

**Shoreland/Wetland Ordinance**  
**Iowa County, Wisconsin**

**Available at:**  
**Iowa County Office of Planning & Development**  
**222 N. Iowa Street**  
**Dodgeville, WI 53533**  
**608-935-0398**

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

1.1 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in §§. 59.69, 59.692, 59.694, 87.30, and 144.26, Wis. Stats.

1.2 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Iowa 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 Iowa County, Wisconsin.

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

1.31 FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:

1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
2. Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
3. Controlling filling and grading to prevent serious soil erosion problems.

1.32 PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:

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

1.33 CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:

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

1.34 PRESERVE SHORE COVER AND NATURAL BEAUTY THROUGH:

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

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

1.4 TITLE. Shoreland/Wetland Zoning Ordinance, Iowa County, Wisconsin.

2.0 GENERAL PROVISIONS.

2.1 AREAS TO BE REGULATED. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Iowa County which are:

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

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

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

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

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

2.2 SHORELAND ZONING MAPS. The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the Agency for Iowa County.

- (1) United States Geological Survey Quadrangle Maps for Iowa County of the most recent revision as of this date.

- (2) Wisconsin Wetland Inventory maps stamped "FINAL" on June 21, 1985.
- (3) Floodplain zoning maps identified as Flood Insurance Rate Map and dated January 17, 1979 or as later revised by the Federal Emergency Management Agency.

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

2.4 ADMINISTRATION. This ordinance shall be interpreted and administered by the Agency.

2.5 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply with §13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.12(4)(a), Wis. Stats., applies. Public road projects that are supervised or managed by the Wisconsin Department of Transportation are exempt from the provisions of this ordinance. Said exemption shall require a written statement from a Wisconsin Department of Transportation official proclaiming the project is being supervised or managed by the state.

2.6 ABROGATION AND GREATER RESTRICTIONS. The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under §59.69, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than §59.69, 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.

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

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

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

2.54 This ordinance shall be administered in conjunction with any other land use ordinance or regulation duly adopted by Iowa County.

2.7 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 115, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

2.8 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.

3.0 LAND DIVISION REVIEW REGULATIONS.

3.1 LAND DIVISION REVIEW. When a proposed land division or subdivision is reviewed by the county, as authorized by county ordinance adopted under authority of Chapter 236, Wis. Stats, such review shall consider the following:

- (a) Hazards to the health, safety or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters, as required by law.
- (d) Adequate storm drainage facilities using accepted best management practices.
- (e) Adequate incorporation of best management practices to minimize erosion.
- (f) Conformity to state law and administrative code and provisions.

All newly platted residential subdivisions and/or commercial developments to be located in the Shoreland or Shoreland-Wetland district shall be required to prepare and submit a stormwater management plan. All stormwater runoff from within the proposed development boundaries shall be controlled and/or directed to prevent adverse impacts to the property and neighboring properties. The stormwater management plan shall include the following:

1. Stormwater runoff control measures or devices, including but not limited to the following.
  - a. Diversions, retention/detention ponds and waterways to accommodate a 25 year storm event.
  - b. The retention/detention ponds shall not be located within the boundaries of a mapped wetland.

- c. The retention/detention ponds shall not discharge runoff to streams or waterways classified as trout habitat. Overflow runoff may be discharged to an approved infiltration trench or related diversion.
- d. The stormwater runoff control measures or devices shall be in place and stabilized prior to any site disturbance.
- e. The stormwater management plan shall be designed by a licensed professional engineer.
- f. The stormwater management plan shall describe any security and/or safety measures.
- g. The stormwater management plan shall describe any landscaping and/or site maintenance. Polymers shall be used where practical and in conjunction with seed and mulch.
- h. The stormwater management plan shall describe any measures for removing sediment.

The stormwater management plan shall protect neighboring properties from flooding, increased sediment levels, decreased water quality or any other adverse impact, as measured prior to site development. All stormwater leaving the project site shall be in compliance with all applicable State of Wisconsin water quality standards.

#### 4.0 DIMENSIONS OF BUILDING SITES.

This section shall only apply in unincorporated areas of Iowa County wherein not under the jurisdiction of a county zoning ordinance adopted under the authority of Chapter 59.69 Wis., Stats.

#### 4.1 LOTS NOT SERVED BY PUBLIC SANITARY SEWER.

4.11 MINIMUM AREA AND WIDTH FOR EACH BUILDING. The minimum lot area shall be 1 acre. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary highwater mark.

4.12 SIDE YARDS. There shall be a side yard for each building. The minimum width of one side yard shall be 10 feet. The minimum combined width of both side yards shall be 25 feet.

