

## **ARTICLE III. SHORELAND PROTECTION**

### **DIVISION 1. GENERALLY**

#### **Sec. 42-210. Statutory authorization.**

- (A) This article consists of two distinct but inseparable and integrated parts: written text and zoning maps. The written text and zoning maps taken together constitute this article and, therefore, shall at all times be considered as interrelated and inseparable parts of a whole. In addition, other maps and materials referenced in the text are used to support this article.
- (B) This article is adopted pursuant to the authority expressed in Wis. Stats. §§ ~~30.12(3)(c), 30.13(2), 59.03, 59.69, 59.692, 59.694, 59.696, 87.30, and 281.31~~ and Wis. Stats. chs. ~~91, 236, 287, 289 and 823~~.
- (c) ~~This article shall constitute a comprehensive revision, as described in Wis. Stats. § 59.69(5)(d), of the county shoreland protection zoning ordinance, effective May 1, 2020.~~

(Ord. No. 38-19, art. 2, 9-17-2019; Ord. No. 08-20, art. 2, 4-21-2020)

#### **Sec. 42-211. Purpose and intent.**

- ~~(a) The purpose of these shoreland regulations is to ensure the proper management and development of the shoreland of all navigable lakes, ponds, flowages, rivers and streams in the unincorporated areas of the county. The intent of these regulations is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning ground for fish and aquatic life; control building sites, placements of structures, land uses; and preserve shore cover and natural beauty. For those reasons, development and alterations that may affect the natural function of the shorelands of the county shall be controlled and regulated so as to cause no harm. The shoreland protection zoning ordinance shall be interpreted in harmony with federal, state, and local laws, including, but not limited to, the county comprehensive zoning ordinance, county nuisance ordinance, county floodplain ordinance, county subdivision ordinance, and others. Where any provision is inconsistent with applicable federal, state or local laws, rules and regulations, such provision shall be deemed void, but the remainder of this article shall apply and remain in full force and effect. This article shall conform to Wis. Stats. chs. 30, 59, and 281, Wis. Adm. Code ch. NR 115, and the American Disabilities Act.~~
- ~~(b) To the extent that any of the provisions of this article are interpreted to be more restrictive than the state shoreland standard as provided by Wis. Adm. Code § NR 115.05(1)(a) through (g), said ordinance provision shall lack application and the applicable state standard is hereby incorporated by reference as expressly provided herein so as to comply with Wis. Stats. § 59.692(1d) and to allow for lawful issuance of any permit authorized by this chapter and to allow for the local enforcement of the state shoreland standard.~~
- (A) Findings of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Polk County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to reserve shore cover and natural beauty. This responsibility is hereby recognized by Polk County, Wisconsin.

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(B) Purpose and Intent. To promote and protect the public trust in navigable waters and to effect the purposes of s. 281.31, Stats, by aiding in the fulfillment of the state's role as trustee of its navigable waters; limiting the direct and cumulative impacts of shoreland development; and promoting the public health, safety, convenience and general welfare, this ordinance has been established to:

- (1) Further the maintenance of safe and healthful condition and prevent and control water pollution through:
  - (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
  - (b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
  - (c) Controlling filling and grading to prevent soil erosion problems.
  - (d) Limiting impervious surfaces to control runoff which carries pollutants.
- (2) Protect spawning grounds, fish and aquatic life through:
  - (a) Preserving wetlands and other fish and aquatic habitat.
  - (b) Regulating pollution sources.
  - (c) Controlling shoreline alterations, dredging and lagooning.
- (3) Control building sites, placement of structures and land uses through:
  - (a) Prohibiting certain uses detrimental to the shoreland-wetlands.
  - (b) Setting minimum lot sizes and widths.
  - (c) Setting minimum building setbacks from waterways.
  - (d) Setting the maximum height of near shore structures.
- (4) Reserve shore cover and natural beauty through:
  - (a) Restricting the removal of natural shoreland cover.
  - (b) Preventing shoreline encroachment by structures.
  - (c) Controlling shoreland excavation and other earth moving activities.
  - (d) Regulating the use and placement of boathouses and other structures.

(Ord. No. 38-19, art. 3, 9-17-2019; Ord. No. 08-20, art. 3, 4-21-2020)

### **Sec. 42-212. Definitions**

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.

The following terms used in this ordinance mean:

*Access and viewing corridor* means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

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*Accessory structure* means a subordinate structure which is devoted to a use incidental to the principal use of the property. Accessory structures include, but are not limited to, a detached garage, shed, barn, boathouse, gazebo, patio, deck, porch, fire pit, swimming pool, hot tub, fence, retaining wall, driveway, parking lot, sidewalk, walkway, detached stairway and lift.

*Bed and breakfast* means any place of lodging that provides eight or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a 12-month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

*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.

*Building* means a structure having a roof supported by columns or walls.

*Building, accessory*, means a subordinate building which is incidental to and customarily found in connection with the primary use of the property limited to 35 feet in height.

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

*Bunkhouse* means a residential accessory structure or part of a residential accessory structure with or without plumbing which is used as temporary sleeping quarters only and has no cooking or food preparation facilities.

*Campground* means any lot or tract of land owned by a person, the state or a local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or by one to three camping units if the lot or tract of land is represented as a campground.

*Camping unit* means any portable device, no more than 400 square feet in area, used as a temporary dwelling, including, but not limited to, a camping trailer/travel trailer, motor home, park model, pick-up truck camping topper or tent.

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

*Credentialed professional* means an individual holding a valid certification in any of the following: Certified Professional Erosion and Stormwater Control (CPESC), Soil Erosion Inspector. It can also include a professional approved by the zoning administrator that has expertise relating to erosion and stormwater control.

*Department* means the Department of Natural Resources.

*Deck (patio)* means an unenclosed exterior accessory structure that has no roof or sides.

*Development* means any manmade change to real estate, including, but not limited to, the construction of buildings, principal 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.

*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.

*Dwelling, multiple-family*, means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by more than two families intermittently or as a principal residence. Each unit or part of the structure used by a different family or household shall be considered a separate dwelling unit when computing density of the lot.

*Dwelling, single-family*, means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others intermittently or as a principal residence. The term "single-family dwelling" includes manufactured homes, but not mobile homes, camping units, travel trailers, and other temporary sleeping units.

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*Dwelling, two-family*, means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by two families, to the exclusion of all others intermittently or as a principal residence. These dwellings shall be counted as two dwelling units towards the density requirements of the lot.

*Essential services* means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. The term "essential services" includes underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including those uses listed in the county telecommunications towers, antennas, and related facilities ordinance.

*Excavating* means to remove by scooping or digging out.

*Existing development pattern* means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

*Expansion, horizontal (addition)*, means expansion of a principal structure outside of its existing building footprint.

*Expansion, vertical*, means expansion of a principal structure either up or down, within its existing building footprint and includes full replacement of roofs and basements/foundations.

*Family* means the body of persons who live together in one dwelling unit as a single housekeeping unit, regardless of the length of time they have lived together.

*Farm animals* means dairy cattle, beef cattle, swine, sheep, horses, ducks, chickens, turkeys and animals or fowl of similar character and customarily maintained in a large parcel setting for food, recreational, breeding, zoological or similar purposes.

*Farm building* means a building or other structure used to house or feed farm animals, store farm animal feed or other farm equipment, or to collect or store waste generated from farm animals.

*Farm residence* means any of the following structures that are located on a farm: A single-family dwelling or two-family dwelling that is the only residential structure on the farm or is occupied by any of the following:

- (1) An owner or operator of the farm.
- (2) A parent or child of an owner or operator of the farm.
- (3) An individual who earns more than 50 percent of his or her gross income from the farm.
- (4) A migrant labor camp that is certified under Wis. Stats. § 103.92.

*Feedlot* means a lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which animal waste may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this chapter, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots.

*Fence, open* means a structure where every segment of the fence (e.g. a section between posts) is composed of at least 50 percent open spaces and less than 50 percent solid materials. For the purposes of this chapter, any legal boundary fence listed under Wis. Stats. Ch. 90 shall be considered an open fence. Open fences shall not exceed eight feet in height and are exempt from any side yard setback.

*Fence, privacy* means a structure for enclosure or screening that is greater than four feet in height and greater than 50 percent opaque. Privacy fences shall not be greater than six feet in height.

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

*Footprint* means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5.

*Functional appurtenance* means an unenclosed accessory structure such as an open deck or patio, that if built in conjunction with the new principal structure is allowed to be at the reduced setback.

*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.

*Grading* means the filling, placing or moving of rock and soil material.

*Height* means the elevation from the lowest exposed grade of the structure to the highest peak of the roof, excluding window wells and stairways.

*Home business* means a gainful occupation operated out of a residence or accessory structure, when such occupation is:

- (1) Conducted solely by a member of the resident family.
- (2) Entirely within the residence and incidental to the residential use of the premises.
- (3) No external alterations that would effect a substantial change in the residential character of the building.
- (4) No more than 50 percent of only one floor of the dwelling shall be devoted to such offices.
- (5) Not more than two persons not members of the resident family may be employed or otherwise contracted by such business.

*Human habitation* means the act of occupying a structure as a sleeping place whether intermittently or as a principal residence.

*Immediate family members* is limited to the spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, and sisters-in-law

*Impervious surface* means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not to be calculated as impervious surfaces. Roadway means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively. Sidewalk means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, constructed for use of pedestrians.

*Inoperable* means not able to perform its normal function.

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*Junkyard/salvage yard/recycling center* means an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, disassembled or handled for commercial or noncommercial purposes, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. The term "junkyard/salvage yard/recycling center" includes, but is not limited to, an automobile wrecking or dismantling yard or an area where more than one unlicensed or inoperable motor vehicle is kept.

*Kenel* means the use of land, with related buildings or structures, for the breeding, rearing or boarding of household pets five months of age or older.

*Land use runoff rating* means a tool used to determine how much mitigation is needed to reduce the effects of development, particularly impervious surfaces, on water quality.

*Land disturbance* means a man-made change to the land that alters the soil, vegetation, or hydrology. It can include activities like construction, clearing, grading, excavating, and filling but is not limited to these listed activities.

*Landscaping* means the removal or alteration of topsoil.

*Large outdoor commercial event* means an event, regardless of whether it is singular, annual, or multiple times per year in which payment is accepted, whether by a fee or by donation, in exchange for a public gathering with entertainment, including, but not limited to, music events, motor vehicle rallies, etc.

*Limited short-term non-metallic mining* means a non-metallic mining activity where the following criteria are met:

- (1) Does not satisfy the definitions and standards for preexisting non-metallic mining activities under section 42-86(b)(2).
- (2) Will be commenced, completed, and reclaimed within a one-year period from the date of the permit issuance.
- (3) Will be limited to not more than one acre per parcel or owner held under common ownership directly or indirectly, including but not limited to: partnerships, corporations, limited liability companies or other entity.
- (4) Will be limited to private use. Private use under this section means the owner of the parcel is the sole user of the material sourced from the limited, short-term non-metallic mining activity and used on the same parcel or a contiguous parcel of land under the same ownership.
- (5) Will be limited to public use. Public use under this section means the county or a municipality is the sole user of the material sourced from the limited, short term non-metallic mining activity.
- (6) Have obtained a land use permit, or the activity is covered by a different department, DOT, or DNR permit.

*Lot* means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.

*Lot area* means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.

*Lot lines* means the lines bounding a lot as herein defined.

*Lot of record* means any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

*Lot width* means for the purpose of this chapter the width of a lot shall be the shortest distance between the sidelines at the setback line.

*Manufactured home* means any structure, HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (42 USC Ch. 70 (42 USC 5401—5426)), that is, or was as originally

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constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used. The term "manufactured home" includes the manufactured home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment therein, any additions, attachments, annexes, foundations and appurtenances.

*Manufactured home park* (previously "mobile home park") means an area or premise on which is provided the required space for the accommodation of manufactured home, together with necessary accessory buildings, driveways, walks, screening and other required adjuncts.

*Marina* means providing a dock or location to moor watercraft. Marinas may also offer marine supplies, fuel, watercraft repairs, and other facilities to their guests. A property with more than six watercrafts shall be deemed a marina under this chapter.

*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.

*Mobile home* means any structure, not HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (42 USC Ch. 70 (42 USC 5401—5426)) or manufactured or assembled before June 15, 1976, that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used. The term mobile home includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment therein, any additions, attachments, annexes, foundations, and appurtenances.

*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)(m), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

- (1) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
- (2) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body

*Nonfarm residence* means a single-family or multi-family residence other than a farm residence.

*Nonmetallic mining activities* means the excavation, mining or removal of minerals, clay, ceramic or refractor minerals, quarrying of sand, gravel, crushed or broken stone, including the extraction and removal of topsoil, but not including sod farming. The term shall also include such mineral processing operations as aggregate or ready-mix plants, hot mix asphalt plants, mining services, processing of topsoil, washing, refining or processing of nonmetallic mineral materials, when onsite or on a contiguous property.

*Ordinary high-water mark (OHWM)* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

*Ordinary maintenance and repair* means those activities necessary to maintain the structural integrity and current function of the existing structure. The term "ordinary maintenance and repair" may include replacement of windows, doors, siding, insulation, roofing, and roof replacement, provided the pitch does not exceed the pitch necessary to match the existing roof.

*Outlot* means a lot remnant or parcel of land within a plat remaining after platting, which is intended for open space use, for which no development is intended other than that which is accessory to the open space use. An outlot may not be developed for any use or structure that requires a private, onsite wastewater treatment system.

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*Parent lot* means the lot and associated acreage of that lot that existed at the time of the adoption of the ordinance from which this chapter is derived.

*People* means human beings in general or considered collectively.

*Permit* means a written form issued by the zoning department.

*Previously developed* means a lot or parcel that was developed with a structure legally placed upon it.

*Reconstruction* means activities that exceed maintenance and repair, structural repair, structural alteration, horizontal expansion or vertical expansion.

*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.

*Roadside stand* means a structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premise (or adjoining premise). There shall not be more than one such roadside stand in any single premises.

*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.

*Setback* means the minimum horizontal distance between lot lines, the platted center line of the road, from right-of-way line, or the ordinary high-water mark measured to the closest point of the structure.

*Setback lines* means lines established adjacent to the highways, lakes or streams for the purpose of defining limits within which no building, structure or any part thereof shall be erected or permanently maintained except as shown herein. The term "within a setback line" means between the setback line and the highway right-of-way, lake or stream.

*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.

*Shoreland protection area* means a vegetative strip of land 35 feet measured perpendicular from the ordinary high-water mark.

*Shoreland setback also known as the "Shoreland setback area" in s. 59.692(1)(bn), Stats,* means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under section 59.692, Stats.

*Shoreland-wetland zoning district* means a zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

*Structural alteration* means any change in the exterior supporting members, such as bearing walls, columns, beams or girders, footings and piles.

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

*Structure, nonconforming,* 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 regulations in the current zoning ordinance.

*Substandard Lots* means a legally created lot or parcel that met minimum area and minimum average width requirements when created but does not meet current requirements for a new lot.

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*Substantial evidence* means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

*Tourist or transient* means a person who travels to a location away from his permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

*Tourist rooming house* means a single-family dwelling in which sleeping accommodation is offered for pay to a maximum of two tourists or transients per bedroom based on the sanitary system serving the dwelling, up to a total of eight from 11:00 p.m. to 7:00 a.m. A maximum of 12 occupants are allowed from 7:00 a.m. to 11:00 p.m. regardless of the number of bedrooms.

*Transient lodge* means any single-family dwelling rented on a short-term basis with a maximum occupancy of nine to 12 people at any time on the property. The maximum occupancy shall be a maximum of two tourists or transients per bedroom based on the sanitary system size or number of legal bedrooms in the dwelling, whichever is more restrictive.

*Travel trailer* means any vehicle, house car, camp car, or any portable or mobile vehicle either self-propelled or propelled by other means which is used or designed to be used for residential living or sleeping purposes as defined in Wis. Adm. Code Ch. ATCP 79.

*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.

*Use, conditional,* 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.

*Use, nonconforming,* means a building, structure or use of land lawfully existing at the time of enactment of this chapter, and which does not conform to the regulations of the district or zone in which it is located.

*Use, permitted,* means a use permitted in a district whereby a building can be constructed, erected, altered or moved and is consistent with the general intent of the district.

*Variance* means an authorization granted by the board of adjustment to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

*Watercraft* means any boat or vessel with or designed to be used with a motor or mechanical propulsion. For the purposes of this chapter, any boats, or vessels less than 16 feet in length without a motor or mechanical propulsion shall not be deemed a watercraft.

*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.

