

**AN ORDINANCE AMENDING THE GENERAL CODE OF THE COUNTY OF LINCOLN CHAPTER 21, SHORELAND ZONING.**

The County Board of Supervisors of Lincoln County, Wisconsin, does hereby ordain that Chapter 21 be amended as indicated in the attachment.

Motion by: Powell				
Second by: Rusch				
Dist.	Supervisor	Y	N	Abs
13	Alber		X	
19	Allen	X		
10	Baughan	X		
1	Bialecki	X		
11	Breitenmoser			
12	Gilk		X	
17	Koth	X		
15	Lee	X		
16	Loka	X		
14	Lussow			
4	Nowak	X		
21	Pike	X		
8	Plant			
18	Powell	X		
22	Reichelt	X		
7	Rusch	X		
3	Schwartzman	X		
5	Swanson	X		
20	Vander Sanden	X		
2	Weaver	X		
6	Woller	X		
9	Zeitz	X		
<b>Totals</b>		<b>17</b>	<b>2</b>	
Carried				
Defeated				
Amended				
Voice vote				
Roll call				

STATE OF WISCONSIN )  
 ) SS:  
 COUNTY OF LINCOLN )

This ordinance shall take effect following its passage and publication.

I hereby certify that this resolution/ordinance is a true and correct copy of a resolution/ordinance adopted by Lincoln County Board of Supervisors on:

Dated: February 16, 2016

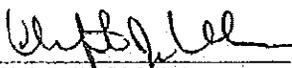
Introduced by: Land Services Committee

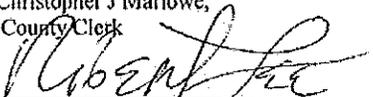
Date Passed: January 14, 2016 Committee Vote: 6-0

February 16, 2016

Fiscal Impact: None

Drafted by: Matthew Bremer

  
 Christopher J Marlowe,  
 County Clerk

  
 Robert Lee, County Board Chair



**CHAPTER 21**  
**SHORELAND ZONING ORDINANCE**  
**(Cr. #432-2003)**

**STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE, TITLE, APPLICABILITY, AND  
RELATION TO OTHER COUNTY ORDINANCES**

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## **CHAPTER 21 - SHORELAND ZONING**

### **21.01 - STATUTORY AUTHORIZATION.**

This chapter is adopted pursuant to the authorization in ss.59.692 Wis. Stats to implement 59.692, and 281.31

### **21.02 - FINDING OF FACT.**

Uncontrolled use of the shorelands and pollution of the navigable waters of Lincoln County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Lincoln County, Wisconsin.

### **21.03 - PURPOSE.**

For the purpose of promoting the public health, safety, convenience, and welfare, and protect the public trust in navigable waters this chapter has been established to:

- (1) FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:
  - (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
  - (b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
  - (c) Controlling filling and grading to prevent soil erosion problems.
  - (d) Limiting impervious surfaces to control runoff which carries pollutants.
  - (e) Preserving wetlands to minimize runoff and soil erosion.
- (2) PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:
  - (a) Preserving wetlands and other fish and aquatic habitat.
  - (b) Regulating pollution sources.
  - (c) Controlling shoreline alterations, dredging and lagooning.
- (3) CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:
  - (a) Separating conflicting land uses.
  - (b) Prohibiting certain uses detrimental to the shoreland-wetlands area.
  - (c) Setting minimum lot sizes and width.
  - (d) Setting side yard and building setbacks from waterways.
  - (e) Setting the maximum height of near shore structures.
- (4) PRESERVE and RESTORE SHORELAND VEGETATION AND NATURAL SCENIC BEAUTY THROUGH:
  - (a) Restricting the removal of natural shoreland cover.
  - (b) Preventing shoreline encroachment by structures.
  - (c) Controlling shoreland excavation and other earth moving activities.

- (d) Regulating the use and placement of boathouses and other structures.
- (e) Administering shoreland buffer standards to limit cumulative impacts to natural beauty and shore cover.
- (f) Preserving native wetland plant/tree communities and preventing the destruction and degradation of wetlands.

**21.04 - TITLE.**

This chapter shall be known as the "Shoreland Zoning Ordinance for Lincoln County, Wisconsin."

**21.05 - APPLICABILITY.**

(1) **AREAS TO BE REGULATED.** Areas regulated by this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Lincoln County, which are:

(a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Lincoln 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 available electronically at the following web site: <http://dnr.wi.gov/org/water/fhp/lakes/lakemap/> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.

(b) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in 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

(c) The Land Services Department shall initially make determinations of navigability and ordinary high water mark location. When questions arise, the Land Services Department shall contact the appropriate local office of the Department of Natural Resources for a final determination of navigability or ordinary high water mark.

(2) **AREAS NOT REGULATED UNDER THIS ORDINANCE.** This ordinance shall not apply to the following:

(a) Under §281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to the natural navigable stream or river;
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
3. Lands adjacent to artificially constructed drainage ditches, ponds, stormwater retention basins that are not hydrologically connected to a natural navigable water body.

(b) Structures located predominantly below the OHWM such as piers and docks are subject to the regulations of the State of Wisconsin administered by the Wisconsin Department of Natural Resources.

(c) Shoreline stabilization structures which are located at or below the OHWM including rock rip-rap and sea walls are subject to the regulations of the State of Wisconsin administered by the Wisconsin Department of Natural Resources.

(2) **SHORELAND ZONING MAPS AND REPORTS.** The maps designated below are hereby adopted and made part of this chapter by reference. They are on file in the Lincoln County Land Services Department

- (a) United States Geological Survey 7.5 minute series Quadrangle Maps for Lincoln County (as revised).
- (b) Wisconsin Department of Natural Resources Wetland Inventory Maps. The maps can be viewed at <http://dnrm.wisconsin.gov/SLViewer.html?Viewer=SWDV&runWorkflow=Wetland>.
- (c) Current Floodplain Zoning Maps
- (d) Lincoln County Lake and River Classification Map and Scoring Criteria Report. This information shall only be used for the purpose of educating the public about natural features and characteristics of a particular waterbody, not to establish regulations inconsistent with 59.692 Wis. Stats.

(3) 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, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

(4) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.2022(1) Wis. Stats., applies.

(5) ABROGATION AND GREATER RESTRICTIONS. The provisions of this chapter supersede any provisions in a county zoning ordinance that solely relate to shorelands.

- (a) This chapter shall not require approval or be subject to disapproval by any town or town board. (s. 59.692(2)(a), Wis. Stats.)
- (b) If an existing town ordinance relating to shoreland is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects of the greater restrictions but not otherwise.
- (c) Separate ordinances adopted under a statute other than 59.692 Wis. Stats., which do not solely relate to shorelands and contain standards more restrictive than this ordinance, shall continue in full force and effect to the extent of the greater restrictions
- (d) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restriction, the provisions of this chapter shall prevail.
- (e) The provisions of the Lincoln County code of ordinances are hereby referenced in this chapter. These provisions shall only apply to the shoreland areas where they impose greater restrictions than this chapter otherwise imposes.
- (f) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 21.03 of this ordinance.
- (g) Lincoln County may not establish shoreland zoning standards in any ordinance which requires any of the following:
  - 1. 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 prohibit or regulate

outdoor lighting in shorelands if the lighting is designed or intended for residential use.

