

Chapter 55 SHORELAND ZONING**ARTICLE I. IN GENERAL**

- Sec. 55-1. Statutory Authorization.
- Sec. 55-2. Findings of Facts.
- Sec. 55-3. Purpose and Intent.
- Sec. 55-4. General Provisions.
- Sec. 55-5. Definitions.
- Sec. 55-6. to 55-10. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

- Sec. 55-11. Enforcement, Violations and Penalties.
- Sec. 55-12. Administration.
- Sec. 55-13. Board of Adjustment.
- Sec. 55-14. Fees.
- Sec. 55-15. Changes and Amendments.
- Sec. 55-16. Zoning Permits.
- Sec. 55-17. Certificate of Compliance.
- Sec. 55-18. Conditional Permits.
- Sec. 55-19. to 55-25. Reserved.

ARTICLE III. SHORELAND – WETLAND DISTRICT

- Sec. 55-26. Purpose.
- Sec. 55-27. Designation and Locating Shoreland-Wetland District Boundaries.
- Sec. 55-28. Permitted Uses.
- Sec. 55-29. Prohibited Uses.
- Sec. 55-30. Rezoning of Lands in the Shoreland-Wetland District.
- Sec. 55-31. to 55-35. Reserved

ARTICLE IV. LAND DIVISIONS

- Sec. 55-36. Land Division Review.
- Sec. 55-37. Planned Unit Development.
- Sec. 55-38. to 55-39. Reserved

ARTICLE V. SUPPLEMENTAL REGULATIONS

- Sec. 55-40. Sanitary and Well Regulations.
- Sec. 55-41. Lot Regulations.
- Sec. 55-42. Ordinary Highwater Mark Setbacks.
- Sec. 55-43. Vegetative Buffer Zone.
- Sec. 55-44. Highway Setbacks.
- Sec. 55-45. Access driveways.
- Sec. 55-46. Front, Side and Rear Yard Regulations
- Sec. 55-47. Stairways, Walkways and Elevated Landings.
- Sec. 55-48. Boathouses.
- Sec. 55-49. Open-Sided and Screened Structures
- Sec. 55-50. Filling, Grading, Lagooning, Dredging, Ditching and Excavating.
- Sec. 55-51. Impervious Surface Standard.
- Sec. 55-52. Height.
- Sec. 55-53. Nonconforming Uses and Structures.
- Sec. 55-54. Mitigation.

Ordinance Amendments:

2016-06 –On September 13, 2016, the County Board adopted Ordinance 06-16 to repeal Chapter 54 and create Chapter 55, the Shoreland Ordinance
(County Board Adopted: 09-13-2016)

ARTICLE I. IN GENERAL**Sec. 55-1. Statutory Authorization.**

This ordinance is adopted pursuant to the authorization in Wis. Stat. § 59.692, Stats, to implement Wis. Stats. §§ 59.692 and 281.31.

Sec. 55-2. Findings of Facts.

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

Sec. 55-3. Purpose and Intent.

For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters 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 on-site waste treatment systems.
 - (3) Controlling filling and grading to prevent soil erosion problems.
 - (4) Limiting impervious surfaces to control runoff which carries pollutants.
- (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) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - (2) Setting minimum lot sizes and widths.
 - (3) Setting minimum structure setbacks from waterways.
 - (4) Setting the maximum height of near shore structures.
- (d) Preserve and Restore Shoreland Vegetation and Natural Scenic 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.

Sec. 55-4. General Provisions.

- (a) *Areas to be Regulated.* The provisions of this ordinance apply to regulation of the use and development of shoreland areas. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Chippewa County which are:
- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Chippewa County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 "Wisconsin Lakes" book or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.
 - (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Chippewa County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). 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.
 - (3) Under Wis. Stat. § 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 - a. 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;

- b. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- (b) *Determination of Navigability.* Determinations of navigability and ordinary high-water mark location shall initially be made by the Administrator. When questions arise, the Administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark. The Administrator may work with surveyors with regard to Wis. Stat. § 59.692(1h).
- (c) *Shoreland-Wetland Maps.* The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance.
- (d) *Compliance.* The use of any land; 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, and dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. 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.
- (e) *Municipalities and State Agencies Regulated.* Unless specifically exempted by law, all cities, villages, towns, counties, and, when Wis. Stat. § 13.48(13), Stats, applies, state agencies are required to comply with this ordinance and obtain all necessary permits. The construction, reconstruction, maintenance or repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stat. § 30.2022(1), applies. Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stats. §§ 61.353 and 62.233.
- (f) *Abrogation and Greater Restrictions.* The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than Wis. Stat. § 59.692, does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.
- (1) This ordinance shall not require approval or be subject to disapproval by any town or town board.
- (2) If an existing town zoning 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.
- (3) 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.

- (4) This ordinance may establish standards to regulate matters that are not regulated in NR 115, Wis. Adm. Code, but that further the purposes of shoreland zoning as described in section 55-3 of this ordinance.
- (5) Per Wis. Stat. § 59.692(1k)(a), Chippewa County may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
- a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
 - b. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (g) *Public Facilities.* The construction and maintenance of a “facility” is considered to satisfy the requirements of a shoreland zoning ordinance if:
- (1) The Department has issued all required permits or approvals authorizing the construction or maintenance under chs. 30, 31, 281, or 283, Wis. Stats.
 - (2) Under this paragraph, a "facility" means any property or equipment of a public utility, as defined in Wis. Stat. § 196.01 (5), or a cooperative association organized under ch. 185, Wis. Stat., for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.
- (h) *Interpretation.* In their interpretation and application, the provisions of this ordinance shall be liberally construed in favor of Chippewa 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 statute and 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 statute and 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.
- (i) *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.

Sec. 55-5. Definitions.

- (a) 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.
- (b) The following terms used in this ordinance mean:
- (1) *Access and Viewing Corridor* means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

- (2) *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. An accessory structure shall not have habitable living spaces.
- (3) *Administrator* means the employee of the Department of Planning and Zoning officially designated to administer and enforce this ordinance or an agent designated by the Administrator.
- (4) *Boathouse* means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.
- (5) *Structure Envelope* means the three dimensional space within which a structure is built.
- (6) *Class 2 Public Notice* means publication of a public hearing notice under ch. 985, Wis. Stat., in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven (7) days prior to the public hearing.
- (7) *Conditional Use* means a use which is permitted by this ordinance provided that certain conditions specified in this ordinance are met and that a permit is granted by the Committee.
- (8) *Committee* means the Planning and Zoning Committee which is made up of County Board members and oversees the policy for planning and zoning as outlined under Wis. Stat. § 59.69(2)(a).
- (9) *Department* means the Department of Natural Resources.
- (10) *Existing Development Pattern* means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (11) *Floodfringe* means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and generally associated with standing water rather than flowing water.
- (12) *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 Wis. Adm. Code Natural Resources (NR) 116.
- (13) *Floodway* means that channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (14) *Footprint* means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall projected to natural grade. For structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5.