## **Sec. 42-2132. General provisions.**

- (a) *Areas to be regulated.* ~~The shorelands area shall be considered as those lands within 1,000 feet of the OHWM of any navigable lake, pond, or flowage, and those lands within 300 feet of the OHWM of any navigable river or stream, or to the landward side of the flood plain, whichever is greater. All land within the shoreland area shall be placed within one of the zoning districts listed in section 42-213. Uses within the shorelands shall conform to the requirements of these county zoning districts or the respective town zoning districts in towns with their own zoning. The towns with their own zoning districts and use~~

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~~regulations for the shoreland area are the Towns of St. Croix Falls, Garfield, and Farmington. In addition, each property shall be subject to the requirements of this article.~~

- (A) ~~*Areas to be regulated.* The shorelands area shall be considered as those lands within 1,000 feet of the OHWM of any navigable lake, pond, flowage, or glacial pothole lake, and those lands within 300 feet of the OHWM of any navigable river or stream, or to the landward side of the flood plain, whichever is greater.~~
- (B) ~~All land within the shoreland area shall be placed within one of the zoning districts listed in section 42-214. In addition, each property shall be subject to the requirements of this article.~~
- (b) ~~*Greater restrictions.* The provisions of the shoreland and wetland regulations and all the provisions of any county or town zoning ordinance apply to the shorelands. However, where an ordinance adopted under a statute other than Wis. Stats. § 59.692 does not solely relate to shorelands and is more restrictive than this article, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions. In addition:~~
- ~~(1) Shorelands and wetlands regulations shall not require approval or be subject to disapproval by any town or town board, except for towns with their own zoning listed under section 42-212(a).~~
  - ~~(2) If an existing town ordinance relating to shorelands is more restrictive than this article or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions.~~
  - ~~(3) Except as this article may conflict with Wis. Stats. ch. 91, farmland preservation, wherever this article imposes greater restrictions than other similar regulations, the provisions of this article shall govern.~~
  - ~~(4) Wherever the provisions of this article conflict with the provisions of Wis. Stats. ch. 91, farmland preservation, the provisions of Wis. Stats. ch. 91 shall prevail.~~
  - ~~(5) It is not intended by this article to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.~~
- (C) ~~Abrogation and greater restrictions. The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than s. 59.692, Stats, does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.~~
- ~~(1) This ordinance shall not require approval or be subject to disapproval by any town or town board.~~
  - ~~(2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.~~
  - ~~(3) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.~~
  - ~~(4) This ordinance shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable, so far as practicable.~~
  - ~~(5) This ordinance may establish standards to regulate matters that are not regulated by a shoreland zoning standard under NR 115.05(1) and that further the purposes of shoreland zoning as described in section 1.3 of this ordinance.~~

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- (6) This ordinance may not require any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (D) ~~Height restrictions. The height regulations of the underlying zoning districts shall apply as well as a maximum of 35 feet in height for any structure within the shoreland setback area, whichever is more restrictive. A structure taller than 35 feet within 75 feet of the OHWM of any navigable water is prohibited. For areas greater than 75 feet from the OHWM, the height regulations of the underlying zoning districts shall apply. All height restrictions apply as measured from the lowest exposed grade to the highest point of the structure.~~
- (E) The use of phosphate fertilizers within shoreland areas is prohibited.
- ~~(e) Septic systems shall comply with the applicable federal, state, and local laws, including other county ordinances.~~
- (F) No more than two accessory buildings, including a boathouse, shall be allowed on a riparian lot within 300 feet of the OHWM of a Class 1 or 2 water body. This limitation does not apply to riparian lots on Class 3 water bodies. If a riparian lot is over five acres on a navigable river or stream, up to four accessory buildings are allowed on the property. This provision does not apply to towns with their own zoning listed in section 42-212(a).
- (G) Structures shall not be deemed an accessory building and do not require ~~permits~~ a fee unless greater than 64 square feet in size.
- (H) 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 of natural resources for a final determination of navigability or ordinary high-water mark. The county may work with surveyors with regard to Wis. Stats. § 59.6692(1h).
- (I) ~~Except for towns with their own zoning listed under section 42-212(a),~~ No farm animals, barnyards, feedlots and animal waste disposal facilities shall be allowed on any lot within 100 feet of a navigable water. Riparian lots on a Class 1 navigable water shall not have any four-legged farm animals. Class 1 riparian parcels can have up to six poultry in a fenced area if there are no roosters. Any barnyard, feedlot, or animal waste facilities shall be so located and constructed that there will be no drainage either, directly or indirectly, from such facilities into any navigable water. Non-farm residences shall not be located within 300 feet of any feedlot or structure housing farm animals.
- (J) Signs allowed in a residential (R-1) zoning district under section 42-118.
- ~~(k) Boathouses. The roof of a boathouse may be used as a deck if the boathouse has a flat roof with no side walls or screens. A boathouse may be constructed within the shoreland areas if it meets the following conditions:~~
- ~~(1) The maximum dimension is 14 feet in width by 26 feet in depth. The width dimension runs parallel to the water.~~
  - ~~(2) Open handrails under 3½ feet tall that meet the department of safety and professional services standards may be constructed on the roof of the boathouse.~~
  - ~~(3) The roof must pitch away from the lake.~~
  - ~~(4) Used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.~~
  - ~~(5) Shall not extend below the OHWM.~~
  - ~~(6) Structure cannot contain any plumbing.~~

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- ~~(7) Must be at least ten feet landward of the OHWM.~~
- ~~(8) Must be located within the allowed access and viewing corridor.~~
- ~~(9) Boathouses shall be a single story with a 14-foot maximum sidewall height.~~
- ~~(l) Boathouses constructed in towns with their own zoning listed in section 42-212(a) do not have to comply with the provisions of section 42-212(k)(1), (3), (9).~~
- (K) A single (one per lot) bunkhouse will be permitted with the following conditions:
- (1) A bunkhouse shall have a maximum of 1,000 square feet of bunkhouse floor area. Square footage is measured as all the area within the exterior walls of a residential accessory building with or without plumbing used for temporary sleeping quarters only. Storage area must be separate and segregated from any bunkhouse area (can have a door from the bunkhouse areas to the storage area).
  - (2) All of the setback requirements for an accessory structure are met.
  - (3) Leasing, rental or use as a residence is strictly prohibited.
  - (4) Sanitary systems must be sized for the total number of bedrooms on the lot after the bunkhouse is built. No affidavits allowed for undersized sanitary systems.
  - (5) The bunkhouse shall be built to uniform dwelling code compliance. A copy of the completed and passed final inspection of the bunkhouse by the town's building inspector is due to the zoning office within two years of obtaining the land use permit, as proof that this condition has been satisfied.
  - (6) Plumbing, if installed, conforms to the county sanitary code.
  - (7) Height of the structure is limited to 35 feet.
  - (8) Maximum of one bathroom allowed per bunkhouse.
  - (9) Cannot be split from original property.
  - (10) Cooking facilities are prohibited.
  - (11) Cannot be built on an outlot.
  - (12) Cannot be the first building on a lot.
  - (13) An affidavit is recorded in the register of deeds outlining use restrictions.
  - (14) Boathouses cannot become bunkhouses.
  - (15) Only allowed in zoning districts where single-family residential uses are allowed.
  - (16) Must meet minimum lot size requirements at time of lot creation.
  - ~~(17) Bunkhouses created on riparian lots shall be required to install and maintain mitigation as described in section 42-305. For the purposes of this article, changing the use of a structure to a bunkhouse counts as the same additional square footage of impervious surface.~~
  - (18) Use of accessory structures in a manner consistent with the definition of bunkhouse prior to enactment of the ordinance from which this article is derived is prohibited by ordinances referenced in section 42-211 and such use is not a nonconforming use, as defined in state statute. Accordingly, any and all accessory structures that are to be used as bunkhouses must comply with the above conditions regardless of prior existing use.
- ~~(n) Bunkhouses in towns with their own zoning listed in Section 42-212(a) do not have to comply with the conditions listed above.~~
- ~~(o) The more restrictive setback based on lake classification or zoning district shall always apply.~~

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~~(p) Except for towns with their own zoning listed under section 42-212(a), the expansion of a swine farming operation to 1,000 animal units or more shall be prohibited within the shoreland area.~~

~~(q) Conservation design developments (CDDs) and high density uses are prohibited within 1,000 feet of a public boat landing/ramp. CDD lots also are prohibited from having an easement or shared ownership, directly or indirectly, with any riparian lot.~~

(L) No lot shall be allowed to have more than one dwelling unit within a 1,000 feet of a public boat landing/ramp on a navigable water.

(M) No lot after the effective date of the ordinance from which this article is derived shall be developed with a higher residential dwelling unit density than allowed under the lot's respective zoning district and shoreland minimum lot size. Each unit in a two-family and multifamily dwelling shall each be counted as a separate dwelling unit.

(N) All dwelling standards shall apply to each dwelling regardless of the ownership structure for the dwelling, whether it be joint tenants, cooperatives, limited liability corporation, condominiums, or otherwise.

(O) No land or acreage shall be added to an existing riparian parcel unless it does not increase the total number of dwelling units allowed based on the lot's respective zoning district and shoreland minimum lot size.

(Ord. No. 08-20, art. 5, 4-21-2020; Ord. No. 25-21, 5-18-2021; Res. No. 48-21, § 1, 11-9-2021; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023; Res. No. 07-24, § 1, 3-19-2024)

### **Sec. 42-214~~3~~. Shoreland zoning district boundaries.**

(A) ~~Except for land located in a town that has adopted its own zoning ordinance, All land within the shoreland area shall be placed within one of the zoning districts listed below. Notwithstanding the forgoing, lands in towns that have adopted their own zoning shall be subject to all other provisions of this Shoreland Zoning Ordinance.~~ Nothing in this provision shall be interpreted to limit the county's authority to impose regulations as required under Wis. Stats. § 59.692. Uses within the shorelands shall conform to requirements of those respective districts and in addition, each use and property shall be subject to the other requirements of this article. The shorelands of county are hereby divided into the following districts with a shoreland or shoreland-wetland overlay:

- (1) Residential (R-1).
- (2) Hamlet (H-1).
- (3) Residential-Agricultural 5 (RA-5).
- (4) Agriculture 10 (A-1).
- (5) Agriculture 20 (A-2).
- (6) Farmland Preservation (A-3).
- (7) Natural Resources (N-1).
- (8) Reserved.
- (9) Recreational Business and Commercial (B-2).
- (10) Small Business and Commercial (B-3).
- (11) Reserved.
- (12) Mining (M-1).
- (13) Town zoned.

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- (B) The locations and boundaries of the primary zoning districts established by this article are set forth on zoning maps which are hereby incorporated by reference as though part of this article. It shall be the responsibility of the zoning administrator to maintain and update the zoning maps and any amendments thereto.
- (C) ~~Except for towns with their own zoning listed under section 42-212(a), class 1 water bodies as identified in the Polk County Lakes Classification System shall have the first 300 feet back from the ordinary high water mark zoned residential (R-1) unless approved otherwise.~~ Class 1 water bodies as identified in the Polk County Lakes Classification System shall have the first 300 feet back from the ordinary high-water mark zoned residential (R-1) unless approved otherwise.
- (D) The following maps have been adopted and made part of this article and are on file in the office of the county zoning administrator:
- (1) The most recent version of the ~~state wetland inventory~~ Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.
  - (2) Polk County Lakes Classification System.
  - (3) County zoning district map for shoreland area. ~~identified shoreland and wetland maps.~~
- (Ord. No. 08-20, art. 6, 4-21-2020; Res. No. 48-21, § 1, 11-9-2021; Res. No. 15-22, § 1, 3-15-2022)

### **Sec. 42-215. Shoreland-Wetland District.**

- (A) *Designation.* The Shoreland-Wetland District includes all shorelands subject to regulation under section 42-213~~2(A)~~, which are designated as wetlands on the most recent version of the state wetland inventory on the department of natural resources surface water data viewer that have been adopted and made a part of this article under section ~~42-214(D)(1). 42-213(b).~~
- (b) ~~*Locating shoreland-wetland boundaries.* Where an apparent discrepancy exists between the Shoreland-Wetland District shown on the state wetland inventory and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate field office of the department of natural resources to determine if the Shoreland-Wetland District, as mapped, is in error. If the department of natural resources staff concurs 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 land use permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland-mapping errors shown on the official map, the zoning administrator shall complete a map amendment in a timely manner.~~
- (B) *Locating shoreland-wetland boundaries.* Where an apparent discrepancy exists between the shoreland wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the 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.
- (c) ~~*Purpose and importance.* The purpose of the Shoreland-Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and aquatic life, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible.~~
- (C) *Purpose and importance.* 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 within the shoreland zone. When development is

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permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

(D) ~~Allowed Permitted~~ *uses.* ~~Allowed Permitted~~ uses within the Shoreland-Wetland District are specifically enumerated in this subsection. The following uses enumerated shall be allowed, subject to the regulations of this article and the applicable provisions of federal, state and local laws. The following uses are allowed within the Shoreland-Wetland District ~~and subject to general shoreland zoning regulations contained in this ordinance:~~

~~(1) Allowed. The following uses are allowed and do not need a permit, so long as the use involves no filling, flooding, draining, dredging, ditching, tiling, excavating or grading:~~

- ~~a. Hiking, fishing, trapping, hunting, swimming, and boating.~~
- ~~b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.~~
- ~~c. The pasturing of livestock and the construction and maintenance of fences.~~
- ~~d. The practice of silviculture, including the planting, thinning and harvesting of timber.~~
- ~~e. The cultivation of agricultural crops.~~
- ~~f. The construction and maintenance of duck blinds.~~

~~(2) The following uses do not require the issuance of a land use permit and may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below:~~

- ~~a. Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silviculture activities if not corrected.~~
- ~~b. Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.~~
- ~~c. Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.~~
- ~~d. The maintenance, repair, replacement and reconstruction of existing town and county highways and bridges.~~

~~(3) The issuance of a land use permit is required before the following uses may be commenced:~~

- ~~a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
  - ~~1. The road cannot, as a practical matter, be located outside the wetland; and~~
  - ~~2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
    - ~~(i) The road is designed and constructed as a single lane roadway with only such depth and width as is necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;~~
    - ~~(ii) Road construction activities are carried out in the immediate area of the roadbed only; and~~
    - ~~(iii) Any filling, flooding, draining, dredging, ditching, tiling or excavating that is done is necessary for the construction or maintenance of the road.~~~~~~

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- b. ~~The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot, as a practical matter, be located outside the wetland, provided that:~~
1. ~~Any such building does not exceed 500 square feet in floor area; and~~
  2. ~~No filling, flooding, draining, dredging, ditching, tiling or excavating is to be done.~~
- c. ~~The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:~~
1. ~~Any private recreation or wildlife habitat area is used exclusively for that purpose.~~
  2. ~~No filling or excavation is done except for limited filling and excavation necessary for the construction of boat access sites which cannot, as a practical matter, be located outside the wetland.~~
  3. ~~Ditching, excavating, dredging, dike and dam construction in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.~~
- d. ~~The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to their members, provided that:~~
1. ~~The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland; and~~
  2. ~~Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.~~
- e. ~~The construction and maintenance of railroad lines, provided that:~~
1. ~~The railroad lines cannot, as a practical matter, be located outside the wetland; and~~
  2. ~~Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.~~
- f. ~~The construction and maintenance of piers and walkways, including those built on pilings, provided that no filling, flooding, dredging, draining, ditching, tiling, or excavating is done.~~
- (e) ~~*Prohibited uses.* Any use not specifically enumerated in subsection (d) of this section is prohibited, unless the wetland or portion of the wetland is rezoned by an amendment of this article in accordance with the requirements of Wis. Stats. § 59.69(5)(e), Wis. Adm. Code ch. NR 115, and subsection (f) of this section.~~
- (f) ~~*Rezoning of maps and amendments of text in the Shoreland Wetland District.* The following procedures shall be required for rezoning of lands within the Shoreland Wetland District:~~
- (1) ~~For all proposed text and map amendments to the Shoreland Wetland District, the appropriate office of the department of natural resources shall be provided with the following:~~
- a. ~~A copy of every petition for a text or map amendment to the Shoreland Wetland District within five days of the filing of such petition with the county clerk. Such petition shall include a copy of~~

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- ~~the state wetland inventory map adopted as part of this article describing any proposed rezoning of a shoreland wetland area;~~
- ~~b. Written notice of the public hearing to be held on a proposed amendment, at least ten days prior to such hearing;~~
  - ~~c. A copy of the county zoning department's findings and recommendations on each proposed amendment, within ten days after the submission of those findings and recommendations to the county board; and~~
  - ~~d. Written notice of the county board's decision on the proposed amendment, within ten days after it is issued.~~
- ~~(2) 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:~~
- ~~a. Stormwater and floodwater storage capacity;~~
  - ~~b. 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;~~
  - ~~c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable water;~~
  - ~~d. Shoreline protection against soil erosion;~~
  - ~~e. Fish spawning, brooding, nursery or feeding grounds;~~
  - ~~f. Wildlife habitat; or~~
  - ~~g. Areas of special recreational, scenic or scientific interest, including scarce wetland types.~~
- ~~(3) If the department of natural resources has notified the county zoning department that a proposed amendment to the Shoreland Wetland District may have a significant adverse impact upon any of the criteria listed in subsection (f)(2) of this section, 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 since written notice of the county board's approval of this amendment was 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 Wis. Stats. § 59.692(6). If the department does so notify the county board, the effect of this amendment shall be stayed until the adoption procedure under Wis. Stats. § 59.692(6) is completed or otherwise terminated."~~
- (1) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating:
    - (a) Hiking, fishing, trapping, hunting, swimming, and boating.
    - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
    - (c) The pasturing of livestock and the construction and maintenance of fences.
    - (d) The practice of silviculture, including the planting, thinning and harvesting of timber.
    - (e) The cultivation of agricultural crops.
    - (f) The construction and maintenance of duck blinds.
  - (2) Uses which require the issuance of a zoning permit and must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating:

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- (a) The construction or maintenance of piers, docks or walkways built on piling
  - (b) The construction or maintenance of nonresidential buildings, provided that all of the following apply:
    - (1) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or used solely for a purpose which is compatible for wetland preservation.
    - (2) The building cannot, as a practical matter, be located outside the wetland.
    - (3) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
  - (c) The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided:
    - (1) No filing is done.
    - (2) Any private wildlife habitat area is used exclusively for that purpose.
    - (3) Any ditching, excavating, dredging, dike and dam construction shall be allowed in wildlife refuges, game preserves, and private wildlife habitat areas for the purpose of improving wildlife habitat or to otherwise enhance wetland values. Any of these activities shall comply with the floodplain ordinance and secure all other required permit related to dike and dam construction.
- (3) Uses which do not require the issuance of a zoning permit but which may include filling, flooding, draining, dredging, ditching, tiling, or excavating as necessary but only to the extent specifically provided below:
- (a) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
  - (b) The maintenance and repair of existing agricultural drainage systems *such as ditching and tiling* necessary to maintain the level of drainage required to continue the existing agricultural use.
  - (c) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges.
- (4) Uses which require the issuance of a zoning permit and which may include filling, flooding, draining, dredging, ditching, tiling or excavating as necessary, but only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
    - (1) The road cannot, as a practical matter, be located outside the wetland.
    - (2) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in subsection (F)(2).
    - (3) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
    - (4) Road construction activities are carried out in the immediate area of the roadbed only.
    - (5) The construction of a road for silvicultural activities for 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.