2. Require any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

(6) **INTERPRETATION.** In their interpretation and application, the provisions of this Chapter shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by 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.

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

#### **21.06 - LAND DIVISION REVIEW**

(1) The county shall review, pursuant to §236.45, Wis. Stats., and Chapters 17 and 18 of the Lincoln County Code of Ordinances, all land divisions in shoreland areas which create parcels or building sites of less than 10 acres each. In such review, all of the following factors shall be considered:

- (a) Hazards to health, safety, or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters, as required by law.
- (d) Adequate stormwater drainage facilities
- (e) Conformity to state law and administrative code provisions.

### **GENERAL PROVISIONS**

#### **21.07 REQUIREMENTS FOR SHORELAND DEVELOPMENT**

(1) **MINIMUM LOT SIZE.** 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 area or width of a lot, the beds of navigable waters shall not be included.

- (a) **SEWERED LOTS.** For each Lot, the minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.
- (b) **UNSEWERED LOTS.** For each Lot, the minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet.

(2) **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:

- (a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.

(b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

(c) The substandard lot or parcel is developed to comply with all other ordinance requirements.

**(3) OTHER SUBSTANDARD LOTS.** Except for lots which meet the requirements of section 21.07(2) a permit for the improvement of a lot having lesser dimensions than those stated in sections 21.07(1)(a) and 21.07(1)(b) shall be issued only if a variance is granted by the board of adjustment.

**(4) BUILDING SETBACKS.** Permitted building setbacks shall be established to conform to health, safety, and welfare requirements, preserve natural beauty, reduce flood hazards, and avoid water pollution.

(a) **Shoreland Setback.** Unless exempt under 21.07(6) or reduced under 21.07(5), a horizontal setback of 75 feet from the Ordinary high water mark of any navigable waters to the nearest part of a building or structure shall be required for all structures.

(b) **Side Yard Setback.** A minimum of 10 feet to the nearest part of a structure/building foundation.

(c) **Road Setback.** Refer to 17.4.10 of the Lincoln County Ordinances.

(d) **Rear Yard Setback for Non-Riparian Lots.**

1. Accessory structures. A minimum of 10 feet to the nearest part of a structure/ building foundation.

2. Principal structures. A minimum of 25 feet to the nearest part of a structure/ building foundation

**(5) REDUCED PRINCIPAL STRUCTURE SETBACK.** Existing development pattern means that principal structures exist within 250 feet of the proposed principal structure in both directions along the shoreline. Where there is an existing development pattern, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot ~~within 250 feet~~ of the proposed principal structure. The shoreland setback may not be reduced to less than 35 feet from the ordinary high water mark of any navigable waters.

**(6) EXEMPT STRUCTURES.** All of the following structures are exempt from the shoreland setback standards in 21.07(4)(a)

(a) **Boathouses** which are located entirely above the ordinary high-water mark, entirely within the view and access corridor, do not contain plumbing, and are not used for human habitation.

1. **Legal Pre-Existing Boathouses** may not be expanded but may be structurally repaired, subject to the following standards:

a. The mitigation schedule in Section 21.14 shall apply in respect to the impervious surface standards.

b. The boathouse must be located entirely within the allowable view and access corridor calculation.

c. The boathouse cannot contain plumbing or plumbing fixtures and cannot be used for human habitation.

d. If the roof is to be replaced as part of the structural repair, it shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but is not steeper than 6/12 rise to run.

2. **New Boathouses** may be constructed subject to the following standards:

- a. The floor or top of the footing must be at or above the OHWM
- b. They may not exceed a dimension of 300 square feet nor may the wall height exceed 10 feet.
- c. They shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but is not steeper than 6/12 rise to run.
- d. Must be completely located within the allowable view and access corridor of the parcel.
- e. The mitigation schedule in Section 21.14 shall apply in respect to the impervious surface standards.
- f. The boathouse cannot contain plumbing or plumbing fixtures and cannot be used for human habitation.
- g. Boathouses shall be constructed in conformity with local floodplain zoning standards.
- h. The structure shall be designed and constructed solely for the storage of boats and related equipment. Other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
- i. Siding and roofing color schemes should be muted and blend with natural landscapes and the surrounding environment. Bright colors or contrasting colors including white are prohibited.

### 3. Wet Boathouses

- a. The maintenance and repair of boathouses that extend completely beyond the ordinary high water mark of any navigable waters shall be required to comply with s.30.121, Wisconsin Statutes and are regulated by the Wisconsin Department of Natural Resources.
- b. If any portion of the boathouse is located above the Ordinary High Water Mark, the requirements of Section 21.07 (6) (a) are applicable to the entire boathouse.

### (b) Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats.

1. Exempt open sided and screened structures may be constructed with an approved permit at less than minimum setback required in 21.07 (4)(a), pursuant to s. 59.692(1v), subject to the following standards:
  - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
  - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet, excluding those exempt under 21.07(6) (a)(c)(d)(e) and(f)
  - c. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
  - d. The county must approve a plan, consistent with 21.09 of this chapter 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.
  - e. The structure, if freestanding, may not have a wall height exceeding 10 feet.
  - f. The mitigation schedule in Section 21.14 only applies in respect to the impervious

surface standards

- g. An affidavit shall be signed by the owner requesting the 59.692 permit which acknowledges the shoreland buffer requirements. Said affidavit will also be recorded in the Lincoln County Register of Deeds office and serve as official notice of this requirement to future property owners.
- (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 383 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) Open fences constructed of split rail or wire, may be allowed within the shoreland setback provided they are no taller than 6 feet in height and do not extend waterward beyond the OHWM except as required by other state law. Solid or (and) chain link fences shall not be located within the shoreland setback
  - (f) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.
    1. **Pedestrian access to the shoreline.** A stairway, walkway or lift is allowed in the shoreland setback area only when it is necessary to provide pedestrian access to the shoreline because of steep slopes or unstable soils. The construction is subject to the following standards:
      - a. Canopies, roofs, and sides are prohibited. Open railings may be provided.
      - b. A maximum width of 5 feet (outside dimensions) is allowed for a stairway, walkway, and lift
      - c. Landings are allowed where required for safety purposes and shall not exceed a cumulative total of 40 square feet. Attached benches, seats, tables, or similar structures are prohibited.
      - d. A stairway, walkway, or lift shall be constructed and surfaced to effectively control erosion and minimize stormwater runoff directly into a waterway.
      - e. The mitigation schedule in Section 21.14 applies in respect to the impervious surface standards.
      - f. Shall be located within the allowable view and access corridor to the extent practicable.
      - g. Any filling, grading or excavation that is proposed must meet the requirements of 21.10 of this chapter.
    2. Accommodations for disabled persons. Where strict interpretation of this chapter would effectively deny disabled persons equal opportunity, and where the property does not meet the criteria for a variance under 21.15(2) of this chapter, the Land Services Department may grant a waiver to the dimensional standards of this chapter in order to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Housing Act and the Wisconsin Fair Housing Act. The permit shall be subject to the following standards:
      - a. Only the minimum relaxation of dimensional standards needed to provide reasonable accommodation shall be approved.
      - b. No use, structure or other relaxation of standards shall be approved that would

