

8.4 SHORELAND ZONING ORDINANCE

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF DOUGLAS DOES ORDAIN AS FOLLOWS:

SECTION I. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, AND TITLE

1.1 Statutory Authorization

This ordinance is adopted pursuant to the authorization in Sections 59.69, 59.692, and 59.693, Wis. Stats.

1.2 Finding of Fact

Uncontrolled use of the shorelands and pollution of the navigable waters of Village of Lake Nebagamon 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 Village of Lake Nebagamon, Wisconsin.

1.3 Purpose

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

1.31 Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

- (1) Limiting structures to those areas where soil and geological conditions will provide safe foundation;
- (2) Establishing minimum lot sizes to provide adequate areas for private sewage disposal facilities; and
- (3) Controlling shoreline alterations, dredging and lagooning.

1.32 Protect spawning grounds, fish and aquatic life through:

- (1) Preserving wetlands and other fish and aquatic habitat;
- (2) Regulating pollution sources; and
- (3) Controlling shoreline alterations, dredging and lagooning.

1.33 Control building sites, placement of structures, and land uses through:

- (1) Separating conflicting land uses;
- (2) Prohibiting certain uses detrimental to the shoreland area;
- (3) Setting minimum lot sizes and widths; and
- (4) Regulating side yards and building setbacks from waterways.

1.34 Preserve shore cover and natural beauty through:

- (1) Restricting the removal of natural shoreland cover;
 - (2) Preventing shoreline encroachment by structures;
 - (3) Controlling shoreland excavation and other earth moving activities;
- and

(4) Regulating the use and placement of boathouses and other structures.

1.4 Title

Shoreland Zoning Ordinance for Village of Lake Nebagamon, Wisconsin.

SECTION II. GENERAL PROVISIONS

2.1 Areas to be Regulated

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

2.11 Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. If the navigable water is a glacial pothole lake, this distance shall be measured from the highwater mark of the lake. Lakes, ponds or flowages in Village of Lake Nebagamon shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Village of Lake Nebagamon" or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

2.12 Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Village of Lake Nebagamon shall be Chapter 8.4, Page 99

presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

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

2.14 Under Section 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:

- (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 agriculture use.

2.2 Shoreland Zoning Maps

The maps designated below are hereby adopted and made part of this ordinance.

They are on file in the office of the Zoning Administrator for Village of Lake Nebagamon.

(1) United States Geological Survey 7.5' Quadrangle Maps for Douglas County:

Amnicon Lake 75 Lake Minnesuing 84

Bennett 81 Lake Nebagamon 75

Black Lake 83 Lyman Lake 75
Borea 81 Metzger Lake 84
Buckety Creek 82 Minong Flowage 82
Chittamo 71 Moose Junction 83
Chittamo NE 71 Oulu 84
Cloverland 61 Parkland 75
Cloverton 83 Patzau 75
Dairyland 83 Poplar 75
Ellison Lake 84 Poplar NE 75
Empire Swamp 83 Scovils Lake 83
Esko 83 Solon Springs 82
Foxboro 54 South Range 75
Frogner 75 Sunnyside 75
Gordon 82 Superior 83
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Island Lake 84 West Duluth 83

15' Quads:

Brule 61

Use of 1961 15' USGS Quadrangle shall be limited to that area of Brule 15' not shown on 7.5', Cloverland 61, Lake Nebagamon 75, and Oulu 84.

(2) Wisconsin Wetland Inventory maps stamped "FINAL" on February 12, 1985.

(3) Floodplain zoning maps identified as FIRM, FBFW, and dated February 4, 1981. Floodplain analysis identified in the Dam Failure Study for Pattison Park Dam dated May 1992 and Mooney Dam dated March 1995.

(4) Village of Lake Nebagamon Official Zoning Map dated December 10, 1970.

2.3 Compliance

The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations.

(However, see Section 9.0 for standards applicable to nonconforming uses.)

Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

2.4 Municipalities and State Agencies Regulated

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

2.5 Abrogation and Greater Restrictions

The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under Sections 59.69 and 59.692, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than Sections 59.69 and 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.

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

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

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

2.54 The more restrictive provisions of the Village of Lake Nebagamon General Zoning Ordinance are hereby incorporated and made part of this ordinance and shall have the same force and effect as if fully numerated herein.

2.6 Interpretation

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

2.7 Severability

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

SECTION III. LAND DIVISION REVIEW AND SANITARY REGULATIONS

3.1 Land Division Review

The county shall review, pursuant to Section 236.45, Wis. Stats., all land division in shoreland areas which create one or more parcels or building sites of less than 10 acres each within a 5-year period. In such review the following factors shall be considered:

- (a) Hazards to the health, safety or welfare of future residents;
- (b) Proper relationship to adjoining areas;
- (c) Public access to navigable waters, as required by law;
- (d) Adequate storm drainage facilities; and

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- (e) Conformity to state law and administrative code provisions.

3.2 Limited Rezoning to Achieve Reduced Lot Sizes and Setbacks

3.21 Purpose

In some instances where an individual lot or small tract of land has unique characteristics, such as unique terrain, which would result in unnecessary hardship as defined in Section 13.2(14), if the owner were required to comply with one or more of the requirements for minimum lot sizes, width and setback, the Board of Adjustment may grant a variance. In other instances where larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by rezoning to establish a Planned Residential Unit Development overlay. The Planned

Residential Unit Development is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

3.22 Requirements for Planned Residential Unit Development

The County Board may at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development, either by approving first an overlay district and then a plat or by approving only a plat for the specific planned residential project upon finding, after a public hearing, that all of the following facts exist:

(1) Area. The area proposed for the Planned Residential Unit Development is at least 40 acres in size.

