

CHAPTER 752

BUFFALO COUNTY SHORELAND ZONING ORDINANCE

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752.01 **TITLE**

This chapter shall be referred to as the Buffalo County Shoreland Zoning Ordinance.

752.02 **PURPOSE**

The purpose of the Ordinance is to provide a regulatory scheme 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:

752.02.01 **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 wastewater treatment systems (POWTS) and to allow for some potential infiltration of run-off.
3. Controlling filling and grading to prevent soil erosion problems.
4. Limiting impervious surfaces to control runoff, which carries pollutants.

752.02.02 **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.

752.02.03 **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 building setbacks from waterways.
4. Setting the maximum height of near shore structures.

752.02.04 **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.

752.03 **AUTHORITY**

This ordinance is adopted pursuant to the authorization in 59.692 Wis. Stats to implement 59.69, 59.692, 59.694, 87.30, 236.45, and 281.31.

752.04 **APPLICABILITY**

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 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when 30.2022(1), Wis. Stats., applies.

This ordinance shall not require approval or be subject to disapproval by any town or town board. If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise. 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. The following provisions of the Buffalo County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under 59.692, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than 59.692, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

752.05 FUTURE STATUTORY AMENDMENTS/REVISIONS/MODIFICATIONS

Any future amendments, revisions, and/or modifications of any portion of the Wisconsin State Statutes referred to in this ordinance are incorporated herein and made part of this ordinance.

752.06 FINDING OF FACT

Uncontrolled use of the shorelands and pollution of the navigable waters of Buffalo 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; to discourage development in erosion hazard areas; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Buffalo County, Wisconsin.

752.07 EFFECT OF REGULATIONS

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.

752.07.01 Where Applicable

The requirements of this ordinance shall apply to all the lands (referred to herein as

shorelands) in the unincorporated areas of Buffalo 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 Buffalo County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 (or more recent version) "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.
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 Buffalo 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. The provisions of this ordinance apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in 59.692 (7) WI Stats. Unless specifically exempted by law, all cities, villages, towns, counties and when 13.48 (13) WI Stats applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if 30.2022 (1) WI Stats applies.
4. Determinations of navigability and ordinary high-water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate office of the Department for a final determination of navigability of ordinary high-water mark.

752.07.02 Where Not Applicable

Under 281.31, Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, this Shoreland Zoning Ordinance does not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river;
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
3. Such lands are maintained in nonstructural agricultural use.

752.08 SEVERABILITY

If a court of competent jurisdiction adjudges any portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected.

752.09 SHORELAND-WETLAND MAPS

The Wisconsin Wetland Inventory maps approved on August 9, 1985 are made part of this ordinance. They are on file in the office of the Zoning Administrator for Buffalo County.

752.10 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in Chap. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Chap. 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.

752.11 SHORELAND-WETLAND DISTRICT. (NR 115.04)

752.11.01 Designation

This district shall include all shorelands within the jurisdiction of this ordinance, which are designated as wetlands on the Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance.

752.11.02 Locating Shoreland-Wetland Boundaries (NR115.04(2)note)

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, the county 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 county 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.

752.11.03 Purpose

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

752.11.04 Permitted Uses (NR 115.04(3))

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Chs. 30, 31, 281.36 and 281.37, WI Stats. and the provisions of other applicable local, state and federal laws:

752.11.05 No Permit-No Filling, etc.

Activities and uses, which do not require the issuance of a zoning permit, but which must

be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under S. 752.21.04

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.

752.11.06 No Permit-Limited Filling, etc.

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

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

752.11.07 Permit Required-Limited Filling, etc.

Uses, which require the issuance of a zoning permit under S. 752.27 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;
 - c. The road is designed and constructed with the minimum cross-sectional

- area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only.
- 2. The construction or maintenance of nonresidential buildings, provided that:
 - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - d. Only limited filling or excavating necessary to provide structural support for the building is authorized.
- 3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, WI. Stats., where applicable;
 - b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in S. 752.21.04 and S. 752.21.05 and;
 - c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- 4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities or other similar utilities, 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.

