

CHAPTER 22

SHORELANDS AND WETLANDS

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

22.01 STATUTORY AUTHORIZATION. This ordinance (Chapter 22) for shoreland protection is adopted pursuant to the authorization contained in Sections 59.69, 59.692, 59.694 and 281.31, Wis. Stats. NR 115 Wisconsin Administrative Code. These rules and laws shall apply until amended and then shall apply as amended.

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

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

(1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

(a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.

(b) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.

(c) Controlling filling and grading to prevent serious soil erosion problems.

(2) Protect spawning grounds, fish and aquatic life through:

(a) Preserving wetlands and other fish and aquatic habitat.

(b) Regulating pollution sources.

(c) Controlling shoreline alterations, dredging and lagooning.

(3) Control building sites, placement of structures and land uses through:

(a) Separating conflicting land uses.

(b) Prohibiting certain uses detrimental to the shoreland area.

(c) Setting minimum lot sizes and widths.

(d) Regulating side yards and building setbacks from waterways.

(4) Preserve 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 bathhouses and other structures.

22.04 TITLE. This ordinance constituting Chapter 22 of the Brown County Code, shall be known, cited and referred to as: The Shorelands and Wetlands Ordinance for Brown County, Wisconsin.

GENERAL PROVISIONS

22.05 AREAS TO BE REGULATED. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas in Brown County and any incorporated areas in Brown County that contract with Brown County, unless those incorporated areas have adopted their own shoreland and wetland ordinance that is as restrictive or more restrictive than this ordinance.

(1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds, or flowages. Lakes, ponds or flowages in Brown County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Brown County" or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

(2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Brown County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey Quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

(3) Determinations of navigability and ordinance high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.

(4) Under s. 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river;
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in nonstructural agricultural use.

(5) The Brown County Private Sewage System Ordinance (Chapter 11 of this Code), the Brown County Floodplains Ordinance (Chapter 23 of this Code) and the Brown County Subdivision Ordinance (Chapter 21 of this Code) as referred to in this ordinance have been adopted separately and are applicable throughout Brown County where there is jurisdiction.

22.06 SHORELAND ZONING MAPS. The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Brown County.

(1) United States Geological Survey Quadrangle Maps for Brown County. (most recent)

(2) Wisconsin Wetland Inventory maps received on June 5, 1990 and January 12, 1993 and revised maps as received.

(3) Floodplain Zoning Maps as indicated in Ch. 23 Floodplains.

22.07 COMPLIANCE. The use of any land or water; the size, shape, and placement of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see Section 22.37 for standards applicable to nonconforming uses.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

22.08 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. If cities or villages have their own shoreland ordinance it must meet the minimum requirements of ch. NR 115, Wis. Adm. Code. State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.12(4)(a), Wis. Stats., applies.

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

(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) The following provisions of the Brown County Floodplains Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

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

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

LAND DIVISION

22.12 REVIEW. The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review the following factors shall be considered:

- (1) Hazards to the health, safety or welfare of future residents.
- (2) Proper relationship to adjoining areas.
- (3) Public access to navigable waters, as required by law.
- (4) Adequate storm drainage facilities.
- (5) Conformity to state law and administrative code provisions.

DIMENSIONS OF BUILDING SITES

22.13 LOTS NOT SERVED BY PUBLIC SANITARY SEWER.

(1) Minimum area and width for each main building. The minimum lot area shall be 40,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high-water mark.

(a) Smaller lots allowable under the Brown County Subdivision Ordinance (Chapter 21) of the Brown County Code under Plan Unit Developments or Conservation Designed Subdivisions. A minimum common area of 100 feet in depth must be maintained from the ordinance high-water mark to any substandard lot as defined by NR 115.

22.14 LOTS SERVED BY PUBLIC SANITARY SEWER.

(1) Minimum area and width for each main building. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet with at least 65 feet of frontage at the ordinary high-water mark.

(a) Smaller lots allowable under the Brown County Subdivision Ordinance (Chapter 21) of the Brown County Code under Plan Unit Developments or Conservation

Designed Subdivisions. A minimum common area of 100 feet in depth must be maintained from the ordinary high-water marks to any substandard lot as defined by NR 115.

22.15 SUBSTANDARD LOTS.

(1) Substandard lots served by a public sanitary sewer: A substandard lot served by a public sanitary sewer which is at least 7,000 sq. ft. in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the ordinary high-water mark may be used as a building site for a single family dwelling upon issuance of a shoreland permit by the zoning administrator if it meets all of the following requirements:

(a) The lot was on record in the County Register of Deeds office prior to March 19, 1969.