(2) Pollution Control. The location and nature of the septic systems which will serve the home sites individually or collectively will assure that effluent from the septic systems will not reach the ground or surface waters in a condition which would contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of navigable waters.

(3) Preservation of Ground Cover. The location of home sites and the dedication of part of the land for the use by the public or residents of the Planned Residential Unit Development will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion, and other pertinent factors. Land not used for lots and streets shall be dedicated in perpetuity to remain in open space.

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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 home sites shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of the zoning ordinance. This figure shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot size required by

Section 4.0 of this ordinance.

(5) Lot Sizes, Widths, Setbacks, and Tree-cutting. The lot sizes, widths, and setbacks shall not be less than those provided for in current statutes Wis. Adm. Code Comm. Ch. 85, and shall not be so small as to cause pollution or erosion along streets or other public ways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood. Shore cover provisions in Section 6.0 shall apply except that maximum width of a lake frontage opening shall be 100 feet.

3.23 Procedure for Establishing a Planned Residential Unit Development District

The procedure for establishing limited rezoning in the form of a Planned Residential Unit Development district shall be as follows:

(1) Petition. A petition setting forth all of the facts required in Section 3.22 shall be submitted to the County Clerk with sufficient copies to provide for distribution by the Clerk as required by Section 3.23(2).

(2) Review and Hearing. The petition shall be submitted to the county zoning agency established as required by Sections 59.69 and 59.692, Wis. Stats., which shall hold a public hearing and report to the County Board as required by law. Copies of the petition and notice of the hearing shall also be sent to the appropriate district office of the Department as described in Section 11.2 of this ordinance.

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The county zoning agency's report to the County Board shall reflect the recommendations of any federal, state or local agency with which the county zoning agency consults. If a petition seeks approval of a Planned Residential Unit development plat without first seeking the granting of an overlay district, a hearing shall be held on such plat as in any regular amendment to the zoning ordinance. If, however, a hearing is first held on the overlay for a Planned Residential Unit Development district, a second public hearing need not be held in connection with the approval of a subsequent plat or plats which comply with the overlay district as approved.

(3) Findings and Conditions of Approval. The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 3.22. If the petition is granted in whole or part, the County Board shall attach such written conditions to the approval as are required by and consistent with Section 3.22. The conditions of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks and the location of septic systems and the preservation of ground cover and open space.

(4) Planning Studies. A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provisions of Section 3.22 or may be required to contribute funds to the county to defray all or part of the contribute funds to the county to defray all or part of the cost of such studies being undertaken by the county or any agency or person with whom the county contracts for

such work.

3.3 Sanitary Regulations

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

(a) Where public water supply systems are not available, private well construction shall be required to conform to Wis. Adm. Code NR Ch. 812.

(b) Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by a private sewage system ordinance adopted by the county under Section 59.70, Wis. Stats.

SECTION IV. DIMENSIONS OF BUILDING SITES

4.1 Shoreland Lots

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4.11 Minimum Area and Width. The minimum lot area shall be 30,000 square feet and the minimum average lot width shall be 150 feet.

4.12 Interior Lot Dimensions. Minimum interior lot dimensions are shown on the dimensional schedule attached as page 219.

4.2 Shoreline Lots

4.21 Minimum Area and Width. The minimum lot area for shoreline lots shall be 30,000 square feet and the minimum average lot width shall be 150 feet with at least 150 feet of frontage at the ordinary highwater mark.

4.22 Interior Lot Dimensions. Minimum interior lot dimensions are shown on the dimensional schedule attached as page 219.

4.3 Substandard Lots

4.31 After adoption of this ordinance, no lot areas shall be so reduced that the dimensional and yard requirements required by this ordinance cannot be met. Lots existing and of record prior to adoption of this ordinance, but of substandard size, may be devoted to uses permitted in the district in which located if such use can be accomplished in compliance with the lot and building dimensional schedule of this ordinance.

4.32 If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this ordinance, the lots involved shall be considered to be an individual parcel for the purposes of this ordinance.

4.33 Lots created after adoption of this ordinance and which are not served by public sewer systems shall meet the minimum area requirements of the Village of Lake Nebagamon Sanitary Code and the Village of Lake Nebagamon Subdivision

Control Ordinance. Any shoreline lot must have a minimum area of 30,000 square feet and minimum width of 150 feet.

4.34 Other substandard lots. Except for lots which meet the requirements of Sections 4.31, 4.32, or 4.33, a building permit for the improvement of a lot having lesser dimensions than those stated in Sections 4.1 and 4.2 shall be issued only after granting of a variance by the Board of Adjustment.

4.4 Lots in Cluster Subdivisions

Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the county private sewage system ordinance pursuant to the procedures set forth in Section 3.2 of this ordinance.

SECTION V. SETBACKS FROM THE WATER

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5.1 Lots that Abut on Navigable Waters

All buildings and structures, except piers, boat hoists, boathouses and open fences which may require a lesser setback, shall be set back at least 75 feet from the ordinary high water mark of navigable waters.

5.2 Reduced Building Setbacks

Setback reductions may be permitted by the Board of Adjustment pursuant to Section 10.5 of this ordinance.

5.3 Boathouses.

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

5.32 Boathouses shall be set back a minimum of 2 feet and no greater than 20 feet from the ordinary highwater mark and shall be constructed in conformity with local floodplain zoning standards.