752.11.08 Prohibited Uses

Any use not listed in Sections 752.11.05, 752.11.06 or 752.11.07, is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 752.12 of this ordinance and S. 59.69(5)(e), WI. Stats.

752.12 REZONING IN THE SHORELAND-WETLAND DISTRICT

752.12.01 Documents to be Forwarded

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

1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
3. A copy of the county Zoning Committee'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.

752.12.02 Prohibited Rezoning

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 NR 103.04 which can be accessed at the following web site:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>

752.12.03 Disclaimer

If the Department notifies the county Zoning Committee 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 752.12.02 of this ordinance, that amendment, if approved by the County Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the County Board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources

may notify the County Board that it will adopt a superseding shoreland ordinance for the county under S. 59.692(6), Wis. Stats. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the S. 59.692(6) adoption procedure is completed or otherwise terminated."

752.13 LAND DIVISION REVIEW (NR 115.05(2))

752.13.01 Land Division Review

The county shall review, pursuant to S. 236.45, Wis. Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review 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.

752.14 PLANNED RESIDENTIAL UNIT DEVELOPMENT (PUD). (NR 115.05(4))

752.14.01 Purpose

The Planned Residential 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 Residential Unit Development at the time of its approval. A condition of all Planned Residential Unit Developments is the preservation of certain open space, preferably on the shoreland, in perpetuity.

752.14.02 Requirements for Planned Residential Unit Development

The County Board may at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:

1. Area. The area proposed for the Planned Residential Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on navigable water.
2. Lots. Any proposed lot in the Planned Residential Unit Development that does not meet the minimum size standards of Section 752.16 shall be a non-riparian lot.
3. Vegetative buffer zone and preservation of ground cover. The location of lots and the dedication of part of the land for use by the public or residents of the Planned Residential Unit Development shall preserve the vegetative buffer zone and ground cover of the shoreland to enhance scenic beauty of the navigable water, prevent erosion, and provide wildlife habitat. In cases where the vegetative buffer does not exist it shall be reestablished. All lands not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by

dedication to the county, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

4. Density. The number of platted lots shall not exceed those, which would have been possible if the same land were platted in accordance with the minimum lot sizes and widths provided by the applicable provisions of the zoning ordinance. This figure shall be determined by dividing the total area of the subdivision by the minimum lot size required by Section 752.16 of this ordinance.
5. Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a Planned Residential Unit Development the governing body 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 752.20 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.

Note – Counties should be aware that the planned unit development standards, as written, grant back lot access (key holing) without applying frontage requirement standards to determine overall density. This conforms to NR115.05 (1) (a) 4. Counties may optionally include requirements to limit overall density based upon minimum frontage standards as well.

752.14.03 Establishing a Planned Residential Unit Development District

The procedure for establishing a Planned Residential Unit Development district shall be as follows:

1. Petition. A petition setting forth all of the facts required in Section 752.14.02 shall be submitted to the County Clerk with sufficient copies to provide for distribution by the clerk as required by Section 752.12.01
2. Review and Hearing: The petition shall be submitted to the county Zoning Committee established as required by S. 59.69(3)(d), Wis. Stats., which shall hold a public hearing and report to the County Board as required by law. Copies of the petition and notice of the hearing shall also be sent to the appropriate district office of the Department as described in Section 752.12.01 of this ordinance. The County Zoning Committee's report to the County Board shall reflect the recommendations of any federal, state or local agency with which the County Zoning Committee consults.
3. Findings and Conditions of Approval. The County Board shall make written

findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 752.14.02. If the petition is granted in whole or part, the County Board shall attach such written conditions to the approval as are required by and consistent with Section 752.14. The conditions of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks, dimensions of vegetative buffer zone and open space requirements.

4. Planning Studies. A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provisions of Section 752.14.02 or may be required to contribute funds to the county to defray all or part of the cost of such studies being undertaken by the county or any agency or person with whom the county contracts for such work.