(b) The lot was in separate ownership from abutting lands prior to the effective date of this ordinance. If abutting lands and the substandard lot were owned by the same owner as of the effective date of this ordinance, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance, including minimum area and width requirements found in sections 22.13 and 22.14 of this ordinance.

(c) All other dimensional requirements of this ordinance will be complied with.

(2) Substandard lots not served by public sewer: A substandard lot not served by public sanitary sewer which is at least 10,000 sq. ft. in area and at least 65 feet in width at the building setback line and at least 65 feet in width at the ordinary high-water mark may be used as a building site for a single-family dwelling upon issuance of a shoreland permit by the zoning administrator if it meets all of the requirements of section 22.15(1)(a)(b)(c) of this ordinance. The provisions of the Brown County Private Sewage System Ordinance (Chapter 11) shall also apply.

(3) Other substandard lots: Except for lots which meet the requirements of sections 22.15(1) or 22.15(2), a shoreland permit for the improvement of a lot having lesser dimensions than those stated in sections 22.13 and 22.14 shall be issued only after granting of a variance by the Board of Adjustment.

(4) Lots in Cluster Subdivisions: Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the Brown County Subdivision Ordinance (Chapter 21) and Brown County Private Sewage System Ordinance (Chapter 11).

SETBACKS FROM THE WATER

22.16 LOTS THAT ABUT NAVIGABLE WATER. All buildings and structures, which also include decks, patios, fences, gazebos and screen houses shall be set back at least 75 feet from the ordinary high-water mark of navigable water (See sec. 22.20 Shoreland Permit-Special). Boathouses, boat hoists, piers, stairways, and landings are exempt from this setback provided that stairways and landings are essential for access to the water.

(1) Standards for access: A stairway, walkway or lift is permitted in the shoreland setback area only when it is essential to provide pedestrian access to the pier because of steep slopes, rocky or wet, unstable soils, and when the following conditions are met:

(a) There are no other locations or facilities on the property which allow adequate access to a pier. Only one stairway or one lift is allowed, not both, except where

there is an existing stairway and the lift will be mounted to or is immediately adjacent to the existing stairway.

(b) Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas.

(c) They must be constructed in a way that minimizes soil and vegetative disturbance.

(d) Vegetation which stabilizes slopes or screens structural development from view shall not be removed.

(e) Structures shall be colored and screened by vegetation so as to be inconspicuous when viewed against the shoreline.

(f) Canopies, roofs and sides are prohibited. Open railings may be provided where required for safety.

(g) A maximum width of 4 feet (outside dimension) is allowed for stairways, walkways and lifts.

(h) Landings are allowed when required for safety purposes and shall not exceed 40 square feet. Attached benches, seats, tables, etc., are prohibited.

(i) Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavating that is proposed must comply with the requirements of this ordinance (See sections 22.28 and 22.29).

(2) The Zoning Office staff or local Department representative shall determine the ordinary high-water mark where not established.

22.17 REDUCED BUILDING SETBACKS. A setback less than the normal 75 foot setback required may be permitted for a principal building by the zoning administrator where there is at least one principal building within 300 feet on either side of the subject lot that is built less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest principal building on each side of the proposed site or, if there is an existing principal building on only one side, the setback shall be the average of the existing building's setback and the required setback. No structure shall be permitted closer than 40 feet to the ordinary high-water mark using setback average unless a variance is obtained from the Board of Adjustment pursuant to section 22.43 of this ordinance.

22.18 CRITICAL SLOPE SETBACK. All residential, commercial or industrial structures shall be set back a minimum of 20 feet from the top ridgeline of a 20% or greater slope measured to the foundation. Elevation change will be analyzed to determine how steep or significant the slope is to decide the applicability of this section. Decks, patios, stairways, fences, gazebos, screen houses, pools, boathouses and storage sheds can be located within the 20 foot setback but must not exceed a building footprint of 500 square feet. If a geotechnical study is completed for the proposed area, a shoreland permit may be issued for a structure within the 20 foot setback subject to being constructed following the recommendations of the study. A certificate of compliance will need to be completed by the responsible architect or engineer after construction and prior to occupancy. This certificate must be returned to the Zoning Office within 60 days of completion of the project.