#### 4.2 LOTS SERVED BY PUBLIC SANITARY SEWER.

4.21 MINIMUM AREA AND WIDTH FOR EACH BUILDING. The minimum lot area shall be 20,000 sq. ft. and the minimum lot width shall be 100 feet at the building site and at least 75 feet of frontage at the ordinary highwater mark.

4.22 SIDE YARDS. The minimum width of one side yard shall be 8 feet. The minimum combined width of both side yards shall be 20 feet.

4.3 SUBSTANDARD LOTS.

4.31 **SUBSTANDARD LOTS SERVED BY A PUBLIC SANITARY SEWER.** A substandard lot served by a public sanitary sewer which is at least 7,500 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 highwater mark may be used as a building site for a single family dwelling upon issuance of a zoning permit by the Agency if it meets all of the following requirements:

- (1) Such use is permitted in the zoning district.
- (2) The lot was on record in the county register of deeds office prior to the effective date of this ordinance.
- (3) 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 4.1 and 4.2 of this ordinance.
- (4) All other dimensional requirements of this ordinance (including side yard and setback) will be complied with.

4.32 **SUBSTANDARD LOTS NOT SERVED BY PUBLIC SANITARY 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 highwater mark may be used as a building site for a single-family dwelling upon issuance of a zoning permit by the Agency if it meets all of the requirements of section 4.31(1)-(4) of this ordinance.

4.33 **OTHER SUBSTANDARD LOTS.** Except for lots which meet the requirements of sections 4.31 or 4.32, a building permit for the improvement of a lot having lesser dimensions than those stated in sections 4.1 and 4.2 shall be issued only after granting of a variance by the board of adjustment.

5.0 SETBACKS FROM THE WATER.

5.1 LOTS THAT ABUT ON NAVIGABLE WATERS. All buildings and structures, except piers, boat hoists, boathouses and open fences which may require a lesser setback, shall be set back at least 75 feet from the ordinary highwater mark of navigable waters.

5.2 REDUCED BUILDING SETBACKS. A setback of less than that required by section 5.1 may be permitted by the Agency where there is at least one main building on either side

of the applicant's lot, within 200 feet of the proposed site that is built to less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest main building on each side of the proposed site or, if there is an existing main building on only one side, the setback shall be the average of the existing building's setback and the required setback. Any other setback reduction may be permitted by the board of Adjustment pursuant to section 10.5 of this ordinance.

### 5.3 BOATHOUSES.

- 5.31 Boathouses shall be designed and constructed solely for the storage of boats and related equipment, shall not be used for human habitation, shall not contain plumbing and shall not be larger than 250 square feet in size.
- 5.32 Boathouses shall not be placed waterward beyond the ordinary highwater mark.
- 5.33 One boathouse is permitted on a lot as an accessory structure.
- 5.34 Construction of boathouses shall not cause the disturbance of existing slopes that are in excess of 20%.
- 5.35 Boathouses shall be set back a minimum five feet from the ordinary highwater mark.
- 5.36 Boathouses shall not exceed one story and 300 square feet in floor area.

### 5.4 EXEMPTED STRUCTURES

The following structures shall be exempt from the setback provisions of this ordinance but still require permits for construction:

- a.) Open sided or screened structures such as gazebos, decks, patios and screen houses that satisfy the requirements in Chapter 59.692(1v) Wis., Stats.
- b.) Satellite dishes and antennas
- c.) Flag poles
- d.) Reasonable accommodations for disabled persons, including the construction or expansion of structures that allow equal access to housing for a disabled person who is entitled to reasonable accommodations under the Americans with Disabilities Act, the federal Fair Housing Act or the Wisconsin Open Housing Law. Fishing piers and other facilities for use by disabled persons may also be allowed within the shoreland setback area of parks, resorts and campgrounds to provide disabled persons with an equal opportunity to participate in waterfront recreational activities provided that the facility is designed and located to minimize any adverse impact on water quality, fish and wildlife habitat and natural scenic beauty.
- e.) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems

that comply with ch. Comm 83, and other utility structures that have no feasible alternative location outside of the shoreland setback area and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure

6.0 REMOVAL OF SHORE COVER.

6.1 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 forester.

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

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

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

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

6.4. CUTTING PLAN. As an alternative to section 6.2, 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 10.4. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The board may grant such a permit only if it finds that such special cutting plans:

(a) Will not cause undue erosion or destruction of scenic beauty, and

(b) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement 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.

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

7.0 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING.

7.1 GENERAL STANDARDS. Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 8.32 and 8.33 of this ordinance.

7.11 It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat. Any activity requiring a permit must include a plan with the permit application for employing best management practices to minimize erosion associated with the project.

7.12 Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 8.32 and 8.33 of this ordinance.

