

CHAPTER 8

SHORELAND PROTECTION ORDINANCE

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8.01 Statutory Authorization, Finding of Fact and Purpose. (1) Statutory authorization. This integrated Shoreland Zoning Ordinance is adopted pursuant to the authorization contained in §§ 30.13(2), 55.694, 59.69, 59.692, 59.70(1), 87.30, 281.31 and of the Wisconsin Statutes.

(2) Finding of fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Sauk County, Wisconsin, adversely affect the public health, safety, convenience and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the County to further the maintenance of safe and healthful conditions; prevent and control water pollution and flooding; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty, and this responsibility is hereby recognized by Sauk County, Wisconsin.

(3) Statement of purpose. For the purpose of promoting and protecting the public health, safety, convenience and general welfare and to:

(a) 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.

(b) 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 roadways and waterways.

(c) 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.

(d) 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 systems.

3. Controlling filling and grading to prevent serious soil erosion problems.

8.02 Definitions. For the purpose of this ordinance, certain 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 singular number. The word "shall" is

mandatory, not permissive. All districts unless otherwise specified shall be measured horizontally.

(1) ACCESSORY STRUCTURE OR USE. 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 of use.

(2) ADMINISTRATOR. Person overseen by the Planning, Zoning and Land Records Committee whose function it is to oversee the daily implementation of this ordinance.

(3) BERTH. A space at a pier, wharf or boat shelter or boathouse suitable for mooring a single watercraft of a type commonly in use on the waterbody where the berth is located.

(4) BOAT HOIST. A mechanical device used to raise and lower a boat.

(5) BOAT SHELTER. A structure in navigable waters designed and constructed for the purpose of providing cover for berth place for watercraft, which may include a roof but may not have walls or sides. Such structure may include a boat hoist.

(6) BOATHOUSE. Any structure designed for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation.

(7) CAMPGROUNDS. Any premises established for overnight habitation by persons using equipment designed for the purpose of temporary camping and for which a fee is charged.

(8) CLASS II NOTICE. Notice as specified in Chapter 985 Stats. Publication of a hearing notice in a newspaper of circulation on the affected area twice on consecutive weeks, the last at least seven (7) days prior to the hearing.

(9) COUNTY ZONING AGENCY. That committee or commission created or designated by the County Board under § 59.69(2)(a) Stats., to act in all matters pertaining to County planning and zoning.

(10) DEPARTMENT. The Department of Natural Resources.

(11) DEVELOPMENT. 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 additional 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.

(12) DRAINAGE SYSTEM. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(13) FLOODPLAIN. 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 Chapter NR116 Wisconsin Administrative Code.

(14) FLOODPROOFING. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

(14A) GAZEBO. An open-sided structure that is designed for viewing, which shall not be used as sleeping accommodations, and which has no water service.

(15) LAGOON. An artificial enlargement of a waterway.

(16) LANDING. A platform interrupting a flight of stairs, limited to a maximum of thirty-two square feet.

(17) LIFT. A mechanical device that is designed to transport persons and cargo up or down a hill from the house to the waters edge. A lift platform shall not exceed forty square feet in size. A lift may have open safety railings on the sides which are not solid and may have a roof or canopy located over it.

(18) LOT WIDTH. The distance between side lines of the lot at the building line. In the case of a shoreland lot, the lot width is the width of the lot 75 feet from the waterline.

(19) MOBILE HOME. A detached single-family dwelling unit designed for long term occupancy, that may contain sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and

electrical connections provided for attachment to outside systems, which is designed to be transported on its own wheels.

(20) NAVIGABLE WATERS. 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. Navigable waters under Wis. Stat. § 281.31(2)(d) and Administrative Rules promulgated thereunder, shoreland ordinances required under § 59.692 Stats., and Chapter NR115 Wisconsin Administrative 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.

(d) Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis (*Muench v. Public Service Commission*, 261 Wis. 492 Wis. (1952) and *DeGayner and Co., Inc. v. Department of Natural Resources*, 70 Wis. 2d 936 (1974)). For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.

(21) NONCONFORMING USE. A nonconforming use is a use of the land or structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of this ordinance, but which fails to conform to the requirements of the zoning district in which the land or structure is located by reasons of such adoption, revision or amendment. For the purpose of this ordinance nonconforming uses and nonconforming structures are interchangeable terms.

(22) NUISANCE. Nuisance is that activity which arises from unwarranted, unlawful or unreasonable activity or use of

property that substantially interferes with the comfortable enjoyment of life, health, safety of another or of the public.

(23) OPEN FENCE. An open fence is a fence which has fifty percent (50%) or more open space. This definition does not include a privacy fence.

(24) ORDINARY HIGHWATER MARK. 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.

(25) PIER. Any structure extending vertically into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

(26) PLANNING AND ZONING. The Sauk County Office of Planning and Zoning acting under the supervision of the Planning, Zoning and Land Records Committee of the Sauk County Board of Supervisors.

(27) POND. Any water impoundment over 100 square feet in area.

(a) Embankment pond. Made by building an embankment or dam across a stream or watercourse, where the channel is depressed long enough to allow water storage.

(b) Excavated pond located in the wetland district. Made by digging a hole or the excavation in an area capable of sustaining year-round water levels to a depth not to exceed six (6) feet. The water capacity is obtained almost entirely by excavation. Any spoil material may not be placed within the wetland district.

(c) Excavated pond with limited filling: Made by digging a hole or excavation and shaping the spoil material to allow for an area capable of sustaining year-round water levels.

(28) PRIVY. A structure that is not connected to a plumbing system which is used by persons for the deposition of human body wastes.

(29) REGIONAL FLOOD. 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.

(30) ROUTINE MAINTENANCE.