752.15 SANITARY REGULATIONS (NR 115.05(3))

Each county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

1. Where public water supply systems are not available, private well construction shall be required to conform to Ch. NR 812, Wis. Adm. Code.
2. Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment systems shall, prior to July 1, 1980, be required to comply with Ch. Comm 83, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under s. 59.70(5), Wis. Stats.

752.16 MINIMUM LOT SIZE (NR 115.05(1))

752.16.01 Purpose (NR115.05(1a))

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.

752.16.02 Sewered lots

MINIMUM AREA AND WIDTH FOR EACH LOT. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

1. The width shall be calculated by averaging measurements at the following 3 locations:
 - a. The ordinary high water mark.
 - b. The building setback line.
 - c. One other location on the lot within 300 feet of the OHWM.

752.16.03 Side Yards.

There shall be a side yard for each principle structure building. The minimum width of one side yard shall be 10 feet. The minimum combined width of both principle side yards shall be 20 feet. There shall be a minimum side yard of 5 feet for accessory structures excluding fences.

752.16.04 Unsewered Lots

MINIMUM AREA AND WIDTH FOR EACH LOT. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high-water mark.

1. The width shall be calculated by averaging measurements at the following 3 locations:
 - a. The ordinary high water mark.
 - b. The building setback line.
 - c. One other location on the lot within 300 feet of the ordinary highwater mark.

752.16.05 Side Yards

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

752.17 SUBSTANDARD LOTS (NR 115.05(1.3))

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.

752.17.01 Other Substandard Lots

Except for lots which meet the requirements of Section 752.17 a zoning permit for the improvement of a lot having lesser dimensions than those stated in Sections 752.16.02 and 752.16.04 shall be issued only if a variance is granted by the Board of Adjustment.

752.18 BUILDING SETBACKS (NR 115.05(1.b))

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

752.18.01 Shoreland Setback

Unless exempt under Section. 752.18.02, or reduced under Section. 751.18.03, a 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 buildings and structures.

752.18.02 Exempt Structures (NR 115.05(1m))

All of the following structures are exempt from the shoreland setback standards in Section 752.18.01:

1. Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.
 - a. The use of boathouses for human habitation and the construction or placing of boathouses beyond the ordinary high-water mark of any navigable waters shall be prohibited.
 - b. Boathouses shall be designed and constructed solely for the storage of boats and related equipment and shall not be used for human habitation.
 - c. One boathouse is permitted on a lot as an accessory structure.
 - d. Boathouses shall not be constructed where the existing slope is more than 20%.
 - e. Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - f. Boathouses shall not exceed one story and 400 square feet in floor area.
2. 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.
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high watermark.
 - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 - 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 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 must be free standing and more than five-feet from a principal structure.
3. Fishing rafts that are authorized on the Wolf River and Mississippi River under S. 30.126, Stats.
4. 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.
5. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. Comm 83, 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.
6. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.
 - a. STAIRWAYS, WALKWAYS AND LIFTS. The Zoning Administrator may permit a stairway, walkway or lift in the setback area contained within the access and viewing corridor, only when necessary to provide safe

pedestrian access to the shoreline. The permitted stairway, walkway or lift may not exceed 60-inches in width.

752.18.03 Reduced Structure Setback (NR 115.05(b.1))

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 principle structure. The shoreland setback may not be reduced to less than 35-feet from the ordinary high-water mark of any navigable waters.

1. When an existing development pattern exists county may permit a reduced minimum setback for a new principal residential structure of not less than 35 feet if all of the following conditions are satisfied:
 - a. The depth of the structure is limited to 30 feet.
 - b. The lot is a legal lot of record that complied with the applicable lot size standards in effect at the time that the lot was recorded at the county register of deeds office.
 - c. The minimum setback shall be minimally reduced to create a compliant building location and may not be less than 35 feet from the ordinary high water mark.
 - d. Soil disturbance and vegetation removal activities do not encroach into the primary shoreland buffer.
 - e. All other provisions of this ordinance are met.

