
- (5) Sections(s) of this Ordinance from which a variance is requested.
- (6) Details as to the narrowness, shallowness, shape, topography, or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use which make it not merely inconvenient but extremely difficult, if not impossible, to comply with the provisions of the Ordinance.
- (7) A statement that the conditions detailed above are unique to this property and are not generally existing on other properties in the same zoning district.
- (8) A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.
- (9) Fee. A petition for a variance shall be accompanied by a fee established by the County Board of Supervisors.

B. Processing.

- (1) Public hearing. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch 985 Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable

time. The Board shall send written notice to the appropriate regional office of the Department of Natural Resources at least 10 days prior to the hearing. Upon the hearing, a party may appear in person or by agent or attorney.

- (2) Decision. Within a reasonable time, the Board of Adjustment shall render a decision to either grant or deny the request for variance.
 - (a) A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Board of Adjustment.
 - (b) A variance denied shall be accompanied by the reasons for denial.
 - (c) In an action involving a historic property, as defined in s. 44.31 (3) Wis. Stats., the board of adjustment shall consider any suggested alternatives or recommended decision submitted by the landmarks commission or the planning and zoning committee.
- (3) Standards for variance. The Board of Adjustment shall consider the following standards for granting a variance. The burden of proof at all times remains with the applicant to establish that the proposed variance meets the following standards:
 - (a) Unnecessary hardship. That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that parcel which are creating the unnecessary hardship in the application of this Ordinance, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.
 - (b) Unique condition. That the conditions described in par. (a) are unique, exceptional, extraordinary, or unusual circumstances applying only or primarily to the property under consideration and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for Ordinance changes or amendments, or of having that effect if relied upon as the basis for granting a variance.
 - (c) Conditions not self-created. That the condition creating the hardship or difficulty was not caused by the petitioner nor by any person still having an interest in the property.
 - (d) Public interest. That in granting the variance there will not be a substantial detriment to neighboring property and the grant of variance will not be contrary to the purpose of this Ordinance and the public interest.
 - (e) Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.

C. Department of Natural Resources notification.

A copy of any variance decision of the Board of Adjustment which affects shorelands shall be provided to the regional office of the Department of Natural Resources within 10 days of the date such decision is rendered.

D. Resubmission.

A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered and provided that the Board of Adjustment votes by simple majority that the changes or new evidence would be of such significance that the Board might consider changing the previous decision.

E. Road projects.

When a structure becomes a nonconforming structure as to setback from a road, because the road was widened or relocated by the county, a town, or the Wisconsin Department of Transportation, such structure shall not require a variance and shall not be considered a nonconforming structure in regards to setback from a road or highway. However, no such structure shall thereafter be enlarged or rebuilt in such a manner that it will be closer to the right-of-way of the road.

F. Repairs and restoration.

A structure that was authorized by a variance that is damaged or destroyed by fire, explosion, flooding, storm damage, or similar calamity may be repaired or restored provided either 1) the repair or restoration would bring the structure into compliance with this Ordinance; or 2) the repair or restoration of the structure conforms fully to the structure authorized by the variance.

14.06 APPEALS

A. General Provisions.

- (1) Where it is alleged there is error in any order, requirement, decision, or determination made by the , Planning and Zoning Administrator or Planning and Zoning Committee, an appeal may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau of the municipality affected.
- (2) Such appeals shall be filed with the Planning and Zoning Department within 30 days after the date of written notice of the decision or order of the Planning and Zoning Administrator, or Planning and Zoning Committee.
- (3) Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board of Adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

B. Appeal Petition

Petitions for appeals shall include:

- (1) Name, address, and signature of the appellant.
- (2) Location of property affected by the appeal.
- (3) The decision being appealed and the grounds claimed for the appeal. The burden of proof at all times remains with the appellant.
- (4) Such additional information as may be required by the Board of Adjustment.
- (5) Fee. An appeal shall be accompanied by a fee established by the County Board of Supervisors.
- (6) The Florence County Planning and Zoning Department shall forthwith transmit to the Board of Adjustment the appeal and all the documents constituting the record upon which the action appealed from was taken.

C. Appeal Public Hearing and Decision

- (1) Public hearing. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch 985 Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. The Board shall send written notice to the appropriate regional office of the Department of Natural Resources at least 10 days prior to the hearing. Upon the hearing, a party may appear in person or by agent or attorney.
- (2) In an action involving a historic property, as defined in s. 44.31 (3) Wis. Stats., the board of adjustment shall consider any suggested alternatives or recommended decision submitted by the landmarks commission or the planning and zoning commission.
- (3) Decision. The Board of Adjustment decision of the appeal shall be rendered in writing within 30 days after the public hearing. Such decision shall:
 - (a) State the specific facts which are the basis for the Board's decision.
 - (b) Either affirm, reverse, vary, or modify the order, requirement, decision or determination appealed from. The Board may also dismiss the appeal for lack of jurisdiction.

D. Department of Natural Resources notification.

A copy of any appeal decision of the Board of Adjustment which affects shorelands shall be provided to the regional office of the Department of Natural Resources within 10 days of the date such decision is rendered.

14.07 COURT REVIEW

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is

illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision of the Board of Adjustment.

14.08 CERTIORARI

Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may on application, on notice to the board and on due cause shown, grant a restraining order.