Routine maintenance includes repairs necessary to keep a structure in a safe and habitable condition including exterior and interior painting; replacing damaged or broken window panes; replacing damaged shingles; repairing or replacing floor covering and cabinets, repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

(31) SETBACKS (from a highway).

The minimum horizontal distance from the centerline of a highway or its right-of-way (line) to the nearest part of a structure, measured at right angles to the centerline or right-of-way line.

(32) SETBACKS (from water).

The minimum horizontal distance from the highwater line of a body of water to the nearest part of a structure.

(33) SHORELANDS. Lands within the following distances from the ordinary high water 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.

(34) SHORELAND-WETLAND

DISTRICT. 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.

(35) SILVICULTURAL THINNING.

A woodland management practice which, for the purposes of this ordinance, improves or maintains the quality of adjacent surface water through responsible cutting in shorelands; and by which long lived species are perpetuated and provision is made for efficient methods of slash disposal.

(36) SOLID FENCE. A solid fence is a fence which has forty-nine percent (49%) or less open space.

(37) SPECIAL EXCEPTION. 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 Sauk County Board of Adjustment.

(37A) SPECIAL LAND USE PERMIT. A permit issued by the Sauk County Planning and Zoning Department to a riparian land owner for the construction or placement of a structure on property in a shoreland setback area, pursuant to the standards set forth in 8.06(6).

(38) STRUCTURE. Any construction or any related activity which has form, shape and utility. This definition includes a building. This definition shall include an ice shanty which is used for temporary storage.

(39) SUBSTANDARD LOT. A substandard lot is a lot that does not conform to the dimensional requirements of this ordinance.

(40) UNNECESSARY HARDSHIP. 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.

(41) VARIANCE. An authorization granted by the Sauk County Board of Adjustment to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

(41A) VEGETATIVE BUFFER ZONE. An area that has been revegetated to native species and follows an approved restoration plan, required to obtain a Special Land Use Permit.

(42) WETLANDS. Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, or which have soils indicative of wet conditions.

(43) WHARF. Any structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

8.03 General Provisions. (1) Jurisdiction. The jurisdiction of this ordinance shall include shorelands of navigable waters as defined in § 281.31(2)(d) Stats., in the unincorporated areas of Sauk County:

(a) Within 1,000 feet from the ordinary high water mark of a lake, pond or flowage. If the navigable water is a glacial pothole lake, the distance shall be measured from the high water marks thereof.

(b) Within 300 feet of the ordinary high water mark of a navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Sauk County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on the United States Geological Survey Quadrangle Maps. Where a project is proposed in the shoreland of a stream designated as intermittent on the United States Geological Survey Quadrangle Maps, the Zoning Administrator shall inspect the project site to determine whether the stream is navigable as defined in Section 8.02(20) of this ordinance or shall contact the appropriate district office of the Department for determination of navigability. 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.

(c) Under § 281.31(2)(d) Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

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

(d) 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 Sauk County.

1. United States Geological Survey Quadrangle Maps for Sauk County. (Most recent as of adoption date)
2. Wisconsin Wetland Inventory Maps stamped "FINAL" on August 23, 1985, and subsequent map amendments.

3. Floodplain zoning maps identified as Flood Insurance Rate Maps (FIRM) and dated December 18, 2009, and subsequent map amendments.

4. Zoning Map of Indian Trails Subdivision.

5. Sauk County soil survey maps.

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

(2) 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 waste disposal facilities, the filling, grading, lagooning, dredging of any land, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable regulations. (See Section 8.09 for nonconforming uses.)

(3) Abrogation and Greater Restrictions:

(a) This ordinance supersedes all provisions of any County zoning ordinance enacted under § 59.69 Stats. that relate to shorelands. However, the provisions of the existing County zoning ordinance and map of Sauk County, Wisconsin, dated June 25, 1963, are hereby incorporated by reference and shall, to the extent of greater restrictions only, be made as much a part of this ordinance as if the matter described were fully set out herein.

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

(c) 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.

(d) It is not otherwise intended by this ordinance to repeal, abrogate, or impair any existing deed restrictions or ordinances other than zoning to the extent specified in Section 8.03(3)(a) of this ordinance, however, where this

ordinance imposes greater restrictions the provisions of this ordinance shall prevail.

(e) Chapters 9, 22 and 25 of the Sauk County Code of Ordinances are incorporated herein by reference and shall only apply to the shoreland area where they may impose greater restrictions than this ordinance otherwise imposes.

(4) 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 chapter NR 115, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the chapter 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.

(5) Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

8.04 Sanitary Regulations. (1) The County shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

(a) Where public water supply systems are not available, private well construction shall be required to conform to chapter NR 112, Wisconsin Administrative Code.

(b) Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by Chapter 25 of the Sauk County Code of Ordinances, the Private Sewage System Ordinance.

8.05 Dimensions of Building Sites. (1) Lots not served by public sewer.

(a) Minimum area and width. The minimum lot area shall be 20,000 square feet and the minimum lot width shall be 100 feet at

the building line with at least 100 feet of frontage at the ordinary highwater mark.

(b) Side yards. There shall be a minimum of two (2) side yards for each building. The minimum width of one (1) side yard shall be ten (10) feet. The minimum combined width of both side yards shall be 25 feet. There shall be a side yard of ten (10) feet for accessory structures excluding open fences.

(2) Lots served by public sewer.

(a) Minimum area and width. The minimum lot area shall be 10,000 square feet and the minimum lot width shall be 100 feet with at least 100 feet of frontage at the ordinary highwater mark

(b) Side yards. There shall be a minimum of two (2) side yards for each building, except in those circumstances involving a corner lot or multiple road frontages. The minimum width of one (1) side yard shall be ten (10) feet. The minimum combined width of both side yards shall be 25 feet. There shall be a side yard of ten (10) feet for accessory structures.

(3) Substandard lots.