- (15) *Generally Accepted Forestry Management Practices* means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (16) *Habitable Living Area* means any area of a structure which will be or could be used for sleeping, living, dining purposes, kitchens, bath or toilet rooms, laundries or similar spaces.
- (17) *Impervious Surface* means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in Wis. Adm. Code Natural Resources (NR) 340.01(54), or sidewalks as defined in Wis. Adm. Code Natural Resources (NR) 340.01(58), are not considered impervious surfaces.
- (18) *Landing* means a platform between flights of stairs or a place where persons or water-related equipment are landed or stored or an area to safely exit a structure.
- (19) *Lot* means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.
- (20) *Lot Area* means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.
- (21) *Lot, Previously Developed* means a lot or parcel that was developed with a structure legally placed upon it.
- (22) *Lot of Record* means any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.
- (23) *Lot, Substandard* means a legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current requirements for a new lot.
- (24) *Minimum Average Lot Width* means the average of the distances between the following points: The ordinary highwater mark, the structure setback line and the rear lot line. The measurements shall be perpendicular to the property line
- (25) *Mitigation* means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
- (26) *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. 281.31(2)(d), Stats, notwithstanding

any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 59.692, and Wis. Adm. Code Natural Resources (NR) 115, do not apply to lands adjacent to:

- a. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - b. Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body
- (27) *Ordinary High-Water Mark* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (28) *Patio* means a flat exterior-constructed surface, no higher than original grade, made of concrete, wood, brick or a combination thereof. A patio shall not include affixed appendages such as benches, tables, walls, roofs or any other structural components.
- (29) *Principal Structure* means a structure that is utilized for commercial and/or residential purposes.
- (30) *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.
- (31) *Routine Maintenance of Vegetation* means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (32) *Setback* means the minimum horizontal distance required between property lines or the ordinary high-water mark for the placement of a structure, exclusive of permitted projections. The setback shall be measured at right angles and shall be measured to the wall of the structure as long as there are no projections including, but not limited to, eaves, balconies, fire escapes, or fireplaces that are greater than 2 feet
- (33) *Shoreland* 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.
- (34) *Shoreland Setback*, also known as the Shoreland setback area in Wis. Stat. § 59.692(1)(bn), means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under Wis. Stat. § 59.692.
- (35) *Shoreland-Wetland District* means a zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.

- (36) *Structure* per Wis. Stat. §59.692(1)(e), means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.
- (37) *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.
- (38) *Variance* means an authorization granted by the board of adjustment to construct, alter or use a structure in a manner that deviates from the dimensional standards of this ordinance.
- (39) *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.
- (40) *Yard* means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted, and except for permitted accessory structures.
- (41) *Yard, Front* means a yard extending across the full width of a lot, having a depth equal to the minimum horizontal distance between the front property line and the nearest point of the principal structure, excluding permitted projections.
- (42) *Yard, Rear* means a yard, unoccupied except by accessory structures, extending from the rear line of the main structure to the rear lot line for the entire width of the lot, excluding such projections as are permitted in this ordinance.
- (43) *Yard, Side* means a yard or open space on each side of the main structure extending from the side lot line to the side wall of the structure, exclusive of permitted projections and from the front yard to the rear yard, when an accessory structure is constructed as part of the main structure or constructed on one side of the main structure, the side yard requirements shall be the same for the accessory structure as required for the main structure.

Sec. 55-6. to 55-10. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 55-11. Enforcement, Violations and Penalties.

- (a) *Violation.* Any development, any 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 contractors or their agents) shall be deemed a violation.
- (b) *Enforcement.* The Administrator shall refer violations to the corporation counsel who shall expeditiously prosecute violations.

- (c) *Penalties.* 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 \$100.00 nor more than \$500.00 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 Wis. Stat. § 59.69. In all actions, repair of any environmental damage and compliance with the provisions of this ordinance shall be required in addition to any forfeiture which may be levied.
- (d) *Injunction.* Any use or action which violates the provisions of this ordinance shall be subject to a court injunction prohibiting such violation.

Sec. 55-12. Administration.

- (a) *Delegation of Authority.* The Chippewa County Board of Supervisors designates the Chippewa County Department of Planning and Zoning to administer and enforce this ordinance.
- (b) *Duties.* In administering and enforcing this ordinance, the Administrator shall have the following duties and powers:
- (1) Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms
 - (2) Issue permits after applications are examined and approved and inspect properties for compliance with this ordinance
 - (3) Keep records of all permits issued, inspections made, work approved and other official actions
 - (4) Issue conditional use permits when authorized by the Committee
 - (5) Provide written notice to the appropriate district office of the Department at least ten days prior to hearings on proposed shoreland variances, conditional uses, appeals for map or text interpretations and map or text amendments
 - (6) Provide copies of decisions on shoreland variances, conditional uses, appeals for map or text interpretations and map or text amendments to the appropriate district office of the Department within ten days after they are granted or denied.
 - (7) Take such action as may be necessary for the administration and enforcement of the regulations provided in this ordinance; attend all meetings on the Committee and the Board of Adjustment; and perform such other duties as the Committee and the Board of Adjustment may direct.
- (c) *Powers.* The Administrator shall have the authority including but not limited to the following:
- (1) Access to any structure or premises for purpose of performing these duties between 8:00 a.m. and 6:00 p.m.

- (2) Upon reasonable cause or question as to proper compliance, to revoke any zoning permit and issue cease and desist orders requiring the cessation of any structure, moving, alteration or use which is in violation of the provisions of this ordinance

Sec. 55-13. Board of Adjustment.