5.33 One boathouse is permitted on a lot as an accessory building.

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

5.35 Boathouses shall not exceed one story or 14 feet in height and 250 square feet in floor area.

5.36 Boathouses are not allowed in those townships where a resolution has been adopted prohibiting new construction, and formally presented as an ordinance amendment and approved by the County Board of Supervisors.

SECTION VI. REMOVAL OF SHORE COVER

6.1 Shoreline Cutting

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

6.21 No more than 30 feet in any 100 feet, as measured along the ordinary highwater mark, may be clear cut to the depth of the 35 foot area.

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

6.3 Paths

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

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6.4 Cutting Plan

As an alternative to Section 6.2, a special cutting plan allowing greater cutting may be permitted by the County Zoning Committee by issuance of a conditional-use permit, pursuant to Section 10.4. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The Committee may grant such a permit only if it finds that such special cutting plans:

- (a) Will not cause undue erosion or destruction of scenic beauty, and
- (b) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement planting, the Committee may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.

6.5 Cutting More Than 35 Feet Inland

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

SECTION VII. FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCAVATING

7.1 General Standards

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

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

7.12 Filling, grading, lagooning, dredging or excavating in a shoreland-wetland district meets the requirements of Sections 8.132 and 8.133 of this ordinance.

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

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

7.2 Permit Required

Except as provided in Section 7.3 a zoning permit is required:

7.21 For any filling or grading of any area which is within 300 feet landward of the Chapter 8.4, Page 108

ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:

(1) Any filling or grading on slopes of more than 20%;

(2) Filling or grading of more than 2,500 sq. ft. in addition to the minimum necessary for the construction of the principal building and the installation of on-site waste treatment systems on slopes of 12%-20%; or

(3) Filling or grading of more than 5,000 sq. ft. in addition to the minimum necessary for the construction of the principal building and the installation of on-site waste treatment systems on slopes of 0%-12%.

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

7.3 Soil Conservation Practices

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

7.4 Permit Conditions

In granting a zoning permit under Section 7.2, the County Zoning Administrator shall attach the following conditions, where appropriate:

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

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

permanent vegetative cover shall be established.

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

7.44 Lagoons shall be constructed to avoid fish trap conditions.

7.45 Fill shall be stabilized according to accepted engineering standards.

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

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

SECTION VIII. SHORELAND OVERLAY DISTRICTS

8.1 Shoreland-Wetland Overlay District

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

8.11 Locating Shoreland-Wetland Boundaries

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The Zoning Administrator shall initiate a map amendment to correct any mapping errors.

8.12 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.

8.13 Permitted Uses

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

8.131 Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, dredging,

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ditching, tiling or excavating as allowed under Section 8.132 or 8.133:

- (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 agriculture crops;
- (5) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
- (6) The construction or maintenance of duck blinds.

8.132 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 growth and harvesting of cranberries;
- (3) The maintenance and repair of existing agriculture drainage systems where permissible by Section 30.20, Wis. Stats., including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agriculture use.

This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that the filling is permissible by Ch. 30 Wis. Stats, and that dredged spoil is placed on existing spoil banks where possible;

- (4) The construction or maintenance of fences for the pasturing of livestock, including excavating and filling necessary for such construction or maintenance;

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- (5) The construction or maintenance of piers, docks, or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
- (6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

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

- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agriculture cultivation provided that:
 - (a) The road cannot as a practical matter be located

outside wetland;

(b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 8.152;

(c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and

(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

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(d) Only limited filling or excavating necessary to provide structural support for the building is authorized.

(3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries and public boat launching ramps and attendant access roads, provided that:

(a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, Wis. Stats., where applicable;

(b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets criteria in Section 8.133(1), (a)-(d); and

(c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

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

(a) The transmission and distribution facilities and railroad

lines cannot, as a practical matter, be located outside the wetland; and

(b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 8.152.

8.14 Prohibited Uses

Any use not listed in Sections 8.131, 8.132, or 8.133 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 8.15 of this ordinance and

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Section 59.69(5)(e), Wis. Stats.

8.15 Rezoning of Lands in the Shoreland-Wetland District

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

(1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the County Clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;

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

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

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

8.152 A wetland, or 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

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(7) Areas of special recreation, scenic or scientific interest, including scarce wetland types.

8.153 If the Department notifies the County Zoning Committee that proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact

upon any of the criteria listed in Section 8.152 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 Sections 59.69 and 59.692, Wis. Stats. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the Sections 59.69 and 59.692, Wis. Stats., adoption procedure is completed or otherwise terminated."

8.2 Wild Lakes Overlay District

8.21. Designation and Intent

The Wild Lakes Overlay District includes all lakes in the unincorporated areas of the County which do not have a habitable residence within 300 feet of the ordinary highwater mark as of the adoption date of this amendment. The district regulations are intended to provide a high level of protection for shorelands and waters which are the most environmentally sensitive, with very limited natural carrying capacity and which have no existing development.

8.22 Permitted Uses

Any principal or accessory permitted use in the underlying zoning district.

8.23 Conditional Uses

Any conditional use authorized in the underlying district.

8.24 Minimum Lot Size

10 acres per dwelling unit.

8.25 Minimum Lot Width

At the Ordinary Highwater Mark: 300 feet per dwelling unit.

At the Minimum Shoreline Setback: 300 feet per dwelling unit.