(a) Substandard lots served by public sewer. A lot which does not contain sufficient area to conform to the dimensional requirements of this ordinance but which is at least 50 feet wide and 7,500 square feet in area may be used as a building site for a single-family dwelling upon issuance of a land use permit by Planning and Zoning, if it meets all of the following requirements:

1. Such use is permitted in the zoning district.

2. The lot is of record in the County register of deeds office prior to the effective date of this ordinance.

3. The lot is in separate ownership from abutting land. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance.

4. All the dimensional requirements of this ordinance be complied with insofar as practical.

(b) Substandard lots not served by public sewer. Subdivisions 1. - 4. of paragraph (a) shall apply. Minimum lot area shall be

10,000 square feet and the minimum lot width shall be 65 feet at the building setback line and at least 65 feet in width at the ordinary highwater mark.

(c) Other substandard lots. A land use permit for the improvement of a lot having lesser dimensions than those stated in 8.05(3)(a) and (b) of this ordinance shall be issued only after the granting of a variance by the Sauk County Board of Adjustment.

(d) Lots in cluster subdivisions. Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed under Chapter 25, Sauk County Code of Ordinances

8.06 Setbacks. (1) Highway setbacks. The provisions of Section 7.18 of the Sauk County Code of Ordinances are incorporated herein by reference. For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the highways of Sauk County are divided into the following classes:

(a) Class A highways.

1. All state and federal highways are hereby designated as Class A highways.

2. The setback from Class A highways shall be 110 feet from the center line of the highway or 50 feet from the right-of-way line, whichever is greater.

(b) Class B highways.

1. All County trunks are hereby designated as Class B highways. For the purpose of this ordinance any road will be considered as a County trunk after it has been placed on the County trunk system by the County Board and approved by the Division of Highways.

2. The setback from Class B highways shall be 75 feet from the center line of such highway or 42 feet from the right-of-way line, whichever is greater.

(c) Class C highways.

1. All town roads, public streets and highways not otherwise classified, are hereby designated Class C highways.

2. The setback from Class C highways shall be 63 feet from the center line of such highway or 30 feet from the right-of-way line, whichever is greater.

(d) Visual clearance triangle. In each quadrant of every public street intersection there shall be a visual clearance triangle bounded by the street center lines and a line connecting points on them 300 feet from a Class A highway intersection, 200 feet from a Class B highway and 150 feet from a Class C highway intersection.

(e) Objects permitted within highway setback lines and visual triangles.

1. Open fences.

2. Telephone, telegraph and power transmission poles and lines.

3. The planting and harvesting of field crops, shrubbery and trees, except that no trees or shrubbery shall be planted within a vision clearance triangle so as to obstruct the view.

(2) Shoreline setbacks. All buildings and structures, except piers, wharves, boathouses, boat hoists, boat shelters, stairways, walkways, lifts, landings, and open fences shall be set back at least 75 feet from the ordinary high water mark and shall meet the building requirements of this ordinance.

(a) Piers, wharves and, where permitted, removable boat shelters and hoists may be placed in accordance with Chapter NR326 of the Wisconsin Administrative Code, Chapter 30 of the Wisconsin State Statutes and all other applicable Department of Natural Resources regulations. They may not interfere with public right or rights of another riparian.

(b) The placement of a stairway, walkway, lift or landing shall meet the following requirements. A stairway, walkway, or lift shall be permitted only when it is essential to provide pedestrian access to the water because of steep slopes and if all of the following are met:

1. There are no other accessible locations available.

2. Only one (1) stairway, walkway or lift or combination thereof, shall be constructed, but if a new lift is needed and approved by Planning and Zoning, it shall be mounted to an existing stairway or walkway.

3. The stairway, walkway or lift shall be placed in the most visually inconspicuous location

4. Only minimum vegetation shall be disturbed or removed.

5. Structures shall be inconspicuous when viewed against the shoreline.

6. Open railings shall only be constructed as required for safety reasons.

7. The maximum width shall not exceed four (4) feet.

8. The platform of the lift shall not exceed 40 square feet.

9. Any filling, grading or excavation shall be done in accordance with the requirements of Section 8.08 of the ordinance.

10. Landings associated with stairs, walkways, and lifts shall be constructed only when required for safety purposes and if the landing does not exceed 32 square feet.

11. No roofs or canopies shall be constructed on the stairway, walkway, lift or landing.

(c) Retaining walls constructed of natural materials such as field stone and rocks may be permitted provided they meet the filling and grading requirements set forth in Section 8.08(3)(a). Retaining walls in excess of six (6) inches and constructed of man-made materials such as concrete, timbers, and steel shall comply with the special exception permit and/or variance requirements set forth in Section 8.14 of this ordinance.

(d) Boathouses.

1. Boathouses, where permitted, shall be designed and constructed solely for the storage of boats and related equipment and shall not be used for human habitation. Any construction, including, but not limited to, plumbing fixtures, heating and cooling equipment, stoves/ranges and second stories, which is inconsistent with the exclusive use of the boathouse, is prohibited.

2. No more than one (1) boathouse is permitted on a lot .

3. Boathouses shall not be constructed where the existing slope is more than twenty percent (20%). This slope shall be measured from the ordinary high water mark and shall be determined from the most severe angle.

4. Boathouses shall be constructed in conformity with local floodplain zoning standards.

5. Boathouses shall have a minimum total of 300 square feet and shall have

a maximum total of 500 square feet floor area, where the lot frontage is 75 feet or less. A maximum of 640 square feet floor area where the lot frontage is 76 feet or greater using exterior dimensions, providing the width of the boathouse does not exceed 22 feet at the water line. The boathouse shall be constructed in conformity with local floodplain zoning standards. The maximum height shall be 15 feet. Flat roofed surfaces of boathouses may be used as open recreational areas, but shall not be enclosed. Railings with open construction shall be considered an ordinary appurtenance.