(1) Special exceptions. A special exception permit shall be required for the following:

(a) For any proposed encroachment into the critical slope setback not identified in 22.18.

22.19 BOATHOUSES.

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

(2) Boathouses shall set back a minimum 5 feet from the ordinary high-water mark.

(3) Only one boathouse is permitted on a lot.

(4) All boathouse construction or repair shall be constructed utilizing accepted soil and water conservation practices and any erosion control.

(5) No decks or platforms are permitted on the boathouse.

(6) Boathouses shall have at least a 6/12 pitch.

(7) Boathouses shall not exceed 500 square feet in area.

22.20 SHORELAND PERMIT – SPECIAL. As authorized under s.59.692(1v), Wis. Stats., a special shoreland permit can be issued for a structure within the shoreland setback area if all of the following conditions are met:

(1) The part of the structure that is nearest the water is located at least 35 feet landward from the ordinary high-water mark.

(2) The total floor area of all the structures existing and proposed in or extending into the shoreland setback area of the property shall not exceed 200 square feet. In calculating this square footage, boathouses, boat hoists, piers, wharves, stair and landing shall be excluded.

(3) The structure that is the subject of the request for a special shoreland permit has no sides or has open or screened sides, and has a maximum height from the lowest grade to the highest point of any structure of 15 feet. Any permitted roof shall not be designed or used as a deck, observation platform, or for other similar uses. The color of the structure or the use of the structure must not be prohibited by other zoning regulations or deed restrictions (e.g. floodplain regulations). Retaining walls are not included in this classification since they have solid, not open sides.

(4) The owner(s) or their agent must submit a plan that will be implemented by the owner of the property to establish, preserve, enhance and/or restore a vegetative buffer zone that covers 70% of the half of the shoreland setback area that is nearest the water. The plan must be approved by the Department.

(a) The shoreland setback for the purpose of this section shall be 75 feet or a lesser setback that has been approved by setback averaging, variance, or is a preexisting non-conforming setback.

(b) For the plan to be approved, it must be binding on the owner, his/her heirs, successors, and assignees, and must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan. The agreement shall be written and

recordable on forms provided by the zoning Office and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.

(c) Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the Zoning Office to revoke the special shoreland permit and order the removal of any structure(s) authorized by a special shoreland permit.

(d) To be considered for approval, a plan to establish, preserve, enhance and/or restore a vegetative buffer zone shall, at minimum, contain:

1. A description of how the landowner intends to carry out the project, including methods, materials and equipment to be used;
2. A proposed schedule and sequence of work activities;
3. The names, descriptions and densities of native species to be utilized in the restoration work, including ground cover, shrubs and tree layers;
4. A description of the site before the project begins and a description of the proposed site once the buffer is completed; and
5. The erosion control measures that will be used during construction of the permitted structure and vegetative buffer zone to control sediment, runoff and protect water quality.

(e) To be considered for approval, a plan to establish, preserve, enhance, and/or restore an existing native vegetative buffer zone shall, at a minimum, contain:

1. A description of how the homeowner intends to maintain the buffer including "nowing" plans;
2. Supplemental plantings of native species;
3. Removal of non-native species (e.g. purple loosestrife); and
4. The erosion control measures that will be used during construction of the permitted structure and any disturbance in the vegetation buffer zone due to planting or removal of non-natives to control sediment, runoff and protected water quality.

(f) The plan must be implemented and the vegetative buffer planted and vegetation must be viable, growing condition for at least one growing season before a special shoreland permit to build a structure is granted or approval must be obtained from the Department based on a field onsite of the property.

(g) A shoreland grading permit may be required to implement a vegetative buffer zone plan.

(h) Removal of the shore yard structure will not relinquish the recorded agreement or permit the removal, destruction, degradation and/or reduction in size of the shoreland vegetative buffer.

22.21 SHORELAND – AGRICULTURAL. The following uses shall be permitted within the Shoreland District or as defined by the Brown County Land Conservation Department on their most current hazard maps to the extent that they are not prohibited in a particular area

by any underlying zoning ordinance. The hazard maps can be found at the Brown County Land Conservation Department or their website:

http://www.co.brown.wi.us/Land_Consevation/HazMaps/index.html

(1) Agricultural uses are permitted provided they comply with the provisions of the ordinance.