- (a) *Members.* There shall be a Board of Adjustment consisting of five (5) voting members and two (2) alternates for a total of seven (7) members. The members of the Board of Adjustment shall all reside within the county and outside the limits of incorporated cities and villages; provided, however, no (2) two members shall reside in the same town.
- (b) *Alternate Members.* Alternate members may participate in the discussion during a meeting or public hearing, but are limited to voting as follows:
 - (1) The first alternate shall act, with full power, only when a voting member of the Board of Adjustment refuses to vote because of a conflict of interest or when a voting member is absent.
 - (2) The second alternate shall act, with full power, 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.
- (c) *Appointment.* All members of the Board of Adjustment shall be appointed by the County Administrator with County Board approval. Vacancies to unexpired terms shall be appointed in the like manner and shall be for the term remaining, unless otherwise approved. Alternates shall be appointed to an alternating schedule between first-alternate and second-alternate.
- (d) *Terms of Office.* The terms of the voting and alternate members shall be appointed for three (3) year terms.
- (e) *Rules.*
 - (1) The Board of Adjustment shall meet at the call of the chair and at such other times as the Board of Adjustment may determine at a fixed time and place.
 - (2) All meetings of the Board of Adjustment shall be open to the public.
 - (3) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal; give public notice thereof by publishing a Class 2 notice in the official newspaper of the county, on each of two successive weeks, the last publication to be not less than one week before the date of the hearing as advertised therein, specifying the date, time and place of hearing and the matters to come before the Board of Adjustment; as well as mailed notices to the town clerk and abutting property owners.
 - (4) The Board of Adjustment shall keep complete 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 Administrator and shall be a public record.
 - (5) The Board of Adjustment may call upon any other county departments, state and federal agencies for assistance in the performance of its duties.

- (6) The Board of Adjustment may adopt additional procedural rules as are necessary to carry into effect the regulations of this ordinance and any rules and by-laws adopted by the County Board.
- (7) In the case of all appeals, the Board of Adjustment shall call upon the Administrator for all information pertinent to the decision appealed from.
- (f) *Appeals.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the Administrator. Such appeal shall be taken within a reasonable time as provided by the rules and by-laws of the Board of Adjustment, with notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.
- (g) *Stays.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator shall certify to the Board of Adjustment after notice of appeal shall have been filed with him, that by reason of facts stated in the affidavit, a stay would cause imminent peril to life and property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record.
- (h) *Powers and Duties.* The powers and the duties of the Board of Adjustment are identified in 59.694(7) of the Wisconsin Statutes and in the applicable rules and by-laws as adopted by the County Board. The Board of Adjustment shall have the following general powers:
- (1) *Administrative Appeals.* To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination of the Administrator or Committee in the administration or enforcement of this ordinance.
 - (2) *Variances.* To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, the literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed, public welfare and safety secured and substantial justice done. A variance shall:
 - a. be consistent with the spirit and intent of this ordinance.
 - b. not permit any change in the uses in the established zoning districts.
 - c. not be granted unless it is demonstrated that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
 - d. not be granted for actions, which require an amendment to this ordinance.
 - e. not have the effect of allowing a use or structure, which is prohibited under this ordinance unless the BOA determines that no feasible legal use of the property can be made without such variance or strict conformity with the applicable provisions is unnecessarily burdensome and provided that a use variance may not be granted in a floodplain, shoreland-wetland or conservancy district.

- f. not be granted on the basis of economic gain or loss.
 - g. not be granted for a self-created hardship.
- (i) *Compensation.* The Board of Adjustment shall be paid the same per diem and mileage as authorized for the County Board.

Sec. 55-14. Fees.

- (a) The County Board may, by resolution, adopt fees for the following:
- (1) Zoning permits.
 - (2) Building permits.
 - (3) Public hearings.
 - (4) Conditional use permits.
 - (5) Any other fees associated with the administration and enforcement of this ordinance.

Sec. 55-15. Changes and Amendments.

- (a) The County Board may from time to time alter, supplement or change the boundaries of districts and the regulations contained in this ordinance in accordance with the requirements of Wis. Stat. § 59.69, Wis. Admin. Code Natural Resources (NR) 115, and section 55-30 where applicable.
- (b) Amendments to this ordinance may be made on petition of any interested party as provided in Wis. Stat. § 59.69.
- (c) Every petition for a text or map amendment filed with the clerk shall be referred to the Committee. A copy of each petition shall be mailed to the appropriate area office of the department within five days of the filing of the petition with the clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate area office of the department at least ten days prior to the hearing. The Board shall give public notice thereof by publishing a Class 2 notice under Wis. Stat. 985, specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be mailed to the parties in interest.

Sec. 55-16. Zoning Permits.

- (a) *Required.* No structure shall be constructed, enlarged, altered or moved after the effective date of this ordinance within any area subject to this ordinance until all applicable permits have been issued, except where a section of this ordinance specifically exempts it from this requirement
- (b) *Application.* Application for permits shall be made in writing to the Administrator upon a form furnished by the Administrator and shall include for the purpose of proper enforcement of these regulations, the following information:
- (1) Name and address of applicant and property owner.

- (2) Legal description of the property and type of proposed use.
 - (3) A to scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting waterways.
 - (4) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
 - (5) Plans for appropriate mitigation when required.
 - (6) Payment of the appropriate fee.
 - (7) Additional information required by the Administrator.
- (c) *Evidence of Property Lines.* Prior to granting any permit required under this ordinance, it is the duty of the property owner to present satisfactory evidence to the Administrator as to the location of the property lines relevant to the permit. The property owner/applicant may meet the evidence requirement by identifying the existing plat or certified survey markers. The Administrator may accept a mutually acknowledged lot line confirmed in writing by abutting property owners, provided that in any case where the Administrator should reasonably question the location of a property line, the Administrator may require a licensed survey thereof. The owner/applicant is responsible for survey costs. Granting a permit does not in itself determine property lines or the respective property rights of adjacent property owners.
- (d) *Termination.* Where a permitted use or structure does not continue in conformity with the original approval, the permit may be terminated by action of the Committee.
- (e) *Permit Fee.* Application for permits or certificates prepared under the regulations of this ordinance shall be accompanied by a fee set by the County Board. A copy of the current fee schedule shall be kept on file in the Department of Planning and Zoning. Any structure found not having a permit shall be subject to after-the-fact fees as set forth by the County Board.
- (f) *Lapse of Permit.* A zoning permit issued according to the regulations of this ordinance shall lapse and be void unless construction of the structure has commenced within 6 months from the date of issuance. A zoning permit shall expire unless construction of the exterior has been completed within one year from the date of issuance of the permit and the structure itself has been completed within two years of issuance of such permit. An expired permit can be renewed for a \$25.00 fee if renewed within 2 months of the date of expiration otherwise re-application will be required. The renewed permit can only be for an additional 6 months. All applicable code and ordinance requirements in effect at the time of a renewal shall apply to the project.
- (1) The exterior of the structure includes such things as final exterior siding, roofing, windows, and doors.
- (g) *Extensions.* The Administrator may grant an extension to keep a permit from becoming void or expired based on reasonable cause.
- (h) *Suspension of Permit.* Whenever the Administrator determines there are reasonable grounds for believing there is a violation of any provision of this Ordinance, the Administrator shall give

notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. The notice shall allow 30 days for the required actions to bring the structure or project into compliance with this Ordinance. If work cannot be completed in the 30 day period, an extension may be granted if a reason of hardship prevails and can be verified. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin. The owner of record has the right to appeal any decision by the Administrator or apply to the Board of Adjustment for a Variance from the strict rule of this ordinance within 30 days of receipt of a notice or order.

- (i) *Emergency Conditions.* Whenever the Administrator finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Administrator may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The Administrator shall notify the Chairperson of the Committee within 24 hours of such situations. Notwithstanding any other provisions of this Ordinance such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Adjustment.

Sec. 55-17. Certificate of Compliance.

- (a) No land shall be occupied or used and no structure shall be erected, altered, moved or occupied after the effective date of this ordinance, until a certificate of compliance is issued by the Administrator.
- (1) The certificate of compliance shall certify that the structure or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- (2) Application for such certificate shall be concurrent with the application for a zoning permit.
- (3) The certificate of compliance shall be issued within ten days after notification of the completion of the work specified in the zoning permit, if the structure or premises or proposed use thereof conforms with all provisions of this ordinance.
- (b) The Administrator may issue a temporary certificate of compliance for part of a structure, pursuant to rules and regulations established by the County Board.
- (c) Upon written request from the owner, the Administrator shall issue a certificate of compliance for any structure or premises existing at the time of the adoption of this ordinance, certifying after inspection the extent and type of use made of the structure or premises and whether or not such use conforms to the provisions of this ordinance.

Sec. 55-18. 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 Administrator and a Conditional Use Permit has been granted by the Committee.
- (b) *Standards Applicable to all Conditional Uses.* In deciding upon a conditional use permit, the 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 potential damage to adjacent properties due to altered surface water drainage.
 - (4) The erosion potential of the site based upon degree and direction of slopes, 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 in subsection (2) of this section, the 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, signs; and type of construction. To secure information upon which to base its determination, the 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 high-water marks, groundwater conditions, subsurface geology and vegetative cover.

- (2) Location of existing and proposed structures, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
 - (3) Plans of proposed structures, sewage disposal facilities, water supply systems and arrangement of operations.
 - (4) Specifications for areas of proposed filling, grading, excavating, lagooning or dredging.
 - (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
 - (6) The Committee in evaluating each application may request technical assistance from other county departments or state and federal agencies.
- (d) *Notice, Public Hearing and Decision.* Before passing upon an application for a conditional use permit, the Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Committee, shall be given by a Class 2 notice under ch. 985, Wis. Stat. Such notice shall be provided to the appropriate district office of the Department at least ten (10) days prior to the public hearing. The Committee 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 and recorded in the Chippewa County Register of Deeds, of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the Department within ten (10) days after it is granted or denied.
- (f) *Termination and Revocation.* Where the conditions of a conditional use permit are violated, the conditional use permit may be terminated or revoked or modified after notice by certified mail to parties of interest and a public hearing is held by the Committee.

Secs. 55-19. to 55-25. Reserved.

ARTICLE III. SHORELAND-WETLAND DISTRICT

Sec. 55-26. Purpose.

- (a) *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.

Sec. 55-27. Designation and Locating Shoreland-Wetland District Boundaries.

- (a) *Designation.* This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

- (b) *Locating Shoreland-Wetland Boundaries.* Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the Administrator shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the Administrator shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

Sec. 55-28. Permitted Uses.

- (a) *Permitted Uses.* The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Wis. Stats. §§ 30, 31, and 281.36, and the provisions of other applicable local, state and federal laws:
- (1) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
 - a. Hiking, fishing, trapping, hunting, swimming, and boating;
 - b. 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;
 - c. The pasturing of livestock;
 - d. The cultivation of agricultural crops;
 - e. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - f. The construction or maintenance of duck blinds.
 - (2) Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
 - a. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - b. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
 - c. The maintenance and repair of existing agricultural drainage systems 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;
- d. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - e. The construction or maintenance of piers, docks, walkways, or public, all-terrain vehicle or snowmobile trail bridges built on pilings, including limited excavating and filling necessary for such construction and maintenance, if Department standards and approvals are met or granted; and
 - f. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation provided that:
 - 1. The road cannot as a practical matter be located outside the wetland;
 - 2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 55-30(b);
 - 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
 - 4. Road construction activities are carried out in the immediate area of the roadbed only.
 - b. The construction or maintenance of nonresidential structures, provided that:
 - 1. The structure is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 - 2. The structure cannot, as a practical matter, be located outside the wetland;
 - 3. Such structure is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - 4. Only limited filling or excavating necessary to provide structural support for the structure is authorized.
- (4) 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. Stat. 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 55-28(3)(a); 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.
- (5) 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 55-30(b).

Sec. 55-29. Prohibited Uses

- (a) *Prohibited Uses.* Any use not listed in sections 55-28(1)(a), 55-28(1)(b) or 55-28(1)(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 55-30 of this ordinance and Wis. Stat. § 59.69(5)(e).

Sec. 55-30. 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 office with 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 Administrator. 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 ten (10) days prior to such hearing;

- (3) A copy of the Committee's findings and recommendations on each proposed amendment within ten (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 ten (10) days after the decision 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) Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Wis. Adm. Code Natural Resources (NR) 103.04, which can be accessed at the following web site:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.
- (c) If the Department notifies the Administrator 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 55-30(b) of this ordinance, that amendment, if approved by the County Board, shall contain the following provision:
- (1) "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. During that 30-day period the Department may notify the County Board that it will adopt a superseding shoreland ordinance for the county under Wis. Stat. § 59.692(6). If the Department does so notify the County Board, the effect of this amendment shall be stayed until the Wis. Stat. § 59.692(6), adoption procedure is completed or otherwise terminated."