14.09 RETURN WRIT

The Board of Adjustment shall not be required to return the original papers acted upon it, but shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

14.10 COURT DECISION

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

14.11 COSTS

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceeding under this Section shall have preference over all civil action and proceedings.

15.00 FEES. GENERAL

The county board may, by resolution, adopt fees for the following:

15.01 LAND USE PERMITS.

15.02 BUILDING PERMITS.

15.03 SPECIAL REQUEST INSPECTIONS.

15.04 PLANNED RESIDENTIAL UNIT DEVELOPMENT REVIEWS.

15.05 PUBLIC HEARINGS.

15.06 LEGAL NOTICE PUBLICATIONS.

15.07 CONDITIONAL USE PERMITS.

16.00 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.59.69(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and Section 10.06 of this ordinance where applicable.

- A. Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.69(5)(e), Wis. Stats.
- B. 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 regional 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 provided to the appropriate regional office of the Department at least 10 days prior to the hearing.
- C. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate regional office of the Department within 10 days after the decision is issued.

17.00 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 planning and 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. 59.69(11), Wis. Stats.

17.01 STATUTES OF LIMITATIONS

- A. As required by s. 59.692(1t), Wis. States., where a building or structure violates the dimensional or use standards of this ordinance, and the violating building or structure has been in place more than ten years before an enforcement action is initiated, such building or structure shall be treated as a legal nonconforming structure. All provisions of Section 12.00 of this ordinance shall apply to such nonconforming buildings or structures.
- B. Any property owner asserting as a defense to a charge of violating this ordinance that the alleged violation has been in place more than ten 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 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 years;
 - (3) That the use of the building or structure has been active and continual for ten years or more. If use was discontinued for more than twelve months, that use shall not be considered active and continual.

18.00 DEFINITIONS

18.01 INTERPRETATION

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.

18.02 THE FOLLOWING TERMS USED IN THIS ORDINANCE MEAN:

“Access site or lot” means a parcel of land which is contiguous to a body of water (lake or river) which provides a means for waterfront access for back lot development.

“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.

“Back lot” means a parcel of any size, whether or not improved or subdivided or platted, which does not abut the shoreline or ordinary high water mark of a lake.

“Backlot development” also known as “lot pyramiding”, “keyhole development” or “development funneling” is the practice whereby a lot, lots, outlot or common open space or commonly owned lot is used for waterfront access by a number of parcels or lots located away from or not contiguous to the water body.

“Bluff face” means that area riverward from the bluff line where slope toward the river equals 12 percent or more with the horizontal interval of measurement not exceeding 50 feet.

“Bluff line” means a line along the top of a slope, connecting the points at which the slope, proceeding away from a river or adjoining watershed channel and which is not visually inconspicuous, becomes less than 12 percent.

“Boathouse” means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.

“Buffer strip” means a parcel of land abutting a lake on either side of an access lot. It may be used for any purpose permitted by the zoning ordinance.

“Class II Notice” is a notice that must be published in an official newspaper or paper of general circulation in the county. It must be published once a week for 2 weeks with the last publication being 1 week prior to the hearing.

“Conditional Use (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.

“County Zoning Agency” means that committee or commission created or designated by the county board under s. 59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.

“Department” means the Department of Natural Resources.

“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.

“Disabled person” means any person with a physical or mental impairment that substantially limits one or more of his or her major life activities.

“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.

“Floodplain” means the land which has been or may be hereafter covered by flood water 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.

“Lot” means a 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.

“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 lands adjacent to farm drainage ditches if:

Such lands are not adjacent to a natural navigable stream or river.

Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

Such lands are maintained in nonstructural agricultural use.

The Wisconsin Supreme Court has declared navigable, bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state, though it may be dry during other seasons of the year. (See DeGayner and Company, Inc. v. Department of Natural Resources, 70 Wis. 2d 936, 1975 and Muench v. Public Service Commission, 261 Wis. 492, 1952).

“Nonconforming structure” means an existing lawful structure which is not in conformity with the dimensional or structural standards of this ordinance.

“Nonconforming use” means an existing lawful use or accessory use of a structure, building or development which is not in conformity with the provisions of this ordinance.

“Open Space”: Any parcel or area of land essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment of owners or occupants of lands adjoining such open space.

“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.

“Pyramiding” means the act of obtaining or providing access to public bodies of water across private lots or lands in a manner in which increases the number of families which have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot development from offshore lands or residences via a narrow parcel of land to provide access to the water. Publicly owned access points shall not fall within this definition.

“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.

“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 distance is greater.

“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.

“Slash materials” means any tree tops, limbs, bark, abandoned forest products, windfalls or other debris left on the land after timber or other forest products have been cut.

“Structure” means any human-made object with form, shape, and utility, either permanently or temporarily attached to or placed upon the ground, river bed, stream bed or lake bed.

“Unnecessary hardship” means that 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 ordinance.

“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.

“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.

19.00 SCENIC BEAUTY PROTECTION (RESERVED)

20.00 REGULATION BELOW THE OHWM (RESERVED)

20.01 PIERS WHARVES AND BERTHS STRUCTURES (RESERVED)

20.02 BOATING REGULATIONS (RESERVED)

21.00 RESERVED

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