(a) A minimum of 35 feet of land free of row crops and seeded to grass, alfalfa, or other close-growing crop shall be maintained between the farmed area and the edge of the navigable stream; navigable stream crossings shall be permitted for livestock and shall be of a design deemed appropriate by the County Land Conservation Department. A farmer may be exempt from this section if soil and water conservation practices are deemed sufficient and no pollution is occurring in the opinion of the County Land Conservation Department.

(b) If there is a pollution problem resulting from the grazing or pasturing of livestock, the farmer/operator will be required to erect a fence no closer than 16-1/2 feet of the edge of the navigable stream or otherwise abate the pollution in such a manner as may be determined by the County Land Conservation Department. If a fence has to be erected, provision will be allowed for watering livestock in the navigable stream.

REMOVAL OF SHORE COVER

22.22 PURPOSE. The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion, and reduce effluent and nutrient flow from the shoreland. The provisions shall not apply to the removal of dead, diseased, or dying trees or shrubbery at the discretion of the landowner, or to silvicultural thinning upon recommendation of a Department forester.

22.23 SHORELINE CUTTING. Tree and shrubbery cutting in an area parallel to the ordinary high-water mark, and extending 35 feet inland from all points along the ordinary high-water mark, shall be limited in accordance with the following provisions:

(1) No more than 30 feet in any 100 feet, or 30% for lots less than 100 feet as measured along the ordinary high-water mark, may be clear cut to the depth of the 35 foot area.

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

(3) Any natural shrubbery removed exceeding the standards set in 22.23(1) and 22.23(2) shall be replanted at the owner's expense.

22.24 PATHS AND ROADS. Any path, road or passage within the 35 foot area shall be constructed and surfaced so as to effectively control erosion. The access for vehicles shall not exceed 10 feet in width or run parallel to the ordinary high-water mark within 35 feet.

22.25 CUTTING PLAN. As an alternative to section 22.23, a special cutting plan allowing greater cutting may be permitted by the Board of Adjustment by issuance of a special exception permit, pursuant to section 22.42. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the

land, existing vegetation, proposed cutting and proposed replanting. The Board may grant such a permit only if it finds that such special cutting plans:

(1) Will not cause undue erosion or destruction of scenic beauty.

(2) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the board may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.

(3) Is approved by the Department.

22.26 CUTTING MORE THAN 25 FEET INLAND. From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

22.27 COMMERCIAL FORESTRY. From the inland edge of the 35-foot strip to the outer limits of the shoreland jurisdictional area, the commercial harvesting of trees shall be allowed when accomplished under accepted forest management practices. The maintenance and improvement of water quality shall be emphasized in all timber harvesting operations. The purpose of this order will favor long-lived species adapted to the site and will prescribe slash disposal methods necessary for aesthetic value.

FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING

22.28 GENERAL STANDARDS. Erosion control is required as per Best Management Practices. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 22.29 may be permitted in the shoreland area provided that:

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

(2) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 22.34(2) and 22.34(3) of this ordinance.

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

(4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

22.29 PERMIT REQUIRED.

(1) Filling, grading, lagooning, dredging, ditching and excavating. Erosion control is required as per Best Management Practices. A permit is required for any shoreland area as defined in this ordinance and on which there is either:

(a) At least 1,000 square feet of filling, grading and excavating.

(b) Filling of more than 500 square feet within 100 feet of any shoreland wetland.

(c) Not more than 20,000 square feet of filling, grading and excavating within 100 feet of a navigable water.

(2) Special exceptions. A special exception permit shall be required for the following:

(a) For any filling, grading or excavating of any area within the shoreland district which is within 100 feet horizontal distance of a navigable water and on which there is:

1. Filling, grading and excavating greater than 20,000 square feet.

(b) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high-water mark of a navigable body of water.

(c) This subsection (2) does not apply to soil conservation practices such as terraces, runoff diversions, grassed waterways, waste storage facilities, and channel restoration, which are used for sediment retardation. All projects designed by other Brown County departments, DNR, USF & WS, NRCS, and other governmental departments will not require a special exception permit, only a shoreland permit will be required. The shoreland permit fee will be waived when the agency designing the project will have direct supervision over the construction. A letter must be provided to this office by that agency upon completion indicating the project was completed as permitted. The DOT is exempt from permit requirements when section 30.12(4)(a), Wisconsin Statutes, applies.

(d) Municipal projects designated by licensed architects or engineers will not require a special exception permit, only a shoreland permit will be required

(3) Conditions. In issuance of a shoreland permit or in granting a special exception permit for filling or grading, the Board or Zoning Office may attach the following conditions in addition to the provisions specified in Section 22.42 that:

(a) The smallest amount of bare ground be exposed for as short a time as feasible.