Sec. 55-31. to 55-35. Reserved.

ARTICLE IV. LAND DIVISIONS

Sec. 55-36. Land Division Review.

- (a) *Land Division Review.* The Administrator shall review, pursuant to Wis. Stat. § 236.45, all land divisions in shoreland areas. In such review, all of the following factors shall be considered:
- (1) Hazards to the health, safety or welfare of future residents.
 - (2) Proper relationship to adjoining areas.
 - (3) Public access to navigable waters, as required by law.
 - (4) Adequate stormwater drainage facilities.
 - (5) Conformity to state law and administrative code provisions.

Sec. 55-37. Planned Unit Development.

- (a) *Purpose.* The Planned Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged 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 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 Unit Development.* The Committee may at its discretion, upon its own motion or upon petition, approve a Planned Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:
- (1) **Area.** The area proposed for the Planned Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
 - (2) **Lots.** Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of sections 55-41(b) and 55-41(c) shall be a non-riparian lot.
 - (3) **Lot Sizes, Widths, Setbacks, and Vegetation Removal.** When considering approval of a Planned Unit Development the Committee shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in section 55-43(c) shall apply except that maximum width of a lake frontage opening shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.

Secs. 55-38. to 55-39. Reserved

ARTICLE V. SUPPLEMENTAL REGULATIONS

Sec. 55-40. Sanitary and Well Regulations.

- (a) *Purpose.* The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (b) *Private Wells.* Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code and any applicable county ordinances.
- (c) *Private Onsite Waste Treatment Systems.* Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall comply with ch. SPS Comm 383, Wis. Adm. Code and any applicable county ordinances.

Sec. 55-41. Lot Regulations.

- (a) *Purpose.* Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. In calculating the minimum lot area or width of a lot, the beds of navigable waters shall not be included.
 - (1) No lot shall be reduced or created that the dimensional yard requirements of this ordinance cannot be met.
 - (2) When a structure is proposed to be constructed or created across a property line, within a required setback, or on a contiguous non-buildable parcel, the 2 parcels shall be resurveyed as one lot by certified survey map procedures prior to the issuance of any applicable permits.
- (b) *Lots Served by a Public Sanitary System.*
 - (1) Minimum Lot: 10,000 square feet
 - (2) Minimum Average Lot Width: 65 feet
- (c) *Lots Not Served by a Public Sanitary System.*
 - (1) Minimum Lot: 20,000 square feet
 - (2) Minimum Average Lot Width: 100 feet
- (d) *Substandard Lots.* A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
 - (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - (2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - (3) The substandard lot or parcel is developed to comply with all other ordinance requirements.

- (e) *Other Substandard Lots.* Except for lots which meet the requirements of section 55-41(d) a zoning permit for the improvement of a lot having lesser dimensions than those stated in sections 55-41(b) or 55-41(c) shall not be used as a building site.

Sec. 55-42. Ordinary Highwater Mark Setbacks.

- (a) *Purpose.* Permitted structure setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.
- (b) *Shoreland Setbacks.* Unless exempt under section 55-42(b)(1), or reduced under section 55-42(c) a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a structure shall be required for all structures.
- (1) *Exempt Structures.* All of the following structures are exempt from the shoreland setback standards in section 55-42(b):
- a. Boathouses
 - b. Open-Sided and Screened Structures
 - c. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
 - d. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump-house covers, private on-site wastewater treatment systems that comply with ch. SPS Comm 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
 - e. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.
 - f. Devices or systems used to treat runoff from impervious surfaces.
- (2) *Existing Exempt Structures.* Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional structure envelope of the existing structure. The Administrator may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.
- (c) *Reduced Principal Structure Setback.* A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:
- (1) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:

- a. Both of the existing principal structures are located on an adjacent lot to the proposed principal structure.
 - b. Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
 - c. Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - d. The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
- (d) *Floodplain Structures.* Structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

Sec. 55-43. Vegetative Buffer Zone.

- (a) *Purpose.* To protect natural scenic beauty, fish and wildlife habitat, and water quality, removal of vegetation in shoreland areas shall be consistent with sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.
- (b) *Removal of Vegetation within the Vegetative Buffer Zone.* The vegetative buffer zone shall be designated as that portion of land that extends from the ordinary high water mark to 35 feet inland. The removal of vegetation in the vegetative buffer zone is prohibited except as follows:
 - (1) Routine maintenance of vegetation.
 - (2) Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per Wis. Stat. § 59.692(1f)(b), the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
 - (3) Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
 - (4) Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
 - (5) The Administrator may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this section shall require that all management activities comply with detailed plans approved by the Administrator and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

- (6) Wis. Stats. 59.692(1f)(a), prohibits Chippewa County from requiring a property owner to re-establish a vegetative buffer zone on previously developed land or expand an existing vegetative buffer zone. However, as part of a Chippewa County's shoreland mitigation standards, the establishment or expansion of the vegetative buffer remains an option.
- (c) *Structures Located within the Vegetative Buffer Zone.* All exempt structures that are allowed under this ordinance within 35' of the ordinary high-water mark are limited to a total structural development width of 35' per parcel.

Sec. 55-44. Highway Setbacks.

- (a) Lots that abut on Public Highways. For the purpose of determining the distance that structures or additions to existing structures shall be setback from streets and highways, the highways of the county are divided into the following classes:
- (1) *Class A Highways.* All state and federal highways are designated as Class A highways.
- a. The setback for structures or additions to existing structures from Class A highways shall be 50 feet from the right-of-way line.
- (2) *Class B Highways.* All county trunks are designated as Class B highways. For the purpose of this ordinance, any road shall be considered a county trunk after it has been placed on the county trunk system by the County Board and approved by the Chippewa County Highway Department.
- a. The setback for structures or additions to existing structures from Class B highways shall be 40 feet from the right-of-way line.
- (3) *Class C Highways.* All town roads, public streets and highways and private roads not otherwise classified, are designated Class C highways.
- a. The setback for structures or additions to existing structures from Class C highways shall be 30 feet from the right-of-way line.
- b. The setback for structures or additions to existing structures or additions to existing structures from Private Roads shall be 63' from the center of the private road.
- (b) *Visual Clearance Triangle.* In each quadrant of every public street intersection, there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them 300 feet from a Class A highway intersection, 200 feet from a Class B highway intersection and 125 feet from a Class C highway intersection.
- (1) The Administrator, in conjunction with the authority having jurisdiction over the road right-of-way, may allow a vision clearance triangle on highways to be reduced to no less than 75 feet based on a reduction in the speed limit, the elevation of the existing land and the ability to control traffic at the intersections.