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- (b) 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 provided:
    - (1) Such construction or maintenance is done in a manner designed to minimize flooding and adverse impact on the natural functions of the wetland enumerated in subsection (F)(2).
  - (c) The construction or maintenance of railroad lines provided that:
    - (1) The railroad lines cannot, as a practical matter, be located outside the wetland.
    - (2) Such construction or maintenance is done in a manner designed to minimize flooding and adverse impact upon the natural functions of the wetland enumerated in subsection (F)(2).
  - (E) *Prohibited uses.* Any activity or use not specifically enumerated in subsection (D) of this section is prohibited, unless the wetland or portion of the wetland is rezoned by an amendment of this article in accordance with the requirements of Wis. Stats. § 59.69(5)(e), Wis. Adm. Code ch. NR 115, and subsection (F) of this section.
  - (F) *Rezoning of lands in the Shoreland-Wetland District.*
    - (1) For all proposed shoreland wetland rezoning requests under this ordinance, the appropriate office with the Department shall be provided with the following:
      - (a) A copy of every proposed petition for a shoreland wetland rezoning request under this ordinance, within 5 days of the filing of such request with the county clerk.
      - (b) Written notice of the public hearing to be held on a proposed shoreland wetland rezoning request at least 10 days prior to such hearing;
      - (c) A copy of the county zoning agency's findings and recommendations on each proposed shoreland wetland rezoning request within 10 days after the submission of those findings and recommendations to the county board; and
      - (d) Written notice of the county board's decision on each proposed shoreland wetland rezoning request within 10 days after it is issued.
    - (2) 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:
      - (a) Stormwater and floodwater storage capacity;
      - (b) 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;
      - (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable water;
      - (d) Shoreline protection against soil erosion;
      - (e) Fish spawning, breeding, nursery or feeding grounds;
      - (f) Wildlife habitat; or
      - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types.
    - (3) If the department of natural resources has notified the county zoning department that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in subsection (F)(2) of this section, 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 since written notice of the county board's approval of this amendment was mailed to the department of natural resources. During that 30-day period, the department of natural resources may

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

(Ord. No. 08-20, art. 7, 4-21-2020)

**Secs. 42-2165—42-236. Reserved.**

## *DIVISION 2. ZONING DISTRICTS*

### **Sec. 42-237. Residential (R-1).**

- (A) *Purpose and intent.* The purpose and intent of the Residential (R-1) District is to promote residential uses and other compatible uses associated with residential neighborhoods **while adhering to the purpose and intent listed in Section 42-211.**
- (B) *Allowed and permitted uses.*
- (1) Single-family dwellings, including manufactured homes.
  - (2) Accessory structures, clearly incidental to the residential use of the property.
  - (3) Gardening, including nurseries for the propagation of plants only.
  - (4) Municipal parks and playgrounds including swimming pools, golf courses, tennis courts and picnic grounds, provided the parking requirements are met.
  - (5) Home business, provided the parking requirements are met.
  - (6) Up to six poultry in a fenced area if there are no roosters.
- (C) *Changes in use that require a land use permit.*
- (1) Tourist rooming house, provided they meet the following conditions:
    - (a) Accessory building must not have sleeping accommodations.
    - (b) No RVs or campers allowed for overnight stay.
    - (c) All parking to be on an impervious surface and must be contained on the property.
    - (d) Applicant must obtain all proper licensing, including annual land use permit renewal. **Upon change of ownership, the permit is automatically terminated.**
    - (e) **Any advertisement shall include the land use permit number and the health department license number.**
    - (f) All fires and embers are to be extinguished by 11:00 p.m., with no unattended fires.
    - (g) Applicant must have 24-hour contact number available to the public.
    - (h) Property must remain free from citation and charges for nuisance, disorderly conduct, or any other illegal activity.
    - (i) Quiet hours shall be imposed from 11:00 p.m. to 7:00 a.m.

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- (j) Applicant and renters must comply with all applicable laws and regulations:
    - (1) Department of natural resources lake regulations to be included in rental information.
    - (2) Lake association rules to be included in rental information.
    - (3) Owner is responsible to state and local jurisdictions for compliance with firework regulations.
  - (k) All pets must be contained on the rental property unless they are on public property.
  - (l) Property lines must be surveyed with boundaries clearly staked by a professional land surveyor.
  - (m) All conditions that apply to renters shall be included in rental information.
  - (n) Existing septic system to be inspected and approved. The zoning office can inspect or require the septic system to be inspected annually.
  - (o) Local uniform building inspector shall be hired by the applicant to determine the number of legal bedrooms in the dwelling. The zoning office can require additional building inspections performed by the local building inspector annually at the operator's expense.
  - (p) Max rental of 180 consecutive days per year, with a minimum rental period of seven consecutive days.
  - (q) Anyone operating a tourist rooming house without a valid permit must cease said violation for a period of three months prior to applying for a land use permit to operate a tourist rooming house under this section. The application must be accompanied by the original required permit fee and the after-the-fact fee.
- (2) *Bed and breakfast.*
    - (a) No RVs, campers, tents or other means of overnight stay allowed.
    - (b) All sleeping accommodations must be within the dwelling unit.
    - (c) All parking must be contained on the property.
    - (d) Applicant must obtain all proper licensing.
    - (e) Applicant must have 24-hour contact number available to the public.
    - (f) Property must remain free from citation and charges for nuisance, disorderly conduct or any other illegal activity, and in compliance with county ordinances, state and local laws.
  - (3) Two family dwellings when in compliance with the minimum lot size and density requirements of this district for each unit.
  - (4) Bunkhouse when in compliance with the conditions under section 42-213(J)~~122~~.
- (D) *Conditional uses.*
    - (1) Schools.
    - (2) Churches.
    - (3) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance equipment.
    - (4) Transient lodge with maximum occupancy up to 12 people.
    - (5) High density use.
  - (E) ~~Height, yard, and~~ *Setback requirements.*

- 
- (1) Side yard setback: Ten feet for principal structures; five feet for accessory structures.
  - (2) Rear yard setback: 25 feet for principal structures; five feet for accessory structures.
  - (3) Road setback regulations shall apply to all corner lots.

(Ord. No. 08-20, art. 8(A), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023; Res. No. 07-24, § 1, 3-19-2024)

### **Sec. 42-238. Hamlet District (H-1).**

- (A) *Purpose and intent.* The goal of this district is to allow for land uses that mimic a rural, unincorporated village setting and allow for continuance of that settlement pattern. In addition, this district will allow for mixed uses of residential and commercial as was typical of the historical development pattern of rural hamlets **while adhering to the purpose and intent listed in Section 42-211.**
- (B) *Allowed and permitted uses.*
- (1) All allowed and permitted uses in R-1.
  - (2) All uses in the B-3 district.
- (C) *Changes in use that require a land use permit.*
- (1) Tourist rooming houses with conditions in R-1.
  - (2) Bed and breakfasts with conditions in R-1.
  - (3) A bunkhouse with the conditions in section 42-213(J)~~122(I)~~ at a minimum.
  - (4) Two-family and multi-family dwellings when in compliance with the minimum lot size and density requirements of this district for each unit.
- (D) *Conditional uses.*
- (1) All conditional uses in R-1.
  - (2) Other similar and compatible use as determined by the environmental services committee.
- (E) ~~Height, yard, and~~ *Setback requirements.*
- (1) Maximum commercial use building height: 35 feet within the **shoreland** setback area or 45 feet or three stories beyond the **shoreland** setback area.
  - (2) Side yard setback: ten feet for principal structures; five feet for accessory structures.
  - (3) Rear yard setback: 25 feet for principal structures; five feet for accessory structures.

(Ord. No. 08-20, art. 8(B), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022)

### **Sec. 42-239. Residential-Agricultural District 5 (RA-5).**

- (A) *Purpose and intent.* The R-A District 5 is meant to allow for limited residential development in areas that transition from incorporated areas to rural areas and farmland preservation areas **while adhering to the purpose and intent listed in Section 42-211. ~~The target density for this district is one residential dwelling per five acres of land or eight dwellings per 40 acres.~~**
- (B) *Allowed and permitted uses.*
- (1) All allowed and permitted uses in the R-1 district.

- (2) Agricultural uses found in A-1, except fur-farming and a second farm residence.
- (3) Schools.
- (4) Churches.
- (5) Cemeteries.
- (6) Municipal buildings.

(C) *Changes in use that require a land use permit.*

- (1) Tourist rooming houses with conditions in R-1.
- (2) Bed and breakfasts with conditions in R-1.
- (3) A bunkhouse with the conditions in section 42-213(J)122(H) at a minimum.
- (4) Contractor storage yard.
- (5) Two-family and multi-family dwellings when in compliance with density and minimum lot size requirements of this district for each unit.
- (6) Limited, short-term non-metallic mining activities.

~~(d) Lot sizes.~~

- ~~(1) Traditional development. One dwelling unit per five-acre density standard.~~
- ~~(2) Calculations determining the number of residential lots allowed per parent lot. In the Residential-Agricultural District (RA-5), a maximum of eight lots will be allowed per 40 acres, which includes any original principal structure or dwelling. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this article by five. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Table 2 below indicates the number of residential lots that can be created based on the number of acres owned at the time of the adoption of the ordinance from which this article is derived. Round up if any fractional amount is equal to one-half or greater. Example calculations:~~
  - ~~a. A 32-acre lot is allowed six residential lots (32/5 = 6.4, which rounds down to six).~~
  - ~~b. 19 acres = four residential lots (19/5 = 3.8 which rounds up to four).~~

~~Table 2. Calculation of Residential Parcels Allowed~~

<del>Size of Base Tract of Land</del>	<del>Total Number of Dwelling Lots Allowed</del>
<del>Less than 7.5 acres</del>	<del>1</del>
<del>7.5 to less than 12.5 acres</del>	<del>2</del>
<del>12.5 to less than 17.5 acres</del>	<del>3</del>
<del>17.5 to less than 22.5 acres</del>	<del>4</del>
<del>22.5 to less than 27.5 acres</del>	<del>5</del>
<del>27.5 to less than 32.5 acres</del>	<del>6</del>
<del>32.5 to less than 37.5 acres</del>	<del>7</del>
<del>37.5 to less than 40 acres</del>	<del>8</del>

~~(D) Height, yard, and Setback requirements.~~

- 
- (1) Farm buildings are exempt from the height restrictions beyond the **shoreland** setback area.
  - (2) Side yard setback: Ten feet for principal structures; five feet for accessory structures.
  - (3) Rear yard setback: 25 feet for principal structures; five feet for accessory structures.
  - (4) Road setback regulations shall apply to all corner lots.

(Ord. No. 08-20, art. 8(C), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023)

### **Sec. 42-240. Agricultural 10 District (A-1).**

(A) *Purpose and intent.* The Agricultural 10 District (A-1) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district shall further provide protections for agricultural producers for normal agricultural activities including but not limited to: manure spreading, equipment noise, animal noise, necessary lighting, night/weekend hours, smell, dust, grain facilities, and other uses commonly associated with the allowed and permitted uses in this district **while adhering to the purpose and intent listed in Section 42-211.**

(B) *Allowed and permitted uses.*

- (1) Agricultural uses, including any of the following:
  - (a) Crop or forage production.
  - (b) Keeping livestock.
  - (c) Beekeeping.
  - (d) Nursery, sod, or Christmas tree production.
  - (e) Floriculture.
  - (f) Aquaculture.
  - (g) Fur farming.
  - (h) Forest management.
  - (i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
  - (j) Accessory structure that is an integral part of, or is incidental to, an agricultural use.
  - (k) Roadside stand.
  - (l) Personal stable.
- (2) A single-family dwelling.
- (3) Accessory buildings incidental to the residential use of the property.
- (4) Home business.
- (5) Schools.
- (6) Churches.
- (7) Cemeteries.
- (8) Undeveloped natural resource and open space areas.

(9) One additional farm residence, which shall be sited so that it may be separated from the original farm parcel on which it is located in compliance with the county subdivision ordinance.

(10) Contractor storage yard.

(C) *Changes in use that require a land use permit.*

(1) Tourist rooming houses with conditions in R-1.

(2) Bed and breakfasts with conditions in R-1

(3) A bunkhouse with the conditions in section 42-122(l) at a minimum.

(4) Two-family dwellings when in compliance with the minimum lot size and density requirements for each unit.

(5) Limited, short-term non-metallic mining activities.

(D) *Conditional uses.*

(1) Agriculture-related businesses, such as, but not limited to:

(a) Implement dealers.

(b) Agricultural cooperatives.

(c) Veterinarians.

(d) Wineries.

(e) Burial sites under Wis. Stats. ch. 157.

(f) Other similar and compatible agriculturally-related businesses.

(2) Kennels when at least 300 feet from property lines.

(3) Animal shelters when at least 300 feet from property lines.

(4) Outdoor commercial events with not more than 6 events per year.

(5) Manufactured home park that meets the conservation design development standards and conditions found in section 42-308.

~~(e) Lot restrictions.~~

~~(1) Target density standard for the Agricultural 10 District is four residential lots per 40 acres.~~

~~(2) Calculations for determining the number of lots allowed per parent lot. In the Agricultural 10 District (A-1), a maximum of four non-farm dwellings will be allowed per 40 acres, which includes any original principal structure or dwelling. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of the ordinance from which this article is derived by 10. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to one-half or greater (See Table 3). Example calculations:~~

~~a. A 32-acre lot is allowed three residential lots (32/10 = 3.2 which rounds down to three).~~

~~b. 16 acres = two residential lots (16/10 = 1.6 which rounds up to two).~~

Table 3. Calculation of Residential Lots Allowed in A-10

<del>Size of Base Tract of Land</del>	<del>Total Number of Lots Allowed</del>
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Up to 15 acres	1
15 acres or greater, but less than 25 acres	2
25 acres or greater, but less than 35 acres	3

(E) *Height, yard, and Setback requirements.*

- (1) Farm buildings are exempt from the height restrictions beyond the shoreland setback area.
- (2) Side yard setback: 25 feet for all structures.
- (3) Rear yard setback: 25 feet for all structures.
- (4) Road setback regulations shall apply to all corner lots.

(Ord. No. 08-20, art. 8(E), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023)

**Sec. 42-241. Agricultural 20 District (A-2).**

(A) *Purpose and intent.* The Agricultural 20 District (A-2) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district shall further provide protections for agricultural producers for normal agricultural activities including but not limited to: manure spreading, equipment noise, animal noise, necessary lighting, night/weekend hours, smell, dust, grain facilities, and other uses commonly associated with the allowed and permitted uses in this district while adhering to the purpose and intent listed in Section 42-211.

(B) *Allowed and permitted uses.* All allowed and permitted uses in the A-1 district.

(C) *Conditional uses.* All conditional uses in A-1.

~~(d) Lot restrictions.~~

~~(1) Density standard for the Agricultural 20 District is a maximum of two lots/principal structures per 40 acres.~~

~~(2) Calculations for determining the number of lots allowed per parent lot. In the Agricultural 20 District (A-2), a maximum of two lots/principal structures will be allowed per 40 acres, which includes any original principal structure or dwelling. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of the ordinance from which this article is derived by 20. This is the total number of new residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to one half or greater (see Table 4). Example calculations:~~

~~A 32-acre lot is allowed two residential lots (32/20 = 1.6 which rounds up to two).~~

~~Table 4. Calculation of Residential Lots Allowed in A-20~~

<del>Size of Base Tract (initial lot at time of ordinance adoption) of Land</del>	<del>Number of Dwelling Lots Allowed</del>
<del>Less than 30 acres</del>	<del>1</del>
<del>30 acres or greater</del>	<del>2</del>

(D) *Height, yard, and Setback requirements.*

- (1) Farm buildings are exempt from the height restrictions beyond the shoreland setback area.

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(2) Side yard setback: 25 feet for all structures.

(3) Rear yard setback: 25 feet for all structures.