(b) Temporary ground cover such as mulch be used and permanent cover such as sod be planted.

(c) Diversions, silting basins, terraces, and other methods to trap sediment be used.

(d) Fill is stabilized according to accepted engineering standards.

(e) Fill will not restrict a floodway or destroy the storage capacity of a floodplain.

(f) Sides of a channel or artificial watercourse be stabilized to prevent slumping.

(g) Sides of channels or artificial watercourses be constructed with side slopes of two units horizontal distance to one unit vertical or flatter, unless bulkheads or riprapping are provided.

(h) In shoreland areas with no floodplain mapped a minimum 35 foot no fill area is required from the ordinary high-water mark. If floodplain analysis is submitted and approved by the Department the 35 foot no fill area may be reduced.

22.30 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.

(1) Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under section 22.29 when designated and constructed to natural Resource Conservation Service technical standards.

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

(a) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under section 22.29(2) is obtained.

(b) Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.

(c) Ditch banks shall be maintained in a sod cover and free of woody vegetation.

(d) A 12 foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

22.31 PERMIT CONDITIONS. In granting a special exception permit under section 22.29(2), the Board of Adjustment shall attach the following conditions, where appropriate, in addition to those provisions specified in sections 22.42(2) and 22.42(3):

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

(2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

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

(4) Lagoons shall be constructed to avoid fish trap conditions.

(5) Fill shall be stabilized according to accepted engineering standards.

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

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

SHORELAND-WETLAND DISTRICT

22.32 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of five acres or more shown on the Brown County Wetlands Zoning Maps adopted by the Brown County Board of Supervisors on January 19, 1983. The Brown County Wetland Zoning Maps are based on the Wisconsin Wetland Inventory Maps stamped received on June 5, 1990 and January 12, 1993 which are hereby adopted and incorporated by reference and revised maps as received. Any wetlands of two acres or more shown on the Wisconsin Wetland Inventory Maps which have not been rezoned pursuant to Section 22.36 of this ordinance shall be subject to the provisions of this ordinance to the same extent as if shown on the Brown County Wetland Zoning Maps.

Provisions of this section shall apply only to navigable waters shown on the USGS Quad maps or determined to be navigable based on written navigability determinations by the Department.

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

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

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

(1) Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 22.34(2) or 22.34(3).

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

(f) The construction and maintenance of duck blinds;

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

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

(b) The cultivation of cranberries including flooding, dike and dame construction or ditching necessary for the growing and harvesting of cranberries;

(c) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;

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

(e) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and

(f) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(3) Uses which require the issuance of a shoreland permit under section 22.40 and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

(a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:

1. The road cannot, as a practical matter, be located outside the wetland;

2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 22.36(2);

3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

4. Road construction activities are carried out in the immediate area of the roadbed only.

(b) The construction or maintenance of nonresidential buildings provided that:

1. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district.

2. The building cannot, as a practical matter, be located outside the wetland;

3. Such building is not designated for human habitation and does not exceed 500 square feet in floor area; and

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

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

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

2. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 22.34(3)(a)1-4.

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

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

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

b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 22.36(2).

22.35 PROHIBITED USES. Any use not listed in sections 22.34(1), 22.34(2) or 22.34(3) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 22.36 of this ordinance and s.59.97(5)(e), Wis. Stats.

22.36 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

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

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

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

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

(d) Written notice of the county board's decision on the proposed amendment 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) Storm and flood water storage capacity;

(b) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of ground water 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 waters;

(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 notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 22.36(2) of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During this 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s.59.971(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s.59.971(6) adoption procedure is completed or otherwise terminated."

NONCONFORMING

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

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

(2) The maintenance and repair of nonconforming boathouses that extend waterward beyond the ordinary high-water mark of any navigable waters shall comply with the requirements of s. 30.121, Wis. Stats.

(3) If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommended.

(4) Uses which are nuisances shall not be permitted to continue as nonconforming uses.

(5) No structural alteration, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure, over the life of the building or structure, shall exceed 50 percent of its current estimated fair market value unless it is permanently changed to conform to the requirements of this ordinance.