6. Boathouses shall not be constructed or placed beyond the ordinary high water and shall be set back a minimum of five (5) feet horizontally and a maximum of 20 feet horizontally from the ordinary high water mark.

7. Boathouses shall be of earth tone colors which are visually inconspicuous.

8. All surface runoff associated with the boathouse shall be kept within the property lines or directed to the lake.

(3) Exceptions to required setbacks. A setback less than the setback required above shall be permitted where there are at least three (3) legally existing buildings on the same side of the road or waterbody within 250 feet of the proposed site, not owned by the applicant, and built to less than the required setback. In such cases the setback shall be determined as follows:

(a) Where two (2) contiguous lots are occupied by buildings (excluding boathouses and onshore boat hoists), the setback shall be the average of the setbacks of such buildings on the two (2) adjacent lots, provided:

1. The buildings are legally existing structures.

2. A road setback shall not be less than:

i. 40 feet from the right-of-way for a Class A highway

ii. 30 feet from the right-of-way for a Class B highway

iii. 20 feet from the right-of-way for a Class C highway

3. A water setback shall not be less than 50 feet horizontally from the ordinary high water mark.

(b) Where only one (1) contiguous lot is occupied by a building the setback shall be

determined by averaging the required setback with the setback of the building on the adjacent lot provided the conditions of (3)(a)1., 2. and 3., above, are complied with.

(4) Sideyard setbacks. For all buildings there shall be a minimum sideyard setback of at least ten (10) feet.

(5) Commercial fueling storage tanks.

(a) All commercial aboveground fueling storage tanks shall be set back a minimum of seventy-five feet (75') from the ordinary high water of any navigable waterway, except as provided for in (b.) below. All conditions listed in (c.) below shall apply to all commercial aboveground fueling storage tanks regardless of location.

(b.) A commercial aboveground fueling storage and dispensing tanks may be located less than seventy-five feet (75') from the ordinary high water mark of a navigable waterway upon the issuance of a special exception permit from the Sauk County Board of Adjustment.

(c.) A special exception permit may be issued when the Sauk County Board of Adjustment determines that all of the following conditions exist:

1. Due to physical limitations of the property, it is not possible or economically feasible to locate an aboveground fueling storage and dispensing tank of a reasonable size, seventy-five feet (75') or more from the ordinary high water mark.

2. The property upon which the tank is to be located must be zoned by the appropriate zoning authority to allow for commercial sales of fuel, such as at a properly zoned and permitted marina.

3. The establishment, maintenance or operation of the tank or the fueling dispensing system will not substantially endanger public health, safety or the general welfare. The site must be constructed so that any leakage of fuel will be contained and not permitted to contaminate the waterway.

4. The establishment, maintenance or operation of the tank or the fuel dispensing system will not substantially conflict with the existing use of adjacent properties.

5. The tank, associated piping, hoses and fuel dispensing system shall be in conformity with all applicable federal, state and local laws and regulations.

6. The tank and fuel dispensing system will have an emergency shut off capability and said emergency shut off shall be placed immediately near the fuel dispensing system so as to be readily accessible to persons dispensing fuel.

7. The dispensing system will not allow for continuous operating nozzles or unattended fueling.

8. The tank will be located on a slope of less than twelve degrees (12°). Location of an aboveground fueling storage tank on a slope of greater than twelve degrees (12°) shall require a variance from this ordinance.

9. Security on the site will be sufficient to prohibit unauthorized access to the tank or fuel dispensing areas. Warning signs and "No Smoking" signs shall be prominently displayed.

(6) Structures/gazebos within the shoreland setback area. Pursuant to Wis. Stats. § 59.692(1v), a Special Land Use Permit shall be issued for a structure within the shoreland setback area providing all of the following conditions are met:

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

(b) The total floor area of all the structures existing and proposed in or extending into the shoreland area of the property shall not exceed 200 square feet of floor area. In calculating this square footage, boat houses, boat hoists, boat shelters, stairs, lifts, landings, retaining walls, piers and wharves shall not be included.

(c) The structure that is the subject of the request for a Special Land Use Permit has no sides or has open or screen sides. The structure may have a maximum height from the lowest grade to the highest point of the structure of fifteen 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 shall blend with the natural colors where it is to be located. The structure or the

use of the structure must not be prohibited by other zoning regulations or deed restrictions.

(d) The structure shall not be built where the existing slope is more than 20 percent. This slope shall be measured on a predisturbed construction footprint.

(e) A structure permitted pursuant to this section shall not be built prior to the construction of a primary residence on the parcel.

(f) The structure shall be constructed in conformity with Sauk County Flood Plain Ordinance and this ordinance.

(g) 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 at least 70% of the half of the shoreland setback area that is nearest to the water. The plan must be approved by the Department of Planning and Zoning.

1. The shoreland set back for the purpose of this section shall be 75 feet. A lesser setback that has been previously approved by setback averaging, variance, or is a preexisting nonconforming setback may be used when appropriate.

2. The plan shall be binding on the owner, his/her heirs, successors, and assignees and shall authorize entrance onto the property by zoning department staff for inspections to assure compliance with the plan. The agreement shall be written and recordable on forms provided by Sauk County Planning and Zoning Department, and recorded with the Sauk County Register of Deeds. This applies to preservation of an existing natural buffer.

3. Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone shall be cause to revoke the Special Land Use Permit and order the removal of any structure(s) authorized by the Special Land Use Permit.

(h) Minimum requirements for the plan for the vegetative buffer zone shall be:

1. An inventory of plant species currently present and their density within the required buffer area.

2. A list of proposed native species to include in the restoration area and a schedule of their planting.

3. A plot plan with the placement and densities of each species existing and a plot plan with the placement and densities planned for the restored buffer area.

4. A description of how the landowner intends to carry out the project, including erosion control measures during construction of the permitted structure and establishing the vegetative buffer area.