752.19 FLOODPLAIN STRUCTURES (NR 115.05(1m.f))

Buildings and structures to be constructed or placed in a flood plain shall be required to comply with the Buffalo County Floodplain Zoning Ordinance.

752.20 VEGETATION (NR 115.05(1(c)))

752.20.01 Purpose

To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows.

752.20.02 Establishment of a Vegetative Buffer Zone

The county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows.

1. The county may allow routine maintenance of vegetation.

2. The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors, provided that the combined width of all access and viewing corridors on a riparian lot or parcel may not exceed the lesser of 30 percent of the shoreline frontage or 200 feet.
3. The county may allow 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), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
4. The county may allow 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 under the permit be replaced by replanting in the same area as soon as practicable.
5. The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county 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.

752.20.03 Cutting More Than 35 Feet Inland

From the inland edge of the 35-foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices, which protect water quality.

752.21 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING (NR115.05(1)(d))

Filling, grading, lagooning, dredging, ditching and excavating may be permitted only in accordance with the provisions of S. NR 115.04, the requirements of Ch. 30, Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

752.21.01 General Standards

Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under S. 752.21.02 may be permitted in the shoreland area provided that:

1. It is done in a manner designed 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 S.752.11.04 and S. 752.21.04 of this ordinance.
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.

752.21.02 Contract/Permit Required

A special exception contract is a contract between the property owner and the Buffalo County Zoning Department where both parties agree to the methods necessary to prevent erosion, sedimentation and pollution of the adjacent water body. If the applicant is unsatisfied with the contract or the department deems that a public hearing should be held, the application shall be handled as a special exception permit through the Board of Adjustment.

1. A special exception contract/permit shall be approved based upon:
 - a. A stormwater management and erosion control plan.
 - b. Permits issued by state, federal, and local agencies.
 - c. Findings that the activity will not result in:
 - i. Impairment of natural wetland functions.
 - ii. Erosion or sedimentation.
 - iii. Impairment of aquatic life.
 - iv. Unnecessary loss of native appearance or natural beauty of the shoreland.
 - v. Restricting flood flows.
 - vi. Reducing the storage capacity of the floodplain.
2. The Zoning Department/Board of Adjustment may attach conditions to their approval to assure compliance, including but not limited to:
 - a. Time limits for exposure of bare ground.
 - b. Use of temporary ground cover.
 - c. Use of sediment traps such as diversion terraces and silting basins.
 - d. Use of riprap or other stabilizing measures.
 - e. Erosion control measures.
3. A special exception contract/permit is required:
 - a. For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:
 - i. Any filling or grading on slopes of more than 20%.
 - ii. Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
 - iii. Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
 - b. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary highwater mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

752.21.03 Soil Conservation Practices

Soil conservation practices such as tilled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under S. 752.21.02 when designed and constructed to Natural Resource Conservation Service technical

standards.

752.21.04 Maintenance of Existing Agricultural Drainage Systems

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

1. The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception contract/permit under S. 752.21.02 is obtained.
2. Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
3. Ditch banks shall be maintained in a sod cover and free of woody vegetation.
4. A 10-foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

752.21.05 Contract/Permit Conditions

In granting a contract/permit, the Zoning Department/Board of Adjustment shall attach the following conditions, where appropriate, in addition to those provisions specified in S. 752.28.04.

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, terraces, 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 (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

752.22 IMPERVIOUS SURFACE STANDARDS. (NR 115.05(1)(e))

752.22.01 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 within 300 feet of the ordinary high-water mark of any navigable waterway, and shall require all of the following:

752.22.02 Calculation of Impervious Surface

Percentage of impervious surface shall be calculated by dividing the surface area of 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 portion of the lot or parcel that is within 300 feet of the ordinary high-water mark, and multiplied by 100.

752.22.03 Impervious Surface Standard

Allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

752.22.04 Maximum Impervious Surface

Allow 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.