(6) If the alteration, addition or repair of a building or structure with a nonconforming use or a nonconforming building or structure is prohibited because it is in excess of 50 percent of the current estimated fair market value, the property owner may still make the proposed alteration, addition or repair if:

(a) A nonconforming use is permanently changed to a conforming use;

(b) The property owner appeals the determination of the zoning administrator and either the County Board of Adjustment or the circuit court find in the property owner's favor under ss.59.99(4) or 59.99(10), Wis. Stats.

(c) The property owner successfully petitions to have the property rezoned by amendment to this ordinance in accordance with section 22.46 of this ordinance and s.59.97(5)(e), Wis. Stats.

ADMINISTRATIVE PROVISIONS

22.38 PLANNING, DEVELOPMENT AND TRANSPORTATION COMMITTEE.

(1) The committee shall oversee the functions of the Zoning Office; review and make recommendations to the Board of all proposed amendments to the shorelands and wetlands zoning ordinance map and text; and maintain a complete public record of all its proceedings.

(2) The Planning, Development and Transportation Committee shall not grant variances or special exceptions to the terms of the ordinance.

22.39 ZONING OFFICE. There is hereby created the Zoning Office. The Zoning Office shall exercise the following duties and powers:

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

(2) Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.

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

(4) Provide copies of variances, special exceptions and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted to or denied to the appropriate district office of the Department.

(5) Have access to any structure or premises between 7:30 a.m. and 4:30 p.m. for the purpose of performing his/her duties.

(6) Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.

22.40 SHORELAND PERMITS.

(1) When required. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 22.34(1) and 22.34(2), a shoreland permit shall be obtained from the zoning administrator before any new development, as defined in section 22.48(2)(f), or any change in the use of an existing building or structure, is initiated.

(2) Application. An application for a shoreland permit shall be made to the zoning administrator upon forms furnished by the county.

(a) Erosion control is required as per Best Management Practices.

(3) Expiration of permit. Shoreland permits shall expire 24 months from date of issuance.

22.41 RELAXATION OF STANDARDS FOR PERSONS WITH DISABILITIES APPLIES TO ALL SHORELAND AREAS. The Zoning Office may issue a shoreland permit to relax the standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions of federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.

22.42 SPECIAL EXCEPTION PERMITS.

(1) Application for a special exception permit. Any use listed as a special exception in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a special exception permit has been granted by the Board of Adjustment.

(2) Standards applicable to all special exceptions. In passing upon a special exception permit, the Board of Adjustment shall evaluate the effect of the proposed use upon:

(a) The maintenance of safe and healthful conditions.

(b) The prevention and control of water pollution including sedimentation.

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

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

(e) The location of the site with respect to existing or future access roads.

(f) The need of the proposed use for a shoreland location.

(g) Its compatibility with uses on adjacent land.

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

(i) Location factors under which:

1. Domestic uses shall be generally preferred;

2. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;

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

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

(a) A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.

(b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.

(c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.

(d) Specifications for areas of proposed filling, grading, lagooning or dredging.

(e) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

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

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

(6) Revocation. Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the Board of Adjustment.

22.43 VARIANCES.

(1) Decision. The Board of Adjustment may grant upon appeal a variation from the dimensional standards of this ordinance where an applicant convincingly demonstrates that:

(a) Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;

(b) The hardship is due to special conditions unique to the property; and

(c) Such variance is not contrary to the public interest.

(2) No use variance. A variance shall not grant or increase any use of property which is prohibited in the zoning district.

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

22.44 BOARD OF ADJUSTMENT. The County Executive shall appoint a Board of Adjustment consisting of 3 members under s.59.99, Wis. Stats. The county board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by s.59.99(3), Wis. Stats.

(1) Powers and duties.

(a) The board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.99, Wis. Stats.

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

(c) It shall hear and decide applications for special exception permits pursuant to section 22.42.

(d) It may grant a variance from the dimensional standards of this ordinance pursuant to section 22.43.

(e) In granting a special exception permit or variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to effect the purpose of this ordinance.

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

(3) Hearing appeals and applications for variances and special exception permits.

(a) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.

(b) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 10 days after they are granted or denied.

(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 chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of

the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

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

22.45 FEES. As established in the annual County budget.

ORDINANCE CHANGES

22.46 CHANGES AND AMENDMENTS. The county board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of s. 59.97(5)(e), Wis. Stats., ch. NR 115, Wis. Adm. Code and section 22.36 of this ordinance where applicable.

(1) Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.97(5)(e), Wis. Stats.

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

(3) A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within 10 days after the decision is issued.