8.26 Minimum Shoreline Frontage for Multifamily with Lake Access

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(See Section 3.2 for Planned Unit Developments):

300 feet per dwelling unit granted riparian or lake access rights.

8.27 Minimum Shoreline Setback

175 feet from the ordinary highwater mark (OHWM) for all structures except piers; other yard setbacks are the same as the underlying zoning district.

8.28 Boathouses and Boat Shelters

Boathouses and boat shelters are not permitted on Wild Lakes.

8.29 Shoreland Impact Area

Within 150 feet of the ordinary highwater mark, vegetation removal and land disturbing activities are restricted as follows:

In the area parallel to the ordinary highwater mark, and extending 50 feet inland from all points along the ordinary highwater mark, no more than 30 feet may be selectively cut on a lot up to 300 feet in width. Clear cutting within this area is prohibited. The balance of this area shall not be disturbed except for the removal of dead or diseased trees or shrubs.

In the area parallel to the ordinary highwater mark, and extending from 50 feet inland to 150 feet inland from the OHWM, it is recommended that only selective cutting take place.

SECTION IX. LEGAL PRE-EXISTING USES AND STRUCTURES

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

9.2 Shoreland Nonconforming Uses

(1) Compliance with legal pre-existing principal building provisions. Any shoreland building, structure, premises or fixture that constitutes a nonconforming use and is also a legal pre-existing principal building must adhere to the provisions set forth in subsection for nonconforming shoreland structures.

(2) Prohibited Expansion. The alteration of, or addition to, or repair in excess of fifty percent (50%) of the assessed value of any existing building, premises, structure or fixture for the purpose of carrying on a nonconforming use is prohibited. (see 59.69 (10) (am) Wis. Stats.)

(3) Exceptions to Prohibited Expansion. If the alteration, addition or repair of a legal

pre-existing building or structure in the shoreland district with a nonconforming use is prohibited because it is for the purpose of carrying on a nonconforming use and is in excess of fifty percent (50%) of the assessed value of the existing building, premises, structure or fixture, the property owner may still make the proposed alteration, addition or repair if the property owner meets all provisions set forth in subsection 9.4 for legal pre-existing structures and:

(a) The alteration, addition or repair is not for the purpose of carrying on a nonconforming use.

(b) A nonconforming use is permanently changed to a conforming use.

(c) The property owner appeals the determination of the Zoning Administrator and County Board of Adjustment or the Circuit Court finds in favor of the property under Secs. 59.694(4) or 59.597(10), Wis. Stats.

(d) The property owner successfully petitions to have the property rezoned by amendment of this Chapter and Sec. 59.69(5)(e), Wis. Stats.

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

(5) Temporary Structures. If the shoreland nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.

(6) Nuisances. Uses that are nuisances shall not be permitted to continue as nonconforming uses.

9.21 Legal Pre-Existing Principal Structures and Buildings

(1) Shoreland Setback. The minimum setback applied based on the classification of the water body to the ordinary high water mark of any navigable water body to the nearest part of a building or structure shall apply.

(2) Legal Pre-existing Principal Structure Located Less than Thirty-five (35) Feet from the Ordinary High Water Mark. With respect to such structures located less than thirty-five (35) feet from the ordinary high water mark:

a. An existing structure that was lawfully placed when constructed, but that

is located within the shoreland setback, may be maintained and repaired within its existing building envelope. Such internal improvements may be constructed without a land use permit.

b. Maintenance and repair includes such activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, siding or roof. A Chapter 8.4, Page 117

flat roof may be replaced with a pitched roof subsequent to a land use permit and mitigation applies.

c. Repair or replacement of a foundation is considered maintenance and repair if:

1. The foundation is repaired or replaced to the size, including the footprint and total square footage and location that it had before the repair or replacement; and

2. If there is repair or replacement of 33% or more of the lineal perimeter of the foundation, the owner obtains a permit and complies with mitigation requirements under Subsection 9.4.

d. Repair or replacement of a foundation or wall(s) which requires any land disturbance in the vegetation protection area shall require a land use permit and the mitigation requirements of Subsection 9.4 are complied with.

(3) Legal Pre-existing Principal Structure Located Thirty-five (35) Feet or More but less than Seventy-five (75) Feet from the Ordinary High Water Mark. A legal pre-existing principal structure located thirty-five (35) or more feet, but less than seventy-five (75) feet, from the ordinary high water mark may be expanded vertically, provided that:

a. The resulting structure shall not exceed thirty-five (35) feet in height, as defined in ch. NR 115.05(1)(f), Wisconsin Administrative Code.

b. The property owner obtains a land use permit and fulfills the mitigation requirements of Subsection 9.4.

c. All other provisions of the Village of Lake Nebagamon Shoreland Zoning Ordinance shall be met.

d. If use of the principal structure has been discontinued for a period of twelve (12) months or more, any further use of the structure shall conform to this chapter.

(4) Legal Pre-existing Principal Structure Located Seventy-five (75) Feet or More from the Ordinary High Water Mark. An existing structure that was lawfully placed when constructed, but that does not comply with the required building setback, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements and all other provisions of the Village of Lake Nebagamon Shoreland Zoning Ordinance are met.

(5) Legal Pre-Existing Principal Structures Located on Class 3 Lakes or on Lots Adjoining or Including Rivers or Streams. Nonconforming principal structures Chapter 8.4, Page 118

located on lots on Class 3 lakes and streams which are set back at least seventy-five (75) feet but less than one hundred twenty five (125) feet from the ordinary high water mark, may be improved and expanded upon the issuance of a land use permit to the same extent as if they were conforming structures provided that:

a. The mitigation requirements of Subsection 9.4 are complied with; and

b. Any addition is located no closer to the ordinary high water mark than the existing structure; and

c. If use of the principal structure has been discontinued for a period of twelve (12) months or more, any further use of the principal structure shall conform to this chapter.