5. A maintenance and preservation plan to continue the life of the plants in the buffer area.

(i) The buffer vegetation must be in a viable, growing condition for at least one growing season according to the plan, before a Special Land Use Permit to build a structure is granted.

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

(k) Removal of the permitted 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.

8.07 Tree Cutting. (1) Purpose. Regulation of tree cutting and shrubbery removal along the shores of navigable waters is necessary to protect scenic beauty and water quality. These provisions shall not apply to the removal of dead or dying trees, at the discretion of the landowner, or to silvicultural thinning upon recommendation of a forester.

(2) Tree cutting and shrubbery removal in a strip paralleling the shoreline and extending 35 feet inland from all points along the ordinary high water mark of the shoreline shall be limited in accordance with the following provisions:

(a) No more than twenty-five percent (25%) of the length of a strip (measured along the ordinary high water mark) shall be clear cut to the depth of the strip, never to exceed fifty percent (50%) of the total length of the strip.

(b) Provided, further, that cutting of this twenty-five (25%) shall not create a clear cut opening in the strip greater than 25 feet wide in any 100 feet. (measured along the ordinary high water mark)

(3) 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. Also, if tree cutting and shrubbery removal has created a situation where more than fifty percent (50%) of the natural trees and shrubbery has been removed within the cutting strip, Planning and Zoning may require that the area be replanted with vegetation that is equally effective in retarding runoff and enhancing the scenic beauty of the shoreline.

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

(5) In the alternative to Section 8.07(2)(b), a special cutting plan allowing greater cutting may be permitted by the Sauk County Board of Adjustment by issuance of a special exception permit.

(a) In applying for such a permit, the landowner shall submit a sketch of his lot, including the following information:

1. Location of all structures.
2. Location of parking.
3. Gradient of land.
4. Existing vegetation.
5. Proposed cutting.

(b) The board may grant such a permit only if it finds that such special cutting plans:

1. Will not cause undue erosion.
2. Will not destroy the scenic beauty and will provide substantial shielding from the water of structures and parking areas. The board may condition such a permit upon guarantees of tree planting by the landowner. Such an agreement will be enforceable in court.

8.08 Filling, Grading, Lagooning, Dredging, Ditching and Excavating. (1) General standards. Filling, grading, or excavating which does not require a land use or special exception permit under Section 8.08(2) or (3) may be an acceptable practice in the shoreland area provided that:

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

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

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

(d) For any riprapping where the Department of Natural Resources has issued all permits required by it for the particular work to be done and the Zoning Administrator certifies that the proposed work, as documented in the plans to be submitted by the landowner, is in compliance with the provisions of this ordinance.

(2) A Sauk County land use permit is required for the following:

(a) For any construction, filling, grading, lagooning, ditching 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 to the landward side of the floodplain or where the purpose is the ultimate connection with navigable body of water.

(b) The maintenance or repair of existing agricultural drainage systems shall be permitted to conform 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 8.08(3) is obtained.

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

3. Ditch banks shall be maintained in sod cover and free of woody vegetation.

4. A ten (10) foot wide buffer strip of untilled sod cover shall be maintained adjacent to the ditch bank. Planning and Zoning may waive the ten (10) foot requirement if conservation practices are in place.

(3) Permit required. Except as provided in Section 8.08(4), a special exception permit is required:

(a) For any filling or grading of any area which is within 300 feet landward of the ordinary high water mark of navigable water and which has surface drainage toward the water and

on which there is any of the topographic conditions listed below:

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

2. Filling or grading of more than 2,000 square feet on slopes of twelve percent (12%) to twenty percent (20%).

3. Filling or grading of more than 4,000 square feet on slopes less than twelve percent (12%).

(b) Building foundation footprints, driveways and parking spaces shall not be included in the square footage computation if these areas are graveled and compacted.

(c) Spoil and topsoil piles that are completely surrounded by filter fabric shall not be included in the square footage computation. Depending upon the conditions of the site, a phasing plan may be required by the Office of Planning and Zoning.

(d) For any filling and grading of any area on a slope greater than twenty percent (20%) which is located between 300 and 1000 feet landward of the ordinary high water mark of lake, pond or flowage.

(4) Soil conservation practices. Soil conservation practices such as barnyards, tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under Section 8.08(2) and (3) when designed and constructed to Natural Resource Conservation Service (NRCS) technical standards.

(5) Permit conditions. In granting a special exception permit under Section 8.08(3), the Sauk County Board of Adjustment shall attach the following conditions, where appropriate, in addition to those provisions specified in Sections 8.14(3)(b) and 8.14(3)(c).

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

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

(c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, the application of polymers and other methods shall be used to prevent erosion.

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

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

(f) Filling shall comply with the Sauk County Floodplain Zoning Ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

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

8.09 Nonconforming Uses and Structures. (1) The lawful use of a structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect which is not in conformity with the provisions of this ordinance, including the routine maintenance of such structure may be continued, subject to the following conditions:

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

(b) 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 § 30.121 Stats.

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

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

(e) Any addition, alteration or repair to a nonconforming structure shall not increase the dimensional nonconformity of the structure, except as allowed in Section 8.09(1)(i) and (j).

(f) If a nonconforming structure is destroyed by fire, wind, or other disaster beyond fifty percent (50%) of its current fair market value, or voluntarily moved or torn down, it cannot be rebuilt unless it conforms to the provisions of this ordinance.

(g) Existing methods of waste disposal which constitute a public nuisance under state laws or the terms of this ordinance

shall not be permitted to continue as a nonconforming use.

(h) The owner of a nonconforming use or nonconforming structure has the burden of proving that the use or structure was in existence at the time the ordinance took effect.