(Ord. No. 08-20, art. 8(E), 4-21-2020; Res. No. 07-23, § 1, 3-21-2023)

### **Sec. 42-242. Farmland Preservation District (A-3).**

(A) *Purpose.* The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses **while adhering to the purpose and intent listed in Section 42-211.**

(B) *Allowed and permitted uses.*

(1) Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:

(a) Crop or forage production.

(b) Keeping livestock.

(c) Beekeeping.

(d) Nursery, sod, or Christmas tree production.

(e) Floriculture.

(f) Aquaculture.

(g) Fur farming.

(h) Forest management.

(i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(j) Any other use that the state department of agriculture, by rule, identifies as an agricultural use.

(2) A farm residence, including a manufactured home.

(3) Accessory buildings incidental to the residential use of the property.

(4) Accessory structure that is an integral part of, or is incidental to, an agricultural use.

(5) Home business that meet Wis. Stats. § 91.01(1).

(6) Undeveloped natural resource and open space areas.

(7) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.

(8) Other uses identified by the state department of agriculture rule.

(C) *Changes in use that require a land use permit.*

(1) Tourist rooming houses with conditions in R-1.

(2) Bed and breakfasts with conditions in R-1.

(3) A bunkhouse with the conditions in section 42-122(l) at a minimum.

(4) Contractor storage yard.

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(D) *Conditional uses.*

- (1) Agriculturally-related businesses, such as:
  - (a) Feed mills.
  - (b) Commercial stables.
  - (c) Implement dealers.
  - (d) Agricultural cooperatives.
  - (e) Veterinarians.
  - (f) Wineries.
  - (g) Composting sites.
- (2) Creation of a nonfarm residence or conversion of a farm residence to a nonfarm residence through a change in occupancy, subject to the following requirements:
  - (a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1:20 after the residence is constructed or converted to a nonfarm residence.
  - (b) There will not be more than four dwelling units in nonfarm residences, nor more than five dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
  - (c) The location and size of the proposed nonfarm residential lot, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential lot, will not do any of the following:
    1. Convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential lot or a nonfarm residence.
    2. Significantly impair or limit the current or future agricultural use of other protected farmland.
- (3) Creation of a nonfarm residential cluster that covers more than one nonfarm residence if all of the following apply:
  - (a) The lots on which the nonfarm residences would be located are contiguous.
  - (b) Each nonfarm residence constructed in the nonfarm residential cluster must satisfy the requirements of conditional use in subsection (d)(2) of this section.
- (4) Governmental, institutional, religious, nonprofit community uses, transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
  - (a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - (b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - (c) The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.

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- (d) The use does not substantially impair or limit the current or future agricultural use of surrounding lots of land that are zoned for or legally restricted to agricultural use.
  - (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

~~(e) *Lot requirements.* Density standard for the farmland preservation district is as described under conditional uses in subsection (d)(2) and (3) of this section.~~

(E) ~~*Height, yard, and Setbacks requirements.*~~

- (1) Farm buildings are exempt from the height restrictions beyond the setback area.
- (2) Side yard setback: 25 feet for all structures.
- (3) Rear yard setback: 25 feet for all structures.

(F) *Rezoning land out of a farmland preservation zoning district.*

- (1) Except as provided in subsection (F)(2) of this section, the county may not rezone land out of the farmland preservation zoning district unless the county finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
  - (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  - (b) The rezoning is consistent with any applicable comprehensive plan.
  - (c) The rezoning is substantially consistent with the county farmland preservation plan, which is in effect at the time of the rezoning.
  - (d) The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (2) Subsection (F)(1) of this section does not apply to any of the following:
  - (a) A rezoning that is affirmatively certified by the state department of agriculture, trade and consumer protection under Wis. Stats. ch. 91.
  - (b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under Wis. Stats. ch. 91, which is in effect at the time of the rezoning.
- (3) By March 1 of each year, the county shall provide to the state department of agriculture, trade and consumer protection a report of the number of acres that the county has rezoned out of the farmland preservation zoning district under subsection (F)(1) of this section during the previous year and a map that clearly shows the location of those acres.

(Ord. No. 08-20, art. 8(F), 4-21-2020)

### **Sec. 42-243. Natural Resources District (N-1).**

- (A) *Allowed and permitted uses.* To protect and preserve the natural character of certain lands for their values to wildlife, water conservation, flood control, forestry and other public purposes in the natural resources district, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this article except for one or more of the following uses:
- (1) Grazing.
  - (2) The harvesting of wild crops such as wild hay, ferns, moss, berries, fruit trees and seeds.

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- (3) Hunting, fishing, trapping.
  - (4) Nonresidential buildings and structures used solely in conjunction with the raising of wildlife and fish and the practice of forestry, including buildings and structures used by public or semi-public agencies or groups for research in or the rehabilitation of natural resources.
  - (5) Sustainable logging, pulping and other forest crop harvesting.
  - (6) Public or private parks.

(B) *Conditional uses.* The following conditional use is permitted: Licensed game farms.

(C) ~~Height and yard Setback requirements.~~

- (1) Side yard setback: 25 feet.
- (2) Rear yard setback: 25 feet.

(Ord. No. 08-20, art. 8(G), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022)

### **Sec. 42-244. Reserved.**

Res. No. 15-22, § 1, adopted March 15, 2022, repealed § 42-244, which pertained to general business and commercial (B-1) and derived from Ord. No. 08-20, adopted April 21, 2020.

### **Sec. 42-245. Recreational Business and Commercial (B-2).**

(A) *Purpose and intent.* To allow for recreationally-based businesses to exist in appropriate locations in the county ~~while adhering to the purpose and intent listed in Section 42-211.~~

(B) *Allowed and permitted uses.* In the recreational business and commercial district no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this article, except for one or more of the following uses:

- (1) Sporting goods/archery range.
- (2) Recreational sales and service.
- (3) Restaurants and taverns.
- (4) Bait shops.
- (5) Miniature golf.
- (6) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above uses.

(C) *Conditional uses.*

- (1) Ski resorts.
- (2) Paint ball.
- (3) Go-cart tracks.
- (4) Reserved.
- (5) Gun range.
- (6) Sportsmen's clubs.
- (7) Stock car, ATV, and dirt bike raceways and courses.

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- (8) Resorts.
  - (9) Marinas, including sales and service.
  - (10) Recreational camps.
  - (11) Travel trailer parks/campgrounds that meets the conservation design development standards and conditions in section 42-309.
  - (12) Manufactured home park that meets the conservation design development standards and conditions found in section 42-308.
  - (13) High density use.
  - (14) Adult establishments.
  - (15) Other similar and compatible use as determined by the environmental services committee.
- (D) ~~Height, yard and~~ *Setback requirements.*
- (1) Maximum building lot coverage: 30 percent.
  - (2) Minimum landscaped area: Ten percent.
  - (3) Principal building rear/side minimum setbacks: 25 feet.
- (Ord. No. 08-20, art. 8(l), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023)

### **Sec. 42-246. Small Business and Commercial District (B-3).**

- (A) *Purpose and intent.* To allow for commercial development while allowing for more control over building size, location and aesthetics **while adhering to the purpose and intent listed in Section 42-211.**
- (B) *Allowed uses.* In the small business/commercial district, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this article, except for one or more of the following uses, with a building footprint up to 20,000 square feet:
- (1) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above use.
- (C) *Conditional uses.*
- (1) Airport.
  - (2) Appliances sales and service.
  - (3) Antique stores.
  - (4) Art galleries.
  - (5) Auto sales and service.
  - (6) Banks, credit unions or other financial institutions.
  - (7) Barbershops, beauty shops.
  - (8) Bars/taverns.
  - (9) Bowling alleys.
  - (10) Breweries, brewpubs, wineries.
  - (11) Business and professional offices or clinics.

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- (12) Car washes.
  - (13) Clothing stores.
  - (14) Commercial stables.
  - (15) Community center.
  - (16) Coffee shop.
  - (17) Convenience stores.
  - (18) Day care center.
  - (19) Drug store or pharmacy.
  - (20) Essential services.
  - (21) Farm implement repair and sales.
  - (22) Feed mill.
  - (23) Florist.
  - (24) Firework stands.
  - (25) Fruit and vegetable market, grocery, meat and fish market or other food products store.
  - (26) Funeral homes.
  - (27) Furniture, office equipment stores.
  - (28) Gyms and exercise facilities.
  - (29) Hardware and paint store.
  - (30) High density use.
  - (31) Hospital.
  - (32) Indoor storage facilities.
  - (33) Internet cafe.
  - (34) Jewelry store.
  - (35) Landscaping sales.
  - (36) Laundromat.
  - (37) Liquor store.
  - (38) Lumber yard.
  - (39) Marine sales and service.
  - (40) Museums.
  - (41) Music and musical instrument sales and service.
  - (42) Outdoor storage facilities.
  - (43) Pet shop.
  - (44) Radio, televisions, and other electronics sales and service.
  - (45) Real estate offices.

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- (46) Restaurant, drive-in food service, supper club, and catering.
  - (47) Sporting goods and accessories.
  - (48) Small engine repair.
  - (49) Theater.
  - (50) Veterinarians.
  - (51) Video sales and rental.
  - (52) Other similar and compatible use as determined by the environmental services committee.
  - (53) Storage in connection with any of the above uses, when clearly incidental to the conduct of the retail business on the premises.
  - (54) Adult establishments.

(D) ~~Height, yard and~~ Setback requirements.

- (1) Maximum building lot coverage: 30 percent.
- (2) Minimum landscaped area: Ten percent.
- (3) Principal building rear/side minimum setbacks: 25 feet.

(Ord. No. 08-20, art. 8(J), 4-21-2020; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023; Res. No. 07-24, § 1, 3-19-2024)

**Sec. 42-247. Reserved.**

Res. No. 15-22, § 1, adopted March 15, 2022, repealed § 42-247, which pertained to industrial (I-1) and derived from Ord. No. 08-20, adopted April 21, 2020.

**Sec. 42-248. Mining District (M-1).**

(A) *Purpose.* To allow for mining activities to take place in the county in appropriate areas that reduce incompatible land uses and land use conflicts **while adhering to the purpose and intent listed in Section 42-211.**

(B) *Allowed and permitted uses.*

- (1) All allowed and permitted uses in the Agricultural 10 District (A-1).
- (2) Pre-existing non-metallic mining activities. Preexisting non-metallic mining activities are those operations involving the excavation, removal and/or processing of materials which operations are classified as unreclaimed acres by the county's non-metallic mining reclamation ordinance or had expansions of the mine outlined in the original plans that were submitted for the mine. If the original mine was approved with conditions attached, those conditions continue to be in effect even if the mine is placed in this district.
- (3) Limited, short-term non-metallic mining activities.

(C) *Conditional uses.*

- (1) Nonmetallic mining activities that do not meet the definition of limited, short-term non-metallic mining activities in this ordinance.

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- (2) Applications for conditional use permits to conduct mining and/or processing activities shall include all information required by the county approved application form.
    - (a) Reapplication to the environmental services committee for renewal shall be required with alterations to operational plans or noncompliance with the standards of the district.
    - (b) Requests for additional information prior to a decision being made on the conditional use permit may be made by the environmental services committee upon determination by the environmental services committee that additional information is required, the environmental services committee the board of supervisors may employ independent technical experts to review materials submitted by the applicant.

(D) ~~Lot sizes, Dimensions and setbacks.~~

- (1) ~~Minimum lot size is five acres.~~
- (1) Minimum right-of-way setback: 200 feet.
- (2) Minimum property line setback: 100 feet. Overburden, berms, and topsoil piles are allowed to be within the setback area, however at no time shall stockpiles of the targeted material, active extraction activities or processing equipment be within the setback area.
- (3) ~~Setback and height restrictions for Agricultural 10 (A-1) District uses:~~ Maximum height for mining related structures: 35 feet within shoreland setback area and 50 feet beyond shoreland setback.

(Ord. No. 08-20, art. 8(L), 4-21-2020; Res. No. 07-23, § 1, 3-21-2023; Res. No. 07-24, § 1, 3-19-2024)

### Sec. 42-249. Town Zoned (T-1).

- (A) *Purpose.* To allow towns with their own zoning ordinances to create, administer, and enforce all of their use regulations within the shoreland areas as defined under section ~~42-212(a)~~ **213(A)** Polk County is still charged with administering the state shoreland zoning standards provided in NR 115, Wisconsin Administrative Code, and permits are still required from the county.
- (B) *Allowed and permitted uses.* Refer to respective town ordinance.

(Res. No. 48-21, § 1, 11-9-2021)

### Secs. 42-250—42-274. Reserved.

## DIVISION 3. WATERS

### Sec. 42-275. Classification of waters.

- (A) Navigable waters in the county are classified according to criteria established in the Polk County Lakes Classification System, which was adopted by the county board of supervisors on April 20, 1999, and is hereby incorporated herein and made part of this division.
- (B) County waters are classified into three classes:
  - (1) Class 1 waters are those that are most developed;
  - (2) Class 2 waters are those that are moderately developed and includes all rivers and streams; and

- (3) Class 3 waters are those that are least developed and includes all lakes that are 20 acres or less in size, and all unnamed lakes not appearing on the DNR publication titled "Surface Water Resources of Polk County." The zoning administrator shall make available a copy upon demand.
- (C) Any named lake inadvertently omitted from the DNR's Surface Water Resources of Polk County will be classified according to available information or Class 3 until information is available.

(Ord. No. 08-20, art. 9, 4-21-2020)

**Sec. 42-276. Reclassification of waters.**

Waters may be reclassified by amendment of the Polk County Lakes Classification System under this section. A petitioner for reclassification shall provide evidence related to each of the criteria described below and identify the waterway or specific portion of a waterway, which is the subject of the request. To avoid fragmentation of watersheds by numerous management strategies and to preserve administrative efficiency, a contiguous portion of a waterway, which is less than 0.5 mile in length, may not be reclassified. The criteria specified in the Polk County Lakes Classification System shall be the sole basis for the county board decision on the petition.

(Ord. No. 08-20, art. 10, 4-21-2020)

**Secs. 42-277—42-300. Reserved.**

***DIVISION 4. OTHER SHORELAND REGULATIONS***

**~~Sec. 42-301. Lot requirements, setbacks, and minimum shoreland lot dimensional requirements.~~**

~~(a) Preexisting lots of record. Any owner must obtain a permit prior to improving an existing lot. The zoning administrator shall not issue a permit unless the subject property meets shoreland and side yard setbacks in subsection (c) of this section and the lot area and dimensions as follows:~~

~~(1) Dimensions of building sites for lots recorded prior to June 1, 1967:~~

~~a. Lots not served by a public sanitary sewer:~~

~~Lots Without Public Sanitary Sewer Service~~

<del>(1)</del>	<del>Minimum lot area</del>	<del>10,000 square feet</del>
<del>(2)</del>	<del>Minimum lot width</del>	<del>65 feet</del>
<del>(3)</del>	<del>Minimum average lot width</del>	<del>65 feet</del>

~~b. Lots served by public sanitary sewer:~~

~~Lots With Public Sanitary Sewer Service~~

<del>(1)</del>	<del>Minimum lot area</del>	<del>7,500 square feet</del>
<del>(2)</del>	<del>Minimum lot width</del>	<del>50 feet</del>
<del>(3)</del>	<del>Minimum average lot width</del>	<del>50 feet</del>

~~(2) — Dimensions of building sites for lots recorded from June 1, 1967, to June 30, 1996:~~

~~a. — Lots not served by a public sanitary sewer:~~

~~Lots Without Public Sanitary Sewer Service~~

<del>(1)</del>	<del>Minimum lot area</del>	<del>20,000 square feet</del>
<del>(2)</del>	<del>Minimum lot width</del>	<del>90 feet</del>
<del>(3)</del>	<del>Minimum average lot width</del>	<del>100 feet</del>

~~b. — Lots served by public sanitary sewer:~~

~~Lots With Public Sanitary Sewer Service~~

<del>(1)</del>	<del>Minimum lot area</del>	<del>10,000 square feet</del>
<del>(2)</del>	<del>Minimum lot width</del>	<del>60 feet</del>
<del>(3)</del>	<del>Minimum average lot width</del>	<del>65 feet</del>

~~(3) — Dimensions of building sites for lots recorded from July 1, 1996, to September 16, 2019:~~

~~a. — Lots not served by a public sanitary sewer:~~

~~Lots Without Public Sanitary Sewer Service~~

<del>(1)</del>	<del>Minimum lot area</del>	<del>43,560 square feet</del>
<del>(2)</del>	<del>Minimum lot width</del>	<del>100 feet</del>

~~b. — Lots served by public sanitary sewer:~~

~~Lots With Public Sanitary Sewer Service~~

<del>(1)</del>	<del>Minimum lot area</del>	<del>20,000 square feet</del>
<del>(2)</del>	<del>Minimum lot width</del>	<del>90 feet</del>

~~(b) — Other substandard lots. Except for lots which meet the requirements of subsection (b)(1) of this article, a land use permit for the improvement of a lot having lesser dimensions than those stated in Table 1 in subsection (c) of this section shall be issued only if a variance is granted by the board of adjustment.~~

~~(1) — Substandard lots. A legally created lot or parcel that met the 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 the following apply:~~

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

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

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

~~(2) — Planned unit development (PUD). A non-riparian lot may be created which does not meet the requirements of Table 1 in subsection (c) of this section if the county has approved a recorded plat or~~

certified survey map including that lot within a planned unit development, if the planned unit development contains at least two acres or 200 feet of frontage, and if the reduced non-riparian lot sizes are allowed in exchange for larger shoreland buffers and setbacks on those lots adjacent to navigable waters that are proportional to and offset the impacts of the reduced lots on habitat, water quality, and natural scenic beauty.

a. A planned unit development shall never be allowed to exceed the density of the zoning district in which it is located, and must meet the minimum lot size requirements in the Polk County Lake Classification System for each unit within the PUD. A conditional use permit shall be obtained by the applicant before the recording/approval of a PUD.