(6) Additional Requirements for Certain Nonresidential Buildings on Shoreland Lots. A legal pre-existing building, or portion thereof, which is not used for human habitation, or a use ancillary thereto, is subject to the provisions of (2) through (4).

(7) Replacement or Relocation of Legal Pre-Existing Principal Building. An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback, may be replaced or relocated on the property provided all of the following requirements are met (per 2011 WI Act 170 & NR 115 Wisconsin Administrative Code):

a. The use of the structure has not been discontinued for a period of twelve (12) months or more.

b. The existing structure is at least thirty-five (35) feet from the ordinary high water mark.

c. 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.

d. The county determines that no other location is available on the property to build a structure of comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement.

e. Mitigation requirements are complied with.

f. The county shall issue a permit that requires all other structures on the lot or parcel that do not comply with the shoreland setback requirement, and are not Chapter 8.4, Page 119

exempt under NR 115.05(1)(b)1m, Wisconsin Administrative Code, to be removed by the date specified in the permit.

g. All other provisions of the Village of Lake Nebagamon Shoreland Zoning Ordinance shall be met.

(8) Class 3 Lakeshore Lots with Side Yard Setbacks. An existing principal structure located on a lot on a Class 3 water body which is greater than ten (10) feet from a side yard setback but less than the distance from the minimum side yard setback, and which is a legal pre-existing building solely for that reason, may be improved and expanded upon the issuance of a land use permit to the same extent as if it were a conforming structure, provided that:

a. The use of the structure has not been discontinued for a period of twelve (12) months or more.

b. The addition or expansion does not increase the nonconformity.

(9) Compliance with Most Restrictive Zone Standards. Legal pre-existing principal structures, and buildings which are located in more than one setback zone, shall comply with the standards of the more restrictive zone.

9.3 Impervious Surface Standards

The construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high water mark of any

navigable waterway must meet the following requirements:

- (1) Lots or Parcels with 15% or Less Impervious Surface. Up to 15% of the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark may consist of impervious surface without the need for mitigation.
- (2) Lots or Parcels with More than 15% but no more than 30% Impervious Surface. Between 15% and 30% of the portion of a lot or parcel that is within 300 feet of the ordinary high water mark may consist of impervious surface provided that the landowner obtains a permit and provided that the mitigation measures of Subsection 9.4 shall apply.
- (3) Lots or Parcels with More than 30% Impervious Surface. No more than 30% of the portion of a lot or parcel that is within 300 feet of the ordinary high water mark may consist of impervious surface.
- (4) Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the current standards, the property owner may do any of the following:
 - a. Maintenance and repair of all impervious surfaces;
 - b. Replacement of existing impervious surfaces with similar surfaces within the existing building envelope;
 - c. 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 at the effective date of the Douglas County Shoreland Zoning Ordinance, and meets the applicable setback requirements in s. NR 115.05(1)(b), Wisconsin Administrative Code.

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9.4 Mitigation Measures

(1) Required mitigation

A site plan and implementation schedule describing any required mitigation shall be submitted by the property owner or their authorized agent and approved by the Zoning Department prior to issuing the related land use permit(s). Mandatory practices for mitigation shall include:

- (a) Evaluation and if needed upgrading of any existing sanitary system on the subject property to meet current Village of Lake Nebagamon and Department of Commerce regulations.
- (b) Implementation of standard erosion and storm water runoff control measures described in applicable sections of this ordinance.

(2) Additional requirements

- (a) Accumulating at least two (2) points from among the following proposed or current practices:
 - (1) Maintenance of an existing shoreland buffer area within 35 feet of the OHWM for Class 1&2 Lakes and within 50 feet for Class 3 Lakes and River/Streams (2 points).
 - (2) Restoration of the shoreland buffer area within 35 feet of the OHWM for Class 1&2 Lakes and within 50 feet for Class 3 Lakes and River/Streams (2 points).
 - (3) Restoration of native vegetation along both sideyards, minimum of 5 feet wide measured perpendicular to the lot line for the entire length of the lot. (1/2 point).
 - (4) Removal of legal pre-existing accessory buildings from within

the shoreland setback area (1 point per building).

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(5) Use of exterior building materials or treatments that are inconspicuous and blend with the natural setting of the site (1/2 point).

(6) Removal of waterward improvements (seawalls, dockage, artificial sand beach etc. and / or restoration of emergent aquatic vegetation (1/4 point for each distinct removal / restoration effort).

(7) Any other mitigation that is deemed appropriate by the Zoning Administrator may be used to meet the mitigation requirement of Section 9.4(2)(a).

(3) A Shoreland Mitigation/Preservation Affidavit shall be signed and recorded with the register of deeds prior to the issuance of a zoning permit for the expansion or improvement of a legal pre-existing principal building which requires mitigation under Section 9.2.

9.41 Type of Shoreland Buffer

The type of shoreland buffer restoration required under Section 9.4(2) will be determined by the Zoning Department and/or the Land Conservation Department. The buffer type shall be either woodland, prairie, or wetland. The woodland and prairie buffers shall comply with the standards set forth in Section 9.41 Table 1. Wetland buffers will also be permitted where deemed appropriate by the Zoning Department and/or the Land Conservation Department.