1. A permit can be issued for development that exceeds 15% impervious surface but not more than 30% impervious surfaces with a mitigation plan that includes the following:
 - a. The permit must have a documented implementation date for establishing the mitigation measures
 - b. The mitigation plan must include enforceable obligations of the property owner and successive property owners to establish or maintain the mitigation measures
 - c. The mitigation measures must be proportional to the amount and impacts of the impervious surfaces being permitted.
 - d. The obligations of the property owner under the mitigation plan shall be evidenced and described by an instrument recorded in the office of the County Register of Deeds.

752.22.05 Existing Impervious Surfaces

For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in Sections 752.22.03 and 752.22.04, the property owner may do any of the following:

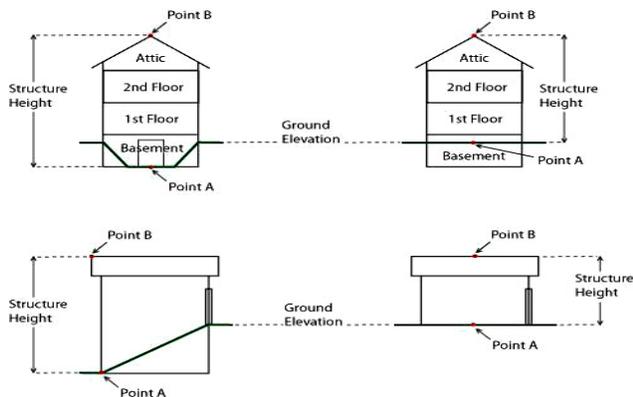
1. Maintenance and repair of all impervious surfaces;
2. Replacement of existing impervious surfaces with similar surfaces within the existing building envelope;
3. Relocation or modification of existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or 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 meets the applicable setback requirements in s. Wis. Admin. Code NR 115.05 (1) (b).

752.23 HEIGHT (NR 115.05(1)(f))

To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that results in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.

752.23.01 Height Calculation

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.



752.24 NONCONFORMING USES AND STRUCTURES. (NR 115.05(1g))

752.24.01 Purpose

To protect water quality, fish and wildlife habitat, and natural scenic beauty, some control is needed over the modification and reconstruction of these structures.

752.24.02 GENERAL RULE FOR NONCONFORMING USES.

Pursuant to SS. 59.69 (10m) (a) and 59.692 (1s) (a), Stats.,

1. Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under this S. 59.692 stats. may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to par. (b), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:
 - a. The nonconforming structure was damaged or destroyed on or after October 14, 1997.
 - b. Damaging wind, vandalism, fire, flood, ice, snow, mold, mudslide or infestation caused the damage or destruction.
 - c. A land owner has demonstrated by a permit application and approval the scope, nature, extent of the damage done as well as the dimensions of the damaged structure and proposed restoration
2. An ordinance enacted under this section to which par. (a) applies shall allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

752.24.03 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.

752.24.04 Maintenance of Nonconforming Principle Structure

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 752.18 may be maintained and repaired within its existing building envelope. Maintenance and repair includes such

activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, siding, or roof.

752.24.05 Vertical Expansion 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 Section 752.18 may be expanded vertically, 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.
2. The existing principal structure is at least 35 feet from the ordinary high-water mark.
3. Vertical expansion is limited to the height allowed in Section 752.23.
4. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner and:
 - a. The permit must have a documented implementation date for establishing the mitigation measures.
 - b. The mitigation plan must include enforceable obligations of the property owner and successive property owners to establish or maintain the mitigation measures.
 - c. The mitigation measures must be proportional to the amount and impacts of the impervious surfaces being permitted.
 - d. The obligations of the property owner under the mitigation plan shall be evidenced and described by an instrument recorded in the office of the County Register of Deeds.
5. All other provisions of the shoreland ordinance shall be met.

752.24.06 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 Section 752.18 may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per Section 752.18 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 752.22.

752.24.07 Replacement or Relocation of Nonconforming Principle Structure

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 752.18 may be replaced or relocated on the property provided 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.
2. The existing principal structure is at least 35 feet from the ordinary high-water mark.
3. No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
4. The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for

- replacement or relocation that will result in compliance with the shoreland setback requirement per Section 752.18.
5. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner and:
 - a. The permit must have a documented implementation date for establishing the mitigation measures.
 - b. The mitigation plan must include enforceable obligations of the property owner and successive property owners to establish or maintain the mitigation measures.
 - c. The mitigation measures must be proportional to the amount and impacts of the impervious surfaces being permitted.
 - d. The obligations of the property owner under the mitigation plan shall be evidenced and described by an instrument recorded in the office of the County Register of Deeds.
 6. The county shall issue a permit that requires that all other structures on the lot or parcel that do not comply with the shore-land setback requirement per Section 752.18 and are not exempt under Section 752.18.02 to be removed by the date specified in the permit.
 7. All other provisions of the shoreland ordinance shall be met.

752.24.08 Maintenance of Nonconforming Accessory Structures

Accessory structures that were legally constructed before the adoption of this chapter may be maintained but may not be expanded or rebuilt unless authorized by S. 59.692(1s) Wisconsin Stats. or unless they are made to conform to all other provisions of this ordinance.

752.24.09 Nonconforming Wet Boathouses

The maintenance and repair of nonconforming boathouses, which extend beyond the ordinary high-water mark of any navigable waters, shall be required to comply with s. 30.121, Stats.

752.25 MITIGATION. (NR 115.05 (1e3))

1. The county may require the applicant to utilize any of the following resources when developing a mitigation plan:
 - a. Mitigation Calculator as depicted on the Wisconsin DNR website at <http://dnr.wi.gov/org/water/wm/dsfm/shore/calc>.
 - b. Buffalo County Land Conservation staff
 - c. A certified arborist
 - d. A certified landscaper or landscape architect
 - e. Other resource deemed adequate by the Zoning Department
2. When the county issues a permit requiring mitigation, a complete permit application from a property owner must include a plan to mitigate for the adverse impacts of human activity and development. This application must include:
 - a. Name and address of property owner
 - b. Property address and legal description
 - c. A site plan and implementation schedule describing proposed mitigation

measures.

- i. Mitigation measures shall include enforceable obligations of the property owner to establish or maintain measures that the county determines adequate to offset the impacts of the impervious surface(s) on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
 - ii. The mitigation measures shall be at least proportional to the amount and impacts of the impervious surface(s) being permitted.
 - iii. When vegetative measures are required, species of plants may be selected from the Wisconsin Botanical Information System but must be approved by the Zoning Department.
- d. A draft affidavit to be recorded with the Register of Deeds using the form provided in the appendix of this ordinance describing the actions and maintenance required for the mitigation.

752.25.01 Recording Requirement

The affidavit described in S. 752.25 as modified by the county during the permitting process, must be recorded with the Register of Deeds in order for the permit to be effective so that work may commence. If the affidavit is not recorded within one year, the permit is null and void.

752.26 ADMINISTRATIVE PROVISIONS. (NR 115.23)

752.26.01 Zoning Administrator

The Zoning Administrator shall have the following duties and powers:

1. A system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of all applications shall be required to be filed in the office of the county Zoning Administrator.
2. Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
3. A variance procedure which authorizes the Board of Adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the Shoreland Zoning Ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
4. A special exception procedure.
5. The county shall keep a complete record of all proceedings before the Board of Adjustment, Zoning Committee and County Board.
6. Written notice to the appropriate regional 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 Section 752.13. Upon request of the Department a county shall provide to the appropriate regional office a copy of any permit issued

under Section 752.27.

7. Submission to the appropriate regional office of the department, within 10 days after grant or denial, of copies of any permit granted under Section 752.28 or 752.29, 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.
8. Mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments.
9. The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats.
10. The prosecution of violations of the shoreland ordinance.

752.27 PERMITS. (NR 115.)

752.27.01 When Required

Except where another section of this ordinance specifically exempts certain types of development from this requirement, a contract and/or permit shall be obtained from the Zoning Administrator or Board of Adjustment/Zoning Committee before any new development.

752.27.02 Application

An application for a permit shall be made to the Zoning Administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following 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. Any additional information required by the Zoning Administrator.

752.27.03 Expiration of Permits

Zoning permits shall expire 2 years from date issued.

752.28 SPECIAL EXCEPTION PERMITS

752.28.01 Application for a Special Exception Permit

Any use listed, as a special exception in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a special exception

permit has been granted by the Board of Adjustment. To secure information upon which to base its determination, the Board of Adjustment may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.
2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
3. Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
4. Specifications for areas of proposed filling, grading, lagooning or dredging.
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
6. Rationale for why the proposed special exception meets all of the special exception criteria listed in the ordinance

752.28.02 Notice, Public Hearing and Decision

Before deciding whether to grant or deny an application for a special exception permit, the Board of Adjustment shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Board of Adjustment, shall be given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. The Board of Adjustment shall state in writing the grounds for granting or denying a special exception permit.

752.28.03 Standards Applicable to All Special Exceptions

In deciding a special exception application, the Board of Adjustment shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
4. The erosion potential of the site based upon degree and direction of slope, soil type and 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. Additional standards such as parking, noise, etc...may refer to the applicable part of their ordinance.

752.28.04 Conditions Attached to Special Exceptions

Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance.

In granting a special exception permit, the Board of Adjustment may not impose conditions, which are more restrictive than any of the specific standards in the ordinance.

Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

752.28.05 Recording

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

752.28.06 Revocation

Where the conditions of a special exception permit are violated, the special exception permit shall be revoked.

752.29 VARIANCES

The Board of Adjustment may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:

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

752.29.01 Notice, Hearing, and Decision

Before deciding on an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department district office within 10 days of the decision.

752.30 BOARD OF ADJUSTMENT

The county executive, county administrator or chair of the County Board shall appoint a Board of Adjustment consisting of 3 or 5 members under S. 59.694, Wis. Stats. The

County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by s. 59.694(3), Wis. Stats.

752.30.01 Powers and Duties

1. The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.694, Wis. Stats.
2. It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
3. It shall hear and decide applications for special exception permits pursuant to Section 752.28.
4. It may grant a variance from the standards of this ordinance pursuant to Section 752.29.
5. In granting a variance, the board may not impose conditions, which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to effect the purpose of this ordinance.

752.30.02 Appeals to the Board

Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

752.30.03 Hearing Appeals for Variances & Special Exceptions

1. The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.
2. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 10 days after they are granted or denied.
3. The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm,

reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

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

752.31 FEES

The County Board may, by resolution, adopt fees for the following:

1. Zoning Permits-Fee is same as for a zoning permit in the Zoning Ordinance.
2. Planned Unit Development reviews-Fee is same as for subdivision review
3. Special Exception Contract/Permit: Fee is same as for conditional use permit in Zoning Ordinance, however if special exception permit is required and the fee has been paid for a special exception contract, no additional fee will be required for the special exception permit.
4. Variance-Fee is same as for variance in Zoning Ordinance.
5. Administrative Appeal-Fee is same as for appeal in Zoning Ordinance.

752.32 CHANGES AND AMENDMENTS

The County Board may from time to time, alter, supplement or change the regulations contained in this ordinance in accordance with the requirements of s. 59.69(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and this ordinance where applicable. Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.69(5)(e), Wis. Stats.

752.32.01 Shoreland Wetland Map Amendments

Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county Zoning Committee. A copy of each petition shall be provided to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department at least 10 days prior to the hearing.

752.32.02 Decision to be Forwarded

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

752.33 ENFORCEMENT AND PENALTIES (NR 115.05(4j))

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator or the county Zoning Committee shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than twenty (\$50.00) dollars nor more than five hundred (\$500.00) dollars per offense, together with the taxable costs of action. Each day, which the violation exists, shall constitute a separate offense. Every violation of this

ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.69(11), Wis. Stats.