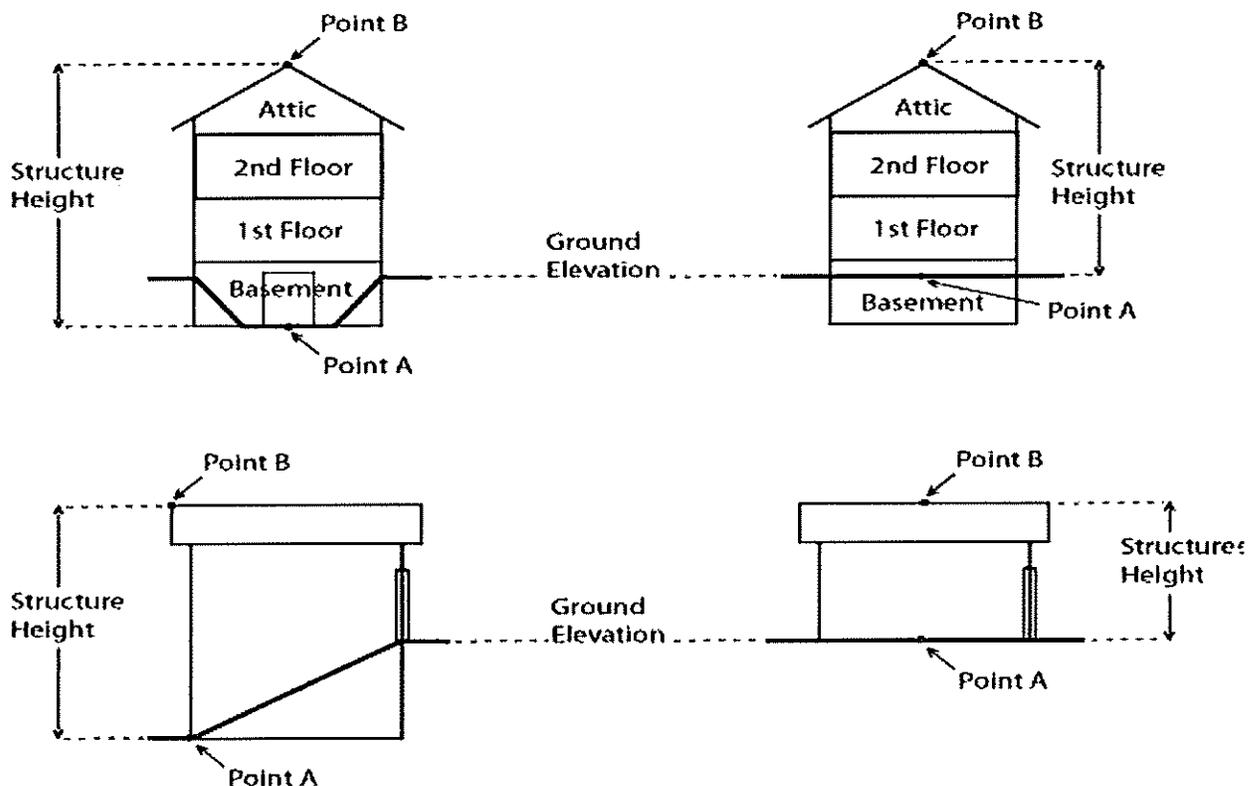
violate or undermine the stated purpose of this chapter.

- c. the improvement authorized by this provision shall be removed when the premises are no longer occupied or frequented by a disabled person.

**(7) FLOODPLAIN STRUCTURES.** Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

**(8) STRUCTURE HEIGHT.** To protect and preserve wildlife habitat and natural scenic beauty, the height of both principal and accessory structures are subject to the following standards:

- (a) A structure located within 75 feet of the ordinary high water mark of any navigable body of water shall not exceed a height of 35 feet.
- (b) A structure located between 75 feet and 300 feet of the ordinary high water mark of any navigable body of water shall not exceed a height of 45 feet.
- (c) 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.



**(9) DEVELOPMENT OF ISLANDS.** Standards for the development of these natural features shall be established to preserve and protect the characteristics of the island and the adjacent body of water.

- (1) Islands with sufficient area to meet setbacks in 21.07(4)(a) may be developed, subject to the following standards:

- 1. A conditional use permit from the Land Services Committee shall be obtained prior to construction or soil disturbance activities.

2. The approved use shall be a permitted or conditional use for the underlying zoning district.
3. A developed island shall be provided with at least one mainland access lot, on that same waterbody, for ingress, egress, and parking areas and sanitary maintenance on the island. The construction or placement of any structure on an access lot is prohibited with the exception of piers, docks, wharfs, boat hoists and boat shelters in conformance with Wisconsin Administrative Code NR 115 and NR 326, and Ch. 30, Wis. Stats.
4. The total number of principal structures on an island shall be based on the surface area, minimum average lot width and setbacks as prescribed by the applicable zoning district and/or minimum requirements in 21.07 (1) and 21.07(4) for one **principal** structure.
5. A structure with plumbing shall only be allowed on an island with an approved Sanitary Permit including a viable Maintenance Agreement and Contingency Plan, including a suitable maintenance contract signed by a licensed service provider. A holding tank septic system shall not be allowed as an acceptable waste disposal system due to the frequent service interval requirements. If a road access to the island is authorized by permit and constructed, a holding tank may be considered for waste treatment at that time.
6. Cutting of vegetation within the required shoreland buffer shall be consistent with 21.08(2) of this ordinance. On previously undeveloped islands with an existing shoreland buffer, an affidavit shall be signed by the land owner and recorded in the Lincoln County Register of Deeds office prior to development to serve as official notice of this requirement to future property owners

(2) Islands shall not be developed if any of the following exist:

1. Insufficient upland area
2. Insufficient areas that meet setbacks
3. The Island is subject to flooding
4. There is no viable access lot
5. Other significant environmental limitations exist, including steep slopes or inadequate soil
6. There is documented cultural, historic or ecological value on the island

**(10) DEVELOPMENT OF ACCESS LOTS.** The development of shoreline property as an access lot for use by owners of back lots may take place after obtaining a conditional use permit from the Land Services Committee. The following minimum requirements shall be made conditions of the conditional use permit:

- (a) The minimum lot area and width of an access lot shall meet the requirements of 21.07(1) not including space devoted to any public roadway or right of way that may intersect the access lot.
- (b) The proposed access lot shall not provide water access for more than 3 back lots or dwelling units
- (c) The back lots having access to the water over the access lot must be situated so that they are contiguous to each other, excepting roadways, and their furthest boundary no more than 1,000 feet from the back of the access lot.
- (d) The construction or placement of any structure (including boathouses) on an access lot is prohibited except for piers, docks, wharfs and boat shelters and hoists consistent with provisions of Wisconsin Administrative Code NR 115 and NR 326, and Ch. 30, Wis. Stats.
- (e) Each back lot owner shall be granted an undivided interest in the access lot. The access lot shall not be subdivided in any way.
- (f) An affidavit shall be recorded in the Lincoln County Register of Deeds office to serve as official notice

of shoreland buffer requirements on the proposed access lot, according to 21.08(2) of this chapter.