- (2) Structures prohibited within setback lines and visual clearance triangles. No new structure or part thereof shall be placed within the required setback lines, unless specifically allowed by this ordinance.
- (3) The following shall be allowed within setback lines and visual clearance triangles:
 - a. Open fences and at-grade structures such as sidewalks and patios as long as there is no obstruction to the view through the visual clearance triangle from items placed on such structures.
 - b. Telephone and power transmission poles, lines and portable equipment as long as there is no obstruction to the view through the visual clearance triangle.
 - c. Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle so as to obstruct the view through the visual clearance triangle.
 - d. Access or service road construction according to plans approved by the authority having jurisdiction over the adjacent highway.
 - e. Signs placed by the authority having jurisdiction over the road right-of-way for the guidance or warning of traffic.

Sec. 55-45. Access driveways.

- (a) Access driveways to highways from adjacent properties shall comply with the following requirements:
 - (1) Access driveways to Class A highways shall be approved and permitted by the authority having jurisdiction over said highway.
 - (2) Access driveways to Class B highways shall have a separation distance between each other of at least 75 feet, but no more than three (3) access points, including public and private streets, may be located within 600 feet of each other. The access drive cannot be located within the visual triangle of intersecting roads.
 - (3) Access driveways to Class C highways shall have a setback of ten (10) feet from any adjacent property.
- (b) The maximum number and width of access driveways to highways and service roads shall be as follows:
 - (1) Commercial, Industrial and Agricultural uses shall be allowed two (2) access driveways per lot, each with a maximum width of 35 feet, excluding radii. The access driveways shall be located at least ten (10) feet from an adjacent property lines. Access driveways shall meet a separation distance of 75 feet from adjacent access points, measured from the edge of the access driveways at the road right-of-way.
 - (2) Field Accesses. For the safe and appropriate operation of farm machinery, access driveways solely for farm fields shall not be restricted regarding the number of driveways or width requirements under this ordinance. All proposed access driveways

solely for farm fields shall require the approval of the authority having jurisdiction over the highway. An access driveway used solely for farm fields may be converted into a different access driveway if the Administrator determines that the proposed use and location meets the requirements of this ordinance.

- (3) Residential uses shall be allowed two (2) improved access driveways with a maximum width of 32 feet between the two access points, excluding radii. The access driveways shall be located at least ten (10) feet from an adjacent property line.
- (c) Where crossovers in median strips have been provided access driveways shall be directly opposite such crossovers.
- (d) In addition to the above standards, approval must also be obtained from the authority having jurisdiction over the public highway.
- (e) Access driveways shall be designed and constructed in accordance with State of Wisconsin Transportation Standards as to provide adequate access for emergency and rescue vehicles to the building site. Where it is deemed that a driveway may not meet this requirement because of concerns of the Administrator or the agency having jurisdiction over the road right-of-way, either individual may contact the local emergency personnel for verification. If it is found that the driveway is unsafe or inaccessible, the driveway permit may be denied.
- (f) Shared Access Driveways shall be allowed within five (5) feet of the property line under the following regulations:
 - (1) Approval has been granted by the jurisdiction having authority over the highway.
 - (2) An access easement shall be recorded in the County Register of Deeds Office, which depicts the location of the shared easement where the access driveway will be located, the responsibility of each property owner to maintain the access driveway and the discontinuance of the access driveway.
 - (3) The shared access driveway shall be equally located on each property, until the point where the access driveway separates and/or divides. At this point, the driveway shall be required to meet the required setbacks of this ordinance.
 - (4) The shared access driveway shall not exceed the maximum width requirements of 55-45(b) of this ordinance.

Sec. 55-46. Front, Side and Rear Yard Regulations.

- (a) *Side Yard Setbacks.* All structures or additions to existing structures shall have a minimum setback from any side property line, as determined by the Administrator, of ten (10) feet.
- (b) *Rear Yard Setbacks.* All principal structures or additions to existing structures whether nonconforming or conforming shall have a minimum setback from a rear property line, as determined by the Administrator, of 25' feet. All accessory structures or additions to existing structures shall have a minimum setback from a rear property line, as determined by the Administrator, of ten (10) feet.

- (c) No part of a yard or other open space required for any structure for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another structure.
- (d) Structures on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets are complied with; and provided further that no accessory structure shall extend within the setback lines on either street.
- (e) Every part of a required yard or court shall be open and unobstructed by a structure or object from its lowest point upward, except as follows:
 - (1) Accessory structures may be located in the rear yard or in the side yard of a principal structure provided an additional side yard, equal to that otherwise required for the principal structure, is provided.
 - (2) Sills, cornices, buttresses, eaves, open-work fire balconies and fire escapes, chimneys, flues and similar structure appurtenances shall extend not more than two (2) feet into a required yard.
 - (3) Uncovered porches and steps to structure entrances may extend not more than eight (8) feet into any required front yard or rear yard and not more than three (3) feet into any required side yard or court. The setback from the ordinary high-water mark for uncovered porches and steps to structures shall not be reduced under this section.
 - (4) Structures utilized for the sole purpose of farming shall be exempt from the setback requirements between other related structures. All other required setbacks shall be met.
- (f) *Structures in Yards and Courts.* Walks, steps on ground slopes, retaining walls, paved terraces and paved areas shall be allowed in yards and courts, provided that the following requirements are satisfied:
 - (1) At-grade structures including, but not limited to, sidewalks, steps or patios or individual access driveways shall be set back at least five (5) feet from all property lines. Note: Driveways through the road right-of-way shall meet the setback and separation requirements of section 55-45.
 - (2) Retaining walls and terracing shall be allowed only in the event they are required for landscaping purposes, shall be setback at least five (5) feet from all property lines and shall not exceed 42 inches in height, unless they are engineered.

Sec. 55-47. Stairways, Walkways and Elevated Landings.

- (a) *Stairways & Walkways.* Stairways and walkways which are located within 75' of the ordinary high-water mark shall be allowed, provided that the following conditions are met:
 - (1) A permit is issued under section 55-16 or 55-50(4).
 - (2) They are necessary to provide access to the ordinary high-water mark and are not associated with access to a structure, except for boathouses.