(i) Nonconforming houses, cabins or homes shall be limited to the amount of structural additions based on the distance the structure is from the ordinary high water mark of the water. Said structures located within 25 feet of the ordinary high water mark shall not be allowed to expand the structure. Structures located between 26 feet and 50 feet of the ordinary high water mark shall not expand the existing structure beyond 750 square feet of total living space. Structures located between 51 feet and 74 feet of the ordinary high water mark shall not expand the existing structure beyond 1650 square feet of total living space. Living space shall include all enclosed areas, but excludes all open decks, porches, garages and steps.

(j) Nonconforming structures not included in (i) shall also be limited to the amount of structural additions based on the distance the structure is from the ordinary high water mark of the water. Structures located within 25 feet of the ordinary high water mark shall not be allowed to expand the structure. Structures located between 26 feet and 50 feet of the ordinary high water mark shall be limited to fifteen percent (15%) total increase in size over the life of said structure. Structures located between 51 feet and 74 feet of the ordinary high water mark shall be limited to a twenty-five percent (25%) total increase in size over the life of said structure.

8.10 Shoreland-Wetland District.

(1) Designation. All mapped wetlands which are shown on the Wisconsin Wetland Inventory Maps as kept and maintained in the Planning and Zoning Office and those shoreland areas meeting the wetland definition as defined in Section 8.02(42) of this ordinance shall be included in the wetland district.

(a) 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.

(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.

(3) Permitted uses. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Chapters 30 and 31 Wisconsin Statutes and the provisions of other applicable local, state and federal laws:

(a) Activities and uses which do not require the issuance of a land use permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allows under Sections 8.10(3)(b) and (c).

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.

6. The construction or maintenance of duck blinds.

7. Day or overnight camping in areas or locations which do not have vehicular

access, providing that a Sauk County camping permit is issued and posted at the camp site.

(b) Uses which do not require the issuance of a land use 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 construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.

4. The construction or maintenance of piers and docks built on pilings, including limited excavating and filling necessary for such constructions and maintenance.

5. 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.

6. For any riprapping where the Department of Natural Resources has issued all permits required by it for the particular work to be done and the Zoning Administrator certifies that the proposed work, as documented in plans to be submitted by the landowner, is in compliance with the provisions of this ordinance.

(c) Uses which require the issuance of a land use permit under Section 8.14(5) 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 8.10(5)(b).

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 shall not exceed 200 square feet in floor area.

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 Chapter 29 Wisconsin Statutes, 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 8.08(1)(a-d).

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, 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 8.10(5)(b).

5. The construction of excavated ponds.

a. The excavated pond shall not exceed a depth of six (6) feet. Any excavated pond deeper than six (6) feet shall be located outside of the shoreland-wetland district.

b. All spoil material removed from the pond shall either be thin spread (less than 12 inches in thickness) or else placed outside of the shoreland-wetland district.

c. All excavated pond banks shall be sloped to 3:1 or flatter.

d. All disturbed areas associated with the pond construction must be stabilized.

e. All debris piles, brush piles, tree stumps and other material associated with pond construction shall not be placed or located within the shoreland-wetland district.

f. If deemed necessary, Planning and Zoning shall require safety measures to protect the public from the excavated pond including, but not limited to, fencing and gates.

g. Excavated ponds located closer than 110 feet from a public right-of-way or adjacent property line shall require a special exception permit through the Sauk County Board of Adjustment.

6. The maintenance and repair of existing agricultural drainage systems including, but not limited to, ditching, tiling, dredging,

excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use.

a. All spoil material shall either be thin spread (less than 12 inches in thickness) or placed outside the shoreland-wetland district.

b. The construction standards as listed in Section 8.08(3)(b) 1 - 4 shall apply.

(4) Prohibited Uses. Any use not listed in Sections 8.10(3)(a), 8.10(3)(b) or 8.10(3)(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 8.10(5) of this ordinance and § 59.69(5) Stats.

(5) Rezoning of Lands in the Shoreland-Wetland District.

(a) 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 five (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 ten (10) days prior to such hearing.

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

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

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

1. Storm and flood water storage capacity.

2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a

wetland to another area, or the flow of groundwater through a wetland.

3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.

4. Shoreline protection against soil erosion.

5. Fish spawning, breeding, nursery or feeding grounds.

6. Wildlife habitat.

7. Areas of special recreational, scenic or scientific interest, including scarce wetland types.

(c) 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 8.10(5)(b) of this ordinance, that amendment, if approved by the County Board, shall contain the following provisions:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the County board's approval of this amendment is mailed to the Department of Natural Resources. During that 30 day period the Department of Natural Resources may notify the County Board that it will adopt a superseding shoreland ordinance for the County under § 59.692(6) 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."

8.11 Indian Trails Subdivision. (1)

A zoning map for Indian Trails Subdivision, in the Town of Delton as filed in the office of the County Clerk and made a part hereof is hereby adopted.

(2) Before any building, structure or dwelling is placed on any lot in Indian Trails Subdivision, plans shall be filed with Planning and Zoning, prepared by a licensed professional engineer who shall certify that the installation meets all conditions of the map above referred to and complies with the provisions of the Sauk County Shoreland Ordinance and Sauk County Flood Plain Zoning Ordinance being Chapters 8

and 9 of the Sauk County Code of Ordinances and Chapter NR115 and NR116 of the Wisconsin Administrative Code.

(3) These provisions shall apply to any application of record pending since July 23, 1968.

8.12 Planned Residential Unit Development. (1) Purpose.

In some instances where an individual lot or small tract of land has unique characteristics, such as terrain, which would result in unnecessary hardship as defined in Section 8.14(4)(a) if the owner were required to comply with one (1) or more of the requirements for minimum lot sizes, width and setbacks, the Sauk County Board of Adjustment may grant a variance. (Section 8.14(4)). In other instances where much larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by a limited rezoning procedure so as to establish for the area a planned residential unit development overlay. The planned residential unit development is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from the navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sized and setbacks and without the special conditions placed upon the planned residential unit development at the time of this approval. A condition of all planned unit developments would require the preservation of certain open space, preferably on the shoreland, in perpetuity.

