

CHAPTER 21 OF LINCOLN COUNTY CODE OF ORDINANCES

ALSO KNOWN AS

THE LINCOLN COUNTY SHORELAND ZONING ORDINANCE

LINCOLN COUNTY, WISCONSIN

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, APPLICABILITY AND RELATION TO OTHER LINCOLN COUNTY ORDINANCES

- 21.01 Statutory Authorization
- 21.02 Finding of Fact
- 21.03 Purpose
- 21.04 Title
- 21.05 Applicability
- 21.06 Relation to Other Lincoln County Ordinances

GENERAL PROVISIONS

- 21.07 Dimensional Requirements for Shoreland Development:
 - (1) Dimensional Standards
 - (2) Adjustments
 - (3) Mitigation Schedule
 - (4) Boat Houses
 - (5) Special Zoning Permission
 - (6) Development of Islands
 - (7) Development of Back Lots
- 21.08 Accessibility, Piers, Docks and Fences
- 21.09 Preservation and Removal of Vegetative Cover
- 21.10 Shoreland Restoration and Mitigation
- 21.11 Soil Disturbing Activities
- 21.12 Shoreland-Wetland District
- 21.13 Legal Pre-Existing Structures That Do Not Conform to the New Standards
- 21.14 Legal Pre-Existing Lots of Record

ADMINISTRATION, CHANGES AND AMENDEMENTS, ENFORCEMENT AND DEFINITIONS

- 21.15 Administration Provisions
- 21.16 Changes and Amendments
- 21.17 Enforcement and Penalties
- 21.18 Definitions

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF
PURPOSE, TITLE, APPLICABILITY AND RELATION TO OTHER LINCOLN
COUNTY ORDINANCES

- 21.01 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization is ss.59.69, 59.692, 59.70, 87.30, and 281.31, Wis. Stats.
- 21.02 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Lincoln 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 Lincoln County, Wisconsin.
- 21.03 PURPOSE. For the purpose of promoting the public health, safety, convenience, and welfare, this ordinance has been established to:
- (1) FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:
 - a. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - b. Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
 - c. Controlling filling and grading to prevent serious soil erosion problems.
 - (2) PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:
 - a. Preserving wetlands and other fish and aquatic habitat.
 - b. Regulating pollution sources.
 - c. Controlling shoreline alteration, dredging and lagooning.
 - d. Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to aquatic life.
 - (3) CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:
 - a. Separating conflicting land uses.
 - b. Prohibiting certain uses detrimental to the shoreland area.
 - c. Setting minimum lot sizes and width.
 - d. Regulating side yards and building setbacks from waterways.

- (4) PRESERVE SHORE COVER AND NATURAL BEAUTY THROUGH:
- a. Restricting the removal of natural shoreland cover.
 - b. Preventing shoreline encroachment by structures.
 - c. Controlling shoreland excavation and other earth moving activities.
 - d. Regulating the use and placement of boathouses and other structures.
 - e. Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to natural beauty and shore cover.

21.04 TITLE: Shoreland Zoning Ordinance for Lincoln County, Wisconsin

21.05 APPLICABILITY.

- (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 Lincoln County, which are:
- (a) Within one thousand (1,000) feet of the ordinary high water mark of lakes, ponds, or flowages, and within 1,000 feet of the high water mark of glacial pothole lakes. Lakes, ponds, rivers, or flowages in Lincoln County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Lincoln County" or are shown on United States Geological Survey 7.5 minute series quadrangle maps or other zoning base maps.
 - (b) Within three hundred (300) feet of the ordinary high water mark of rivers and navigable streams, or to the landward side of the floodplain, whichever distance is greater. Streams in Lincoln County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey 7.5 minute series 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.
 - (c) The zoning administrator shall initially make determinations of navigability and ordinary high water mark location. When questions arise, the zoning administrator shall contact the appropriate local office of the Department for a final determination of navigability or ordinary high water mark.
 - (d) Under s. 281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under,

this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to the 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.
- (e) Agricultural practices such as plowing of fields and installation of conservation practices are exempt from permitting and grading/filling standards of this ordinance as long as they are prescribed practices and adhere to standards inherent in Wisconsin Administrative Codes as promulgated under chapters 281 and 92 of Wisconsin State Statutes.
- (f) Forestry activities such as harvesting of trees, construction of access roads and landings are also exempt from regulation under this ordinance as long as best management practices, as prescribed by “Wisconsin’s Forestry Best Management Practices for Water Quality Field Manual”, are adhered to by the landowner and logger or the practice is prescribed and supervised by a practicing forester.

(2) SHORELAND ZONING MAPS & REPORTS. 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 Lincoln County.

- a. United States Geological Survey 7.5 minute series Quadrangle Maps for Lincoln County (as revised).
- b. Wisconsin Wetland Inventory Maps dated May 28, 1985 (as amended).
- c. Floodplain zoning maps identified as Flood Hazard Boundary Maps (as amended).
- d. Lincoln County Lake and River Classification Map dated October 8, 2003, and Scoring Criteria Report.(as revised).

(3) COMPLIANCE. The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see sections 21.13 and 21.14 for standards applicable to nonconforming uses). Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

(4) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s.13.48 (13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s.30.12 (4)(a), Wis. Stats., applies.

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

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

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

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

(d) The provisions of the Lincoln County Zoning Ordinance and the Lincoln County Subdivision Control Ordinance are hereby incorporated into this ordinance. These provisions shall only apply to the shoreland areas where they impose greater restrictions than this ordinance otherwise imposes.

(6) INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard of ch.NR115, Wis. Adm. Code (WAC), and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch.NR115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment of this ordinance.

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

21.06 RELATION TO OTHER LINCOLN COUNTY ORDINANCES.

- (1) All other provisions of the Lincoln County Code of Ordinances related hereto are incorporated herein by reference, to the extent that they impose greater restrictions.
- (2) All requirements relative to lighting, light pollution, maintenance of a nuisance through lighting and lighted signs of the Lincoln County Code of Ordinances are hereto incorporated by reference.
- (3) LAND DIVISION REVIEW. The county shall review, pursuant to s.236.45 Wis. Stats., and Chapters 17 & 18, all land divisions in shoreland areas which create parcels or building sites of less than 10 acres each.