- (3) If located or proposed within 35' of the ordinary high-water mark, they shall be located within the 35' structural development area as described in 55-43(c).
 - (4) At-grade stairs and walkways shall be allowed on those slopes that have plans approved by the Administrator and as long as the stairway or walkway are constructed into the existing slope. In the event the Administrator does not approve the plans, the applicant may apply for a conditional use permit under section 55-50(c).
 - (5) Railings are permitted for safety concerns.
 - (6) Lattice work, canopies and roofs within 75' of the ordinary high-water mark are prohibited.
 - (7) Stairways or walkways shall not exceed 5' in width.
 - (8) Standards of section 55-43 and 55-50 shall be complied with.
- (b) *Elevated Landings.* Any portion of a stairway or walkway that exceeds 5' in width and that is proposed to be at least 6" or more above the existing grade shall be considered a landing and allowed, provided that the following conditions are met:
- (1) The requirements of section 55-50 are met.
 - (2) The combined area of all landings may not exceed 128 square feet for each buildable lot.
 - (3) Each single landing may not exceed 64 square feet in area.
 - (4) Landings shall not be adjacent to each other and they must be separated by a vertical distance of ten (10) feet or more.
 - (5) Standards in section 55-43 and 55-50 shall be complied with.

Sec. 55-48. Boathouses.

- (a) Boathouses shall be designed, constructed and used solely for the storage of boats and/or related equipment and shall not include any habitable living area.
- (b) Boathouses shall not be equipped with a potable water supply, fireplaces, patio doors, furniture or any features inconsistent with the use of the structure exclusively as a boathouse.
- (c) Boathouses shall have a gable roof and a pitched roof no flatter than 3/12, and shall not be designed or used as decks, observation platforms or for other similar uses.
- (d) Boathouses shall not be placed waterward beyond the ordinary high-water mark unless approved by the Department.
- (e) Only one boathouse is permitted for each buildable lot.

- (f) Boathouses shall not be excavated into an existing slope of more than 35 percent unless a conditional use permit is approved by the Committee.
- (g) Boathouses shall be setback a minimum of two feet from the ordinary high-water mark and shall be constructed in conformity with local floodplain zoning standards.
- (h) Boathouses shall not exceed one story. Maximum height from the boathouse floor to the roof peak shall not exceed 12 feet. The floor area shall not exceed 500 square feet.
- (i) The maintenance and repair of existing nonconforming boathouses, which extend beyond the ordinary high-water mark shall comply with the requirements of Wis. Stat. § 30.121.
- (j) Standards for removal of shoreline vegetation in section 55-43 shall be complied with.
- (k) If located or proposed within 35' of the ordinary high-water mark, they shall be located within the 35' structural development area as described in 55-43(c).

Sec. 55-49. Open-Sided and Screened Structures.

- (a) *Open-Sided and Screened Structures.* Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in Wis. Stat. § 59.692(1v):
 - (1) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
 - (2) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 - (3) The structure has no sides, except for open or screened sides.
 - (4) The county shall approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
 - (5) An enforceable affidavit must be filed with the Chippewa County Register of Deeds prior to the construction, which acknowledges the establishment, preservation and maintenance of the vegetative buffer zone.
 - (6) The statutory requirements under Wis. Stat. § 59.692(1v), which require the establishment of a vegetative buffer zone for the construction of an open sided structure is not superseded by Wis. Stat. § 59.692(1f)(a).

Sec. 55-50. Filling, Grading, Lagooning, Dredging, Ditching and Excavating.

- (a) *General Standards.* Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under subsection (c) of this section may be permitted in the shoreland area provided that:
 - (1) It is done in a manner to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

- (2) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of subsections 55-28(a)(1) and (2).
 - (3) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
 - (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.
- (b) *Prohibited.* Filling, grading or excavating on slopes greater than 100% is prohibited.
- (c) *Conditional Use Permit Contract.* The following activities require approval by the Administrator by the issuance of a conditional use contract by which the applicant and the Administrator agree to the methods to prevent erosion, sedimentation, and pollution to the navigable water. If the applicant is unsatisfied with the terms of the contract or the Administrator deems that a public hearing should be held, the application shall be handled as a conditional use permit under section 55-18.
- (1) For any filling or grading of any area which is within the shoreland area of navigable water and which has surface drainage toward the water and on which there is either:
 - a. Any filling or grading on slopes of more than 35 percent.
 - b. Filling or grading of more than 2,000 square feet on slopes of 12 percent to 35 percent.
 - c. Filling or grading of more than 4,000 square feet on slopes less than 12 percent.
 - (2) 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 high-water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
 - (3) Where the Department permit has been issued, which meets the substantial concerns of this ordinance, no county permit will be required.
- (d) *Zoning Permit Required.* Except as provided in subsection (c) of this section, a zoning permit is required for any cutting/filling or grading of any area that is within the shoreland area, which has surface drainage toward the navigable water.
- (e) *Permit Conditions.* In granting a conditional use contract under subsection (c) of this section the Administrator or committee shall attach the following conditions, where appropriate, in addition to those provisions specified in subsections 55-18(b) and (c). The Administrator shall, when issuing a zoning permit under subsections (c) and (d) of this section, ensure that projects meet the following standards:
- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.

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

Sec. 55-51. Impervious Surface Standard.

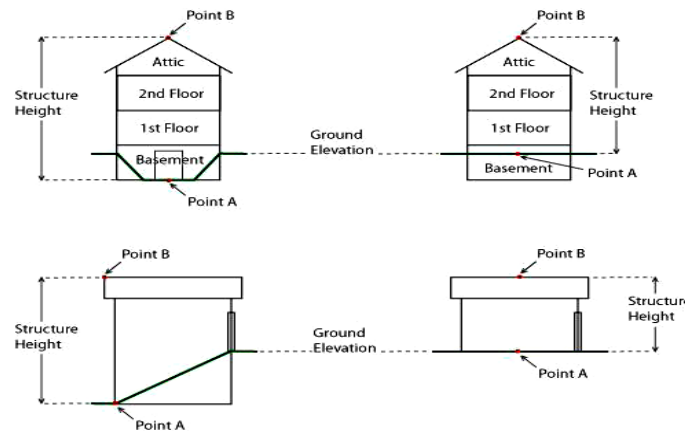
- (a) *Purpose.* Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. Chippewa County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
- (b) *Calculation of Percentage of Impervious Surface.* Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in section 55-51(e) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.
 - (1) For properties that have been “condominiumized” the impervious surface calculations apply to the entire property.
- (c) *General Impervious Surface Standard.* Except as otherwise allowed in sections 55-51(c) through 55-51(e), the Impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark shall not exceed 15%.
- (d) *Maximum Impervious Surface Standard.* A lot or parcel may exceed the impervious surface standard under 55-51(c) provided the following standards are met:
 - (1) For properties where the general impervious surface standard applies under section 55-51(c), a property owner may have more than 15% impervious surface, but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