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

7.14 Any fill place in the shoreland area is protected against erosion by the use of riprap, vegetative cover or other best management practice as described in an erosion-control plan to be included with the permit application.

7.2 PERMIT REQUIRED. Except as provided in section 7.3, a special exception permit is required:

7.21 For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:

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

(2) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.

(3) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.

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

7.3 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.

7.31 Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under section 7.2

when the design and construction to Soil Conservation Service technical standards is assured by the Iowa County Land Conservation Department.

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

- (1) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under section 7.22 is obtained.
- (2) Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
- (3) Ditch banks shall be maintained in a sod cover and free of woody vegetation.
- (4) A 10 foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

7.4 PERMIT CONDITIONS. In granting a special exception permit under section 7.2, the board of adjustment shall attach the following conditions, where appropriate, in addition to those provisions specified in sections 10.42 and 10.43.

7.41 The smallest amount of bare ground shall be exposed for as short a time as feasible. There must be a plan for covering the ground that is approved as part of the permit.

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

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

7.44 Lagoons and ponds shall be constructed to avoid fish trap conditions.

7.45 Fill shall be stabilized according to accept engineering standards.

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

8.0 SHORELAND-WETLAND DISTRICT.

8.1 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of 5 acres or more, (excluding point symbols) and which are shown on the Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance. A portion of a wetland which is less than 5 acres in size, and which is

located in the unincorporated shoreland area within the county, shall be included in the shoreland-wetland district where the wetland as a whole is 5 acres or larger, but extends across the corporate limits of a municipality, across the county boundary or across the shoreland limits, so that the wetland is not regulated in its entirety by the county.

8.11 **LOCATING SHORELAND-WETLAND BOUNDARIES.** Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the Agency 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 Agency that a particular areas was incorrectly mapped as a wetland, the Agency shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to correct zoning district. The Agency shall initiate a map amendment to correct the discrepancy.

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

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

8.31 Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 8.32 or 8.33.

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

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

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

8.33 Uses which require the issuance of a zoning permit under section 10.2 and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below.

- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
  - (a) The road cannot as a practical matter be located outside the wetland;
  - (b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 8.52;

- (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
  - (d) Road construction activities are carried out in the immediate area of the roadbed only.
- (2) The construction or maintenance of nonresidential buildings, provided that:
- (a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
  - (b) The building cannot, as a practical matter, be located outside the wetland;
  - (c) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
  - (d) Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
- (a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;
  - (b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 8.33(1)(a)-(d) and;
  - (c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- (4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, 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 8.52.

8.4 PROHIBITED USES. Any use not listed in sections 8.31, 8.32, or 8.33 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 8.5 of this ordinance and §59.69(5)(e), Wis. Stats.

8.5 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

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

- (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
- (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
- (3) A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and
- (4) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

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

- (1) Storm and flood water storage capacity;
- (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of ground water through a wetland;

- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Shoreline protection against soil erosion;
- (5) Fish spawning, breeding, nursery or feeding grounds;
- (6) Wildlife habitat; or
- (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types.

8.53 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 significant adverse impact upon any of the criteria listed in section 8.52 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

“This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board’s approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of the Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under §59.971(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the §59.692(6) adoption procedure is completed or otherwise terminated.”

9.0 NONCONFORMING USES AND STRUCTURES.

9.1 The lawful use of a building, premises, structure or fixture for any trade or industry which existed at the time of 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:

9.11 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.

9.12 The maintenance and repair of nonconforming boathouses that extend waterward beyond the ordinary highwater mark of any navigable waters shall comply with the requirements of §30.121, Wis. Stats.

9.13 If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.

9.2 The restoration of a nonconforming structure that has been damaged or destroyed on or after March 2, 2006 due to violent wind, vandalism, fire, flood, ice, snow, mold or infestation may take place provided it is restored to the size, location and use that it had immediately before the damage or destruction occurred. The size of the structure can be larger than the size it was immediately before the damage or destruction only if necessary for the structure to comply with applicable state or federal requirements.

10.0 ADMINISTRATIVE PROVISIONS.

10.1 AGENCY. The Agency shall have the following duties and powers:

- 10.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- 10.12 Require an applicant to employ the services of a licensed engineer, surveyor or other specialist, at the applicant's cost, when deemed necessary to ensure compliance with the provisions of this ordinance.
- 10.13 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- 10.14 Keep records of all permits issued, inspections made, work approved and other official actions.
- 10.15 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 or denied to the appropriate district office of the Department.
- 10.16 Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.

10.2 ZONING PERMITS.

10.21 WHEN REQUIRED. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 8.31 and 8.32), a zoning permit shall be obtained from the Agency before any new development, as defined in section 13.2(5), or any change in the use of an existing building or structure, is initiated.

(1) APPLICATION. An application for a zoning permit shall be made to the Agency upon forms furnished by the county.