- (g) The following additional conditions may be considered for an access site/lot including and not limited to: waste containment, sanitary facility, noise limits, screening, parking, parking controls, time requirements, lighting and identification of sites, fish cleaning, gasoline and oil handling, and disposition of all waste materials.

**(11) ACCESS EASEMENTS.** Except as provided in 21.07(10), no owner of riparian land that abuts a navigable water may grant by an easement or by a similar conveyance any riparian right in the land to another person, except for the right to cross the land in order to provide public access to the navigable water.

**(12) FRONTAGE AND LOT AREA FOR MULTIPLE PRINCIPAL STRUCTURES.**

- (a) Within the shoreland zone, when more than one residential unit/housing unit or nonresidential principal building is proposed on a lot, each additional residential unit/housing unit or nonresidential principal building is required to have the minimum lot width required under 21.07(1). (For example, if the minimum average lot width required is 100 feet, a two-family dwelling would be required to have a minimum lot width of 200 feet.)
- (b) Within the shoreland zone, when more than one residential unit/housing unit or nonresidential principal building is proposed on a lot, each additional residential unit/housing unit or nonresidential principal building is required to have the minimum lot size required under 21.07(1). (For example, if the minimum lot area required is 20,000 square feet; a two-family dwelling would be required to have a minimum lot size of 40,000 square feet.)

**21.08 - PRESERVATION AND REMOVAL OF SHORELAND VEGETATIVE COVER.**

- (1) **PURPOSE.** To protect natural scenic beauty, fish and wildlife habitat, and water quality, Lincoln County shall regulate removal of vegetation in shoreland areas with standards that consider sound forestry and soil conservation practices, the effect of vegetation removal on water quality including soil erosion and the flow of effluents, sediments and nutrients.
- (2) **SHORELAND BUFFER.** To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, this chapter shall designate all land that extends from the ordinary high water mark to a minimum of 35 feet inland as a shoreland buffer and prohibit removal of vegetation in the shoreland buffer. A compliant shoreland buffer shall contain three distinct layers including a native tree canopy, shrub layer, and groundcover layer, except for closed canopy forest types such as pine and hemlock. The following activities are allowed within the shoreland buffer, subject to the following standards:

- (a) The removal of trees and shrubs in the shoreland buffer to create view and access corridors per 59.692(1f) (b) Stats, :

1. The view and access corridor may be at least 35 feet wide for every 100 feet of shoreline frontage.
2. The view and access corridor may run contiguously for the entire maximum allowed width per shoreline frontage owned.
3. The allowable view and access shall be determined by the amount of shoreline frontage listed on a Certified Survey Map, Lincoln County GIS parcel map, or other reasonably accurate assessment tool in use in the Land Services Department.
4. The view and access corridor must be maintained with some form of vegetation that prevents bank erosion and sedimentation of the waterway. Sand, gravel, rock or other similar materials shall be prohibited as an alternative to vegetation unless otherwise allowed by this chapter.

- (b) The removal of dead, diseased or dying trees and tree branches provided they present a safety

hazard to structures or persons, and provided they are replaced with native vegetation or approved cultivars of native stock that is equally effective in fulfilling the purposes of the shoreland buffer.

- (c) The removal of trees and shrubs in the shoreland buffer 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), and described in The Wisconsin Department of Natural Resources \publication "Wisconsin Forest Management Guidelines", provided that vegetation removal be consistent with these practices.
  - (d) The removal of vegetation within the shoreland buffer to manage exotic or invasive species provided that any vegetation removed be replaced with native vegetation or approved cultivars of native stock that is equally effective in fulfilling the purposes of the shoreland buffer.
  - (e) The routine maintenance of vegetation, consistent with the following:
    - 1. Landscaping and lawns that extend into the required shoreland buffer area prior to the adoption of this chapter may be maintained but shall not be extended further into the required shoreland buffer.
    - 2. Pruning, trimming, or other generally accepted horticultural practices which do not result in the loss of plant densities within the required shoreland buffer
  - (f) Any path, road or passage within the required shoreland buffer, including the allowable view and access corridor, shall be constructed and surfaced so as to effectively control erosion and minimize stormwater runoff directly into a waterway.
- (3) Protection of shoreland buffer vegetation during times of construction. Except where construction within the shoreland buffer is authorized, all vegetation within the required shoreland buffer shall be protected by fencing to exclude construction activities. Such vegetation shall be maintained so as to maximize the soil stabilization and filtering functions of the shoreland buffer.
- (4) Cutting more than 35 feet inland. From the inland edge of the 35 foot shoreland buffer to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using forest management and soil conservation practices which protect water quality, as outlined in the Department of Natural Resources Publication "Wisconsin's forestry best management practices for water quality".
- (5) An affidavit shall be recorded in the register of deeds to serve as an official notice of shoreland buffer requirements in the following instances.
- (a) When new construction is proposed on a previously undeveloped lot with a shoreland buffer meeting standards in 21.08(2)
  - (b) When shoreland buffer restoration requirements or cutting limitations are a component of proposed mitigation as required by 21.14
  - (c) When cutting and clearing activities take place within the shoreland buffer in violation of 21.08(2) and shoreland buffer restoration is a component of resolving the violation.
  - (d) When a riparian lot is proposed to be subdivided, each remaining lot with a shoreland buffer meeting standards in 21.08(2) shall have a recorded affidavit.

**21.09 SHORELAND BUFFER RESTORATION STANDARDS.** Where shoreland buffer restoration is required by 21.07(6) (b) or proposed under 21.14, the restoration shall meet the following criteria:

(1) **PASSIVE RESTORATION (Natural Recovery).** When all mowing, pruning, and vegetation cutting ceases within the shoreland buffer, with the exception of activities allowed by 21.08(2) of this chapter, and existing vegetation is then allowed to grow naturally, this shall be known as a passive shoreland buffer restoration

- (a) A passive shoreland buffer may only serve as the restoration if tree, shrub and ground cover layers are

already present in acceptable densities, as outlined in 21.08(2)(b) & (c), and the site is suited for natural regeneration.