21.07 REQUIREMENTS FOR SHORELAND DEVELOPMENT.

- (1) DIMENSIONAL STANDARDS for properties located upon the three classes of waterbodies shall be as follows:

Dimensional Standards of Waterways as Classified by the Lincoln County Lakes and River Classification Map dated October 8, 2003			
	Low Sensitivity	Moderate Sensitivity	High Sensitivity
Lot Size	30,000 sq. ft.	40,000 sq. ft.	50,000 sq. ft.
Shoreline Frontage	150 ft.	175 ft.	200 ft.
Lot Width	150 ft.	175 ft.	200 ft.
Ordinary High Water Mark (OHWM) Setback	75 ft.	90 ft.	100 ft.
Side Yard Setback	Cumulative of 25 ft. with a minimum of 10 ft.	Cumulative of 30 ft. with a minimum of 10 ft.	Cumulative of 35 ft. with a minimum of 10 ft.
Road Setback	*	*	*
Impervious Surface Coverage	Greater of 20% of Lot or 3000 sq. ft.	Greater of 18% of Lot or 3000 sq. ft.	Greater of 15% of lot or 3000 sq. ft.
Buffer Depth	35 ft.	50 ft.	60 ft.
** View /Access Corridor	No more than 30 ft. in any 100 ft.	No more than 30 ft. in any 175 ft.	No more than 30 ft in any 200 ft.

* All Structures must adhere to required road / highway setbacks where applicable.

** For lots with less than the prescribed width – refer to section 21.09(3)(g)4 of the ordinance.

(2) ADJUSTMENTS: To allow flexibility in meeting specified dimensional, setback, shoreland buffer and impervious surface requirements established in this ordinance, an adjustment schedule is hereby established. This schedule ascribes weighted values to dimensional increments and allows these units (points) to be flexibly combined to meet those requirements of this ordinance that are in excess of minimum state standards. In no instance can these points be used to offset dimensional deficiencies that fall below said minimum state standards. Permitted projects are those that result in a zero or positive net balance of points. The balance of mitigation points required and earned shall be evaluated when a zoning permit is issued. An affidavit which identifies the means by which mitigation points are earned shall be recorded with the deed to notify future owners of the property of the need to maintain such practices.

(3) MITIGATION SCHEDULE

MITIGATION REQUIREMENTS AND OPPORTUNITIES	
Points are required for developing property under the following conditions:	Opportunities to earn mitigation points include:
<ul style="list-style-type: none"> • Building on slopes from 7% to 12% - 1 point • Building on slopes in excess of 12% - 2 points • Building on potentially highly erodible land (PHEL) - 1 point • Building on highly erodible land (HEL) - 2 points • Building at reduced setbacks from the *OHWM - 1 point for 1st 0-10 ft. & ½ point for each additional rounded 5 ft. increment • Building at a reduced setback from the road right-of-way - 1 point for 1st 0-10 ft. and ½ point for each additional rounded 5 ft. increment (only applies to non-conforming lots under Sec. 21.14) • Building on an existing lot that contains less than the required lot dimension – 1 point for the 1st reduction of 0-10,000 sq.ft. and ½ point for each additional rounded 5,000 sq.ft. reduction 	<ul style="list-style-type: none"> • Increasing buffer depths - ½ point for each rounded 5 ft increment • Reducing the width of the view / access corridor - 1 point for each rounded 5 ft. increment • If lot is larger than prescribed minimum size - ½ point for each rounded 5000 sq. ft. increment • Removal of legal non-conforming accessory structure - 1 point • Removal of legal non-conforming habitable structure - 3 points • Replacement of failing septic system due to setbacks or sizing - 2 points • Replacement of failing septic system due to surface water or groundwater impacts - 3 points • Removal of a sanitary privy - 1 point • Removal of non-structural impervious surfaces - ½ point for each rounded 500 sq.ft. of pavement. ½ point for each rounded 1000 sq.ft. of hardpacked gravel

	<ul style="list-style-type: none"> • Restoration of a Passive Buffer -1 point • Restoration of a Active Buffer -2 points • Installation of a pre-approved ** runoff control structure - 2 points • Leaving percentages of the parcel in a natural state. 25-49% - 1 point. 50-74% - 2 points. >74% - 3 points
<p>* Only in special circumstances can a setback of less than 75 ft to the OHWM be authorized by mitigation – see Sections 21.13 & 21.14 of this ordinance.</p>	<p>** The Lincoln County Land Conservation Department has a list of pre-approved runoff control structure designs.</p>

(4) BOATHOUSES

- (a) LEGAL PRE-EXISTING BOATHOUSES that were constructed prior to July 1, 1998, shall not be expanded but may be structurally repaired provided that a shoreland buffer of compliant dimensions is present or reestablished per Section 21.09 (3)(g). Said buffer may be a passive shoreland buffer. The boathouse shall also count toward the available view/access corridor calculation. Boathouses that extend beyond the OHWM are regulated by the Department of Natural Resources.
- (b) NEW Boathouses may be constructed on lots that conform to the dimensions prescribed in the standards for low sensitivity waterways in section 21.07(1) of this ordinance and only on lands adjacent to such waterways subject to the following standards:
1. They shall be setback a minimum of 10 ft. landward of the OHWM and the floor or top of the footing must be at an elevation of two feet above the OHWM.
 2. They may not exceed a dimension of 300 square feet nor may they exceed a height of 12 feet.
 3. They shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but is not steeper than 6/12 rise to run, or if a flat roof is constructed for purposes of creating a deck, then the boathouse and the deck must be constructed at a minimum setback of 35 feet to the OHWM and the deck may not exceed a dimension of 200 square feet in compliance with the standards prescribed by 59.692 (1v) of the state statutes. The deck must be considered and authorized under the provisions of this statute and section 21.07(5) of this ordinance.