(c) (1) All new developed lots and construction allowed after July 14, 2015, that have riparian access must conform to Table 1.

Table 1. Site Dimensions

	<b>-Class 1</b>	<b>Class 2</b>	<b>Class 3</b>	<b>Rivers/Streams</b>
<b>Lot size**</b>	<b>20,000-square feet 10,000-square feet<sup>±</sup></b>	<b>20,000-square feet 10,000-square feet<sup>±</sup></b>	<b>20,000-square feet 10,000-square feet<sup>±</sup></b>	<b>20,000-square feet 10,000-square feet<sup>±</sup></b>
<b>Lot width (minimum average)</b>	<b>100-feet 65-feet<sup>±</sup></b>	<b>100-feet 65-feet<sup>±</sup></b>	<b>100-feet 65-feet<sup>±</sup></b>	<b>100-feet 65-feet<sup>±</sup></b>

<b>-Shoreline (OHWM) setback</b>	<b>75-feet</b>	<b>75-feet</b>	<b>75-feet</b>	<b>75-feet</b>
<b>Shoreline vegetation protection area landward from OHWM</b>	<b>35-feet</b>	<b>35-feet</b>	<b>35-feet</b>	<b>35-feet</b>
<b>Side-yard setback to a principal structure</b>	<b>10-feet</b>	<b>15-feet</b>	<b>25-feet</b>	<b>15-feet</b>
<b>Side-yard setback to an accessory structure</b>	<b>5-feet</b>	<b>10-feet</b>	<b>25-feet</b>	<b>10-feet</b>
<b>Rear setback for a dwelling</b>	<b>25-feet</b>	<b>25-feet</b>	<b>25-feet</b>	<b>25-feet</b>
<b>Rear setback for accessory structure</b>	<b>10-feet</b>	<b>10-feet</b>	<b>10-feet</b>	<b>10-feet</b>
<b>Setback averaging</b>	<b>1. Distance from proposed building site: 250 feet or less from main building to main building</b>			

	<p><del>2. Number of buildings needed: 2, one on each side</del></p> <p><del>3. Setback is the average of the principal structures on adjoining lots</del></p> <p><del>4. Minimum setback: 35 feet</del></p>
<p><b>Increased principal structure setback</b></p>	<p><del>Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:</del></p> <ul style="list-style-type: none"> <li><del>—1. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.</del></li> <li><del>—2. Both of the existing principal structures are located within 200 feet of the proposed principal structure.</del></li> <li><del>—3. Both of the existing principal structures are located greater than 75 feet from the ordinary high water mark.</del></li> <li><del>—4. Both of the existing principal structures were required to be located at a setback greater than 75 feet from the ordinary high water mark.</del></li> <li><del>—5. The increased setback does not apply if the resulting setback limits the placement to an area on which the structure cannot be built.</del></li> </ul>

~~\* Minimum lot size and average width for lots served by a public sewer system.~~

~~\*\* New lots are also subject to the requirements of the county subdivision ordinance.~~

~~\*\*\* The side yard setbacks above only apply if more restrictive than the side yard setbacks listed under the respective zoning district in division 2 of this article.~~

~~(2) The county shall review, pursuant to Wis. Stats. § 236.45, all land divisions in shoreland areas which create three or more parcels or building sites of five acres each or less within a five-year period. In such review all of 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 stormwater drainage facilities.~~
- ~~e. Conformity to state law and administrative code provisions.~~

~~(3) The county shall review all easements, pursuant to Wis. Stats. ch. 236. The purpose of this review is to prevent intensification and commercialization of riparian parcels and for the other purposes in section 32-1. The county shall have 45 days to review and issue a determination on the legality of any proposed easements before the recording such document. The following easements shall be deemed illegal easements in the shoreland areas of Polk County:~~

- ~~a. Any easement that, directly or indirectly, grants a non-riparian lot access to a navigable water or the right to use a navigable water for any purpose.~~
- ~~b. Any easement that, directly or indirectly, grants a person(s), partnership, corporation, limited liability company or other entity access or the right to use the navigable water through a riparian property unless the person is an immediate family member or an entity owned~~

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~~exclusively by an immediate family member for personal use primary by the immediate family member.~~

~~c. Any easement that, directly or indirectly, grants the ability to install a dock or moor a boat on a riparian parcel~~

~~(d) Access limitations to navigable waters.~~

~~(1) No riparian outlet within the shoreland zoning area shall be allowed to be created, except for an outlet within a subdivision for access roads or stormwater pond purposes only, if such outlet does not provide any riparian access or rights, either directly or indirectly.~~

~~(2) Any existing private access outlet created to provide lake access prior to the effective date of the ordinance from which this section is derived shall meet the following requirements:~~

~~a. Such access strip must be a minimum of 50 feet in width for its entire depth.~~

~~b. No private access strip may serve more than five single family dwellings or five backlots.~~

~~c. No camping or RV parking is allowed on such access strip.~~

~~d. No structures are allowed on such access strip.~~

~~e. Private access strips must be at least 1,000 feet apart.~~

~~f. No rights/access can be given to any other lots or backlots even if there is less than five dwellings or five backlots using the access Outlet currently.~~

~~(3) No riparian lot shall be used for any commercial use without being zoned properly and in compliance with all required/applicable permits.~~

~~(4) Any expansion or change of an existing commercial use on a riparian parcel must be approved by the Polk County Zoning Office prior to any changes.~~

~~(5) No owners of a riparian or non-riparian lot within the county may charge, directly or indirectly, any fees, assessments, or receive any other form of compensation for providing access, transportation to, or use of a navigable water or a riparian parcel. Notwithstanding the first sentence of this paragraph, an owner or legal occupier of a riparian lot may charge a fee for the use of a dock on the owner's property to one individual provided it is not for more than five months in any calendar year and it does not make the property a high density use. The term "use of the navigable water" includes, but is not limited to, swimming, docking, boating, fishing, canoeing/kayaking, etc.~~

~~(e) For all properties located within the shoreland zoning district, the following setback requirements shall apply:~~

~~(1) The setback from any state or federal highway shall be 110 feet from the centerline of the highway or 50 feet from the right of way, whichever is greater.~~

~~(2) The setback from any county highway shall be 75 feet from the centerline of the highway or 42 feet from the right of way, whichever is greater.~~

~~(3) The setback from any town road, public street, or highway shall be 63 feet from the centerline of the road or 30 feet from the right of way, whichever is greater or as required by the county subdivision ordinance, unless the town board approves a reduced setback. A permit shall be issued for the reduced setback once written town approval (i.e., minutes, letter, resolution) is received if all of the other ordinance requirements are met.~~

~~(4) The setback from any private road shall be 35 feet from the centerline of the road.~~

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- ~~(5) All buildings and structures shall be set back from the OHWM of navigable waters as required by the table of dimensional standards in Table 1 in subsection (c) of this section. Such setback shall be measured as the shortest horizontal distance from the structure to the OHWM.~~
- ~~(6) The following structures are exempt from shoreline, drainage way, and wetland setback requirements:~~
- ~~a. Shoreline protection structures permitted by the department of natural resources.~~
  - ~~b. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two meters or less in diameter.~~
  - ~~c. Pedestrian walkways, stairways, and railings essential to access the shore due to steep slopes or wet soils and which comply with section 42-302. Such stairways or walkways may be no more than five feet in width and landings may not exceed 50 square feet.~~
  - ~~d. Temporary erosion control projects designed to remedy significant, existing erosion that cannot otherwise be controlled provided the project is received prior to project start and approved by the land and water resource department.~~
  - ~~e. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with Wis. Adm. Code ch. SPS 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.~~
  - ~~f. Open structures listed in Wis. Stats. § 59.69(1v) or section 42-303.~~
  - ~~g. Open fences provided they don't extend within 35 feet of the ordinary high water mark unless specifically allowed under Wis. Stats. ch. 90 as a property boundary fence. Open fences within the setback area require a land use permit.~~
  - ~~h. Devices or systems used to treat runoff from impervious surfaces.~~
  - ~~i. A fence that meets all the following requirements:
    - ~~1. A height not taller than 15 feet.~~
    - ~~2. Located not less than two feet landward of the ordinary high water mark.~~
    - ~~3. Located entirely outside of a highway right of way.~~
    - ~~4. Located not less than ten feet from the edge of a roadway and not more than 40 feet from the edge of a roadway or highway right of way, whichever is greater.~~
    - ~~5. Generally perpendicular to the shoreline.~~~~
  - ~~j. A bridge for which the department has issued a permit under Wis. Stats. § 30.123.~~
- ~~(7) Privacy fences shall have a rear and side yard setback of two feet unless the applicant obtains written permission from their neighbor to construct the fence within the setback area. The fence owner must be able to maintain the fence without trespassing on the neighbor's property, so the type of fence constructed shall be considered and approved by the zoning office.~~
- ~~(8) Privacy fences shall meet the required road setback unless written approval of a reduced road setback is received from the governmental unit maintaining the road. A town may also approve a reduced private road setback; however, at no point should a privacy fence encroach upon any easement or road right of way.~~

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- ~~(9) Open fences are exempt from road setbacks but cannot encroach upon any easement or road right-of-way.~~
- ~~(10) Boathouses shall be set back at least ten feet from the ordinary high water mark of non-navigable streams and drainage ways.~~
- ~~(11) All buildings and structures except for those permitted to be within wetland areas shall be setback at least 25 feet from the boundary of mapped wetlands.~~
- ~~(f) For nonconforming structures located within the applicable setback areas, the following will apply:~~
- ~~(1) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to this article.~~
- ~~(2) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure or is limited by another provision of this article.~~
- ~~(3) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level or is limited by another provision of this article.~~
- ~~(4) A structure, of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Any expansion of the structure beyond the existing footprint must comply with the provisions of this article.~~
- ~~(5) Nonconforming principal structures. The following shall apply to preexisting principal structures:~~
- ~~a. Lateral expansion within the setback area, provided the following requirements are met:~~
- ~~1. The use of the nonconforming structure has not been discontinued for a period of 12 months or more if a nonconforming use.~~
- ~~2. The existing principal structure is at least 35 feet from the OHWM.~~
- ~~3. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion can be closer to the OHWM than the closest point of the existing principal structure.~~
- ~~4. Limitations on land disturbing activities in section 42-306 are observed.~~
- ~~5. The mitigation requirements of section 42-305 are received, approved, and implemented.~~
- ~~6. All other provisions of the shoreland ordinance shall be met.~~
- ~~b. Expansion beyond the setback area, provided the following requirements are met:~~
- ~~1. May be expanded horizontally, landward, or vertically, provided the expanded area meets the building setback requirements under Table 1 in subsection (c) of this section and all other provisions of this article.~~
- ~~c. Relocation of a principal structure, provided the following requirements are met:~~
- ~~1. The use of the nonconforming structure has not been discontinued for a period of 12 months or more if a nonconforming use.~~
- ~~2. The existing principal structure is at least 35 feet from the OHWM.~~

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~~3. No portion of the relocated structure will be closer to the OHWM 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 the same square footage as the structure proposed for relocation that will result in compliance with the shoreland setback under Table 1 in subsection (c) of this section. Determination of acceptable location may include the following: soils, steep slopes, setback compliance. Setback compliance shall be in this order: shoreland, roadway, side yard, rear yard, vegetation considerations are not allowed.~~

~~5. Limitations on land disturbing activities in section 42-306 are observed.~~

~~6. The mitigation requirements of section 42-305 are received, approved, and implemented.~~

~~7. All other provisions of the shoreland ordinance shall be met.~~

~~(g) Boathouses. Maintenance and repair of preexisting boathouses that extend beyond the ordinary high-water mark of any navigable waters shall comply with the requirements of Wis. Stats. § 30.121(3).~~

~~(h) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled, provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure.~~

~~(i) Structures that were granted variances or illegally constructed structures are not considered nonconforming structures, and are not allowed to be expanded under subsection (f) of this section.~~

~~(j) The county may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.~~

~~(Ord. No. 08-20, art. 11, 4-21-2020; Ord. No. 25-21, 5-18-2021; Res. No. 15-22, § 1, 3-15-2022; Res. No. 07-23, § 1, 3-21-2023; Res. No. 07-24, § 1, 3-19-2024)~~

## Sec. 42-301. Minimum lot size

(A) *Purpose.* Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included. (See Wis. Admin. Code § NR 115.05 (1)(a)).

(B) *Sewered lots.* Minimum area and width for each lot. The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet. (See Wis. Admin. Code § NR 115.05 (1)(a)1).

(C) *Unsewered lots.* Minimum area and width for each lot. The minimum lot area shall be 20,000 square feet. and the minimum average lot width shall be 100 feet. (See Wis. Admin. § NR 115.05 (1)(a)2).

(D) *Substandard lots.* A legally created lot or parcel that met the 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 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.

NOTE: The intent of this provision is to allow lots that were legally created that currently do not meet the minimum lot width and area requirements to be considered a building site provided all ordinance

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requirements can be met. Substandard lots that have been reconfigured by a certified survey map or consolidated into one legal description with the register of deeds, which result in a larger (closer to conforming) lot should be allowed to be utilized as a building site. Additionally, lots that have a legal description for each substandard lot on record with the Register of Deeds but have one tax parcel number assigned by the Real Property Lister or Assessor for taxing/assessing purposes should be considered separate building sites and should not be considered consolidated. Lots that have had development over the lot lines should be combined with a legal description and recorded with a new deed prior to new development occurring.

- (E) *Other substandard lots.* Except for lots which meet the requirements of subsection (D) of this article, a land use permit for the improvement of a lot having lesser dimensions than those stated in subsections (B,C) of this section shall be issued only if a variance is granted by the board of adjustment.
- (F) *Illegally created lots.* An illegally created lot is one that was created in violation of the required minimum area and minimum average width requirements of the County's shoreland zoning ordinance at the time of creation. Illegally created lots shall not be used for construction purposes without the granting of a variance.
- (G) *Land Division Review.* Pursuant to s. 236.45, Stats, all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less shall be reviewed within a 5-year period. All of the following factors shall be considered during such a review:
  - (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.
- (H) *Planned unit development (PUD).*
  - (1) Purpose: The Planned Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Unit Development at the time of its approval.
  - (2) Requirements: A Planned Unit Development may be approved upon finding, after a public hearing, that all of the following facts exist:
    - (a) Area. A planned unit development may be allowed on a single lot that is at minimum 2 acres in size and has a minimum of 200 feet of frontage on a navigable water.
    - (b) Individual Lots.
      - 1. Riparian lots need to meet the requirements of subsections (B,C).
      - 2. Non-riparian lots may be less than the required minimums found in (B) and (C) of this section. The zoning committee shall consider whether the proposed lot sizes and widths provide adequate building area after considerations of all setbacks and required impervious surface percentages are met as well as reviewing potential impacts to prevent pollution, erosion and impacts to natural scenic beauty.
    - (c) Shoreland Setback. In exchange for the allowance of reduced non-riparian lots, the shoreland setback shall be greater than 75 feet from the ordinary high water mark. Recommended setbacks of 100 – 150 feet from the ordinary highwater mark shall help offset the impacts of the reduced lots on habitat, water quality and natural scenic beauty. An increased shoreland setback shall be a condition of approval.

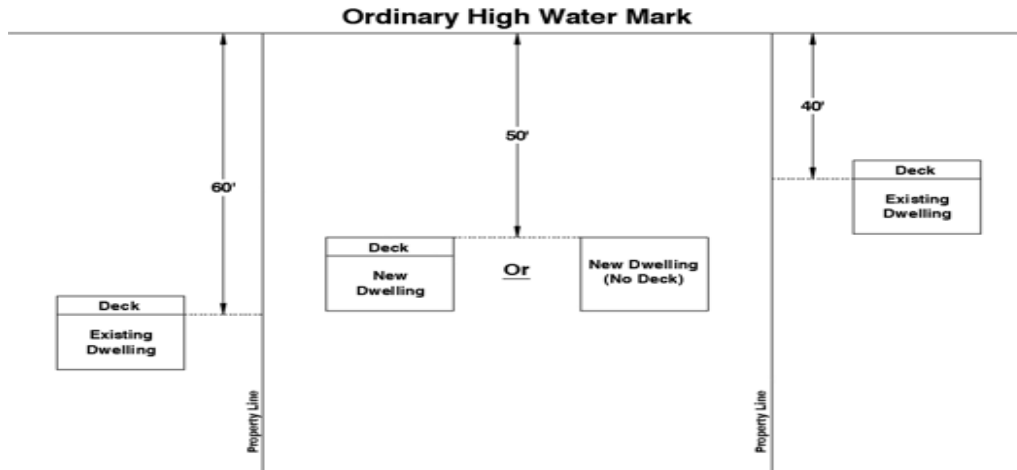
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- (d) **Vegetative Buffers.** The vegetative buffer on a lot within a proposed planned unit development shall be greater than 35 feet landward of the ordinary high water mark. Recommended buffers of 50 -70 feet shall help offset the impacts of the reduced lots on habitat, water quality and natural scenic beauty. An increased vegetative buffer shall be a condition of approval.
  - (e) **Impervious Surface Requirements.** All impervious surface requirements shall be met. There is no relaxation for required impervious surface ratio maximums.

### **Sec. 42-302. Setbacks.**

- (A) *Purpose.* Setbacks within the shoreland area have been established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards, protect against water pollution, and otherwise limit the direct and cumulative impacts of shoreland development of the adjacent water body.
- (B) *Shoreland Setbacks.* (NR115.05(1)(b)1.) Unless reduced under subsection (C), or exempt under subsection (E), a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of all buildings or structures shall be required.
- (C) *Reduced shoreland setback for a new principal structure.* A setback less than the 75-foot required setback from the ordinary high water mark shall be permitted for a proposed new principal structure and shall be determined as follows: (See Wis. Stat. § 59.692 (1n)):
  - (1) *EXISTING PRINCIPAL STRUCTURES IN BOTH DIRECTIONS (I.E. TWO-SIDED AVERAGING).* Where there are existing principal structures in both directions **of a new proposed principal structure**, a shoreland setback less than the required 75-foot setback from the ordinary high water mark of subsection (B) shall be permitted for a new proposed principal structure provided all of the following are met:
    - (a) Both of the existing principal structures are located on lots immediately adjacent to the lot of the proposed new principal structure.
    - (b) Both of the existing principal structures are located within 250 feet of the proposed new principal structure.
    - (c) Both of the existing principal structures are the closest principal structure on their respective lots to the new proposed principal structure.
    - (d) Both of the existing principal structures are located less than 75 feet from the ordinary high water mark.
    - (e) The reduced shoreland setback shall equal the average of the distances that the two existing principal structures are set back from the ordinary high water mark.
    - (f) The reduced shoreland setback shall not be reduced to less than 35 feet from the ordinary high water mark.

Note: Functional appurtenances (unenclosed accessory structures), such as decks or patios, if built in conjunction with the new principal structure are allowed to be constructed at the reduced setback.

Diagram Illustrating (C)(1)



(D) *Exempt Structures.* All of the following structures are exempt from the shoreland setback established in subsection (B): (See Wis. Admin. Code §NR 115.05 (1)(b)1m).

- (1) DRY BOATHOUSES. Boathouses located entirely above the ordinary high water mark, entirely within the access and viewing corridor, that do not contain plumbing, and are not used for human habitation. The roof of a boathouse may be used as a deck provided that:
  - (a) The boathouse has a flat roof
  - (b) The roof has no side walls or screens
  - (c) The roof may have a railing that meets the Department of Safety and Professional Services standards.
  - (d) Additional requirements for new boathouses:
    1. The maximum dimension is 14 feet in width by 26 feet in depth. The width dimension runs parallel to the water.
    2. Open handrails under 3½ feet tall that meet the department of safety and professional services standards may be constructed on the flat roof of the boathouse.
    3. Used solely 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. Must be at least ten feet from the OHWM.
    5. Shall be a single story with a 14-foot maximum sidewall height.
    6. Constructed in conformity with local floodplain zoning standards.
    7. Attached/detached decks and patios are prohibited.

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8. Boathouses excavated into an existing slope of more than 20 percent require a credentialed professional designed plan with the permit application. An erosion control plan must also be completed as part of this application for all boathouses, regardless of slope. Land and Water Resources may assist in the review of the designed plans and may require additional permitting based on the stormwater and erosion control ordinance.
  9. Boathouses that have a gable roof with pitch shall be no steeper than 8/12 rise to run ratio. The pitched roof shall not be designed or used as a deck, observation platform, or for other similar uses.
  10. Boathouses shall have mitigation capturing all runoff from the structure.
  11. If a retaining wall is needed as part of an erosion control plan, a variance will be required.
- (2) No side, open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area, provided the following requirements of s. 59.692(1v), Stats, are met:
    - (a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
    - (b) The total floor area of all the structures in the shoreland setback area of the property will not exceed 200 square feet. Boathouses shall be excluded from the calculation.
    - (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.
  - (3) BROADCAST SIGNAL RECEIVERS. 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.
  - (4) UTILITY STRUCTURES. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, and private on-site wastewater treatment systems that comply with ch. SPS 383, Wis. Admin. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that are constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.
  - (5) WALKWAY, STAIRWAY, OR RAIL SYSTEM. A walkway, stairway, or rail system that is necessary to provide pedestrian access to the shoreline and complies with 42-304. Such stairways or walkways may be no more than 60-inches in width and landings may not exceed 50 square feet. Landings are only allowed within stairways for direction changes needed on steep slopes.
  - (6) DEVICES OR SYSTEMS USED TO TREAT RUNOFF FROM IMPERVIOUS SURFACES. (s. 59.692(1k)(a)6, Stats, and s. 59.692(1k)(am)1, Stats) Devices or systems used to treat runoff from impervious surfaces, provided the requirements of s. 59.692(1k)(a)6, Stats, and s. 59.692(1k)(am)1, Stats, are met.
  - (7) FENCE. (s. 59.692(1n)(d)7, Stats) A fence along a roadway that meets all of the following requirements:
    - (a) Is not taller than 15 feet.
    - (b) Is located not less than 2 feet landward of the ordinary high water mark.
    - (c) Is located entirely outside of a highway right-of-way.

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(d) Is located not less than 10 feet from the edge of a roadway and not more than 40 feet from the edge of a roadway or highway right-of-way, whichever is greater.

(e) Is generally perpendicular to the shoreline.

(8) BRIDGES. A bridge for which the department has issued a permit under s. 30.123, Stats.

*(E) Additional setbacks/exemptions for all structures*

(1)

	Side Yard Setback	Rear Setback
Principal Structure	10 feet	25 feet
Accessory Structure	5 feet	10 feet

(2) The setback from any state or federal highway shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way, whichever is greater.

(3) The setback from any county highway shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way, whichever is greater.

(4) The setback from any town road, public street, or highway shall be 63 feet from the centerline of the road or 30 feet from the right-of-way, whichever is greater or as required by the county subdivision ordinance.

(5) The setback from any private road shall be 35 feet from the centerline of the road.

(6) Privacy fences shall have a rear and side yard setback of two feet. The fence owner must be able to maintain the fence without trespassing on the neighbor's property, so the type of fence constructed shall be considered and approved by the zoning office.

(7) Privacy fences shall meet the required road setback. At no point should a privacy fence encroach upon any easement or road right-of-way.

(8) Open fences are exempt from road setbacks but cannot encroach upon any easement or road right-of-way.

(9) All buildings and structures except for those permitted to be within wetland areas shall be setback at least 25 feet from the boundary of wetlands.

*(F) Relaxation of Standards for Persons with Disabilities*

(1) The zoning administrator may issue a special permit to relax the standards of this ordinance to provide reasonable accommodations as required by provisions of federal and state law. Such relaxation shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person. A person applying for a permit for construction under this section shall establish:

(a) That the facility or premises are routinely used by a disabled person

(b) The nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.

(c) A deed restriction or affidavit for the reasonable accommodation shall be filed with the register of deeds.

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### Sec. 42-303. Structures in the floodplain.

(NR 115.05(1)(b)2) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

### Sec. 42-304. Shoreland protection area.

- (a) ~~The shoreland protection area of all lots shall conform to Wis. Adm. Code § NR 115.05(1)(c) regarding vegetation removal to protect natural scenic beauty, fish and wildlife habitat, and water quality. Developed lots can be maintained in their present condition without removal of trees and shrubs within the shoreland protection area. Accordingly:~~
- ~~(1) The county may allow removal of trees and shrubs in the vegetative buffer zone, measured 35 feet wide perpendicular from the ordinary high water mark (OHWM), to create an access and viewing corridor. The maximum width of an access and viewing corridor may be ten feet or up to 35 percent of the lots shoreline footage, whichever is greater, except that the maximum width of an access and viewing corridor may not exceed 200 feet. A viewing corridor requires a land use permit from the county zoning office.~~
  - ~~(2) In the shoreland areas more than 35 feet wide inland, trees and shrubbery cutting shall be governed by consideration of the effect on water quality and consideration of sound forestry practices and soil conservation practices.~~
  - ~~(3) 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 be replaced by replanting in the same area as soon as practicable.~~
  - ~~(4) Viewing corridor may be split on a property but the total width of all of the corridors cannot total more than the maximum width allowed.~~
  - ~~(5) Viewing corridors are measured perpendicular to the water on an angle and pedestrian access may meander within corridor, however they must not exceed the maximum width.~~
  - ~~(6) Viewing corridors are allowed to run contiguously for the entire maximum width allowed.~~
- (A) A vegetative buffer zone is maintained or created to protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote the preservation and restoration of native vegetation. The vegetative buffer zone is the area that extends from the ordinary high water mark to 35 feet landward. Removal or destruction of vegetation in the vegetative buffer zone shall be prohibited except as follows:
- (1) Routine maintenance of vegetation which means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
  - (2) The removal or destruction of vegetation for the creation of an access and viewing corridor provided the following requirements are met:
    - (a) The access and viewing corridor remains a strip of vegetated land for the purpose of providing safe pedestrian access to the shore through the vegetative buffer zone.
    - (b) The access and viewing corridor may be 35% of the shoreline frontage but in no case shall it be less than 10 feet or greater than 200 feet.
    - (c) The viewing corridor may run contiguously for the entire maximum width allowed based on the shoreline frontage owned.

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- (3) In the shoreland areas more than 35 feet wide inland, trees and shrubbery cutting shall be managed with consideration of the effect on water quality and consideration of sound forestry practices and soil conservation practices.
  - (4) The removal of vegetation to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard provided that any vegetation removed be replaced by replanting in the same area with native species as soon as practicable. The permit fee is waived for removing vegetation under this provision.
  - (5) The removal of trees and shrubs on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in NR 1.25(2)(b), Wis. Adm. Code, and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
  - (6) Viewing corridors are measured perpendicular to the water on an angle and pedestrian access may meander within corridor, however they must not exceed the maximum width.
  - (7) The County may authorize by permit additional vegetation management activities such as prescribed burns or other vegetation management or removal activities where there is a demonstrable need for the additional management activity. Any permit issued by the County under this section shall include an enforceable restriction to preserve the newly restored area. Prior to issuing a permit under this Section, the County shall require the following information to be provided by the permittee:
    - (a) Detailed plans documenting the need and purpose are submitted and approved by the County.
    - (b) Sufficient information within the plans showing that it is designed to:
      - (1) control erosion by limiting sedimentation into the waterbody;
      - (2) improve the plant community by replanting in the same area; and
      - (3) maintain and monitor the newly restored area.

(B) Additional Allowed uses by permit ~~or conditional use permit~~ in a shoreland protection area.

- ~~(1) Placement of a pier, wharf, temporary boat shelter or boatlift shall be confined to waters immediately adjacent the viewing corridor described in subsection (a) of this section, unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions.~~
- ~~(2) One developed pedestrian access to the shoreline may be provided if:~~
  - ~~a. It is located within the viewing corridor unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions;~~
  - ~~b. It is located and constructed so as to avoid erosion;~~
  - ~~c. It is located and constructed so as to maintain screening of development from view from the water;~~
  - ~~d. It is the minimum construction necessary to provide access and includes no additional construction other than railings essential for safety;~~
  - ~~e. It is no more than five feet wide with landings of 50 square feet or less; and~~
  - ~~f. It is constructed of materials that blend with the natural ground cover in the vicinity of the pathway.~~
- ~~(3) An elevated walkway or powered lift may be added to a developed access if:~~
  - ~~a. It is the minimum construction essential to access the shore because of steep slopes, wet soils or similar limiting conditions;~~

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- ~~b. It complies with the standards for location and construction of such pathways;~~
  - ~~c. Construction plans are approved by the zoning office; and~~
  - ~~d. Stairways on 20 percent or greater slopes are constructed to minimize erosion.~~
- (1) Shoreline protection activities authorized by a state permit with erosion control measures approved by the county land and water resources department must be designed to remedy significant, existing erosion problems.
  - ~~(5) Removal of dead and diseased trees that are a safety hazard, which endanger structures, and the removal of noxious vegetation which possess a threat to health or safety (i.e., poison ivy), provided that any vegetation removed be replaced by replanting in the same area as soon as practicable. The permit fee is waived for removing vegetation under this provision.~~
  - (2) Roadways are constructed adjacent to permitted stream crossings.
  - (3) Public and private watercraft constructed launching sites are authorized only by the following standards, provided the following are maintained:
    - (a) Construction allowed on slopes of less than 20 percent;
    - (b) There is no general public access otherwise available to the waterway;
    - (c) Launching sites on residential property shall not be paved;
    - (d) Access sites shall be located within the viewing corridor unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions;
    - (e) A state Chapter 30 permit shall be obtained for all construction and also be required when areas of 10,000 square feet are disturbed above the OHWM and must be obtained prior to said county application; and
    - (f) Vegetation removal and land disturbing activities minimized and runoff diverted or controlled so that erosion within the access corridor is avoided.
  - (4) Fish and wildlife habitat management projects included in a department of natural resources approved management plan.
- (C) Allowed uses exempt from permit in a shoreland protection area.
- (1) Commercial timber harvest is ~~allowed and~~ exempt from permit requirements of subsections (A) and (B) of this section, if one or both of the following conditions is satisfied:
    - (a) Such activity complies with appropriate practices specified in the state's forestry best management practices for water quality published by the department of natural resources or a plan approved by the county forest committee.
    - (b) Such activities are conducted on public lands and conform to federal, state, and county management plans. Respective master plans are deemed to meet the intent of this article by established riparian protection standards through aesthetic management zones and appropriate management practices to maintain water quality and wildlife habitat.
  - (2) Agricultural cultivation is allowed exemption from the provisions of this section related to the vegetation protection area and land disturbing activities if such activity complies with federal, state, and local laws or ordinances.
- (D) Vegetation removal penalties.

- (1) In addition to any other penalties, the penalty for removing vegetation in violation of this article shall include replacement of vegetation with native vegetation at the property owner's expense according to one of the options set forth in subsection (D)(2) of this section.
- (2) Replacement vegetation options.
  - (a) Option 1. Replace vegetation removed within 35 feet of the ordinary high-water mark according to the tree replacement schedule below. All trees must be replanted within 75 feet of the ordinary high-water mark.

Tree Replacement Schedule

DBH of Existing Tree Removed	Number of Replacement Trees (≥1.5" DBH)
Less than 6 inches	1
Between 6 and 12 inches	2
Between 12 and 18 inches	3
Between 18 and 24 inches	4
Between 24 and 30 inches	5
Between 30 and 36 inches	6
Greater than 36 inches	The equivalent of 1 tree per 6 inches DBH of the removed trees.

DBH = Diameter Breast Height

- (b) Option 2. Calculate the number of trees under option 1 to be replaced. Plant 75 percent of the required trees and establish 40 square feet of native plantings for each additional tree required within shoreland protection area. The native planting shall be contiguous, and at least ten feet wide-parallel or perpendicular to the shore.
- (c) Option 3. Calculate the number of trees under option 1 to be replaced. Plant 50 percent of the trees within 35 feet of the ordinary high-water mark, and 70 square feet of native plantings for each additional tree required within shoreland protection area. The native planting shall be contiguous and follow practices found in the state field office technical guide.
- (d) Option 4. Calculate the number of trees under option 1 to be replaced. Plant 25 percent of the required trees, and establish a full buffer of native vegetation according to the practices found in the state field office technical guide in the shoreland protection area.

(Ord. No. 08-20, art. 12, 4-21-2020; Res. No. 48-21, § 1, 11-9-2021; Res. No. 07-23, § 1, 3-21-2023)

**~~Sec. 42-303. Open structures in shoreland setback area.~~**

~~As required by Wis. Stats. § 59.692(1v), the construction or placement of certain structures within the shoreland setback area shall be granted special zoning permission. An administrative land use permit will be issued for the structure for record keeping purposes. Structures will be allowed if all of the following conditions are met:~~

- ~~(1) The structure has no sides or has open or screened sides.~~
- ~~(2) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark;~~

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~~(3) The total floor area of all structures in the shoreland setback area on the property will not exceed 200 square feet. This calculation shall include the area of any deck, patio, the portion of any pier landward of the OHWM, and any other structure, but boathouses and allowed structures necessary for water access shall be excluded;~~

~~(4) 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 percent of the half of the shoreland setback area that is nearest to the water.~~

~~(Ord. No. 08-20, art. 13, 4-21-2020; Res. No. 07-24, § 1, 3-19-2024)~~

## **Sec. 42-305. Impervious surface.**

~~Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel entirely within 300 feet of the ordinary high water mark of any navigable waterway.~~

~~(A) *Purpose.* Impervious surface standards shall be established to protect water quality, fish and wildlife habitat, and to protect against pollution of navigable waters.~~

~~(B) *Applicability.* Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface that is or will be located within 300 feet of the ordinary high water mark of any navigable waterway on any of the following:~~

~~(1) A riparian lot or parcel.~~

~~(2) A non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high water mark of any navigable waterway.~~

~~(C) *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 lot area **of that lot or parcel**, and multiplied by 100. If an outlot lies between the ordinary high-water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface. Treated impervious surfaces described in subsection (D) of this section shall be excluded from the calculation of impervious surface on the lot or parcel.~~

~~(D) *Treated impervious surfaces.* Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations **under subsection (C):**~~

~~(1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.~~

~~(2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.~~

~~The treatment system, treatment device or internally drained area must be properly maintained; otherwise, the impervious surface is no longer exempt from the impervious surface calculations.~~

~~(3) A credentialed professional designed plan will be required for both D(1) and D(2) of this section showing treatment of runoff with design standards and specifications that also meet storm water BMP technical standards. The required runoff volume of the impervious surface must use a rainfall depth derived from the current NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2 year 24 hour rainfall event.~~

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(4) A document will be recorded in the Register of Deeds office as an enforceable implementation schedule and maintenance agreement of treatment device or internally drained area as stated in D(1) or D(2).