9.42 Table 1. Shoreland Buffer Planting Standards

Woodland Buffer Prairie Buffer

Layer Minimum

number of
species

Density per
100 square
feet

Minimum
number of
species

Density per
100 square
feet

Area Credits

Tree Canopy 3 1 2 0.2 Existing tree
canopy

edge
viewing
corridor

Shrub

Understory

4 1.5 2 0.5 Existing
shrub

understory

wet edge

viewing

corridor

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Groundcover

Plant Plugs

1 70 5 70 Existing well

vegetated

native

ground

cover

Groundcover

seeding

1 Varies 5 Varies Existing well

vegetated

native

ground

cover

9.43 Type of Vegetation Recovery

(1) Natural Recovery

Shoreland buffer areas that are suited for natural recovery will be allowed only after Zoning and /or County Land Conservation approval.

(2) Accelerated (planted) Recovery

Areas not suited to natural recovery will require plantings to establish native vegetation and must be planted. Areas such as lawns or eroded sites with no seed source will require plantings. Dense turf grass growths that have been maintained for several years will need to be removed and native plantings installed. Planted buffers must meet the required plant densities based on square footage of buffer area and the type of buffer (Table 1). Planting credits will be allowed for the viewing corridor, areas of existing native vegetation, and areas suited for natural recovery.

9.44 Village of Lake Nebagamon Native Plant List

Species of plants must be selected from the Village of Lake Nebagamon Native Plant List and approved for shoreline buffers by the Zoning and /or Land Conservationist. Substitutions must be approved by the Zoning and /or Land Conservationist. Substitutions to the list will be allowed in the event of lack of plant stock or seed availability on a case-by-case basis. All plants may be transplanted from areas outside of the buffer zone.

9.45 Planting Densities

Planting densities are based on the total area of the required buffer. Area credits calculated are subtracted from the total required density on an equal square footage of coverage basis. Trees must be at least 2 years old and greater than 1 foot tall to qualify as a credit or planting.

9.46 Shoreland Buffer Plan Requirements

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A shoreland restoration plan shall be completed for all required shoreland mitigation or preservations. Plans must be approved by the Zoning and

Land Conservationist.

(1) Shoreland Buffer Restoration Site Plans must include:

- (a) Name and Address of property owner
 - (b) Property address and legal description
 - (c) Extent of the shoreland buffer
 - (d) Scale (e.g. 1 inch = 10 feet)
 - (e) North arrow
 - (f) Ordinary high water mark (OHWM) location
 - (g) Location of all structures in the shoreland buffer zone
 - (h) Viewing and access corridor
 - (i) Boundary of the shoreland buffer zone
 - (j) Existing trees, shrubs, and native ground cover
 - (k) Areas to be planted with trees, shrubs, and groundcovers
 - (l) Implementation schedule
 - (m) A plant species list; indicate if you are requesting substitutions from the prepared list
 - (n) Erosion control practices (to be installed prior to and during buffer establishment)
 - (o) Water diversions and channelized flow areas
 - (p) Buffer Maintenance (weeding, replanting)
- (2) Implementation schedule.

The approved Shoreland Buffer Restoration Site Plan must be started within one year from the issue date of applicable permit. All plantings and any other required activities in the Shoreland Buffer Restoration Site Plan must be completed within two years of the permit issue date.

9.5 Replacement Of Existing Structures

(1) Voluntarily Demolished.

Unless paragraph 2. applies, a structure may not be rebuilt or replaced closer than the applicable OHWM setback if it has been voluntarily demolished such that any of the following apply:

- (a) Replacement of 50% or more of the building.
- (b) The existing use of the structure has been discontinued for twelve consecutive months as a result of the demolition.

(2) Damaged or Destroyed by Violent Wind, Fire, Flood, Vandalism, Ice, Snow, Mold and Infestation

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As required by Section 59.692(1s), Wis. Stats., if an existing structure has been destroyed or damaged after October 14, 1997 by violent wind, fire, flood, vandalism, ice, snow, mold and infestation, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:

- (a) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this ordinance.
- (b) Except as provided in Section 87.30 (1d), Wis. Stats., a building located closer than seventy-five feet (75=) from the ordinary high water mark that is subject to regulation under a floodplain zoning

ordinance may not be reconstructed or repaired except in compliance with the floodplain zoning ordinance.

(c) The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged structure had immediately before the destruction or damage occurred.

(d) Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire or flood, and only that portion of the structure that has been destroyed may be reconstructed.

(e) The private onsite wastewater treatment (septic) system serving the principle structure shall meet current standards for new construction.

9.6 Legal Pre-Existing Uses

(1) Burden of Proof. A property owner claiming a legal pre-existing use and exemption from applicable regulations shall prove by a preponderance of the evidence that:

(a) The use was legally established;

(b) The use predated zoning provisions with which it does not comply;

(c) The use was active and actual prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property in which case no vested right to continue the use shall have been acquired.

(2) No Expansion. A legal pre-existing use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a

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structure which, on the date the use became legal pre-existing, was only partially devoted to such use.

(3) Discontinuance. If a legal pre-existing use is discontinued for twelve (12) consecutive months, any future use of the building, structure, or property shall conform to this ordinance. If the legal pre-existing use of a temporary structure is discontinued, such legal pre-existing use may not be recommenced.

(4) Nuisance. Legal pre-existing uses, which are nuisances, shall not be permitted to continue.

SECTION X. ADMINISTRATIVE PROVISIONS

10.1 Zoning Administrator

The Zoning Administrator shall have the following duties and powers:

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

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

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

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

10.15 Investigate and report violations of this ordinance to the appropriate county zoning committee and the District Attorney or Corporation Counsel.

10.2 Zoning Permits.

10.21 When Required. Except where another section of this ordinance

specifically exempts certain types of development from this requirement (as in Sections 8.31 and 8.32), a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13.2(6), or any change in the use of an existing building or structure, is initiated.

10.22 Application. An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following data:

(1) Name and address of applicant and property owner;

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(2) Legal description of the property and type of proposed use;

(3) A sketch of the dimensions of the lot and location of buildings relative to the lot lines, center line of abutting highways and the ordinary highwater mark of any abutting watercourse and the water level on a date specified.

(4) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

10.23 Expiration of Permit. Zoning permits shall expire 12 months from date issued if no substantial work has commenced.

10.3 Conditional-Use Permits

10.31 Application for a Conditional-Use Permit. Any use listed as a conditional-use in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional-use permit has been granted by the County Zoning Committee.

10.32 Standards Applicable to All Conditional-Uses. In passing upon a conditional-use permit, the County Zoning Committee shall evaluate the effect of the proposed use upon:

(1) The maintenance of safe and healthful conditions;

(2) The prevention and control of water pollution including sedimentation;

(3) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage;

(4) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.;

(5) The location of the site with respect to existing or future access roads;

(6) The need of the proposed use for a shoreland location;

(7) Its compatibility with uses on adjacent land;

(8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems; and

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(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; and

(c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations

tending to increase that possibility.

10.33 Use Conditions. Upon consideration of the factors listed above, the County Zoning Committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Violations of any of these conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the County Zoning Committee may require the applicant to furnish the following information:

- (1) A plan of the area showing surface contours, soil types, ordinary highwater marks, ground water conditions, subsurface geology and vegetative cover.
- (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- (3) Plans of building, sewage disposal facilities, water supply systems and arrangement 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.

10.34 Notice, Public Hearing and Decision. Before passing upon an application for a conditional-use permit, the County Zoning Committee shall hold a public hearing. Notice of such public hearing, specifying time, place and matters to come before the Committee, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be mailed to the appropriate

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district office of the Department at least 10 days prior to the hearing. The Zoning Committee shall state in writing the grounds for granting or refusing a conditional-use permit.

10.35 Recording. When a conditional-use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decisions on a conditional-use permit shall be mailed to the appropriate district office of the Department within 10 days after it is granted or denied.

10.36 Revocation. Where the conditions of a conditional-use permit are violated, the conditional-use permit shall be revoked by the County Zoning Committee.

10.4 Variances

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

- (1) Result in unnecessary hardship on the applicant,
- (2) Due to special conditions unique to the property, and
- (3) That such variance is not contrary to the public interest.

10.41 Notice, Hearing and Decision. Before passing on an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be mailed 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 mail a copy of such decision to the appropriate Department district office within 10 days of the decision.

10.5 Board of Adjustment

The Chairman of the County Board shall appoint a Board of Adjustment consisting of 5 voting and 2 alternate members under Section 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 Section 59.694, Wis. Stats.

10.51 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 Section 59.694, Wis. Stats.

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(2) It shall hear and decide appeals where it is alleged there is error in any order, requirements, decisions or determination made by an administrative official in the enforcement or administration of this ordinance.

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

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

10.53 Hearing Appeals and Applications for Variances

(1) The Board of Adjustment shall fix a reasonable time for 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 given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances 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 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 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.

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10.6 Fees

General. The County Board, may by resolution, adopt fees including, but not limited to the following:

- (1) Land use permits;
- (2) Conditional-use permits;
- (3) Planned Residential Unit Development reviews;
- (4) Public hearings; and
- (5) Legal notice publications.

SECTION XI CHANGES AND AMENDMENTS

The County may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of Section 59.69 and 59.692, Wis. Stats., Wis. Adm. Code Ch NR 115, and Section 8.5 of this ordinance where applicable.

11.1 Amendments to this ordinance may be made on petition of any interested party as provided in Section 59.69, Wis. Stats.

11.2 Every petition for a text or map amendment filed with the County Clerk shall be referred to the County Zoning Committee. A copy of each petition shall be mailed to the appropriate district office of the Department within 5 days of the filing of the petition with the County Clerk. Written notice of the public hearing to be held on a proposed amendment shall be mailed to the appropriate district office of the Department at least 10 days prior to the hearing.

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

SECTION XII. ENFORCEMENT AND PENALTIES

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator or the county zoning agency shall refer violations to the District Attorney or Corporation Counsel who shall expeditiously prosecute violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars

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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 Sections 59.69 and 66.0113, Wis. Stats.

SECTION XIII. DEFINITIONS

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

13.2 The following terms used in this ordinance mean:

(1) AAccessory Construction@ means construction, replacement, placement, or modification of but not limited to decks, porches (open or screened), and walkways.

(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 any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.

(4) "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 Planning and Zoning Committee.

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

(6) "Department" means the Department of Natural Resources.

(7) "Development" means any man-made change to improve real estate, including but not limited to the construction of buildings, structures or accessory structures; the construction or 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.

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(8) "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.

(9) AEnclosed Dwelling Area@ means the enclosed floor space within a principal structure including but not limited to attached garages, three season porches, lofts and breezeways. (Existing basements and decks are excluded when calculating existing enclosed dwelling area.)

(10) AExpansion@ means any structural modification, which increases the existing structure envelope or footprint.

(11) AExterior improvement@ B means upgrades in aesthetics, function, or worth of the outside surface(s) or components of a structure. Such improvements may include, but are not limited to, structural alteration for the expansion or addition of doors, windows, replacement of basement/foundation walls and footings.

(12) "Floodplain" means the land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and flood fringe as those terms are defined in Wis. Adm. Code NR

116.03(16).

(13) "Impervious Surface." An area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes, among other things, frozen soil and decks that have at least a ¼ inch space between deck boards with a pervious surface below. "Impervious surface" includes, among other things, rooftops, sidewalks, driveways, parking lots, streets, shingles, concrete and asphalt.

(14) AInterior improvement@ means upgrades in aesthetics, function, or worth of the interior surface(s) or components of a structure. Such improvements may include, but are not limited to, replacement or the addition of interior doors, cabinets, drywall, insulation, or plumbing, heating, and electrical system components.

(15) "Navigable waters" means Lake Superior, all natural inland lakes 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 and pursuant to Section 281.31(2)(d), Wis. Stats. Shoreland ordinances required under Sections 59.69 and 59.692, Wis. Stats., and Wis. Adm. Code Ch. NR 115, do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

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(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.

(16) "Nonconforming Structure" means a dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.

(17) "Nonconforming Use" means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.

(18) "Ordinary highwater mark" means the point on the bank or shore up to which the present action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, or other easily recognized characteristics.

(19) AOrdinary Maintenance and Repair@ means ordinary and routine actions necessary to continue or restore the safe and healthy use of a structure which has been damaged or has deteriorated through natural aging and wear and which does not result in a substantial structure improvement or a significant increase in value. Such actions may include, but are not limited to, painting and staining, and the repair of the following; exterior windows, skylights, doors, vents, siding, insulation, shutters, gutters, flooring, shingles, roofing materials, walls or the foundation, and internal improvements within the structural envelope without doing a structural alteration.

(20) APrincipal Building@ means a structure that is designed for independent human habitation and includes sanitary and/or food preparation facilities whether such structure is attached to another structure(s) or stands alone.

(21) "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.

(22) Renovation and remodeling (see "Ordinary Maintenance & Repair").

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

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(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 part of this ordinance.

(25) A Structural Alteration means any activity not considered ordinary maintenance and repair that results in a change to the integral framework, or the exterior silhouette or footprint of a structure.

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

(27) "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.

(28) "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.

Adoption: October 3, 1985

Amendments: July 31, 1996

August 15, 1996

August 21, 1997

February 17, 2000

November 20, 2003

May 18, 2006

November 15, 2007

December 20, 2012

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ZONING SCHEDULE - DIMENSIONAL REQUIREMENTS

R-1 R-2 RR-1 A-1 C-1I-1F-1

Building Height Limit 35 35 35 35 35 60 35

Required Lot Area (Acres or sq. ft.)

With Public Sewer 10,000₂ 5 acres 20,000₂ 5 acres 10,000₂ 1 acre 10 acres

Without Public Sewer

(a) Within Shorelands 30,000₃ 5 acres 30,000₃ 5 acres 30,000₃ 1 acre 10 acres

(b) Outside Shorelands 15,000 5 acres 20,000₃ 5 acres 20,000₃ 1 acre 10 acres

(c) Shoreline Lots 30,000₃ 30,000₃ 30,000₃ 30,000₃

Minimum Lot Width

With Public Sewer 75 300 150 300 75 200 300

Without Public Sewer 100 300 150 300 100 200 300

Yards Required

Front 30 50 30 50 10 50 30

Side

Principal Building 10 20 10 20 102010

Accessory Building 5 10 5 10 5105

Rear 40 50 40 50 205040

Floor Area, Residence (Sq.Ft.)

3 or more bedrooms 1,000 1,000 700 1,000 700700700

2 bedrooms 900 900 600 900 600600600

1 bedroom 800 800 500 800 500500500

Floor Area, Mobile Home (sq. ft.)

3 or more bedrooms 800 800 700 800 800

2 bedrooms 700 700 600 700 700

1 bedroom 600 600 500 600 600

¹Unless specified elsewhere in this ordinance or on the official zoning map, the dimensional requirements of this

schedule shall apply to the respective listed districts. Requirements for the W-1: Resource Conservation, SP-1:

Protection and PUD: Planned Unit Development are contained on the Official Zoning Map.

²Minimum for one-family dwellings; add 5,000 sq. ft. for each additional unit over one.

³Plus additional area required by Wis. Admin. Code Ch. Comm. 85

⁴No lot shall be created with a length to width ratio greater than three (3) to one (1).

SETBACK REQUIREMENTS ON HIGHWAY AND ROADS, AS STATED IN SECTION 4.2, VILLAGE OF LAKE NEBAGAMON

ORDINANCE:

The distance that is greater (measured from the centerline and from the right-of-way line), shall apply.

(a) ALL STATE AND U.S. NUMBERED HIGHWAYS - 130 ft. from centerline or 66 ft. from right-of-way line.

(b) ALL COUNTY TRUNK HIGHWAYS - 75 ft. from centerline or 42 ft. from right-of-way line.

(c) ALL TOWN ROADS - 63 ft. from centerline or 30 ft. from right-of-way line.

SETBACK REQUIREMENTS FOR LAKES AND STREAMS 75 ft. from the highwater mark of lakes or streams, except

for St. Croix, Brule and Eau Claire Rivers, which is 200 ft.