4. They must be completely located within the allowable view and access corridor of the parcel.
5. The vegetative buffer zone must be reestablished under the provisions of section 21.10(1)c. of this ordinance to the depths prescribed by section 21.07(1) of this ordinance.
6. Construction shall occur only on slopes of less than 20% grade.
7. They shall be constructed such that roof runoff is directed to a runoff control structure.

(5) SPECIAL ZONING PERMISSION PURSUANT TO s.59.692(1v) Wis. Stats.

- (a) PERFORMANCE STANDARDS A reduced setback will be granted for open sided or screened structures within the shoreland setback area provided that a qualifying buffer zone is present to a depth of at least one half of the required setback from the OHWM. If a qualifying buffer is not already present, one must be restored to a depth of one half of the required setback, according to the dimensional standards of the sensitivity class, and that covers at least 70% of the shoreline width. A restoration plan compliant with Section 21.10(3) of this Chapter must be submitted. Before a 59.692 Permit may be issued, a restored shoreland buffer must undergo one complete growing season to demonstrate that at least 90% of the planting has survived. If a qualifying buffer is already present, a permit may be issued after the Recording Requirements are met.
- (b) DIMENSIONAL STANDARDS The total floor area of all structures (excluding boathouses) in the shoreland setback area shall not exceed 200 square feet. Structures authorized by a 59.692 Permit shall be setback at least 35 feet from the OHWM, and if free standing, be constructed no taller than 12 feet above surrounding grade.
- (c) RECORDING REQUIREMENTS An affidavit shall be signed by the owner requesting the 59.692 Permit which acknowledges the requirement to maintain the restored or existing qualifying shoreland buffer area. Said affidavit will also be recorded in the Lincoln County Register of Deeds office and serve as official notice of this requirement to future property owners.

(6) DEVELOPMENT OF ISLANDS

- (a) Islands with sufficient area to meet setbacks and not subject to flooding may be used for development after obtaining a conditional use permit from the Planning and Zoning Committee.

- (b) Development of islands shall be subject to the following provisions as minimum standards. Greater restrictions may be imposed by conditional use permit.
 - 1. The approved use shall be a permitted or conditional use for the underlying zoning district.
 - 2. A developed island shall be provided with at least one mainland access lot, on that same waterbody, for ingress, egress, and parking areas and sanitary maintenance on the island. An access lot shall meet the minimum requirements for a new lot on that body of water. The construction or placement of any structure on an access lot is prohibited with the exception of piers, docks, wharfs, boat hoists and boat shelters in conformance with NR 115 and NR 326 WAC and Chapter 30 of the Wis. Stats.
 - 3. The number of principal structures, building sites, single family units, or single family condominium units on an island (density of structures) shall be based upon the surface area, frontage and buildable areas that meet setbacks as prescribed by the applicable zoning district and/or lot size for the classification of the water body within which the island is located.
 - 4. A structure with plumbing shall only be allowed on an island with an approved Sanitary Permit including a viable Maintenance Agreement and Contingency Plan, including a maintenance contract signed by a licensed service provider. A holding tank septic system shall not be allowed as an acceptable waste disposal system due to the frequent service interval requirements. If a road access to the island is authorized by permit and constructed, a holding tank may be considered for waste treatment at that time.
 - 5. Cutting of vegetation within the required shoreland buffer area shall be further limited such that the number of view/access corridors is no greater than the number of principal structures or single family units, whichever is greater.
- (c) Islands without sufficient upland area, areas that meet setbacks, areas not subject to flooding, a viable access lot, or that have other significant environmental limitations shall not be developed.
- (d) Islands with documented cultural or historic value shall not be developed.
- (7) DEVELOPMENT OF BACK LOTS.

The development of shoreline property as an access lot for use by owners of back lots may take place after obtaining a conditional use permit from

the Planning and Zoning Committee. The following minimum requirements shall be made conditions of the conditional use permit:

- a. The minimum width of an access lot shall be one hundred fifty (150) feet measured at the lot's narrowest point.
- b. The proposed access lot shall not provide water access for more than three (3) back lots or dwelling units for every 150 feet of water frontage.
- c. The proposed access lot shall be at least 30,000 square feet in area, not including space devoted to any public roadway or right of way that may intersect the access lot.
- d. The back lots having access to the water over the access lot must be situated so that they are contiguous to each other, excepting roadways, and their furthest boundary no more than 1000 feet from the back of the access lot.
- e. The construction or placement of any structure on an access lot is prohibited except for piers, docks, wharfs and boat shelters and hoists consistent with provisions of NR115 and NR 326 of the WAC, and Chapter 30 of the Wis. Stats.
- f. Each back lot owner shall be granted an undivided interest in the access lot. The access lot shall not be subdivided in any way.
- g. Other conditions that may be considered for an access site/lot may include and are not limited to waste containment, sanitary facility, noise limits, screening, parking, parking controls, time requirements, lighting and identification of sites, fish cleaning, gasoline and oil handling, disposition of all waste materials and restrictions on shoreline cutting pursuant to section 21.09(2).

21.08 ACCESSIBILITY, PIERS, DOCKS AND FENCES

(1) STAIRWAYS, WALKWAYS AND LIFTS.

A stairway, elevated walkway or lift is allowed in the shoreland setback area only when it is essential to provide pedestrian access to the shoreline or a permitted pier, boat hoist or boathouse because of steep slopes, rocky or wet, unstable soils, and when the following conditions are met:

- a. Canopies, roofs, and sides are prohibited. Open railings may be provided.
- b. A maximum width of four (4) feet (outside dimensions) is allowed for stairways, walkways, and lifts.
- c. Landings are allowed where required for safety purposes and shall not exceed a cumulative total of 40 square feet. Attached benches, seats, tables, etc. are prohibited.
- d. Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavation that is proposed must meet the requirements of Sections 21.10 and 21.11 of this ordinance.