(2) Requirements for Planned Residential Unit Development. The County Board may, in its discretion upon its own motion or upon petition, approve a planned residential unit development either by approving first an overlay and then a plat or by approving only a plat for the specific planned residential project on finding after a public hearing that all of the following facts exist.

(a) Area. The area proposed for the planned residential unit is at least five (5) acres in size.

(b) Pollution control. The location and nature of the septic systems which will serve the homesite individually or collectively is such

as to assure that effluent from the septic tank(s) will not reach the ground or surface waters in a condition which will contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of the adjacent or nearby navigable waters.

(c) Preservation of ground cover. The location of homesite and the restriction placed on part of the land for use by the public or residents of the planned unit development are such as to preserve the ground cover of the shoreland and the scenic beauty of the navigable water and prevent erosion and the other pertinent factors listed in Section 8.01(3) of this ordinance. Excess land not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the County, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a home owners' association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against any one who has or acquires an interest in the land subject to the restriction.

(d) Density. The number of platted homesites will not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of the zoning ordinance.

(e) Lot sizes, width, setbacks and tree cutting. The lot sizes, widths and setbacks are not only not less than those provided for in NR115.05(3) Wisconsin Administrative Code, but also are not so small as to cause pollution or erosion along streets or other public ways and waterways and are also not so small as to substantially depreciate the property values in the immediate neighborhood. Tree cutting provisions of Section 8.07 of this ordinance shall

apply except that maximum width of a lake frontage opening shall be 100 feet.

(3) Procedure for establishing a planned Residential Unit Development District. The procedure for establishing limited rezoning in the form of a planned residential unit development district shall be as follows:

(a) Petition. A petition setting forth all of the facts required by Section 8.12(2) shall be submitted to the County Clerk with sufficient copies to provide for distribution by the clerk as required by Section 8.12(3)(b) below. If the County or Department of Natural Resources shall have prepared factual data clearly responsive to one (1) or more of the requirements of Section 8.12(2), such data may be incorporated by reference in the petition.

(b) Review and hearing. The petition shall be submitted to the County zoning agency established as required by § 59.69(5) Stats, which shall hold a public hearing thereon and make a report to the County Board as required by law. Copies of the petition and notice of the hearing shall also be sent to the Department of Natural Resources in which the County is located, if there be such. The County zoning agency's report to the County Board shall reflect the recommendations of the above agencies and of any other federal or state agency which the County zoning agency may consult.

(c) Findings and conditions of approval. The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 8.12(2). If the petition is granted in whole or part, the County board's approval shall attach such written conditions to the approval as shall be required by or be consistent with Section 8.12(3). The condition of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks and the location of septic tanks and the preservation of ground cover and/or open space.

(d) Planning studies. A landowner or petitioner may, at his own expense, develop the facts required to establish compliance with the provisions of Section 8.12(3) or may contribute funds to the County to defray all or part of the cost of such studies being undertaken

by the County or any agency or person with whom the contracts for such work.

8.12A Subdivision and/or Commercial Development Stormwater Management.

(1) 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:

(a) Stormwater runoff control measures or devices, including but not limited to the following.

1. Diversions, retention/detention ponds and waterways to accommodate a 25 year storm event.

2. The retention/detention ponds shall not be located within the boundaries of a mapped wetland.

3. 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.

4. The stormwater runoff control measures or devices shall be in place and stabilized prior to any site disturbance.

(b) The stormwater management plan shall be designed by a licensed professional engineer.

(c) The stormwater management plan shall describe any security and/or safety measures.

(d) 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.

(e) The stormwater management plan shall describe any measures for removing sediment.

(2) 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.

8.13 Condominium. Condominium developments which are constructed, remodeled or expanded after this ordinance takes effect and which offer riparian rights to a unit or units shall meet the following requirements:

(1) Minimum size. Each condominium unit shall include a minimum of 750 square feet of land or shall include a minimum of 750 square feet of living space.

(2) Location. Each condominium unit shall be located no greater than 300 feet from the ordinary high water mark of the water body to which the riparian rights pertain to.

(3) Contiguous to land. Each condominium unit or common area of the condominium unit shall have a minimum shoreline of 100 feet for the first unit and shall have no less than 50 feet of shoreline for each additional unit. The condominium unit or units shall be contiguous to the shoreline.

8.14 Administration. (1) Zoning Administrator. The Administrator may exercise the following duties and powers:

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

(b) Issue permits and inspect properties for compliance with this ordinance.

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

(d) Have access to any structure or premises between 6:00 a.m. and 8:00 p.m., seven (7) days a week, for the purpose of performing his/her duties.

(e) Report violations of this ordinance and other applicable regulations to the Zoning Committee and Sauk County Corporation Counsel.

(2) Land use permits will be required as per the Sauk County Zoning Ordinance, Chapter 7 and sanitary permits will be required as per the Private Sewage System Ordinance, Chapter 25 and shall expire two (2) years from the date of issuance. Permits are not

required for routine maintenance, repairs or construction done under this ordinance and for which the total value, including labor, does not exceed one thousand dollars (\$1,000.00), providing these structures meet all set back regulation and other standards of the ordinance.

(3) Special exception permits.

(a) 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 Sauk County Board of Adjustment.