(E) *Roadways and Sidewalks.* Roadways defined in s. 340.01(54), Stats, and sidewalks defined in s. 340.01(58), Stats, shall be excluded from the impervious surface calculation under subsection (C).

~~(3) *Impervious surface standards.* Any development within 300 feet of the ordinary high water mark of a navigable waterbody is permitted up to 15 percent impervious surface on the lot. Impervious surfaces from 15 to 30 percent on the lot are permitted, provided that mitigation is completed and a mitigation agreement is recorded in the register of deeds. The maximum amount of impervious surface allowed on a lot is 30 percent. Mitigation options are listed in section 42-305.~~

(F) *General Impervious Surface Standard.* The percentage of impervious surface allowed on a lot or parcel described under subsection (B) and as calculated under subsection (C) shall not exceed 15%.

(G) *Maximum Impervious Surface Standard.* A lot or parcel may exceed the impervious surface standard under section (F) provided the following standards are met:

(1) A lot or parcel described under subsection (B), calculated under section (C), and under the general impervious surface standard of subsection (F) may have greater than 15% impervious surface but not more than 30% impervious surface.

(2) For lots or parcels that exceed the standard under subsection (F) but do not exceed the maximum standard subsection (G)(1), a permit can be issued for development with a mitigation plan that meets the standards found in section 42-306.

(H) *Existing impervious surfaces exceeding 30 percent.* For existing impervious surfaces that were lawfully placed when constructed but ~~exceeds 30 percent impervious surface the property owner may do any of the following:~~ that do not comply with the impervious surface standard in subsection (F) or the maximum impervious surface standard in subsection (G), the property owner may do any of the following:

(1) Maintain and repair the existing impervious surfaces;

(2) Replace existing impervious surfaces with similar surfaces within the existing building envelope; **or**

(3) Relocate ~~Relocation~~ or modify ~~modification~~ an existing impervious surface 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 ~~the impervious surface~~ meets the applicable setback requirements in section 42-302.

(Ord. No. 08-20, art. 14, 4-21-2020)

### **Sec. 42-3065. Mitigation.**

~~The following sections of this article are subject to the mitigation requirements listed here, and the options listed in this article shall be used to satisfy the mitigation requirements of this article, including section 42-301(f)(5)a and (f)5.c, and when the impervious surface standards in section 42-304(3) are exceeded. These properties shall mitigate to ensure that no additional runoff is discharged to the water body. A single option or a combination of options shall be selected by the landowner to satisfy the mitigation requirements with review by the zoning department to ensure the appropriate amount of mitigation is installed.~~

(A) *Purpose.* The purpose of mitigation is to establish and maintain measures adequate to offset the impacts of development on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.

(B) *Applicability.* When a permit requires mitigation under sections 42-305 and 42-308, the property owner shall submit a complete permit application that is reviewed and approved by the county. The application shall include the following:

- (1) A site plan that describes the proposed mitigation measures.
  - (a) The site plan shall be submitted on forms provided by the Zoning Administrator or designee for review. The plan shall implement a design to restore natural functions lost through development and human activities.
  - (b) The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.
- (2) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.
  - (a) The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.
  - (b) Mitigation measures are maintained in perpetuity, unless the property owner receives approval of a new mitigation plan meeting the same mitigation requirements. Notwithstanding any other provision of this ordinance, the current owner is solely responsible for compliance with the terms of this section.
  - (c) Within two years of issuance of the related zoning permit, the property owner shall complete the mitigation practices and shall certify in writing to the Zoning Administrator or designee that the required mitigation has been completed. As part of the certification, the property owner shall submit photos documenting the mitigation measures. Citations may be issued and a new permit could be required if the mitigation plan is not completed.

(3) Mitigation Options

(a) Mitigation Point System

<u>Points Required</u>	<u>Opportunities to obtain points</u>
Impervious surface coverage 15%-20% (2 points)	Active restoration (accelerated recovery) of vegetative shoreland buffer (3 points)
Impervious surface coverage 20%-30% (3 points)	Increasing depth of compliant existing vegetative shoreland buffer (1 point for every 15' of depth)
Lateral expansion of nonconforming principal structure within the shoreland setback (3 points)	Existing compliant shoreland buffer (1 point)
Relocation of Nonconforming principal structure within the shoreland setback. (1 point)	Reducing the allowable access and viewing corridor (1 point for every 5% decrease from 35%, max of 4 points)
	Mitigation measures which are likely to provide significant benefits in meeting the objectives of the ordinance at the discretion of the Environmental Services Division. (up to 3 points)

~~Install and/or maintain a full shoreland buffer with allowed viewing corridor.~~

- (b) Removal or replacement of nonconforming structures and/or other impervious surfaces of equal or greater square footage. Nonconforming structures get an additional bonus of 1.25 square feet per one square foot removed. Example: A property owner needs to remove 500 square feet of impervious surface in order to add a 500 square feet addition to their house. If the impervious surface that the property owner wanted to remove was a nonconforming structure, then they would only need 400 square feet to qualify.
- (c) Pre equals post calculation.

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1. The property owner can utilize the land use runoff rating as a mitigation calculator to determine the predevelopment (prior to proposed improvements) and the post development (after proposed improvements) runoff ratings based on the land cover, existing impervious surfaces, and soil types. The post-development runoff amount must be less than or equal to the pre-development runoff or the allowed 15 percent of impervious surface runoff on the lot. The difference in the two values is the amount of runoff that needs to be mitigated. Options to equalize these values may include, but are not limited to, vegetative plantings, rain gardens, impoundments, including, but not limited to, infiltration pits, and rainwater harvesting
  2. Land use runoff rating. A rating number is determined for the entire lot within 300 feet of the ordinary high-water mark for Lake Classes 1, 2, 3 and rivers. To calculate the runoff rating the landowner/agent must complete the following steps:
    - a. Measure each land use of the lot and draw them to dimension or scale. Convert the land use areas into percentages of the lot.
    - b. Determine the hydrologic soil type (HST) from a map that will be provided by the zoning department which indicates the assigned HST number.
    - c. Multiply each land use percentages by the HST number, and add the products of all the land uses resulting in the land use rating applied to the lot.

~~(iv) Point credits.~~

~~A. — One point credit will be applied for the lots with public sewage and a 1.5 point credit for landowners who establish continuous vegetative cover starting from the OHWM and continuing landward.~~

~~B. — Other practices or measures that the county determines adequate to offset the impacts of the impervious surface on water quality, near shore aquatic habitat, upland wildlife habitat and natural and scenic beauty (i.e., practices found in the state field office technical guide or NRCS technical standards).~~

~~(2) Additional mitigation requirements.~~

~~a. — Mitigation plans, including existing mitigation options, may be recorded by an affidavit in the register of deeds.~~

~~b. — Mitigation plans will have two calendar years to be installed. If mitigation options are not installed and established within two years of issuance of a permit, then citations shall be issued and a new permit could be required.~~

(Ord. No. 08-20, art. 15, 4-21-2020)

**~~Sec. 42-3076. Filling, grading, and ditching—Land Disturbance Activities~~**

~~(a) Filling, grading, lagooning, dredging, ditching, or excavating which does not require a permit may be allowed in the shoreland wetland zoning district area, provided that:~~

~~(1) Such activities are implemented in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.~~

~~(2) All applicable federal, state, and local permits are obtained.~~

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~~(3) An erosion control plan shall be required and reviewed by the county zoning office.~~

To protect natural scenic beauty, fish and wildlife habitat, and water quality, land disturbances may be allowed and authorized only if done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat and natural scenic beauty.

(A) *General Requirements.*

- (1) Any land disturbance activities in the shoreland area are protected against erosion by utilizing best management practices approved by the Polk County Environmental Services Division.
- (2) Land disturbances within the vegetative buffer zone are prohibited except for the following:
  - (a) In association with an exempt structure authorized under section 42-302 (d) or a nonconforming structure allowed under section 42-308 and only to the minimum extent necessary.
  - (b) Rip rap or other bank stabilization measures authorized by state or federal regulations.
  - (c) Public road, bridge, dam and public recreation related construction and maintenance activities.
  - (d) Activities associated with restoration of the vegetative buffer zone or other permitted activities in section 42-302.
  - (e) Flood proofing measures authorized by the Polk County Floodplain Ordinance.

~~(b) Except as provided in subsection (a) of this section, a filling and grading plan and permit is required before filling or grading of any area which is within 300 feet of the ordinary high-water mark of a navigable water and which has surface drainage toward the water and on which such activities will occur:~~

(B) *Permit Required.* A filling and grading permit is required for land disturbance activities with surface drainage toward the water that are located within 300 feet of the ordinary high-water mark of a navigable waterbody if any of the thresholds below are met:

- (1) On areas having slopes of 20 percent or more.
- (2) Areas of 1,000 square feet or more on slopes of 12 percent to 20 percent.
- (3) Areas of 2,000 square feet or more on slopes of 12 percent or less.
- (4) A landscaping permit may be required for any disturbance under the thresholds listed in subsections (b)(1) through (3) of this section.

(C) Excavating for dwellings and sanitary systems in addition to soil conservation practices, including, but not limited to, terraces, runoff diversions, and grassed waterways which are used for sediment retardation shall not require a permit **fee**, provided:

- (1) Soil conservation practices that are planned and supervised by the land and water resources department are implemented. Soil conservation practices examples include, but are not limited to, terraces, runoff diversions, and grassed waterways, which are designed to retard sediment or control animal waste runoff.
- (2) Excavation for dwellings and sanitary systems are exempted from a permit **fee** under subsection (B) of this section. ~~if the excavation plan has been approved by the zoning office prior to construction. A landscaping permit shall be required unless a land use permit for the structure or state sanitary permit has been issued.~~ if the erosion control plan has been approved by the zoning office on the land use or sanitary permit prior to construction.

(D) Filling and grading plans shall be submitted to, reviewed and approved by the county zoning office for activities in subsection (B) of this section. In order to determine if a filling and grading permit may be granted, a site plan is required and must contain the following information:

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- (1) Location of buildings on the property.
  - (2) Property lines.
  - (3) Location of surface waters.
  - (4) Location of well and POWTS.
  - (5) Slope.
  - (6) North arrow.
  - (7) Legend.
  - (8) Location of the filling and grading activities on the property.
  - (9) Property owner name and address.
  - (10) Erosion control plan implemented and locations on the property.
  - (11) Revegetation/stabilization plan.
  - (12) Site plan shall be at a scale 1 inch represents 10 feet.
  - (13) The following conditions may be applied where appropriate:
    - (a) If bare ground must be exposed, it shall be exposed for as short a time as feasible.
    - (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
    - (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods deemed acceptable by the County shall be used to prevent erosion.
    - (d) Lagoons shall be constructed to avoid fish trap conditions.
    - (e) Fill shall be stabilized according to accepted engineering standards.
    - (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
    - (g) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

(Ord. No. 08-20, art. 16, 4-21-2020)

### **Sec. 42-308. Nonconforming uses**

- (A) Applicability. This section applies to a use of a dwelling, building, or parcel of land that existed lawfully before the existing zoning ordinance was enacted or amended, but that does not conform to the allowed uses in the current ordinance.
- (B) General Rule.
  - (1) The continuance of the lawful use of any building, premises, structure, or fixture for any trade or industry for which such building, premises, structure, or fixture is used at the time that the ordinance takes effect may not be prohibited.
  - (2) The alteration of, or addition to, or repair in excess of 50 percent of its assessed value of any existing building, premises, structure, or fixture for the purpose of carrying on any prohibited trade or new

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industry within the district where such buildings, premises, structures, or fixtures are located, may be prohibited.

- (3) The county may prohibit the continuance of the nonconforming use of a temporary structure.
- (4) If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the ordinance.
- (5) A manufactured home community licensed under s.101.935, Stats, that is a nonconforming use continues to be a nonconforming use notwithstanding the occurrence of any of the following activities within the community:
  - (a) Repair or replacement of homes
  - (b) Repair or replacement of infrastructure

### **Sec. 42-309 Nonconforming structures.**

- (A) **Applicability.** This section applies to an existing principal or accessory structure that was lawfully placed when constructed but that does not comply with the current required ordinary high water mark setback of a navigable waterway.
- (B) ***Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures.*** An existing structure that was lawfully placed when constructed but, that does not comply with the required shoreland setback, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed, but that does not comply with the required shoreland setback may be vertically expanded to a maximum height of 35 feet above grade level. Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with the applicable state or federal requirements.
- (C) ***Lateral Expansion of Nonconforming Principal Structure Within the Setback.*** An existing principal structure that was lawfully placed when constructed but, that does not comply with the required building setback per section 42-302, may be expanded laterally, provided that all of the following requirements are met:
  - (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
  - (2) The existing principal structure is at least 35 feet from the ordinary high water mark.
  - (3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high water mark than the closest point of the existing principal structure.
  - (4) Polk County Zoning Department shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 42-306.
  - (5) All other provisions of the shoreland ordinance shall be met.
- (D) ***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 shoreland setback under section 42-302, may be expanded horizontally, landward, or vertically provided that the expanded area meets the shoreland setback requirements per section 42-302 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 42-305.

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- (E) *Relocation of Nonconforming Principal Structure.* An existing principal structure that was lawfully placed when constructed, but that does not comply with the required shoreland setback per section 42-302, may be 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 if a nonconforming use.
  - (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
  - (3) No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
  - (4) Polk County Zoning Department determines that no other location is available on the property to build a principal structure of a comparable size to the footprint of the structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 42-302.
  - (5) Polk County Zoning Department shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 42-305.
  - (6) All other provisions of the shoreland ordinance shall be met.
- (F) *Maintenance, Repair, Replacement or Vertical Expansion of Structures That Were Authorized by Variance.* A structure, of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded to a maximum height of 35 feet above grade level. Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.
- (G) *Maintenance, Repair, Replacement of Exempt Structures.*
- (1) All or any part of an existing exempt structure under section 42-302(D) may be maintained, repaired, replaced, restored, rebuilt or remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure.
  - (2) An activity allowed under subsection (G)(1) shall be allowed to expand the footprint of the structure provided it is the minimal expansion necessary to comply with applicable state or federal requirements.
- (H) *Maintenance, Repair, or Replacement of a building or structure in violation of a county shoreland zoning ordinance that may not be enforced.*
- (1) An enforcement action may not commence against a person who owns a building or structure that is in violation of a shoreland zoning standard or this shoreland zoning ordinance if it has been in place for more than ten years.
  - (2) A building or structure that is in violation of a shoreland zoning standard or this shoreland zoning ordinance but has been in place for more than ten years may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. However, the structure may not be vertically or laterally expanded.

## **Sec. 42-3107. Off-street parking and loading.**

- (A) *Loading space.* All commercial uses shall provide sufficient maneuvering, loading, and parking space on the premises for pick-up, delivery and service vehicles necessary for normal operations.

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- (B) *Off-street parking.* Each parking space shall be 200 square feet in area. Each use shall provide the following minimum off-street parking spaces:
- (1) Dwellings: Two spaces for each dwelling unit.
  - (2) Restaurants, taverns and similar establishments: one space for each 50 square feet of floor space devoted to patrons. Drive-in eating stands offering car service: five spaces for each person employed to serve customers.
  - (3) Motels: One space per unit.
  - (4) Tourist cabins: Two spaces per unit.
  - (5) Retail businesses and service establishments: one space for each 200 square feet of floor area.
  - (6) Warehouses: one space for each two employees on the premises at a maximum employment on the main shift.

(Ord. No. 08-20, art. 17, 4-21-2020; Res. No. 48-21, § 1, 11-9-2021; Res. No. 07-24, § 1, 3-19-2024)

### **Sec. 42-31108. Manufactured homes and manufactured home parks.**

- (A) The area beneath a manufactured or mobile home must be completely enclosed with a skirting material of a quality and strength which assures the durability of said skirting material and which does not distract from the general aesthetic quality of the manufactured or mobile home and the surrounding area.
- (B) All manufactured and mobile homes which are abandoned, burned or otherwise destroyed or substantially damaged must be removed from the lot or site on which they are located within one year after abandonment, burning, destruction or substantial damage occurred.
- (C) Manufactured and mobile homes cannot be used for storage.
- (D) No mobile home as defined by this chapter shall be placed on any property under the jurisdiction of this chapter.
- (E) Where allowed, manufactured home parks shall meet the following requirements:
- (1) The minimum size of manufactured home parks shall be 5 acres.
  - (2) Shall follow the conservation design development standards and density requirements. However, all manufactured home sites must be retained in one form of ownership, and at least 2 acres should be provided for each manufactured home.
  - (3) All drives, parking areas and walkways shall be hard surfaced or graveled, maintained in good condition, have natural drainage, and the driveways shall be lighted at night.
  - (4) In addition to the requirements of division 2 of this article and sections 42-301 and 42-302, there shall be a minimum setback of 50 feet from all other lot lines and meet the shoreland setback.
  - (5) The park shall conform to the requirements of Wis. Adm. Code ch. ATCP 125.
  - (6) No manufactured home site shall be rented for a period of less than 30 days.
  - (7) Each manufactured home shall be separated from another manufactured home by at least 40 feet.
  - (8) There shall be two surfaced automobile parking spaces for each manufactured home.
  - (9) Unless adequately screened by existing vegetation cover, the manufactured home park shall be screened by a temporary planting of fast-growing plant material capable of reaching 15 feet or more, and so arranged that, within ten years, there shall be formed a screen equivalent in screening capacity

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to a solid fence or wall. Such permanent planting shall be grown and maintained to a height of not less than 15 feet.