1. **Penalty:** Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and as such, forfeitures shall apply accordingly. The Zoning Administrator shall refer violations to the Corporation Counsel who shall prosecute violations.
2. **Injunction:** Any use or action, which violates the provisions of this Ordinance, shall be subject to a court injunction prohibiting such violation.
3. **Responsibility for Compliance:** It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this Ordinance. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this Ordinance will be notified in writing of such violation by the County Zoning Administrator or his designated Zoning Deputy. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly. 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 Section 59.69(11), Wisconsin Statutes.
4. **Suspension of Permit:** Whenever the Zoning Administrator, Assistant Zoning Administrator or Deputy Zoning Administrator, determines there are reasonable grounds for believing there is a violation of any provision of this Ordinance, the Zoning Administrator, Assistant Zoning Administrator or Deputy Zoning 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. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30 day period, an extension may be granted if reason of hardship prevail 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 Zoning Administrator, Assistant Zoning Administrator or Deputy Zoning Administrator or apply to the Buffalo County Board of Adjustment for a Variance from the strict rule of the Ordinance within 30 days of receipt of a notice or order. *History: (Amendment #85-199, Section 9.6(D) effective 5-11-05)*

752.34 DEFINITIONS

752.34.01 Interpretation

For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural

number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

752.34.02 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.
3. 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.
4. Building: Any structure, which is built for the support, shelter or enclosure of animals, chattels or movable property of any kind and which is permanently affixed to the land, does not include a dwelling.
5. Building, Accessory: A detached subordinate building or a portion of a principal building, the use of which is incidental to that of the principal building.
6. Building, Principal: The main structure on a lot which is built for the support, shelter or enclosure of animals, chattels or movable property of any kind and which is permanently affixed to the land, intended for primary use as permitted by the regulations of the district in which it is located. A lot on which more than one principal use is located may have more than one principal structure.
7. Building envelope: Means the three-dimensional space within which a structure is built.
8. County Zoning Committee: Means that committee or commission created or designated by the County Board under s. 59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.
9. Department: Means the Department of Natural Resources.
10. Development: Means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.
11. 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.
12. Existing development pattern: Means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
13. Floodplain: Means the land that has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm.

- Code.
14. 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.
 15. 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.
 16. Maintenance and repair: Includes such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components; and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.
 17. 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.
 18. 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), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river.
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.
 19. 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.
 20. 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.
 21. Replacement Construction: In which the principle building or portion thereof is torn down and replaced by a new structure or building or portion thereof.
 22. 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.
 23. 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.
24. Shoreland-wetland district: Means the zoning district, created as a part of this Shoreland Zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps, which have been adopted and made a part of this ordinance.
 25. Special exception (conditional use): Means a use, which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Adjustment or, where appropriate, the planning and zoning committee or County Board.
 26. Structural alterations: Any changes in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders, footing and piles or any substantial change in the roof structure, or in the exterior walls.
 27. Structure: Anything constructed or erected, the use of which requires permanent or temporary location on the ground, or attached to something having a permanent or temporary location on the ground, including but not limited to any building, dwelling, manufactured building, manufactured home, mobile home, house trailer, recreational vehicle, boathouse, boat shelter, advertising sign, deck, patios, driveways, fences, retaining walls, or other improvements or any part of such structure. A structure includes any permanent or temporary appurtenance attached thereto.
 28. Structure, Accessory: A subordinate structure on the same property as the principal structure, which is devoted to a use incidental to, the principal use of the property. Accessory structures include but are not limited to detached garages, decks (both detached and attached), sheds, barns, gazebos, patios, swimming pools, walls, fences, playground apparatus, driveways, parking lots and parking facilities, sidewalks, stairways, lifts, recreational courts and private emergency shelters.
 29. Structure, Principal: The main structure on a lot, intended for primary use as permitted by the regulations of the district in which it is located. A lot on which more than one principal use is located may have more than one principal structure.
 30. Structure, Temporary: A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term.
 31. 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.
 32. Variance: Means an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.
 33. 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.