10.22 EXPIRATION OF PERMIT. Zoning permits shall expire 12 months from date issued if no substantial work has commenced. One 6-month extension may be granted at the discretion of the Agency provided work has commenced within the original 12-month period.

10.3 CERTIFICATES OF COMPLIANCE.

10.31 No land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied, until a certificate of compliance is issued by the Agency.

- (1) The certificate of compliance shall certify that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- (2) Application for such certificate shall be concurrent with the application for a zoning permit.
- (3) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.

10.32 The Agency may issue a temporary certificate of compliance for part of a building, pursuant to rules and regulations established by the county board.

10.4 SPECIAL EXCEPTION PERMITS.

10.41 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 Agency and a special exception permit has been granted by the Iowa County Planning & Zoning Commission.

10.42 STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS. In passing upon a special exception permit, the Iowa County Planning & Zoning Commission shall evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
- (4) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (5) The location of the site with respect to existing or future access roads.
- (6) The need of the proposed use for a shoreland location.

- (7) Its compatibility with uses on adjacent land.
- (8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
- (9) Location factors under which:
  - (a) Domestic uses shall be generally preferred;
  - (b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
  - (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

10.43 **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 zoning permit, the following information:

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

- 10.44 **NOTICE, PUBLIC HEARING AND DECISION.** Before passing upon an application for a special exception permit, the Iowa County Planning & Zoning Commission 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 Commission shall state in writing the grounds for granting or refusing a special exception permit.
- 10.45 **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.
- 10.46 **REVOCATION.** Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the Iowa County Planning & Zoning Commission.
- 10.5 **VARIANCES.** The board of adjustment may grant upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that:
- (1) literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
  - (2) the hardship is due to special conditions unique to the property; and
  - (3) such variance is not contrary to the public interest.
- 10.51 **NO USE VARIANCE.** A variance shall not grant or increase any use of property which is prohibited in the zoning district.
- 10.52 **NOTICE, HEARING AND DECISION.** Before passing on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall provide a copy of 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.
- 10.6 **BOARD OF ADJUSTMENT.** The chairman of the county board shall appoint a board of adjustment under §59.69, Wis. Stats., to include alternates as required by §59.694(2)(am), Wis Stats. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by §59.694(3), Wis. Stats.

#### 10.61 POWERS AND DUTIES.

- (1) The board of adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by §59.694, Wis. Stats.
- (2) It shall hear and decide appeals where it is alleged there is error in any order, requirements, decisions or determination made by an administrative official in the enforcement or administration of this ordinance.
- (3) It may grant a variance from the dimensional standards of this ordinance pursuant to section 10.5.
- (4) As allowed by §59.694(3m), Wis. Stats., the board of adjustment may take action by majority vote of the members present, provided there is a quorum of members present.

10.62 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 decisions of the Agency 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 Agency or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

#### 10.63 HEARING APPEALS AND APPLICATIONS FOR VARIANCES.

- (1) The board of adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances and appeals for map or text interpretations.
- (2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 10 days after they are granted or denied.

- (3) The final disposition of an appeal or application to the board of adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
- (4) At the public hearing, any party may appear in person or by agent or by attorney.

10.7 FEES. General. The county board may, by resolution, adopt fees for the following:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Pre-application review or consultation.
- (4) Public hearings.
- (5) Legal notice publications.

11.0 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 §59.69(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and section 8.5 of this ordinance where applicable.

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

11.2 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.

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

12.0 ENFORCEMENT AND PENALTIES. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date

of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Agency or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to §59.69(11), Wis. Stats.

13.0 DEFINITIONS.

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

13.2 The following terms used in this ordinance mean:

- (1) “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.
- (2) “Agency” means any person employed by Iowa County who is charged with administering this ordinance.
- (3) “Boathouse” means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.
- (4) “Condominium” means individual ownership of a structure or a unit in multi-unit structure located on a commonly held parcel of land organized under Chapter 7.03, Wisconsin Statutes
- (5) “County zoning agency” means that committee or commission created or designated by the county board under §59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.
- (6) “Department” means the Department of Natural Resources.
- (7) ”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.

- (8) “Drainage System” means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (9) “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.
- (10) “Main Building” means a primary building that is being used or intended to be used for the principal use permitted on the affected lot.
- (11) “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 §144.26(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under §59.692 Wis. Stats., and ch NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
  - (a) Such lands are not adjacent to a natural navigable stream or river.
  - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - (c) Such lands are maintained in nonstructural agricultural use.
- (12) “Ordinary highwater 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.
- (13) “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.
- (14) “Shorelands” means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

- (15) “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.
- (16) “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.
- (17) “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.
- (18) “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.
- (19) “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.