(2) ACTIVE RESTORATION (Accelerated Recovery). When all mowing, pruning, and vegetation cutting ceases, with exception of activities allowed by Section 21.08 (2) of this chapter, and native species or approved cultivars of native stock are planted at required densities within the shoreland buffer this shall be known as an active shoreland buffer restoration. All active shoreland buffer restorations shall meet the following standards:

- (a) Planting shall be species native to Wisconsin and approved by the Land Services Department. Cultivars of these native species may be used if approved by the Land Services Department.
- (b) Trees shall be planted to restore a density of at least one stem per 100 square feet of shoreland buffer area.
- (c) Shrubs shall be planted to restore a density of at least 2 stems per 100 square feet of shoreland buffer area, except for closed canopy forest types.
- (d) Ground cover shall be restored to the extent practicable.

(3) SHORELAND BUFFER RESTORATION PLAN REQUIREMENTS. A plan for the restoration of an active shoreland buffer shall include:

- (a) An inventory of plant species currently present and an indication of their density within the required shoreland buffer.
- (b) A list of desired native, site-adapted species (or approved cultivars of native species), size or age of species and a schedule for their planting. A minimum size or age of species may be required depending on site conditions.
- (c) A sketch showing no mow areas and/or the placement and densities of each species planned for the restored shoreland buffer.
- (d) A description of how the applicant intends to carry out the project including a watering plan and the erosion control measures that will be used during-restoration.
- (e) A description of the proposed method for removal of existing turf grass or other non-native species. Landscape cloth, plastic, mill felt or other barriers similar in nature may only be used on a temporary basis to facilitate the removal of non-native species.
- (d) A Replacement schedule for restoration plantings. Any vegetation required as mitigation but subsequently dies due to neglect, lack of watering, planting errors, deer browse, etc. shall be replaced and maintained.

#### **21.10 - SOIL DISTURBING ACTIVITIES.**

(1) GENERAL STANDARDS. Soil disturbing activities include filling, grading, lagooning, dredging, ditching or excavating. Soil disturbing activities may be permitted in the shoreland area subject to the following standards:

- (a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- (b) Soil disturbing activities in a Shoreland-Wetland district meet the requirements of 21.11(3) of this chapter.
- (c) All applicable federal, state and local authority is obtained.
- (d) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or bulkhead.

(f) Filling, grading or excavating within the required shoreland buffer depth is prohibited except where authorized in association with a permitted use by this chapter, state, or federal regulations, and only to the minimum extent necessary to accomplish said permitted use.

(2) PERMIT REQUIRED. Except as provided in 21.10(3), a Zoning Permit is required for:

(a) Soil disturbing activities in any area which is within 300 feet landward of the OHWM of navigable water and which has surface drainage toward the water and on which there is either:

1. Any filling or grading on slopes of more than 20% or
2. Filling or grading of more than 1,000 square feet on slopes of 12-20% or
3. An area of one acre or greater will be disturbed by excavation, grading, filling or other earthmoving activities, resulting in the loss or removal of protective ground cover or vegetation.
4. When constructing a new boathouse under 21.07(6)(a) of this chapter.
5. When constructing stairways, walkways, or lifts under 21.07(6)(f) within the shoreland setback area prescribed by 21.07(4)(a)
6. When constructing a new retaining wall meeting setbacks prescribed by 21.07(4)(a) or re-constructing an existing retaining wall

(b) Any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is more than 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) SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE. Soil conservation practices such as but not limited to diversions and grassed waterways used for erosion control shall not require a permit under 21.10(2) of this chapter when designed and constructed to Natural Resources Conservation Service technical standards.

(4) Agricultural practices such as plowing of fields and or installation of conservation practices are exempt from permitting and grading/filling standards of this chapter as long as they are prescribed practices and adhere to standards inherent in Wisconsin Administrative Codes as promulgated under Ch. 281 and 92, Wis. Stats.

(5) Forestry activities such as harvesting of trees and landings are also exempt from regulation under this chapter as long as best management practices, as prescribed by "Wisconsin's Forestry Best Management Practices for Water Quality Field Manual", are adhered to by the landowner and logger or the practice is prescribed and supervised by a practicing forester.

(6) PERMIT CONDITIONS. In granting a permit under §21.10(2), all elements of the site disturbance plan required in 21.15(1) (b) as well as the following conditions shall apply:

- (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (b) Temporary ground cover (such as mulch or erosion control matting) shall be used as needed and permanent vegetative cover shall be established.
- (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used as needed to prevent erosion.
- (d) Lagoons shall be constructed to avoid fish trap conditions.
- (e) Fill shall be stabilized according to accepted engineering standards.
- (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

(g) Channels or artificial watercourses shall be constructed with side slope of 2 units of horizontal distance to one unit of vertical distance, or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

(h) Runoff shall be contained onsite and containment structures shall be designed so as to not allow it to escape onto adjoining properties.

(i) Any other conditions deemed necessary to prevent erosion and protect water quality.

#### **21.11 - SHORELAND-WETLAND DISTRICT.**

(1) **DESIGNATION.** This district shall include all shorelands within the jurisdiction of this chapter which meet the definition of wetlands in Section 21.18 of this Chapter. The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer shall be used for identifying the district but shall not be substituted for actual field conditions.

(a) **Locating Shoreland-Wetland Boundaries.** Where an apparent discrepancy exists between the Shoreland-Wetland District boundaries shown on the Wisconsin Wetland Inventory Maps and actual field conditions the Land Services Department shall contact the appropriate office of the Department of Natural Resources to determine if the Shoreland-Wetland District boundary as mapped is in error. If Department of Natural Resources staff 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 County shall have the authority to immediately grant or deny a shoreland land use permit in accordance with the applicable regulations based on the Department's determination as to whether the area is wetland and the current zoning district. In order to correct wetland mapping errors on an official zoning map, an official map amendment must be initiated within a reasonable period of time.

(2) **PURPOSE.** The 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 wetlands.

(3) **PERMITTED USES.** The following uses shall be allowed, subject to general shoreland zoning regulations contained in this chapter, the provisions of Chs. 30, 31, 281.36 and 281.37, Wis. Stats. and the provisions of other applicable local, state and federal laws.

(a) Activities and uses which do not require the issuance of a zoning permit (allowed uses), but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavation except as allowed under 21.12 (3) (a) & (b)

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

(b) Uses which do not require the issuance of a zoning permit (allowed uses) and which may include limited filling, flooding, drainage, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;

2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredge spoil is placed on existing spoil banks where possible;
4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
5. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
6. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) Uses which require the issuance of zoning permit under **21.15(1)** and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation provided that:
  - a. The road cannot as a practical matter be located outside the wetland;
  - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in **21.11(2)**.
  - c. The road is designed and constructed with the minimum cross sectional area practical to the intended use;
  - d. Road construction activities are carried out in the immediate area of the roadbed only.
2. The construction or maintenance of nonresidential buildings provided that:
  - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the Shoreland-Wetland District,
  - b. The building cannot, as a practical matter, be located outside the wetland;
  - c. Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and
  - d. Only limited filling or excavating necessary to provide structural support for the building is authorized.
3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps attendant access roads, provided that:
  - a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, Wis. Stats., where applicable.
  - b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only when such construction or maintenance meets the criteria in 21.11(3)(a)—(c) 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 for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in 21.11(2).

(4) PROHIBITED USES. Any use not listed in 21.11(3)(a)—(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with 21.11(5) of this chapter and §59.69(5)(e), Wis. Stats.

(5) REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

(a) For all proposed text and map amendments to the Shoreland-Wetland provision of this chapter, the appropriate local office of the Department shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provision of this chapter, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory Map adopted as part of this chapter describing any proposed rezoning of a shoreland-wetland;

2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;

3. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board; and

4. Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.

(b) A wetland, or a portion thereof, in the Shoreland-Wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity;

2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.

3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable water.

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 NR 103.04.

(c) If the Department of Natural Resources notifies the Land Services Department that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in 21.11 (5) (b) that amendment, if approved by the County Board, shall contain the following provisions:

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

### **21.12 NONCONFORMING USES AND STRUCTURES.**

- (1) **DISCONTINUED NONCONFORMING USE.** If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.
- (2) **MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION 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, subject to the following standards:
  - (a) The activity does not expand the footprint of the nonconforming structure.
  - (b) 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.
  - (c) The expansion of a structure beyond the existing footprint within the required setback is allowed only if the expansion is necessary to comply with other applicable state or federal requirements.
- (3) **LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURE WITHIN THE SETBACK.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per sections 21.07(4)(a) or may be expanded laterally, provided that all of the following requirements are met:
  - (a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
  - (b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
  - (c) 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.
  - (d) The county shall issue 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 21.14
  - (e) All other provisions of the shoreland ordinance shall be met.
- (4) **EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURE BEYOND SETBACK.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under sections 21.07(4)(a) or may be expanded horizontally, landward or vertically provided

that the expanded area meets the building setback requirements per section 21.07(4) or 21.07(5) 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 21.14

- (5) **RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURE.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per sections 21.07(4)(a) or 21.07(5) may be relocated on the property provided all of the following requirements are met:
- (a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
  - (b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
  - (c) 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.
  - (d) The county determines that no other location is available on the property to build a principal structure of the same area in square feet to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 21.07(4)(a)
  - (e) The county shall issue 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 21.14 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 relocation 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.
  - (f) All other provisions of the shoreland ordinance shall be met.

#### **21.13 IMPERVIOUS SURFACE STANDARDS.**

- (1) **PURPOSE.** Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
- (2) **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 21.13 (5) shall be excluded from the calculation of impervious surface on the lot or parcel.
- (a) 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.
  - (b) For properties under alternative forms of ownership such as condominiums, cooperatives and associations, the limits to expansion on structures and caps on impervious surfaces shall be attributable to the total number of units within the development. For example: If owners within a 3 unit condominium development have 1500 square feet of expansion opportunity available to the units under the impervious surface limitations and they want to expand their structures, then the expansion opportunity for principal or accessory structures shall be split equally amongst the 3 units so that no more than 500 feet of expansion to impervious surfaces is afforded to each unit.

- (3) **GENERAL IMPERVIOUS SURFACE STANDARD.** Except as authorized in section 21.13(4) and 21.13(5), up to 15% impervious surfaces are allowed on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- (4) **MAXIMUM IMPERVIOUS SURFACE.** A property may exceed the impervious surface standard under 21.13(3) provided the following standards are met:
- (a) 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.
  - (b) For properties that exceed the standard under 21.13(3) but do not exceed the maximum standard under 21.13 (4)(a), a permit can be issued for development with a mitigation plan that meets the standards found in section 21.14
- (5) **TREATED IMPERVIOUS SURFACES.** Impervious surfaces that can be documented to show they meet the standards in 21.13(5) (a) or (b) of this section shall be excluded from the impervious surface calculations under section 21.13(2)
- (a) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
  - (b) 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.
  - (c) To qualify for the statutory exemption, property owners shall submit a complete permit application that is reviewed and approved by the county. The application shall include the following:
    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.
    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 office of the Register of Deeds prior to the issuance of the permit.
- (6) **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 21.13(3) or the maximum impervious surface standard in section 21.13(4), the property owner may do any of the following:
- (a) maintain and repair the existing impervious surfaces;
  - (b) replace existing impervious surfaces with similar surfaces within the existing building envelope;
  - (c) 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 s. Wis. Admin. Code NR 115.05 (1) (b).

**21.14 MITIGATION.** When a permit is issued requiring mitigation under sections 21.12(3), 21.12(5), or 21.13(4), the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include a plan that outlines the proposed mitigation measures and meets the following criteria:

(1) Mitigation Schedule:

<p>Mitigation points are required for developing property under the following conditions:</p>	<p>Opportunities to earn mitigation points include:</p>
<p>Impervious surface coverage is greater than 15% but less than 20% - 2 points</p> <p>Impervious surface coverage is from 20% to 30% - 3 points</p> <p>Lateral Expansion of Nonconforming <b>principal</b> structure within the shoreland set-back (21.12)(3)- 3 points</p> <p>Relocation of Nonconforming <b>principal</b> Structure within the shoreland setback.(21.12)(5)- 1 point</p>	<p>Removal of a structure within the shoreland setback.- up to 3 points</p> <p>Installation of a Rain Garden – up to 3 points</p> <p>Installation of a Stormwater Infiltration System- 3 points</p> <p>Existing compliant shoreland buffer- 2 points</p> <p>Active Restoration (Accelerated Recovery) of a compliant shoreland buffer-3 points –<b>21.09(2)</b></p> <p>Passive Restoration (Natural Recovery) of a compliant shoreland buffer- 1 point-<b>21.09(1)</b></p> <p>Increasing depth of an existing compliant shoreland buffer-2 points for every 15 feet of depth</p> <p>Reducing width of allowable view and access corridor(s)- 1 point for every 15 foot reduction</p> <p>If lot size is larger than prescribed minimum – 1 point for every 10,000 sq. ft. increment of lot area which may not be subdivided from remaining parcel.</p> <p>Sea Wall Removal and Bank Stabilization – 3 points</p> <p>Increasing Shoreland Setback – 1 point for every 15 foot increase beyond required. (maximum of 3 points)</p> <p>Removal of an existing artificial sand beach at least 200 sq. ft. in size within 35 feet of the OHWM with active restoration (accelerated recovery) of area - 1 point</p>

- (2) All mitigation shall be designed and installed as specified in the most current Lincoln County Shoreland Mitigation Guidebook as approved by the Land Services Committee which is intended 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.
  - a) The enforceable obligations shall be evidenced by an affidavit recorded in the office of the Register of Deeds.

- b) All shoreland mitigation activities must begin within one year of the recording date of the mitigation affidavit or in accordance with a timeline that is written into the mitigation plan and must be completed in accordance with said timeline or within 2 years of the recording date if a timeline has not been established.

## **ADMINISTRATION, CHANGES AND AMENDMENTS, ENFORCEMENT AND DEFINITIONS**

### **21.15 - ADMINISTRATIVE PROVISIONS.**

#### **(1) ZONING PERMITS.**

(a) When Required. Unless prohibited by 59.692 (1k) Stats. and where another section of this chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Land Services Department before any new development, as defined in 21.18, any structural repair of nonconforming structures or any change in the use of an existing building or structure, is initiated.

(b) Application. An application for a zoning permit shall be made to the Land Services Department upon forms furnished by the county and shall include, for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of applicant and property owner.
2. Legal description of the property and type of proposed use.
3. A sketch of the dimensions of the lot and location of buildings relative to the lot lines, centerline of abutting or proposed highways, and the ordinary high water mark of any abutting watercourses. .
4. Location and description of any existing private water supply or onsite waste water treatment system or notification of plans for any such installation.
5. A proposed Site Disturbance Plan that includes:
  - a. The location of planned areas of excavation, clearing, grading or fill
  - b. Appropriate use of best management practices to protect the site from erosion, sedimentation, contamination, and vegetation protection. Such measures shall include, but may not be limited to:
    1. Silt fencing, hay or straw bales and other barriers.
    2. Sedimentation basins.
    3. Protective fencing for trees and other vegetation.
    4. Designated soil stockpile and staging areas.
    5. Designated heavy equipment and vehicular access drives and staging areas.
    6. Designation of existing vegetation that will be preserved by the applicant.
    7. Other techniques as deemed appropriate by the Land Services Department
6. Demonstration of how the applicant proposes to contain all runoff generated from the property within the same property.

(c) Permit Issuance. All other applicable documents, including but not limited to sanitary permit applications, rural address application and land use affidavit must be completed prior to issuance of the zoning permit. All site protection measures required in the approved Site Disturbance Plan must be put in place prior to any site disturbance or construction.

(d) Expiration of Permit. Zoning permits shall expire 24 months from the date issued if work is not

completed, unless a one year extension is applied for, without fee, from the Land Services Department prior to the expiration date.

**(e) Permit Records and Notices.**

1. The county shall keep a complete record of all permits and proceedings before the board of adjustment and land services committee.
2. Written notice shall be submitted to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under this ordinance
3. Submission to the appropriate office of the Department, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.
4. Mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments shall be on file with the land services department.

(2) **VARIANCE.** Any request for relaxation of a standard of the shoreland regulations shall be reviewed by the Board of Adjustment. Refer to Chapter 17 of the Lincoln County Code of Ordinances

(3) **FEES; GENERAL.** The Land Services Committee may set fees (where applicable) for permits and inspections conducted by the Land Services Department to implement this chapter. Such fees shall be posted in a schedule by the Land Services Department and made available upon request.

**21.16 - CHANGES AND AMENDMENTS.**

The County Board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this chapter in accordance with the requirements of §59.69(5)(e). Wis. Stats., Ch. NR 115, Wis. Adm. Code, and 21.11(5) of this chapter where applicable.

(1) Amendments to this chapter may be made on petition of any interested party as provided in §59.69(5)(e), Wis. Stats.

(2) Every petition for a text or map amendment filed with the county clerk shall be referred to the Land Services Department. A copy of each petition shall be mailed to the appropriate district office of the Department of Natural Resources within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate local office of the Department of Natural Resources at least 10 days prior to the hearing.

(3) A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate local office of the Department of Natural Resources within 10 days after the decision is issued.

**21.17 - ENFORCEMENT AND PENALTIES.**

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Land Services Department shall refer violations to the corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violated or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture in accordance with the schedule established by §25.04 of the Lincoln County Code of Ordinances, together with the taxable cost of action. Each day which the violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to §59.69(11), Wis. Stats.

(1) As required by §59.69(1), Wis. Stats., where a building or structure violates the dimensional or use

standards of this chapter, and the violating building or structure has been in place for more than 10 years before an enforcement action is initiated, such building or structure shall not be pursued as a violation or require removal from the parcel but will not be considered a nonconforming structure according to the definition found in 21.18. The provisions of 21.12 of this chapter do not apply to illegally constructed buildings or structures.

(2) Any property owner asserting as a defense to a charge of violating this chapter that the alleged violation has been in place more than 10 years before enforcement action was initiated has the burden of proving that:

- (a) The building or structure that is in violation has been in place more than 10 years before enforcement action was initiated;
- (b) That the building or structure (and its use, if the use is nonconforming) has remained essentially unchanged for at least 10 years;
- (c) That the use of the building or structure has been active and continuous for 10 years or more. If use was discontinued for more than 12 months, the use shall not be considered active and continuous.

(3) VIOLATIONS OF PERMITS ISSUED UNDER THIS CHAPTER.

- (a) Violation of a permit issued under this chapter, or any condition or approved plan associated with such permit, shall be deemed a violation of this chapter, and shall constitute grounds for revocation of the permit, as well as fines and forfeitures and any other available remedies. A permit may be revoked only by action of the body that initially granted the permit, following procedures required for its initial issuance to the extent practical. The decision of the appropriate body shall be furnished to the permit holder in writing, stating the reasons therefore.
- (b) A permit issued in violation of this chapter, other chapters of the Lincoln County Code of Ordinances, the Wisconsin Administrative Code, or Wisconsin Statutes gives the permit holder no vested right to continue the activity authorized by the permit, and the permit is considered voidable.
- (c) In the event the circuit court determines that a permit has been violated and orders compliance within a time certain, an abridged judgment or order to that effect shall be recorded by the Land Services Department with the Register of Deeds if the property owner does not comply. Upon compliance, the Land Services Department shall file an affidavit to that effect.

**21.18 - DEFINITIONS.**

(1) For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distance unless otherwise specified shall be measured horizontally.

(2) The following terms in this chapter mean:

*Accessory structure* means a detached subordinate structure which is clearly incidental to or customarily found in connection with the principal structure, to which it is related and which is located on the same lot as the principal structure.

*Accessory use* means a use which is clearly incidental to, and customarily found in connection with, the principal use to which it is related, and which is located on the same lot as the principal use.

*Average lot width* is a measurement calculated by averaging the measurements at the Ordinary High Water Mark, The Building Set-back Line, and the rear lot line unless the lot is considered a flag lot. The average lot width on flag lots shall be measured to the Ordinary High Water Mark, The Building Set-back Line, and landward building envelope.

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

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

*Boathouse* means any permanent structure designed solely for the purpose of protecting or storing watercraft and associated materials as allowed by this chapter. This includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

*Boat Shelter* means any temporary or seasonal structure located entirely below the ordinary high water mark for purposes of storing watercraft. Also known as boat hoist, boat lift or shore station.

*Building envelope* means the three-dimensional space within a structure is built

*Building line* means a line parallel to a lot line, road right-of-way line, or ordinary high water mark at a distance from it that complies with the various yard requirements established under this chapter.

*Camping unit* includes any portable device, not more than 400 square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, recreational vehicle, or tent that remains on a property for over 60 days per calendar year. Does not include the storage of such camping unit on a lot as an accessory use during periods when it is not occupied. For example, an unoccupied recreational vehicle parked in the driveway of a house is allowable.

*Conditional use* means a use which is permitted by this chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the Land Services Committee.

*Construction* means building, erecting, or placing a structure on a parcel of land.

*County zoning agency* means that committee or commission created or designated by the County Board under §59.69(2)(a), Wis. Stats., to act in all matters pertaining to county planning and zoning.

*County Board* means the legislative body of Lincoln County.

*Deck* means an outdoor platform, usually above ground grade, intended to support persons and outdoor furniture such as chairs or a picnic table. It also includes flat roofs over other legal structures if the intention is the same.

*Department* means the Department of Natural Resources

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes or camping units; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.

*Disabled person* means any person with a physical or mental impairment that substantially limits one or more of his or her major life activities, as recognized by the State of Wisconsin.

*Drainage system* means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

*Fire pit* means a structure used to contain an outdoor fire and constructed to have a permanent location on the landscape such as a depression surrounded by pavers, gravel, or other impervious surfaces. Metal fire rings or other movable vessels intended to contain an outdoor fire are not considered fire pits for regulatory purposes.

*Floodplain* means the land which has been or may be hereafter covered by flood water during a regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Ch. NR 116, Wis. Adm. Code.

*Generally accepted forestry management practices* (NR 1.25(2)(b)) 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.

*Highway setback* means the minimum required distance a structure must be located from the constructed centerline or platted right-of-way of a town, county, state or federal highway as prescribed by the County Zoning Ordinance, Chapter 17.

*Housing unit* means any structure that serves to provide overnight accommodations for not more than one family, most commonly a single-family residence or individual condominium unit. It may also include a hotel room, motel room, tourist lodging room, bed and breakfast room or boarding house room in the context of commercial land uses. Synonymous with a residential unit.

*Impervious surfaces* means an area that releases as runoff all or a majority of precipitation that falls on it. Impervious surfaces include: roofs, decks and slotted decks, concrete, blacktop/asphalt, mill felt that is laid to impede ground cover, paver block or landscape rock patios and walkways, brick walkways, sidewalks and driveways (unless specifically designed, constructed, and maintained to be pervious), but excludes frozen soils

*Island* means a tract of land that is completely surrounded by water.

*Land Services Committee* means the County Board committee responsible for oversight and policy making of the Land Services Department. See 59.69, Wisconsin Statutes

*Land Services Department* means the department authorized and charged by Lincoln County with the administration and enforcement of this Chapter.

*Livable area* means that portion of a home or other dwelling unit contained under roof that is occupied either seasonally or year round. Such things as attached garages, open decks and floors with a wall height under 7 feet are not considered livable area. Only basements that contain the appropriate exits under SPS 321.03 (Wisconsin Uniform Dwelling Code) are considered livable areas.

*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.

*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.

*Native vegetation* means any species of plant common to the pre-development shoreland areas of north-central Wisconsin and listed on a schedule of "Native Plants" maintained by the Land Services Department. Additions to the list may be made with the approval of the Land Services Department. Approved cultivars of native species also qualify as Native Vegetation.

*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 §281.31(2)

(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under §59.692, Wis. Stats., and Ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to

(a) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and 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; and

*Nonconforming structure* means a structure or portion thereof, that was legally established prior to the

effective date of this chapter, or subsequent amendments thereto, which does not conform with the required shoreland setback.

*Nonconforming use* means an active and actual use of land or structure or both that was legally established prior to the effective date of this chapter or subsequent amendments thereto, which has continued the same use to the present and which does not conform with the provisions of this chapter.

*Ordinary high water mark (OHWM)* 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.

*Previously undeveloped* means a parcel of land with no structures located on it.

*Principal structure(s) and use(s)* means any and all of the primary uses of a property, treated as a use permitted by right or as a conditional use, rather than as an accessory use or a temporary use and the structures associated with such use(s).

*Rebuild* means to tear down, dismantle, or remove a structure from its existing location such that a majority of the structural elements are removed or replaced. The burden to prove the location and condition of existing structures and foundations before alteration is upon the property owner. (Also known as Reconstruction).

*Release* means a silvicultural timber stand improvement practice whereby trees are removed that impede the growth of desired tree species.

*Retaining Wall* means a vertical structure or near vertical structure, located above the OHWM, constructed of rock, stone, wood, block, or other similar material that is built to resist lateral pressure.

*Runoff* means stormwater or precipitation including rain, snow or ice melt, or similar water that moves on the land surface via sheet or channelized flow.

*Runoff control structure* means a structure that collects, controls, infiltrates and/or transports runoff to ensure water quality protection, reduce soil erosion and to increase infiltration into the soil.

*Shorelands* means lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

*Shoreland buffer* means the area of protected vegetation located between the ordinary high water mark and a point that is located at least 35 feet inland. A shoreland buffer shall contain three distinct layers including a native tree canopy, shrub layer, and groundcover layer, except for closed canopy forest types such as pine and hemlock. Shoreland buffers may include a cleared view and access corridor. Shoreland buffers are required to prevent erosion, limit sedimentation and provide filtering so as to protect and enhance water quality, and to provide a diverse shoreland habitat area.

*Shoreland setback* also known as Shoreland setback area (s.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 section 59.692, Wis. Stats.

*Shoreline frontage* means the shortest straight line measurement between 2 lot lines of a parcel, and drawn as a tangent to the OHWM. For peninsular or "bowl shaped" lots, it may be drawn as a tangent to the OHWM and parallel to the meander line.

*Shoreland-wetland zoning district* means a zoning district, created as part of a county shoreland zoning ordinance comprised of shoreland that are designated as wetlands on the Wisconsin Wetland Inventory maps prepared by the Department of Natural Resources.

*Special Exception (Conditional use)* means a use which is permitted by this ordinance provided that certain

conditions specified in the ordinance are met and that a permit is granted by the Board of Adjustment or, where appropriate, the Land Services Committee or County Board.

*Structure* means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.

*Soil disturbing activity* means soil stripping, clearing, grubbing, grading, excavating, filling or the creation of new or replaced impervious surfaces.

*Structural Repair* means to remove or replace 50% or less of the original structural elements such as a foundation, support posts, floor joists, rafters, trusses, exterior walls or similar structural members. For purposes of calculation the foundation constitutes 20% of the structure, the roof constitutes 20% of the structure, otherwise a percentage of the perimeter of each floor/level may be used.

*Unnecessary hardship* means that circumstance where special conditions which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

*Variance* means an authorization granted by the Board of Adjustment to allow for the relaxation of a dimensional standard specified in this chapter.

*View and Access Corridor* means a strip of vegetated land that allows safe pedestrian access to the shore through the shoreland buffer.

*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.

*Zoning permit* may include land use permit, 59.692 Permit and soil disturbance permit.