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

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
5. The location of the site with respect to existing or future access roads.
6. The need of the proposed use for a shoreland location.
7. Its compatibility with uses on adjacent land.
8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
9. Location factors under which:
 - a. Domestic uses shall be generally preferred.
 - b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source.
 - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (c) Conditions attached to special exceptions. Upon consideration of the factors

listed above, the Sauk County 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. Violation 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 Sauk County Board of Adjustment may require the applicant to furnish, in addition to the information required for a land use permit, the following information:

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

(d) Notice of public hearing. Before passing upon an application for special exception permit the Sauk County 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 in the manner specified in Section 8.14(4)(c) including mailed notice to the appropriate district office of the Department of Natural Resources ten (10) days prior to the public hearing. The board shall state in writing the grounds for refusing a special exception permit.

(e) Fees. Fees shall be reviewed annually by the Sauk County Board and a fee schedule adopted by resolution.

(f) Recording. When a special exception is approved, an appropriate record shall be made of the land use and structures permitted, and such grant shall be applicable solely to the structures, use and property so described. A copy of any decision granting a special exception permit shall be mailed to the district office of the Department of Natural Resources within ten (10) days of issue.

(g) Termination. Where a special exception does not continue in conformity with the conditions of the original approval, the special exception shall be terminated by action of the Sauk County Board of Adjustment.

(4) Sauk County Board of Adjustment.

(a) Powers of the Board.

1. The Chairman of the County Board is hereby directed to appoint a Sauk County Board of Adjustment according to § 55.694 Stats., consisting of five (5) members, with allowance for payment per diem and mileage.

a. One (1) member from the Sauk County Board of Supervisors, resident of an unincorporated area.

b. Three (3) citizen members, residents or officials of those townships within the County which have approved the Sauk County Zoning Ordinance.

c. One (1) member, resident of any unincorporated area.

d. No two (2) board members shall reside in the same town and all members shall reside in unincorporated areas.

2. The Sauk County Board of Adjustment shall adopt such rules as it deems necessary for the conduct of business and may exercise all of the powers conferred on such boards by § 59.694 Stats.

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

4. It shall hear and decide special exception appeals to the terms of this ordinance upon which the board is required to pass under this ordinance.

5. It may authorize upon appeal, in specific cases, such variance from the terms of

the ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

For the purpose of this section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or poor soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

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

(b) Appeals to the Board. Appeals to the Sauk County Board of Adjustment may be taken by a person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal specifying the ground thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(c) Hearing appeals.

1. The Sauk County Board of Adjustment shall fix a reasonable time for the hearing of the appeal; give public notice thereof by publishing in the official newspaper of the County a Class II notice specifying the date, time and place of hearing and the matters to come before the board; as well as mailed notices to the parties in interest including the appropriate district office of the Department of Natural Resources ten (10) days prior to the public hearing.

2. A decision regarding the appeal shall be made as soon as practicable.

3. The final disposition of an appeal or application to the Sauk County 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 for 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. A copy of any decision regarding an appeal or granting of a variance shall be mailed to the district office of the Department of Natural Resources within ten (10) days of the decision.

5. Upon hearing, any party may appear in person or by agent or by attorney.

(5) Land use permits.

(a) When required. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in Sections 8.10(3)(a) and 8.10(3)(b), a land use permit shall be obtained from the Administrator before any new development, as defined in Section 8.02(7), or any change in the use of an existing building or structure, is initiated.

(b) Application. An application for a land use permit shall be made to the Administrator upon forms furnished by Planning and Zoning and shall include for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of applicant and property owner.

2. Legal description of the property and type of proposed use.

3. A scaled plot plan showing site features, location of buildings relative to the lot lines, center line of abutting highways and the ordinary high water mark of any abutting watercourses. If the project involves filling, grading, lagooning, dredging, ditching or excavating, the scaled plot plan shall include the operation, reclamation, erosion control and cross section drawings.

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

5. A narrative describing the project.

8.15 Changes and Amendments.

(1) 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) Stats., chapter NR115, Wisconsin Administrative Code and Section 8.10(5) of this ordinance where applicable.

(a) Amendments to this ordinance may be made on petition of any interested party as provided in § 59.69(5)(e) Stats., including notice to affected towns.

(b) 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 five (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 ten (10) days prior to the hearing.

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

8.16 Enforcement and Penalties.

(1) Any building or structure hereinafter erected, moved or structurally altered or any use hereinafter established in violation of the provisions of this ordinance by any person, firm association, corporation (including building contractors or his or their agent) shall be deemed an unlawful structure or use.

(2) Notwithstanding (3) the District Attorney or Corporation Counsel may bring an action to enjoin, remove or vacate any use, erection, moving or structural alteration of any building or use in violation of this ordinance.

(3) Any person who violates this ordinance shall forfeit not more than two hundred dollars (\$200.00) for each violation. Each day of violation shall constitute a separate offense.

Adopted by and published under the authority of the Sauk County Board of Supervisors on March 31, 1986. Amended by the Sauk County Board of Supervisors on May 20, 1997. Complete ordinance repealed and recreated March 31, 1986. Create subsection 8.06(3)(e) and (f) regarding

boathouses; Create Section 8.06(5) regarding side yard setbacks, Ordinance No. 177-86 approved by the Sauk County Board of Supervisors December 16, 1986. Repeal and recreate ordinance, Ordinance No. 54-97 approved by the Sauk County Board of Supervisors on May 20, 1997. Repeal and recreate Section 8.08(3)(a), filling and grading, Ordinance No. 83-98 approved by the Sauk County Board of Supervisors on June 16, 1998. Amended to create Section 8.05(5) relating to the siting of commercial fueling storage tanks, approved by the Sauk County board of Supervisors on January 18, 2000 - Ordinance 2-00. Amended by the Sauk County Board of Supervisors on April 17, 2001 - Ordinance No. 13-01. Amended by the Sauk County Board of Supervisors on May 20, 2003, amending Section 8.06(1)(a)2 as applied only to property annexed from the Town of Reedsburg to the City of Reedsburg and described in Ordinance No. 86-03. Amended by the Sauk County Board of Supervisors on December 15, 2009 – Ordinance No. 174-09.