- (2) For properties that exceed the standard under 55-51(c), but do not exceed the maximum standard under 55-51(d)(1), a permit can be issued for development with a mitigation plan that meets the standards found in section 55-54.
- (e) *Treated Impervious Surfaces.* Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under section 55-51(b):
- (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
 - (2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.
 - (3) A property owner shall submit a complete permit application that is reviewed and approved by the Administrator. The application shall include 1) calculations showing how much runoff is coming from the impervious surface area; 2) documentation that the runoff from the impervious surface is being treated by a proposed treatment system, treatment device, or internally drained area; and 3) an implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices, or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the Chippewa County Register of Deeds prior to the issuance of the permit.
- (f) *Existing Impervious Surfaces.* For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in section 55-51(c) or the maximum impervious surface standard in section 55-51(d), the property owner may do any of the following:
- (1) Maintain and repair the existing impervious surfaces;
 - (2) Replace existing impervious surfaces with similar surfaces within the existing structure envelope; or
 - (3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in section 55-42(a).

Sec. 55-52. Height.

- (a) *Purpose.* To protect and preserve wildlife habitat and natural scenic beauty, a structure shall be no taller than 35 feet within 300 feet of the ordinary high-water mark of any navigable waters
- (1) A structure may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each one (1) foot by which such structure exceeds 35'.
- (b) *Measurement of Height.* Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the

following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.



Sec. 55-53. Nonconforming Uses and Structures.

- (a) *Discontinued Nonconforming Use.* If a nonconforming use is discontinued for a period of 12 months, any future use of the structure or property shall conform to this ordinance.
- (b) *Maintenance, Repair, or Replacement of Nonconforming Structures.* An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. An expansion of a structure beyond the existing footprint may be allowed by the Administrator if the expansion is necessary to comply with applicable state or federal requirements.
- (c) *Vertical Expansion of an Existing Nonconforming Structure.* An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level.
- (d) *Lateral Expansion of Nonconforming Principal Structures within the Shoreland Setback.* An existing principal structure that was lawfully placed when constructed but that does not comply with the required structure setback per section 55-42(a) may be expanded laterally, provided that all of the following requirements are met:
 - (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - (3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.

- (4) A permit that requires a mitigation plan shall be approved implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 55-54.
 - (5) All other provisions of the shoreland ordinance shall be met.
- (e) *Expansion of a Nonconforming Principal Structure Beyond the Shoreland Setback.* An existing principal structure that was lawfully placed when constructed but that does not comply with the required structure setback under section 55-42(b) may be expanded horizontally, landward, or vertically provided that the expanded area meets the structure setback requirements per section 55-42(b) and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 55-51.
- (f) *Relocation of Nonconforming Principal Structures.* An existing principal structure that was lawfully placed when constructed but that does not comply with the required structure setback per section 55-42(b) may be relocated on the property provided all of the following requirements are met:
- (1) The use of the principal structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - (3) No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
 - (4) The Administrator determines that no other location is available on the property to build a principal structure of a comparable size to the principal structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 55-42(b).
 - (5) A permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 55-54, and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.
 - (6) All other provisions of the shoreland ordinance shall be met.
- (g) *Maintenance, Repair, Replacement or Vertical Expansion of Structures that were Authorized by Variance.* A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure

beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Sec. 55-54. Mitigation.

- (a) The property owner must submit a complete permit application that is reviewed and approved by the Administrator for a permit requiring mitigation under sections 55-51(c), 55-53(c) and 55-53(f). The application shall include the following:
- (1) A site plan that describes the proposed mitigation measures.
 - (2) The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
 - (3) The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
 - (4) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.

(b) Mitigation Standards.

Developing Property Under these Conditions	Mitigation Points Required
Impervious Surfaces – Existing, plus Proposed	
Greater than 15%, but less than 20%	1 Point
20%, but less than 25%	2 Points
25%, but less than 30%	3 Points
Lateral Expansion of a Non-Conforming Principal Structure within the Setback	2 Points
Relocation of a Non-Conforming Principal Structure	
Between 35' to 49.99' of the OWHM	3 Points
Between 50' to 64.99' of the OWHM	2 Points
Between 65' to 74.99' of the OWHM	1 Point

Mitigation Standards	Mitigation Points Earned
Increasing shoreland setback of a proposed principal structure – Every 10 feet	1 Point
No existing structures in the required 75' setback	1 Point
Removal of a Structure – Principal or Accessory	
0-250 square feet	1 Point
251-500 square feet	2 Points
Greater than 500 square feet	3 Points
Stormwater Management	
Installation of gutters with directional flow towards a retention area and/or rain garden	1 Point

Installation of a rain garden 0-500 square feet	2 Points
Installation of a rain garden greater than 500 square feet	3 Points
Installation of an engineered stormwater infiltration system (e.g. infiltration trenches, infiltration chambers, drywells, grass swales or other comparable practices)	3 Points
Removal of nonstructural impervious surfaces. Each rounded to 500 square feet of pavement	0.5 Points
Removal of nonstructural impervious surfaces. Each rounded to 1,000 square feet of hard packed gravel.	0.5 Points
Removal of Existing Shore Lighting with Installation of Downcast Shore Lighting	1 Point
Shoreland Buffers	
Property has an existing compliant vegetative shoreland buffer located between the OHWM and a point located at least 35 feet inland.	2 Points
Restore an active compliant – Accelerated Recovery	3 Points
Restore a passive buffer – Natural Recovery	1 Point
Increase depth of existing compliant 35' buffer – Every additional 5 feet	0.5 Point
Reduce overall width of access and viewing corridor – Every 15 feet	1 Point
Any other mitigation that is deemed appropriate by the Administrator may be used to meet the mitigation requirement(s) of this ordinance	Variable

(Ord. No. 06-16, 09-13-16)