(2) ACCOMMODATIONS FOR DISABLED PERSONS

Where strict interpretation of this ordinance would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance under Section 21.15(2) of this ordinance, the Zoning Administrator may grant a waiver to the dimensional standards of this Ordinance in order to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Housing Act and the Wisconsin Fair Housing Act. The permit shall be subject to the following conditions:

- a. Only the minimum relaxation of dimensional standards needed to provide reasonable accommodation shall be approved.
- b. No use, structure or other relaxation of standards shall be approved that would violate or undermine the stated purpose of this ordinance.
- c. Where practicable, the improvement authorized by this provision shall be removed when the premises are no longer occupied or frequented by a disabled person.

(3) PIERS AND DOCKS

Piers and docks are subject to the regulations of the State of Wisconsin administered by the Wisconsin Department of Natural Resources.

(4) FENCES

- a. Open fences constructed of split rail or wire, may be allowed within the shoreland setback provided they are no taller than six (6) feet in height and do not extend waterward beyond the OHWM except as required by other state law.
- b. Solid fences shall not be located within the shoreland setback.

21.09 PRESERVATION AND REMOVAL OF VEGETATIVE COVER.

- (1) PURPOSE. The purpose of restricting the removal of trees, shrubbery and vegetative cover in the shoreland area is to protect aquatic and shoreline wildlife habitat, prevent the loss of natural beauty, control erosion and reduce effluent and nutrient flow from the shoreland.
- (2) SHORELAND CUTTING. Tree, shrubbery and groundcover cutting and clearing shall be restricted in an area located parallel to the ordinary high water mark (OHWM), and extending inland from all points along the OHWM. This area shall be called the “*shoreland buffer*”. The maintenance and treatment of this buffer shall comply with all of the following requirements:
 - (a) Shoreland Buffer Depth: The required minimum depth of the shoreland buffer as measured from the OHWM on any particular lot shall comply with Sections 21.07 and 21.09 (3)(g) of this Ordinance. The depth of the required shoreland buffer may in no instance be less than 35 feet.
 - (b) Protection During Times of Construction: All vegetation within the required shoreland buffer shall be protected by fencing to exclude construction activities except where construction within the buffer is authorized. Such vegetation shall be maintained so as to maximize the soil stabilization and filtering functions of the buffer.
- (3) EXCEPTIONS TO CUTTING STANDARDS. The following activities are allowed within the required shoreland buffer area, but only under the prescribed conditions:
 - (a) View/access corridors that comply with ordinance provisions may be maintained provided that bank erosion and sedimentation of the waterway is prevented.
 - (b) Dead, diseased or dying trees and tree branches may be removed provided they present a safety hazard to structures or persons, and provided they are replaced with native vegetation that is equally effective in fulfilling the purposes of the shoreland buffer. Mitigation as defined by Section 21.10 of this Chapter may be required.
 - (c) Noxious or invasive plants may be removed provided that they are replaced with native vegetation, or cultivars of native stock, that is equally effective in fulfilling the purposes of the shoreland buffer. Mitigation as defined by Section 21.10 of this Chapter may be required.

- (d) Silvicultural thinning is allowed provided that all appropriate best management practices as prescribed by the “Wisconsin’s Forestry Best Management Practices for Water Quality Field Manual” are followed, and the purposes for such thinning are to release an existing stand of trees or to support regeneration of forest species.
- (e) Landscaping and lawns that extend into the required shoreland buffer area prior to the adoption of this ordinance may be maintained until such a time that mitigation is required by Section 21.10 of this Chapter. Existing lawns and landscaping shall not be extended further into the required shoreland buffer area.
- (f) Any path, road or passage within the required shoreland buffer area, including the view/access corridor, shall be constructed and surfaced so as to effectively control erosion and minimize stormwater runoff directly into a waterway.
- (g) Tree, shrubbery and groundcover cutting may occur within a portion of the shoreland buffer, extending from the OHWM through the entire depth of the shoreland buffer. This area shall be called the “*View/Access Corridor*”.
 1. The width of a view/access corridor may in no instance exceed 30 feet as measured along the OHWM.
 2. The spacing of view/access corridors along the shoreline is governed by Section 21.07 of this Chapter. Unless otherwise approved by the Zoning Administrator, the view access corridor may not be located closer than 35 feet from any side lot line on conforming lots or 20 feet on lots with less than 100 feet of shoreline frontage.
 3. Lots legally created before the adoption of this ordinance with less than the required minimum frontage shall be allowed one view/access corridor.
 4. For lots of less than 100 feet in width at the shoreline, the permitted maximum width of the view access corridor shall be no more than of 30 percent of the lot width at the shoreline.
 5. An envelope of 15 feet around the principal structure may also be maintained free of buffer vegetation.
- (f) Greater cutting than allowed by Section 21.09 (2) may be permitted by the Planning and Zoning Committee by issuance of a conditional use permit for a Special Cutting Plan. An application for such a permit shall include a sketch of the lot providing the

following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The committee may grant such a permit only if it finds that such special cutting plans:

1. Will not cause undue erosion or destruction of natural beauty;
 2. Will not exacerbate sedimentation or harm water quality;
 3. Will provide substantial visual screening from the water of dwellings, structures and parking areas. Where the plan calls for replacement planting, the committee may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner within one year of the granting of the permit.
 4. Cutting plans shall follow the practices described in the “Wisconsin’s Forestry Best Management Practices for Water Quality Field Manual.”
 5. Slash materials shall be disposed of in a manner that does not violate the Lincoln County Floodplain Ordinance.
- (g) Principal structures that were legally constructed before the adoption of this ordinance that are located within 15 feet the required shoreland buffer area may maintain an envelope around the structure where vegetation cutting and maintenance of lawns and landscaping is allowed. The bounds of this envelope shall not exceed 15 feet as measured from the furthest extent of the building. The view/access corridor shall be located within this envelope insofar as practical.

21.10 SHORELAND RESTORATION AND MITIGATION

- (1) SHORELAND BUFFER RESTORATION REQUIREMENTS. A shoreland buffer of the required dimensions and composition shall be restored when:
- a. An excavation permit is required under section 21.11(2), then a passive shoreland buffer shall be restored. An active buffer may also serve as the restoration.
 - b. An application for a zoning permit is submitted to construct a new structure or an addition that will begin at a setback less than that which is required from the OHWM, then a passive shoreland buffer shall be restored. An active shoreland buffer may also serve as the restoration. Both restorations shall qualify for points under the adjustments schedule in section 21.07(3).

- c. An application for a zoning permit for the structural repair of an existing boathouse or construction of a new boathouse under section 21.07(4)(b) is submitted, then a passive shoreland buffer shall be restored. An active shoreland buffer may also serve as the restoration. Both restorations shall qualify for points under section 21.07(3). Existing boathouses may not be located within the shoreland buffer zone and must be located within the view and access corridor.
- (2) RESTORATION STANDARDS. Where the growth of vegetative cover in the shoreland buffer area has been substantially altered by tree cutting, shrubbery cutting, mowing or other similar activities, the loss of the environmental benefits of the buffer may be mitigated. Mitigation of the shoreland buffer zone is only required when such mitigation shall meet the following parameters - Section 21.10 (a)-(c) applies:
- a. When all mowing, pruning, and tree cutting ceases within the shoreland buffer area, with the exception of activities allowed by Section 21.09(3) of this Ordinance, and existing vegetation is then allowed to grow naturally, this shall be known as the restoration of a *passive shoreland buffer*.
 - b. When all mowing, pruning, and tree cutting ceases, and native species or cultivars of native stock are planted within the shoreland buffer area, this shall be known as an *active shoreland buffer* restoration.
- (3) RESTORATION PLAN REQUIRED. Prior to the issuance of a zoning permit, an applicant required to mitigate the shoreland buffer shall submit a restoration plan to the Zoning Administrator for review and approval. The plan shall include a sketch of the lot showing the dimensions and location of the required buffer area and the proposed location of all view/access corridors. A plan for the restoration of an active buffer shall also include:
- a. An inventory of plant species currently present and an indication of their density within the required shoreland buffer area.
 - b. A list of desired native, site-adapted species (or cultivars of native species) to include in the restoration area and a schedule for their planting.
 - c. A sketch showing the placement and densities of each species planned for the restored buffer area.
 - d. A description of how the applicant intends to carry out the project including the erosion control measures that will be used during construction.

- (4) RECORDING REQUIRED. All shoreland mitigation requirements shall be maintained in perpetuity, and be recorded on the property deed with a form provided by the Zoning Department.

21.11 SOIL DISTURBING ACTIVITIES.

- (1) General Standards. Soil disturbing activities include filling, grading, lagooning, dredging, ditching or excavating. Soil disturbing activities that do not require a permit under Section 21.11(2) may be permitted 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. Soil disturbing activities in a Shoreland-Wetland district meet the requirements of Section 21.12(3) of this ordinance.
 - c. All applicable federal, state and local authority is obtained.
 - d. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or bulkhead.
 - e. The required shoreland buffer area is provided if required by Section 21.10(2).
- (2) PERMIT REQUIRED. Except as provided in Section 21.11(3), a Zoning Permit is required for:
- (a) Soil disturbing activities in any area which is within 300 feet landward of the OHWM of navigable water and which has surface drainage toward the water and on which there is either:
 1. More than 1,000 square feet of exposed soil in total on a site within slopes exceeding 20%; or,
 2. More than 5,000 square feet of exposed soil in total on a site within slopes between 10% and 20%.
 3. When constructing a new boathouse under section 21.07(4)(b) of this ordinance.
 - (b) Any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is more than 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

- (3) SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.
- a. Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under Section 21.11(2) of this Ordinance when designed and constructed to Natural Resources Conservation Service technical standards.
- (4) PERMIT CONDITIONS. In granting a permit under section 21.11(2), all elements of the site disturbance plan required in section 21.15(1)(b), as well as the following conditions shall apply as appropriate:
- (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, 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 any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (g) Channels or artificial watercourses shall be constructed with side slope of two (2) units of horizontal distance to one (1) unit of vertical distance, or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
- (h) Runoff shall be contained onsite and containment structures shall be designed so as to not allow it to escape onto adjoining properties.
- (i) Any other conditions deemed necessary to prevent erosion and protect water quality.

21.12 SHORELAND-WETLAND DISTRICT.

- (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.

- (a) LOCATING SHORELAND-WETLAND BOUNDARIES. Where an apparent discrepancy exists between the Shoreland-Wetland District boundaries 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 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. The 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 wetlands.

- (3) PERMITTED USES. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of ch.30 and 31, Wis. Stats. and the provisions of other applicable local, state, and federal laws.
 - (a) Activities and uses which do not require the issuance of a zoning permit (allowed uses), but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavation except as allowed under section 21.11(2) or (3).
 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.
- (b) Uses which do not require the issuance of a zoning permit (allowed uses) and which may include limited filling, flooding, drainage, 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 silviculture 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 dredge 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.
- (c) Uses which require the issuance of zoning permit under section 21.15(1)(b) 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 21.12(2);

- c. The road is designed and constructed with the minimum cross sectional area practical to 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 animal; or some other use permitted in the Shoreland-Wetland District, including boating;
 - 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 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 when such construction or maintenance meets the criteria in section 21.12 (3)(a-c) 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, 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 21.12(2).

(4) PROHIBITED USES. Any use not listed in sections 21.12(3)(a)-(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 21.12(5) of this ordinance and s.59.69(5)(e), Wis. Stats.

(5) REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

(a) For all proposed text and map amendments to the Shoreland-Wetland provision of this ordinance, the appropriate local 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 provision 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.

(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 water.
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.

- (c) If the Department notifies the County planning and zoning agency that a proposed text or map amendment to the shoreland and/or shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in section 21.12(2), 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), 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 complete or otherwise terminated.

21.13 LEGAL PRE-EXISTING STRUCTURES THAT DO NOT CONFORM TO THE NEW STANDARDS.

- (1) ACCESSORY STRUCTURES Accessory structures that were legally constructed before the adoption of this Chapter may be maintained, but may not be expanded or rebuilt unless made to conform with provisions of this ordinance. Legal pre-existing boathouses are subject to Section 21.07 (4)(a) of this ordinance.
- (2) PRINCIPAL STRUCTURES Principal structures that were legally constructed before the adoption of this Chapter are subject to the following provisions.
 - (a) Principal Structures Less Than 40 Feet From the OHWM. Such structures are considered non-conforming but are repairable and subject to the following limitations:

1. Such structures may be improved internally or fully repaired without limitation as a matter of right but shall not be expanded.
 2. Such improvement shall be confined to the enclosed portions of the building envelope which existed at the time the structure became nonconforming and shall not include new basements in place of alternative foundations or additional stories (no increase in livable area, floor area or footprint).
 3. Such structures may be completely torn down and rebuilt if authorization is provided under the setback prescriptions of this ordinance or section 21.14 (1). Maximum size of the rebuilt structure shall be limited by impervious surface limitations, mitigation point earnings and the building envelope limitations allowed by said section.
 4. If a compliant building location does not exist on the lot, per setback prescriptions or by section 21.14(1), then application may be made for a Conditional Use Permit to authorize reconstruction within the present footprint of the structure or in a location that may not comply with dimensional standards but may be more compliant than the present location. The applicant must demonstrate that enough mitigation points can be earned under section 21.07(3) before the permit may be authorized. All measures to safeguard against erosion must be addressed in a site disturbance plan as required in section 21.15(1)(b) of this ordinance. Additionally, the Committee shall evaluate if other locations exist upon the parcel that could more fully comply with setbacks and further support the stated purposes of this ordinance. No increase to the livable area or footprint of the previous structure will be allowed.
- (b) Principal Structures At Least 40 Feet But Less Than 75 Feet From the OHWM. Such structures are repairable and may be expanded subject to the following limitations:
1. Such structures may be fully repaired as a matter of right.
 2. Such structures may be completely torn down and rebuilt under issuance of a zoning permit if prescribed setbacks are adhered to or if a compliant building envelope can be afforded under section 21.14(1).
 3. If a compliant building location does not exist on the lot, per setback prescriptions or by section 21.14(1), then application may be made for a Conditional Use Permit to authorize reconstruction within the present footprint of the structure or in a location that may not comply with dimensional standards but may be more compliant than the present location. The applicant must demonstrate that enough mitigation points can be earned under section 21.07(3) before the permit may be authorized.

All measures to safeguard against erosion must be addressed in a site disturbance plan as required by section 21.15(1)(b). Additionally, the Committee shall evaluate if other locations exist upon the parcel that could more fully comply with setbacks and further support the stated purposes of this ordinance.

4. Such structures may be expanded one time over the life of the structure. The expansion shall not result in a total livable area that exceeds 1,500 square feet and further will be limited to 100% of the structure's original livable area if that results in a net total of less than 1,500 square feet of livable area. Such expansion may be upward or downward within the same footprint, it may be located on the landward side of the structure or it may begin at any point beyond the required setback. When an expansion has been authorized by permit, a deed affidavit shall be recorded in conjunction with issuance of the permit to serve as notice to future property owners that the expansion opportunity has been exhausted.

- (c) Principal Structures that Measure at Least 75 Feet from the OHWM, but Less Than the New Setback on Moderate and High Sensitivity Waters. Such structures may be maintained, repaired and expanded beyond 75 feet subject to the following limitations:
 1. Such structures may be expanded without limit if enough adjustment points are earned under section 21.07(3).
 2. Such structures may be completely torn down and rebuilt in the present location with a zoning permit if enough mitigation points are earned under section 21.07(3) and in compliance with section 21.09.
- (d) Legal Pre-existing Principal Structures and Developments that Exceed Density Provisions on a Lot. Expansion opportunities for such structures or developments shall be limited to the rules established in sections 21.13(2)(b)(4) and 21.07(1) impervious surface limitations.

1. For properties under alternative forms of ownership such as condominiums, cooperatives and associations, the limits to expansion on structures and caps on impervious surfaces shall be applied equally to the total number of units within the development. For example: If owners within a 3 unit condominium development have 1,500 square feet of expansion opportunity available to the units under the impervious surface limitations and they want to expand their structures, then the expansion opportunity for principal or accessory structures shall be

split equally amongst the 3 units so that no more than 500 feet of expansion to impervious surfaces is afforded to each unit.

- (3) STRUCTURES DAMAGED OR DESTROYED BY VIOLENT WIND, FIRE, FLOOD OR VANDALISM. As required by s.59.692(1s), Wis. Stats., if a landowner can establish that a nonconforming structure has been destroyed or damaged after October 14, 1997 by violent wind, vandalism, fire or flood, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:
- a. A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this ordinance.
 - b. Except as provided in s.87.30(1d), Wis. Stats., nonconforming buildings that are subject to regulation under a floodplain zoning ordinance may not be reconstructed or repaired except in compliance with the floodplain zoning ordinance.
 - c. Mitigation measures required elsewhere in this chapter shall be adhered to as they apply (including but not limited to: shoreland buffer requirements, grading permit requirements, and the point adjustment system).
 - d. The landowner shall bear the burden of proof as to the size, location or the use that a destroyed or damaged legal pre-existing structure had immediately before the destruction or damage occurred.
 - e. Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire or flood, and only in conformance with the provisions of this ordinance.

21.14 LEGAL PRE-EXISTING LOTS OF RECORD

- (1) If a lot platted prior to the effective date of this ordinance is not deep enough to accommodate required roadway or rear yard setbacks, the roadway or rear yard setback may be reduced until a 30-foot deep building envelope is established. If this reduction is not sufficient to provide a 30-foot deep building envelope, then a reduction in the required setback from the OHWM may be permitted in addition to setback reduction from the roadway or rear yard, until a 30-foot deep building envelope is provided. These reduced setbacks shall only be granted under the following conditions:

- a. The lot must be at least 10,000 square feet in size, at least 65 feet wide at the ordinary high water mark, and at least 65 feet wide at the building line.
 - b. In no instance shall the resulting OHWM setback be less than the greater of: one-half (1/2) that distance which is normally required; or 40 feet.
 - c. In no instance shall the resulting highway setback be less than one-half (1/2) the distance of the normally required setback.
 - d. If a reduced highway setback is granted, no garage doorway may open toward a public road in order to avoid visual impacts, safety hazards by backing onto the roadway and obstructions along the street side of the lot.
 - e. If an accessory structure is built within an afforded building envelope upon a vacant lot, such accessory structure shall not exceed 200 square feet in footprint. This size limit does not apply to accessory structures built upon lots occupied by a principal use.
 - f. Mitigation requirements of sections 21.11 and 21.07(2) & (3) must be adhered to.
- (2) In all other cases, a setback of less than that required under this Ordinance may be permitted by the Board of Adjustment through a variance procedure in section 21.15(2) of this Ordinance.

21.15 ADMINISTRATIVE PROVISIONS.

(1) ZONING PERMITS.

- (a) **WHEN REQUIRED:** Except where another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning department before any new development, as defined in section 21.18, any structural repair of nonconforming structures or any change in the use of an existing building or structure, is initiated.
- (b) **APPLICATION:** An application for a zoning permit shall be made to the zoning department upon forms furnished by the county and shall include, for the purpose of proper enforcement of these regulations, the following data which shall comprise the proposed *Site Disturbance Plan*:
 - (1) Name and address of applicant and property owner.
 - (2) Legal description of the property and type of proposed use.

- (3) A sketch of the dimensions of the lot and location of buildings relative to the lot lines, centerline of abutting or proposed highways, and the ordinary high water mark of any abutting watercourses and water level on a date specified.
- (4) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
- (5) Location of planned areas of excavation, clearing, grading or spoil deposition, in order to assure that proper methods of erosion control will be addressed.
- (6) Appropriate use of best management practices to protect the site from erosion, sedimentation, contamination, and vegetation protection. Such measures shall include, but may not be limited to:
 - a. silt fencing, hay or straw bales and other barriers
 - b. sedimentation basins
 - c. protective fencing for trees and other vegetation
 - d. designated soil stockpile and staging areas
 - e. designated heavy equipment and vehicular access drives and staging areas
 - f. designation of existing vegetation that will be preserved by the applicant
 - g. other techniques as deemed appropriate by County Staff guided by best management practices
- 7. Demonstration of how the applicant proposes to contain all runoff generated from the property within the same property.

(c) SEQUENCE OF ACTIVITY: The *Site Disturbance Plan* (per section 21.15(1)(b)) indicating proposed disturbance and protection techniques must be approved by Lincoln County Staff before a Zoning Permit is granted. All site protection measures required in the approved *Site Disturbance Plan* must be put in place prior to any site disturbance or construction.

(d) EXPIRATION OF PERMIT: Zoning permits shall expire 24 months from the date issued if work is not completed, unless a one

year extension is applied for, without fee, from the Zoning Department prior to the expiration date.

- (2) BOARD OF ADJUSTMENT. Refer to Chapter 17 of the Lincoln County Code of Ordinances - Zoning Ordinance.
- (3) FEES. General. The Zoning Committee may set fees for permits and inspections conducted by the department to implement this ordinance. Such fees shall be posted in a schedule by the department and made available upon request.

21.16 CHANGES AND AMENDMENTS. The County Board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of s.59.69(5)(e). Wis. Stats., ch NR115, Wis. Adm. Code and section 21.12(5) of this ordinance where applicable.

- (1) Amendments to this ordinance may be made on petition of any interested party as provided in s.59.69(5)(e), Wis. Stats.
- (2) Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be mailed to the appropriate district office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate local office of the Department at least 10 days prior to the hearing.
- (3) A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate local office of the Department within 10 days after the decision is issued.

21.17 ENFORCEMENT AND PENALTIES. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violated or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture in accordance with the schedule established by Section 25.04 of the Lincoln County Code of Ordinances, together with the taxable cost 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 s.59.69(11), Wis. Stats.

- (1) As required by s.59.69(1), Wis. Stats., where a building or structure violates the dimensional or use standards of this ordinance, and the violating building or structure has been in place for more than ten (10) years before an enforcement action is initiated, such building or structure shall be treated as a legal pre-existing structure. All provisions of Section 21.13(3) of this ordinance shall apply to such buildings or structures.
- (2) Any property owner asserting as a defense to a charge of violating this ordinance that the alleged violation has been in place more than ten (10) years before enforcement action was initiated has the burden of proving that:
 - a. The building or structure that is in violation has been in place more than ten (10) years before enforcement action was initiated;
 - b. That the building or structure (and its use, if the use is nonconforming) has remained essentially unchanged for at least ten (10) years;
 - c. That the use of the building or structure has been active and continuous for ten (10) years or more. If use was discontinued for more than twelve (12) months, the use shall not be considered active and continuous.

21.18 DEFINITIONS.

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

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.

Back lot- means a parcel of any size, whether or not improved or subdivided or platted, which does not abut the shoreline or ordinary high water mark of a lake.

Back lot development, also known as “**lot pyramiding**”, “**keyhole development**” or “**development funneling**” is the practice whereby a lot, lots, out lot or common open space or commonly owned lot is used for

waterfront access by a number of parcels or lots located away from or not contiguous to the water body.

Boathouse- means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes and was legally constructed before July 1, 1998 or as allowed by this ordinance.

Building Line - A line parallel to a lot line, road right-of-way line, or ordinary high water mark at a distance from it that complies with the various yard requirements established under this chapter.

Class or Classification of Water Body – means the designation of a lake, flowage or other body of water by the Lincoln County Water Classification System maintained by the Lincoln County Zoning Office as a “high sensitivity”, “moderate sensitivity”, or “low sensitivity” body of water.

Conditional use- means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Planning and Zoning Committee.

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

Department- means the Wisconsin Department of Natural Resources.

Deck – an outdoor platform, usually above ground grade, intended to support persons and outdoor furniture such as chairs or a picnic table. It also includes flat roofs over other legal structures if the intention is the same.

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.

Disabled person- means any person with a physical or mental impairment that substantially limits one or more of his or her major life activities, as recognized by the State of Wisconsin.

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.

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

Highway Setback – means the minimum required distance a structure must be located from the constructed centerline or platted right-of-way of a town, county, state or federal highway as prescribed by the County Zoning Ordinance, Chapter 17.

Impervious Surfaces – for the purposes of this ordinance include: roofs, decks and slotted decks, concrete, mill felt that is laid to impede ground cover, paver block or landscape rock patios and walkways, brick walkways and driveways. Hard packed gravel driveways, parking areas and walkways shall count as 50% impervious in area calculations. Gravel mulch areas around flower beds or borders of walkways, planter beds, retaining walls, gardens, building foundation drains and other drains may contain impervious surfaces but they are not regulated by the impervious surface provisions of this ordinance.

Livable Area- means that portion of a home or other dwelling unit contained under roof that is occupied either seasonally or year ‘round. Such things as attached garages, open decks and floors with a wall height under 7 feet are not considered livable area. Only basements that contain the appropriate exits under ILHR 21.03 (Wisconsin Uniform Dwelling Code) are considered livable areas.

Lot- means a parcel, piece, tract or portion of land defined by metes and bounds, certified survey, recorded land subdivision plat or other means and separated from other lots, parcels, or similar units by such description. All legally created, pre-existing lots of record shall be considered separate and sellable if they are at least 10,000 square feet in area and contain 65 feet of shoreline frontage and lot width.

Lot Width – The shortest distance between side lot lines of a parcel at the building line(s).

Native Vegetation – means any species of plant common to the pre-development shoreland areas of north-central Wisconsin and listed on a schedule of “Native Plants” maintained by the Lincoln County Zoning Department. Additions to the list may be made with the approval of the Lincoln County Zoning or Land Conservation Department. Cultivars of native species also qualify as *Native Vegetation*.

Navigable waters- means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

Under s. 281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under s. 59.69, 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.

Nonconforming structure – (Legal Pre-existing Structure) means an existing lawful structure which is not in conformity with the dimensional or structural standards of this ordinance.

Nonconforming use- (Legal Pre-existing Use) means an existing lawful use or accessory use of a structure, building or development which is not in conformity with the provisions of this ordinance.

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

Principal Structure(s) and Use(s) - Any and all of the primary uses of a property, treated as a use permitted by right or as a conditional use, rather than as an accessory use or a temporary use and the structures associated with such use(s).

Rebuild – means to tear down, dismantle, or remove a structure from its existing location such that nothing remains of the structural elements above the foundation. The burden to prove the location and condition of existing structures and foundations before alteration is upon the property owner. (Also known as Reconstruction).

Release – A silvicultural timber stand improvement practice whereby trees are removed that impede the growth of desired tree species.

Runoff – Stormwater or precipitation including rain, snow or ice melt, or similar water that moves on the land surface via sheet or channelized flow.

Runoff Control Structure – A structure that collects, controls and transports runoff to ensure water quality protection, reduce soil erosion and to increase infiltration into the soil.

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

Shoreland buffer- means the area of protected vegetation located between the ordinary high water mark and a point that is located at least 35 feet inland. Shoreland buffers may include a cleared view access corridor. Shoreland buffers are required to prevent erosion, limit sedimentation and provide filtering so as to protect and enhance water quality, and to provide a diverse shoreland habitat area. Vegetation within shoreland buffers should be preserved, and where needed, additional vegetation should be established, to improve water quality. There are two recognized types of shoreland buffers:

1. A *passive shoreland buffer* may contain any mixture of native and non-native plants sufficient to prevent erosion limit sedimentation and provide filtering. Passive shoreland buffers are often established by the ceasing of mowing.
2. An *active shoreland buffer* shall contain a mixture of trees, shrubs and groundcover sufficient to prevent erosion, limit sedimentation and provide filtering, and to also provide for habitat diversity as opposed to areas of the subject property located outside of the shoreland buffer. Although a qualified shoreland buffer may contain both native and non-native plants, only native plants may be planted within an active shoreland buffer. When employed, the plantings shall meet the following specifications:
 - a. Species of plantings shall be selected from a list of native species maintained by the Zoning Department. Cultivars of these species may also be used.
 - b. Trees shall be planted to restore a density of at least 1 stem per 100 square feet of buffer area.
 - c. Shrubs shall be planted to restore a density of at least 2 stems per 100 square feet of buffer area.
 - d. Ground cover shall be restored to the extent practicable. Mowing shall be prohibited. See section 21.07(1)

Shoreline Frontage – the shortest straight line measurement between two lot lines of a parcel, and drawn as a tangent to the OHWM. For peninsular or “bowl shaped” lots, it may be drawn as a tangent to the OHWM and parallel to the meander line.

Slash materials- means any tree tops, limbs, bark, abandoned forest products, windfalls or other debris left on the land after timber or other forest products have been cut.

Structure- anything constructed, moved or erected that has a more or less permanent location on the ground. The following shall not be considered structures for regulation purposes: grade flush pavement, terraces, paths, roads or walkways that measure 4 feet in width or less, gardens and flower beds, minor structures under 16 square feet such as dog houses, bird houses, deer stands, light and flag poles, pump houses over wells, satellite dishes that measure under 1 meter in diameter, Television or radio antennae, components of an approved septic system for treating wastewater, all above ground vaulted petroleum storage tanks for refueling boats, retaining walls used to control, stop or prevent erosion, and other minor structures similar in nature.

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.

View/Access Corridor –See Section 21.09(3)(g).

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.

Zoning Permit – may include land use permit, 59.692 permit and grading or earth-moving permit.