(10) The manufactured home park site shall meet all applicable town and county subdivision regulations.

(Ord. No. 08-20, art. 18, 4-21-2020; Res. No. 48-21, § 1, 11-9-2021; Res. No. 15-22, § 1, 3-15-2022)

**Sec. 42-31209. Travel trailers and travel trailer parks.**

- (A) A travel trailer will not be allowed on any lot without a principal structure for more than 14 days in any 60 consecutive days unless subsection (c) or (d) of this section applies.
- (B) One travel trailer may be placed on a piece of property by the owner of the property for storage purposes only if a principal structure exists.
- (C) A temporary permit may be issued if the property owner has installed a state approved septic system and well and the zoning administrator has issued a permit to begin constructing a dwelling within one year. Travel trailers must meet the setback requirements of section 42-302.
- (D) An annual, seasonal permit may be obtained from the zoning office which would allow for the utilization of the travel trailer on the subject property from May 15 through December 1 annually. In order to obtain the above seasonal permit, the following requirements apply:
  - (1) Must have an approved sanitary system installed by a state-licensed plumber (privies are not an allowed system).
  - (2) Must meet all setbacks on property for an accessory structure.
  - (3) Must be removed once season is over.
- (E) A travel trailer may be placed on a property for more than 14 days in any 60 consecutive days if a land use permit is obtained and all the following criteria are met:
  - (1) The parcel is on a Class 3 body of water or is a non-riparian parcel.
  - (2) The property owner has at least 40 acres in one parcel or parcels adjacent to each other with common ownership.
  - (3) The travel trailer will not be used as a permanent residence.
  - (4) The setbacks required for an accessory building are met.
  - (5) A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the county private onsite wastewater (POWTS) ordinance.
- (F) A temporary campground permit may be obtained from the zoning office if the conditions of Sec. 42-311 (g) (9-26) and all the following requirements are met:
  - (1) The property is zoned Residential Agricultural 5, Agricultural 10, or Agricultural 20.
  - (2) The property is not within 1,000 feet of a Class 1 or 2 lake.
  - (3) A maximum of 10 camping units at any time on the property.
  - (4) A maximum of 10 guests/people from 11:00 p.m. to 7:00 a.m.
  - (5) A maximum of 15 guests are allowed from 7:00 a.m. to 11:00 p.m.
  - (6) Quiet hours shall be imposed from 11:00 p.m. to 7:00 a.m. All fires and embers are to be extinguished by 11:00 p.m. also with no unattended fires.

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- (7) Sleeping accommodations for any guests must be within their own self-contained RV or tent.
  - (8) Permit shall be for a maximum of 14 days per year.
  - (9) If a property owner fails to comply with the conditions listed above, their temporary campground permit shall be revoked and said property cannot have another permit under this provision for one year from the date of revocation.

(G) Licensed travel trailer parks/campgrounds shall meet the following requirements:

- (1) The minimum size of the travel trailer park/campground shall be 5 acres.
- (2) Travel trailer parks/campgrounds shall be designed and limited to the density requirements under a conservation design development. However, all camping unit sites must be retained in one form of ownership, and at least 2 acres should be provided for each camping unit.
- (3) The maximum number of camping units in any travel trailer park/campground shall be 100.
- (4) The screening provisions for manufactured home parks shall be met.
- (5) Existing travel trailer parks/campgrounds shall be allowed to expand on lands owned by the travel trailer park/campground or legal owner thereof at the time of the adoption of the ordinance from which this chapter is derived if the density of six camping units per developable acre is met. Minimum dimensions of a camping unit site shall be 50 feet by 100 feet.
- (6) Group tent campsites may be designated on the site map; however, the duration of stay for any group shall be limited to 14 days.
- (7) Individual campsite accessory uses require a land use permit, cannot be connected to the travel trailer, and are limited to:
  - (a) *Storage structure.* Each campsite may have one (1) storage structure with a footprint 100 square feet or less in size and the structure shall not exceed 12 feet in height. The storage structure cannot be used for human habitation.
  - (b) *Awnings, decks, patios, and screen porches.* Shall be limited to a combined 200 square feet and must remain within their designated campsite.
- (8) Each camping unit is separated from other camping unit by at least 40 feet. Individual campsite accessory uses listed above are allowed to be less than 15 feet from the camping unit in the same campsite.
- (9) Operator/owner must have 24-hour contact number available to the public.
- (10) All pets must be contained on the rental property unless they are on public property.
- (11) Property lines must be surveyed with boundaries clearly staked by a professional land surveyor.
  - (a) All conditions that apply to campers shall be provided at check in.
- (12) Applicant and renters must comply with all applicable federal, state, county, and local laws and regulations and must remain free from citation and charges for nuisance, disorderly conduct, or any other illegal activity.
- (13) Existing septic system to pass inspection and adequate sanitary facilities must be provided. A toilet shall be provided within 200 feet from all camping units.
- (14) Owner or operator must reside onsite.
- (15) Any advertisement shall include the land use permit number and the health department license number.

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- (16) At least one maintained fire extinguisher, first aid kit, and emergency phone shall be provided for every 20 camping units in the campground.
  - (17) A site map shall be provided, and it shall include the location of campsites, roads, property lines, required setbacks, structures, water and sewer layout, recreation areas, emergency equipment/plans, and any other information deemed necessary. Any proposed changes shall be presented to the zoning office for approval with a new site map. No changes to a travel trailer park may be started without written approval from the zoning office.
  - (18) All campsites shall be clearly marked and numbered on a sign at each site. Signage providing directions to the nearest emergency telephone, first aid kit, and fire extinguisher shall also be posted in public view. A site map shall be provided to the zoning office, public health department, and be available to all campground occupants.
  - (19) A register shall be maintained containing the name of the principal campsite occupant and the number in the party.
  - (20) There shall be two automobile parking spaces for each trailer site. Each parking space shall be a minimum of 200 square feet (10 feet by 20 feet).
  - (21) There shall be a minimum setback of 50 feet from any camping unit or individual campsite accessory use to the exterior lot lines of the travel trailer park. Each travel trailer shall meet the 75-foot ordinary high water mark setback.
  - (22) The travel trailer park site shall meet all applicable town and county subdivision regulations.
  - (23) One single-family dwelling unit is allowed on the premises, for the owner's or operator's private use. This dwelling cannot be rented on a short-term basis as a tourist rooming house or transient lodge.
  - (24) Any navigable water access shall be limited to the number of docks and watercraft allowed by the DNR, without being classified as a marina.
  - (25) Applicant must obtain all proper licensing, including the public health department license under ATCP 79, Wisconsin Administrative Code, including but not limited to:
    - (a) Campsites shall not be in an area that is subject to an accumulation of water or in any other area that would constitute a health or safety hazard.
    - (b) Campsites may not be located within 100 feet of a barn or enclosure housing an animal, petting zoo, or other sources of odors or flies.
    - (c) Potable water under pressure shall be provided and located not more than 400 feet from each individual campsite. Water coolers and bottled water are not sufficient.
    - (d) Private well water shall be tested for bacteria annually and Nitrate at least once.
    - (e) Water riser pipes shall extend at least 18 inches above the ground with the outlet pointing down. A backflow device shall also be provided on all outlets.
    - (f) A backup toilet for each gender must be provided.
    - (g) A sanitary dump station is required unless there are 20 or fewer campsites or the distance to the nearest available sanitary dump station is 25 or fewer miles from the campground and the operator has a written agreement that allows campers who stay at the campground to dispose of wastewater at the sanitary dump station.

(Ord. No. 08-20, art. 19, 4-21-2020; Res. No. 48-21, § 1, 11-9-2021; Res. No. 15-22, § 1, 3-15-2022)

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**Sec. 42-313. Sanitary Regulations.**

- (A) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
- (B) Where a public sewage collection and treatment system is not available, design and construction of private on-site wastewater treatment systems shall, prior to July 1, 1980, be required to comply with ch. SPS 383, Wis. Adm. Code, and after June 30, 1980, be governed by a private sewage system ordinance adopted by the county under s. 59.70(5), Stats.

**Secs. 42-314—42-336. Reserved.**

*DIVISION 5. ADMINISTRATION AND ENFORCEMENT*

**Sec. 42-337. Administrative provisions.**

- (A) *Zoning administrator.* The zoning department staff shall have the following duties and powers ~~and the land and water resources department shall assist in the same:~~
- (1) Advise applicants on the provisions of this article and assist them in preparing permit applications and appeal forms.
  - (2) Issue permits and ~~inspect regular inspections of~~ properties for compliance with this article.
  - (3) Keep records of all permits issued, inspections made, work approved and other official actions.
  - (4) Must have permission to access any premises between 8:00 a.m. and 6.00 p.m. for the purpose of performing duties set forth in this division.  
~~Submit copies of variances, conditional uses and decisions on appeals for map or text interpretation and map or text amendments within ten days after they are granted or denied to the department of natural resources.~~
  - (5) Investigate and report all violations of this article to the environmental services committee.
  - (6) ~~Submission of copies of all proposed land divisions to the appropriate department staff within 10 days after they are submitted to the county for review.~~
- (B) *Zoning permits.* The following applies to the issuance and revocation of permits:
- (1) *When required.* Except where another section of this article specifically exempts certain types of activities or development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before ~~any said activity or development, structural alteration, or repair, as defined in division 2 of this article,~~ establishing uses, land disturbances, new construction, development, reconstruction, structural alteration, or moving of buildings and structures, is initiated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. ~~State agencies are required to comply when Wis. Stats. §13.48(13) applies.~~ The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.2022(1) applies.
  - (2) *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:
    - (a) Name and address of applicant and property owner.

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- (b) Legal description of the property and type of proposed use.
  - (c) A to-scale site plan of the dimensions of the lot and location of buildings from the lot lines, centerline of abutting highways and the ordinary high-water mark at the day of the site plan.
  - (d) ~~Whether or not a private water or septic system is to be installed.~~ Location of sanitary system
  - (e) ~~Building plans that include a set of floor plans and elevation drawings.~~
- (3) *Duration period of land use permits.* Land use permits for land use changes shall expire 12 months from their date of issuance where no action has been taken to accomplish such changes or two years after issuance.
- (C) *Revocation.*
- (1) *Generally.* Where the conditions of a zoning permit, conditional use, or a variance are violated, the same are deemed revoked.
  - (2) *Conditional and permitted uses.* A property with a revoked permit shall be required to wait 12 months before they may apply for another conditional or permitted use.
- (D) *Environmental services committee.* The committee shall be responsible for hearing the following ~~all conditional use permit applications submitted to the county zoning office and the following shall apply to conditional use permits:~~
- (1) **Conditional Use Permits**
    - (a) Application for a conditional use permit. Any use listed as a conditional use in this article shall be permitted only after an application has been submitted and an appropriate application fee paid to the zoning administrator and a conditional use permit has been granted by the environmental services committee.
    - (b) *Standards applicable to all conditional uses.* In reviewing a conditional use permit, the environmental services shall evaluate the effect of the proposed use upon the following criteria:
      - 1. The maintenance of safe and healthful conditions.
      - 2. The prevention and control of water pollution including sedimentation.
      - 3. Existing topographic and drainage features and vegetative cover on the site.
      - 4. The location of the site with respect to floodplains and floodways of rivers and streams.
      - 5. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
      - 6. The location of the site with respect to existing and future access roads.
      - 7. The need of the proposed use for a shoreland location.
      - 8. Its compatibility with uses on adjacent land.
      - 9. The amount of septic waste to be generated and the adequacy of the proposed disposal system.
      - 10. Location factors that:
        - 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

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c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

- (c) Conditions attached to conditional use permit. Upon consideration of the factors listed above, the environmental services committee shall attach such conditions, in addition to those required elsewhere in this article as are necessary to further the purposes of this article. Violations of any of these conditions shall be deemed a violation of this article and result in immediate revocation of the conditional use permit. Such conditions may include, without limitation of a specific enumeration: type of shore cover; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; bonding; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the environmental services committee may require the applicant to furnish, in addition to the information required for a conditional use permit, the following information:
1. A plan of the area showing contours, soil types, ordinary high-water marks, groundwater conditions, bedrock, slope 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 arrangements 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 article.
- (d) Notice and public hearing. Before passing upon an application for a conditional use permit; the environmental services committee shall hold a public hearing. Notice of such public hearing, specifying the time, place, and matters to come before the environmental services committee, shall be given as a class 2 notice under Wis. Stats. ch. 985, and notice shall be provided to the appropriate district office of the department of natural resources at least ten days prior to the hearing as well as all property owners within 300 feet of the site under consideration and the lake district, if a riparian parcel and a lake district exists for that waterbody. The environmental services committee shall state in writing the grounds for refusing a conditional use permit.
- (e) Recording. When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the department of natural resources within ten days after application for the conditional use permit is granted or denied.
- (f) Expiration. Conditional use permits for construction, alteration or removal of structures shall expire 12 months from their date of issuance if no building activity has begun within such time.
- (g) Application for a conditional use permit. Any use listed as a conditional use in this article shall be permitted only after an application has been submitted and an appropriate application fee paid to the zoning administrator and a conditional use permit has been granted by the environmental services committee.

## (2) District Changes and Text Amendments

- (a) Authority. In order to meet the public necessity, convenience, general welfare and promote good zoning practice, the Polk County Board may from time to time amend, supplement, or change by

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ordinance the boundaries of districts or regulations herein established, including the repeal of this zoning ordinance.

- (b) **Effectiveness.** Any and all ordinances which may amend or change this ordinance shall become effective in accordance with provisions of sec. 59.69, Wis. Stats.
- (c) **Initiation.** Petitions for amendment may be initiated by the owner of property that would be affected by the change or amendment, by the County Board, by the Environmental Services Committee, or by any member of the County Board, town board, the owner's agent, or the Zoning Administrator.
- (d) **Petitions.** Petitions for amendments shall be made on forms approved by the Committee and made available from the Zoning Department.
- (e) **Procedure.** The procedures of sec. 59.69(5), Wis. Stats., shall apply to any amendment.

(E) **Board of adjustment.** See chapter 2- Administration, article 4- Board, Commissions, and Similar Bodies, Division 2. Board of Adjustment. Subject to confirmation of the county board, the county administrator shall appoint a board of adjustment under Wis. Stats. § 59.694, consisting of five members, with no less than one of the members being a riparian landowner. The county board shall adopt rules for the conduct of the business of the board of adjustment as required by Wis. Stats. § 59.694(3). The board of adjustment shall have the following powers and duties:

- (1) **Authorization of variances.** It may authorize upon application, in specific cases, such variances from the terms of the ordinance as shall not be contrary to the public interest, where owing to special conditions, and a literal enforcement of the ordinance will result in unnecessary hardship. In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property, which is prohibited in that zoning district by this article.
- (2) **Appeals to the board of adjustment.** Appeals to the board of adjustment may be taken 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 taken within 30 days, as provided by the rules of the board of adjustment, by filing with the officer from whom the appeal is taken, and with the board of adjustment, a notice of appeal specifying the ground thereof. The zoning administrator or other officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appeal was made.
- (3) **Hearing appeals and variances.** The following procedures shall be taken in hearing any appeals:
  - (a) The board of adjustment shall fix a reasonable time for the hearing of the appeal. The board shall give public notice thereof by publishing a class 2 notice under Wis. Stats. ch. 985, specifying the date, time and place of hearing and the matters to come before the board, and shall provide notices to the parties within 300 feet of the site under consideration, the appropriate lake district, if applicable, and the appropriate district office of the department of natural resources at least ten days prior to the public hearing.
  - (b) A decision regarding the appeal shall be made as soon as practical and a copy shall be submitted to the department of natural resources within ten days after the decision is issued.
  - (c) 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 chairperson 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 persecution or grant the application.

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

(e) All decisions may be reviewed by a court of competent jurisdiction

(F) *Fees.* The environmental services committee may, by motion, adopt fees for the following:

- (1) Land use permits.
- (2) Erosion control plan reviews.
- (3) Stormwater management plan review.
- (4) Variances.
- (5) Legal notice publications.
- (6) Conditional use permits.
- (7) Appeals to the board of adjustment.
- (8) Amendments of ordinance on petition.

(Ord. No. 08-20, art. 20, 4-21-2020; Res. No. 07-23, § 1, 3-21-2023; Res. No. 07-24, § 1, 3-19-2024)

**Secs. 42-338—42-362. Reserved.**