VIOLATIONS

22.47 ENFORCEMENT AND PENALTIES.

(1) Any violation of the provisions of this ordinance by any person, firm, association, corporation (including building contractors) or his/her or their agent is hereby declared to be unlawful. A violator shall, upon conviction, forfeit to the county a penalty as specified under Chapter 30, Brown County Code. Each day during which such violation exists shall constitute a separate offense.

(2) Every violation of this ordinance is a public nuisance, and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the county, the state, or any citizen thereof. Any such violator may be required to forfeit as specified under Chapter 30. Each day during which such violation exists shall constitute a separate offense.

EXPLANATION OF TERMS AND WORDS

22.48 DEFINITIONS.

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

(2) The following terms or words used in this ordinance mean:

(a) "ACCESSORY STRUCTURE OR USE" – means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.

(b) "AGRICULTURAL PRACTICE" – has the meaning found in s.281.16(1)(b), Stats.

NOTE: Section 281.16(1)(b), Stats., defines "agricultural practice" to mean "beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising."

(c) "BOATHOUSE" – means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.

(d) "COUNTY ZONING AGENCY" – means that committee or commission created or designated by the county board under s. 59.97(2)(a), Wis. Stats., to act in all matters pertaining to county planning and zoning.

(e) "DEPARTMENT" – means the Department of Natural Resources.

(f) "DEVELOPMENT" – means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.

(g) "DISABLED" – means having a physical or mental impairment that substantially limits one or more major life activities.

(h) "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.

(i) "FLOODPLAIN" – means the land which has been or may be hereafter covered by flood water during the regional flood as shown on the county's official floodplain zoning maps. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general

watershed region, or both. The flood frequency of the regional flood is once in every 100 years. In any given year, there is a 1% chance that the regional flood may occur.

NOTE: "Floodway" is defined in s.NR 116.03(22) to mean "the channel of a river or stream, and those portions of the floodplain adjoining the channel required to carry the regional flood discharge."

(j) "NAVIGABLE WATERS" – has the meaning found in s.281.31, Stats.

NOTE: Section 281.31(2)(d), Stats., defines "navigable water" or "navigable waters" to mean "Lake Superior, Lake Michigan, all natural inland lakes within this state and all streams, ponds, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of the boundary waters, which are navigable under the laws of this state".

Section 281.31(2m), Stats., also provides that, notwithstanding any other provision of law or administrative rule, a shoreland zoning ordinance required under s.59.692, Stats., "does not apply to lands adjacent to farm drainage ditches if:

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

(k) "ORDINARY HIGH-WATER MARK" – means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

(l) "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.

(m) "REASONABLE ACCOMMODATION" – means allowing a disabled person to deviate from the strict requirements of the county's zoning ordinances if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity.

NOTE: Federal courts have interpreted the "reasonable accommodations" requirement in the Federal Fair Housing Act to mean that an accommodation is reasonable "if it does not cause any undue hardship or fiscal or administrative burdens on the municipality, or does not undermine the basic purpose that the zoning ordinance seeks to achieve." *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1186 (E.D.N.Y. 1993)

(n) "SHORELANDS" and "SHORELAND ZONE" – have the meaning found in s.59.692 under s.281.31(2)(d):

NOTE: Section 59.692(1)(b), Stats., defines "shorelands" to mean "the area within the following distances from the ordinary high-water mark of navigable waters, as defined under s.281.31(2)(d):

1. One thousand feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the ordinary high-water mark of the lake.

2. Three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(o) "SHORELAND-WETLAND DISTRICT" - means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.

(p) "SPECIAL EXCEPTION (CONDITIONAL USE)" - means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Adjustment or, where appropriate, the planning and zoning committee or county board.

(q) "STRUCTURE" - means any man-made object with forms, shape and utility, that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a river bed, stream bed or lake bed or upon another structure. For the purpose of this chapter, the term "structure" includes camping units, swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork including graded areas, filled areas, ditches, berms, or earthen terraces. The term "structure" does not include small objects that are easily moved by hand, such as canoes, kayaks, lawn chairs, portable grills, portable picnic tables, temporary snow fences, small temporary fences around individual plants or small groups of plants to prevent animal herbivory, bird feeders, birdhouses and birdbaths.

(r) "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 purpose of this ordinance.

(s) "VARIANCE" - means an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.

(t) "WETLAND" - has the meaning found in s23.32(1), Stats.

NOTE: Section 23.32(1), Stats., defines "wetland" to mean "an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions."