

7.7 SHORELAND ZONING ORDINANCE

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

7.7.1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in ~~Sections 59.97, 59.971, 59.99, 87.30 and 144.26, Wisconsin Statutes.~~ ss 59.692 Wisconsin State Statutes (Stats.) to implement 59.69, 59.692, 59.694, 87.30, 236.45, and 281.31 Stats.

7.7.1.2 FINDING OF FACT

Uncontrolled use of ~~the~~ shorelands and pollution of ~~the~~ navigable waters of Portage 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, and this responsibility is hereby recognized by Portage County, Wisconsin.

7.7.1.3 PURPOSE

For the purpose of promoting ~~the~~ public health, safety, convenience and general welfare, this ordinance has been established to:

(A) 7.7.1.3.1 Further the maintenance of safe and healthful conditions, and prevent and control water pollution through:

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

(2 B) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities;

(3 C) Controlling filling and grading to prevent serious soil erosion problems; and

(4) Limiting impervious surfaces to control runoff which carries pollutants.

(B) 7.7.1.3.2 Protect spawning grounds, fish, and aquatic life through:

(1 A) Preserving wetlands and other fish and aquatic habitat;

(2 B) Regulating pollution sources; and

(3 C) Controlling shoreline alterations, dredging, and lagooning.

(C) 7.7.1.3.3 Control building sites, placement of structures, and land uses through:

- (1A) Separating conflicting land uses;
- (2B) Prohibiting certain uses detrimental to the shoreland area; and
- (3C) Setting minimum lot sizes and widths;

(4) Setting minimum building setbacks from waterways; and

(5) Setting the maximum height of structures regulated in the shoreland zoning area.

(D) 7.7.1.3.4 Preserve shore cover and natural beauty through;

- (1A) Restricting the removal of natural shoreland cover;
- (2B) Preventing shoreline encroachment by structures;
- (3C) Controlling shoreland excavation and other earth moving activities;
- (4D) Regulating the use and placement of boathouses and other structures; and
- (5E) Controlling the use and placement of signs.

7.7.1.4 TITLE

Portage County Shoreland Zoning Ordinance

7.7.2 GENERAL PROVISIONS

7.7.2.1 REGULATED SHORELAND AREAS

The provisions of this ordinance apply to the shorelands of all navigable waters, as “navigable waters” is are defined in Section 144.26(2)(d) 281.31(2)(d), Wisconsin Statutes., in the unincorporated areas of Portage County, which are:

(A) 7.7.2.1.1 Within one-thousand (1,000) feet of the ordinary high water mark (OHWM) of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Portage County shall be presumed ~~to be~~ navigable, if they are listed in the Wisconsin Department of Natural Resources publication “Surface Water Resources of Portage County” or are shown on the United States Geological Survey quadrangle maps or other zoning base maps ~~which have been~~ incorporated by reference and made a part of this ordinance in Section 7.7.2.2.

(B) 7.7.2.1.2 Within three-hundred (300) feet of the ordinary high water mark of navigable rivers and streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Portage County shall be presumed ~~to be~~ navigable, if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps, except as qualified in 7.7.2.2.5 or other zoning base maps ~~which have been~~ incorporated by reference and made a part of this ordinance in Section 7.7.2.2.

(C) Provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in s. 59.692 (7), Stats. Unless specifically exempted by law, all cities, villages, towns, counties and, when s. 13.48 (13), Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation are not subject to local shoreland zoning ordinances if s. 30.2022 (1), Stats., applies.

(D) Determinations of navigability and ordinary high water mark location shall initially be made by the Portage County Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary high water mark.

(E) Under s. 281.31(2m) 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 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 agricultural use.

7.7.2.2 OFFICIAL SHORELAND ZONING MAPS

The following maps are hereby adopted and made part of this ordinance, and are on file in the Planning and Zoning Office of Portage County:

(A) ~~7.7.2.2.1~~ Final Wisconsin Department of Natural Resources Wetland Inventory Maps for Portage County dated August 26, 1983.

(B) ~~7.7.2.2.2~~ United States Geological Survey Quadrangle Maps.

(C) ~~7.7.2.2.3~~ Federal Emergency Management Agency Flood Insurance Rate Maps for Portage County dated July 20, 2009.

(D) ~~7.7.2.2.4~~ Federal Emergency Management Agency Flood Boundary and Floodway Maps for Portage County dated July 20, 2009.

(E) ~~7.7.2.2.5~~ Shoreland/Wetland Maps of Portage County dated 1984. **Need updated map**

(F) ~~7.7.2.2.6~~ Various Zoning and Land Use Base Maps that have been previously adopted by Portage County.

7.7.2.3 COMPLIANCE

The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, and the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see Section 7.7.7 for standards applicable to nonconforming uses.) Buildings, signs, and land use shall require a Zoning ~~Permit~~ unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders, and contractors are responsible for building code and ordinance compliance, and reasonable care in following construction site erosion control plans.

(A) 7.7.2.3.1 Before any zoning permit, and/or sanitary permit is issued by the Portage County Planning and Zoning Department, an inspection of the shoreland property must be completed to insure compliance with all zoning ordinances. This includes any ~~in~~ activity done on the property prior to the issuance of any permits. An inspection will also be conducted by the Portage County Planning and Zoning staff after structures are built to insure compliance with all the zoning ordinances.

7.7.2.4 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 if Section 13.48(13), Wisconsin Statutes, applies. The construction, reconstruction, maintenance and repair of State highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a) Wisconsin Statutes, applies.~~

7.7.2.4 5 ABROGATION AND GREATER RESTRICTIONS

The shoreland provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under Section 59.97~~692~~, Wisconsin Statutes, which relate to shorelands. However, where an ordinance adopted under a statute other than Statute 59.97~~69~~, Wisconsin Statutes, 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. Where this shoreland ordinance is silent as to a standard or procedure, ~~the~~ appropriate provisions under the general Portage County Zoning Ordinance shall apply.

(A) 7.7.2.5.1 This ordinance shall not require approval or be subject to disapproval by any town or town boards.

(B) 7.7.2.5.2 If an existing town ordinance relating to shoreland is more restrictive than this ordinance or any amendments hereto, the town ordinance continues in all respects to the extent of the greater restrictions, but not otherwise.

(C) 7.7.2.5.3 This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants, or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(D) Provisions of the Portage County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

7.7.2.5 6 INTERPRETATION

In their interpretation and application, the provisions of this Chapter 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 the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in Chapter NR115, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Chapter 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 to this ordinance.

7.7.2.6 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 thereby.

7.7.3 DIMENSIONS OF BUILDING SITES

7.7.3.1 LOTS NOT SERVED BY PUBLIC SANITARY SEWER

Minimum area and setback provisions shall be as follows:

~~(A) 7.7.3.1.1~~ Minimum area and width for each main building. The minimum lot area shall be 20,000 square feet and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high water mark ~~except where larger lot sizes are required by ILHR85.~~

~~7.7.3.1.2~~ Side yards. There shall be a side yard for each main building. The minimum width of one side yard shall be ten feet. The minimum aggregate width for both side yards shall be 25 feet.

7.7.3.2 LOTS SERVED BY PUBLIC SANITARY SEWER

~~(A) 7.7.3.2.1~~ Minimum area and width for each main building. The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet with at least 65 feet of frontage at the ordinary high water mark.

~~7.7.3.2.2~~ Side yard for each main building required. The minimum width of one side yard shall be eight feet. The minimum aggregate width of both side yards shall be twenty feet.

7.7.3.3 SUBSTANDARD LOTS

Provisions for substandard lots are as follows:

~~(A) 7.7.3.3.1~~ Substandard lots served by a public sanitary sewer. A substandard lot served by a public sanitary sewer, which is at least 7,500 square feet in area, and is at least fifty feet in width at the building setback line, and at least fifty feet in width at the ordinary high water mark, may be used as a building site for single family dwellings upon issuance of a Zoning Permit by the Zoning Administrator, if it meets all of the following requirements:

- (1A) Such use is permitted in the zoning district.
- (2B) The lot was on record in the Portage County Register of Deeds Office prior to the effective date of this ordinance.
- (3C) The lot was in separate ownership from abutting lands prior to the effective date of this ordinance. If abutting lands and the substandard lot were owned by the same owner as of the effective date of this ordinance, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance, including minimum area and width requirements found in Section 7.7.3.1 and 7.7.3.2.
- (4 D) All the dimensional requirements of this ordinance (including side yard and setback requirements) will be complied with in-so far insofar as practical.

(B) 7.7.3.3.2 Substandard lots not served by public sanitary sewer. A substandard lot not served by public sanitary sewer, which is at least 10,000 square feet in area and at least 65 feet in width at the building mark, may be used as a building site upon issuance of a Zoning Permit by the Zoning Administrator, if it meets all of the requirements of Section 7.7.3.3.1(A) through (D).

(C) 7.7.3.3.3 Other substandard lots. Except for lots which meet the requirements of Section 7.7.3.3.1(A) or 7.7.3.3.2(B)(1), a Zoning Permit for the improvement of a lot having lesser dimensions than those stated in Section 7.7.3.1 and 7.7.3.2 shall be issued only after granting of a variance by the Portage County Board of Adjustment.

7.7.3.4 HEIGHT. (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty. Construction that results in a structure taller than 35 feet within 100 feet of the ordinary high water mark of any navigable waters is prohibited.

~~7.7.3.3.4~~ Lots in cluster subdivisions. Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the county private sewage system ordinance.

7.7.4 SETBACKS

7.7.4.1 HIGHWAY SETBACKS

~~For the purpose of determining the distance that buildings and other structures shall be set back from streets and highways. The highways of the county are divided into the following classes:~~

~~7.7.4.1.1 Class A Highways~~

~~(A) All State and federal highways are designated as Class A highways.~~

~~(B) The setback from Class A Highways shall be 110 feet from the centerline of the highway or 42 feet from the right of way line, whichever is greater.~~

~~7.7.4.1.2 Class B Highways~~

~~(A) All County trunks are hereby designated as Class B Highways. For the purpose of this ordinance, any road shall be considered a County trunk after it has been placed on the County trunk system by the County Board and approved by the Division of Highways.~~

~~(B) The setback for Class B Highways shall be 75 feet from the centerline of such highway or 42 feet from the right of way line, whichever is greater.~~

~~7.7.4.1.3 Class C Highways.~~

- ~~(A) All town roads, public streets and highways not otherwise classified are designated Class C Highways.~~
~~(B) The setback from Class C Highways shall be 63 feet from the centerline of such highway or 30 feet from the right-of-way line, whichever is greater.~~

~~7.7.4.1.4 Visual clearance triangle. In each quadrant of every public street intersection, there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them 300 feet from a Class A Highway intersection, 200 feet from a Class B Highway intersection, and 150 feet from a Class C Highway intersection.~~

~~7.7.4.1.5 Objects permitted within highway setback lines and visual clearance triangles.~~

- ~~(A) Open fences.~~
~~(B) Telephone, telegraph and power transmission poles, lines and portable equipment.~~
~~(C) Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle so as to obstruct the view.~~

7.7.4.2 SETBACKS FROM THE WATER

Setbacks from the water shall be as follows:

7.7.4.1.2.4 All buildings and structures, except piers, boat hoists and boathouses which may require a lesser setback, shall be set back at least 100 feet from the ordinary high water mark of navigable waters.

~~7.7.4.2.2 BOATHOUSES. Boathouses are allowed after approval for a special exception from the Portage County Board of Adjustment requiring the following: –**SHALL BE ALLOWED AS A SPECIAL EXCEPTION**~~

- ~~(A) Boathouses shall be designed and constructed solely for the storage of boats and related equipment, and shall not be used for human habitation. located entirely within the access and viewing corridor, which do not contain plumbing and are not used for human habitation.~~
- ~~(B) Boathouses shall not be placed water ward beyond the ordinary high water mark. Boathouses shall be set back a minimum of ten feet from the ordinary high water mark and shall be constructed in conformity with local floodplain zoning standards.~~
- (C) One boathouse is permitted on a lot as an accessory structure.
- (D) Boathouses shall not be constructed where the existing slope is more than 20 percent.
- ~~(E) Boathouses shall be set back a minimum of ten feet from the ordinary high water mark and shall be constructed in conformity with local floodplain zoning standards.~~
- ~~(E F) Boathouses shall not exceed one story and 300 square feet in floor area.~~

7.7.4.3 EXEMPT STRUCTURES

All of the following structures are exempt from the shoreland setback standards in subd 7.7.4.1 and 7.7.4.2:

- (A) Open sided and screened structures, such as gazebos, decks, patios and screen houses, in the shoreland setback area that satisfy requirements in s. 59.692(1v), Stats.

(B) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter, and satellite earth station antennas that are 2 meters or less in diameter.

(C) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. Comm 83 Wisconsin Administrative Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

7.7.4.4-2.3 Stairs, walkways, or rail systems may be allowed, subject to:

(A) A maximum width of sixty (60) inches ~~(outside diameter)~~ is allowed.

(B) Attached benches, seats, tables, etc., are prohibited.

(C) Canopies and/or roofs are prohibited.

(D) Stairways shall be elevated rather than being excavated unless otherwise approved by the Portage County Land Conservation Division of the Portage County Planning and Zoning Department.

(E) Landings are allowed when required for safety purposes and shall not exceed forty (40) square feet.

(F) Sidewalks may be allowed within the 100 foot setback for access to buildings meeting the setback, but shall not exceed sixty (60) inches in width.

7.7.4.5-3 REDUCED BUILDING SETBACKS

A setback of less than that required by Sections 7.7.4.1 and 7.7.4.2 may be permitted by the Zoning Administrator where there is at least one main building on either side of the applicant's lot, within 200 feet of the proposed site, that is built to less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest main building on each side of the proposed site or, if there is an existing main building on only one side, the setback shall be the average of the existing buildings and the required setback. In no case shall averaging allow a setback of less than ~~65~~ **60** feet from the ordinary high water mark. Any other setback may be permitted by the Portage County Board of Adjustment, according to Section 7.7.9.6.1(D) upon a written finding of unnecessary hardship. The same reduced building setback standards shall apply to additions to buildings allowed by averaging, provided the addition will be no closer to the water.

7.7.5 REMOVAL OF SHORE COVER

7.7.5.1 PURPOSE

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

7.7.5.2 SHORELINE CUTTING

Tree and shrubbery cutting 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:

7.7.5.2.1 Clear cutting. No more than 30 feet in any 100 feet, as measured along the ordinary high water mark, shall be clear cut to the depth of the 35 foot strip.

7.7.5.2.2 Shrubby. 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.

7.7.5.3 PATHS

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

7.7.5.4 CUTTING PLAN

As an alternative to Section 7.7.5.2, a special cutting plan allowing greater cutting may be permitted by the Board of Adjustment by issuance of a Special Exception Permit, under Section 7.7.9.4. In applying for such a permit, the Board shall require the lot owner to submit a sketch of his lot, including the following information: location of parking, gradient of the land, existing vegetation, proposed cutting, and proposed replanting. The Board may grant such a permit only if it finds that such special cutting plans:

7.7.5.4.1 Will not cause undue erosion or destruction of scenic beauty; and

7.7.5.4.2 Will provide substantial shielding from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the Board may require the submission of a bond which guarantees the performance of the planned tree or shrubbery planting by the lot owner.

7.7.5.5 CUTTING MORE THAN 35 FEET INLAND

From the inland edge of the 35 foot strip to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management practices and sound soil conservation practices which protect water quality.

7.7.5 VEGETATION

7.7.5.1 PURPOSE. To protect natural scenic beauty, fish and wildlife habitat, and water quality, Portage County hereby establishes standards to regulate removal of vegetation in shoreland areas, consistent with sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

7.7.5.2 ESTABLISHMENT OF A VEGETATIVE BUFFER ZONE. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, land that extends from the ordinary high water mark of a navigable waterway to a minimum of 35 feet inland shall be designated as a vegetative buffer zone. Removal of vegetation in the vegetative buffer zone is prohibited, except as follows:

(F) Routine maintenance of vegetation (e.g.....), subject to review per Section 7.7.5.2(F) of this Ordinance prior to performing maintenance.

(G) Viewing and access corridors are permitted. No more than 30 feet in width in any 100 feet of frontage, as measured along the ordinary high water mark, shall be disturbed in the vegetative buffer zone. A

minimum of 100 feet of undisturbed shoreline/buffer zone shall be required between viewing/access corridors to the water.

- (H) Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land, consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), and described in Department of Natural Resources publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal is consistent with these practices. A review per Section 7.7.5.2(F) of this Ordinance is required prior to proceeding.
 - (I) Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed under the permit be replaced by replanting in the same area as soon as practicable. A review per Section 7.7.5.2(F) of this Ordinance is required prior to proceeding.
 - (J) Portage County Planning and Zoning Department may authorize by zoning permit additional vegetation management activities in the vegetative buffer zone. This permit shall require that all management activities comply with detailed plans approved by County Zoning and/or Land Conservation staff. Management activities shall be designed to control erosion by limiting sedimentation into the water body, improve the plant community by replanting in the same area, and maintain and monitor the newly restored area. The permit shall also require an enforceable restriction to preserve the newly restored area.
- (F) Review process for vegetation removal within the vegetative buffer zone
- (1)
 - (2)
 - (3)

7.7.6 IMPERVIOUS SURFACE AND MITIGATION STANDARDS AND REQUIREMENTS **(NR 115.05(1)(e))**

7.7.6.1 IMPERVIOUS SURFACE STANDARDS. To protect water quality and fish and wildlife habitat, and to protect against pollution of navigable waters, Portage County hereby establishes impervious surface standards applicable to the construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high water mark of any navigable waterway.

(A) CALCULATION OF IMPERVIOUS SURFACE. (NR 115.05(1)(e)1.) Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that portion of the lot or parcel that is within 300 feet of the ordinary high-water mark, and multiplied by 100.

- (1) Impervious Surface Standard (NR 115.05(1)(e)2.). The amount of impervious surface allowed on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark is restricted to a total of 15% of the area.

(2) Maximum Impervious Surface (NR 115.05(1)(e)3.). A total amount of impervious surface greater than 15%, but not exceeding 30%, may be permitted on the portion of a lot or parcel within 300 feet of the ordinary high water mark if a mitigation plan, as defined in Section 7.7.6.2 below, is approved by Planning and Zoning Department staff.

(B) EXISTING IMPERVIOUS SURFACES (NR 115.05(1)(e)4.). For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with impervious surface standards in 7.7.6.1(A) above, the property owner may do any of the following:

(1) Maintain and repair the existing impervious surfaces.

(2) Replace existing impervious surfaces with similar surfaces within the existing building envelope.

(3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of this Ordinance, and the impervious surface meets applicable setback requirements in 7.7.4 above.

7.7.6.2 MITIGATION. (s. 59.692(1v), Stats., NR 115.05 (1)(e)3., (g)5., (g)6.). Mitigation, or “balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities”, is required to compensate for lost shoreland vegetative buffer zone functions when legal pre-existing structures are improved or expanded within the shore setback area and/or when maximum impervious surface areas are exceeded on a shoreland lot. A mitigation plan includes measures that adequately offset the impacts of impervious surface on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty. Mitigation plans shall be submitted for review and approval to the Portage County Planning and Zoning Department. Submittal requirements for mitigation plan review (as suggested by the Wisconsin Department of Natural Resources) are:

- A site plan that describes the proposed mitigation measures
 - The site plan shall be designed to restore natural functions lost through development and human activities.
 - The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.
- An implementation schedule and enforceable obligations on the property owner to establish and maintain mitigation measures
 - Owners of the property have to record an instrument in the Office of the Register of Deeds detailing the mitigation plan and future management plan prior to issuance of the permit.

(Final submittal requirements are not yet finalized, and are subject to change based on continuing input)

(A) Stormwater control from impervious surfaces draining to navigable waters of the State must be designed for a 25-year storm and infiltrated before reaching navigable waters of the State. Living green roofs will not

be calculated as impervious surface. Stormwater control is not limited to but can be a combination of natural or constructed surface basin(s), constructed subsurface drainage and rain barrels.

(B) A vegetative shoreland buffer must adhere to the USDA Natural Resource Conservation Service Biology Technical Note 1: Shoreland Zoning. A shoreland buffer plan must address invasive species control, and eliminate channelized flow.

(C) If property is located within a groundwater inflow area, privately owned wastewater treatment must be a holding tank or septic drain with phosphorus filter as approved by the Portage County Planning and Zoning Department.

(D) All legal pre-existing accessory structures must be removed from the shoreland setback area (This requirement shall not apply to a detached garage located at least as far from the OHWM as the residence structure on the property).

(E) All required basins, shoreland vegetative corridors, buffers, and privately owned wastewater treatment devices must be recorded on the deed.

(F) Storm events are defined in the USDA Natural Resource Conservation Service Engineering Field Handbook Chapter 2

(1) Alternative 1

Storm water control design for no less than a 2-year storm
No viewing corridor, but footpath to water body is allowed
Add 20 feet of depth to required shoreland vegetative buffer
If Alternative 1 is not possible due to physical impediments of the lot, Alternative 2 will be allowed.
Examples of physical impediments include, but are not limited to: slope, soil type, existing vegetation, setbacks, septic system, well, and utilities.

(2) Alternative 2

Storm water control design for no less than a 5-year storm
No more than a 10 foot wide viewing corridor
Add 15 feet of depth to required shoreland vegetative buffer
If Alternative 2 is not possible due to physical impediments of the lot, Alternative 3 will be allowed.

(3) Alternative 3

Storm water control design for no less than a 10-year storm
No more than a 15 foot wide viewing corridor
Add 10 feet of depth to required shoreland vegetative buffer
If Alternative 3 is not possible due to physical impediments of the lot, Alternative 4 will be allowed.

(4) Alternative 4

Storm water control design for no less than a 25-year storm
No more than a 20 foot wide viewing corridor

Add 5 feet of depth to required shoreland vegetative buffer

(G) Buffer requirements:

- (1) Less than 100 foot building setback from OHWM but greater than or equal to 85 feet requires a buffer with a minimum of 45 foot of depth measured from OHWM and a maximum 15 foot width of Viewing and Access Corridor described in Section 7.7.5.2(B) of this Ordinance.
- (2) Less than 85 foot building setback from OHWM but greater than or equal to 70 feet requires a buffer with a minimum of 55 foot of depth measured from OHWM and a maximum 10 foot width of Viewing and Access Corridor described in Section 7.7.5.2(B) of this Ordinance.
- (3) Less than 70 foot building setback from OHWM requires a buffer with a minimum of 65 foot of depth measured from OHWM and maximum 5 foot width of Viewing and Access Corridor described in Section 7.7.5.2(B) of this Ordinance.

Note: If principal residential structure is within required shoreland buffer area, a 10 foot mow zone is allowed around principal residential structure only.

7.7.7 6 FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCAVATING

7.7.7.6.1 GENERAL STANDARDS

Filling, grading, lagooning, dredging, ditching, and excavation, which does not require a permit under Section 7.7.6.2, is permitted in the shoreland area that provided that:

(A) 7.7.6.1.1 It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

(B) 7.7.6.1.2 Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of Section 7.7.8.3.2 and 7.7.8.3.3.

(C) 7.7.6.1.3 A State or Federal permit is obtained in addition to a permit under this ordinance, if State or Federal laws require the issuance of a permit for the filling, grading, lagooning, dredging, ditching or excavating that is proposed.

(D) 7.7.6.1.4 Any fill placed in the shoreland area is protected against erosion by erosion control practices approved by the Portage County Land Conservation Division of the Portage County Planning and Zoning Department. ~~the use of rip-rapping, vegetative cover or a bulkhead.~~

7.7.7.6.2 PERMIT REQUIRED

Except as provided in Section 7.7.7.6.4, a special exception permit is reviewed and approved by the Portage County Board of Adjustment and is required for the following activities:

(A) ~~7.7.6.2.1~~ Any filling, grading or excavating of areas ~~10,000~~ 1,000 square feet or more. Shoreland filling, grading or excavating of less than ~~10,000~~ 1,000 square feet shall be allowed as a permitted use provided a Zoning Permit is issued for the project and detailed to scale drawings are submitted with the application.

(B) ~~7.7.6.2.2~~ Before constructing, dredging or commencing work on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet 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.

7.7.7.6.3 PERMIT CONDITIONS

In granting a ~~special exception permit~~ petition under Section 7.7.7.6.2 the Portage County Board of Adjustment shall attach the following conditions where appropriate, in addition to those provisions specified in Section 7.7.9.4.2 and 7.7.9.4.3.

(A) ~~7.7.6.3.1~~ The smallest amount of bare ground shall be exposed for as short a time as feasible.

(B) ~~7.7.6.3.2~~ Temporary ground cover (such as mulch) shall be used and permanent cover (such as sod) shall be planted.

(C) ~~7.7.6.3.3~~ Diversion, silting basin, terraces and other methods shall be used to trap sediment.

(D) ~~7.7.6.3.4~~ Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions.

(E) ~~7.7.6.3.5~~ Fill shall be stabilized according to accepted engineering standards.

(F) ~~7.7.6.3.6~~ Fill shall not restrict a floodway or ~~destroy~~ negatively impact the storage capacity of a floodplain.

(G) ~~7.7.6.3.7~~ Sides of a channel or artificial watercourse shall be stabilized to prevent slumping.

(H) ~~7.7.6.3.8~~ Sides of channels or artificial watercourses shall be constructed with slopes (side) of two units horizontal distance to one unit vertical or flatter, unless bulkheads or rip-rapping are provided.

7.7.7.6.4 EXEMPTIONS

The following shall not require special exception approval as listed in 7.7.7.6.2.

(A) ~~7.7.6.4.1~~ Soil conservation practices, approved by the Portage County Land Conservation Division of the Portage County Planning and Zoning Department. ~~such as but not limited to, terraces, runoff diversions and grassed waterways which are used for sediment retardation.~~

(B) ~~7.7.6.4.2~~ Tree cutting, shrubbery removal and those provisions of 7.7.7.6.1 through 7.7.7.6.3 in and/or along drainage ditches within an organized drainage district as specified in Chapter 88, ~~Wisconsin Statutes.~~

(C) ~~7.7.6.4.3~~ Any projects which have plans and/or permits approved by the Department of Natural Resources, Army Corps of Engineers, ~~Soil Conservation Service,~~ Natural Resources Conservation Service, ~~or the Portage County Land Conservation Department~~ Division of the Portage County Planning and Zoning

Department, or the State District Forester, provided that substantive shoreland concerns be addressed in that approval. A Portage County Zoning Permit, however, will be required before the start of these projects.

7.7.7 NONCONFORMING USES

7.7.7.1 CONDITIONS

~~The lawful use of a building, structure or property existing at the time this ordinance or ordinance amendment takes effect, which is not in conformity with the provisions of this ordinance, may be continued, including the maintenance of such a building or structure, subject to the following conditions;~~

~~7.7.7.1.1 If such use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.~~

~~7.7.7.1.2 The maintenance and repair of nonconforming boathouses which are located below the ordinary high water mark of any navigable waters shall comply with the requirements of Section 30.121 of the Wisconsin Statutes.~~

~~7.7.7.1.3 No modification, alteration, addition or structural repair to any existing building or structure with a nonconforming use or any nonconforming building or structure shall exceed 50 percent of its equalized assessed value over the life of the building or structure unless it is permanently changed to conform to the requirements of this ordinance.~~

~~7.7.7.1.4 If modification, alteration, addition or structural repair in excess of 50 percent of the equalized assessed value of an existing building or structure with a nonconforming use is disallowed by the Zoning Administrator, the property owner may still make the proposed modification, alteration, addition or structural repair if:~~

~~(A) A building or structure with a nonconforming use is permanently changed to a conforming use;~~

~~(B) The property owner appeals the determination of the Zoning Administrator, and either the County Board of Adjustment or the Circuit Court find in the property owner's favor under Section 59.99(4) or 59.99(10) of the Wisconsin Statutes; or~~

~~(C) The property owner successfully petitions to have the property rezoned under Section 59.97(5)(e) of the Wisconsin Statutes and Section NR115.05(2)(e), Wisconsin Administrative Code, if applicable.~~

7.7.8 NONCONFORMING USES AND STRUCTURES

7.7.8.1 PURPOSE. To protect water quality, fish and wildlife habitat, and natural scenic beauty, control is needed over the modification and reconstruction of nonconforming uses and structures.

7.7.8.2 GENERAL RULE FOR NONCONFORMING USES AND STRUCTURES.

(A) Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under s. 59.692 Stats. may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to par. (b), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:

(1) The nonconforming structure was damaged or destroyed after October 14, 1997.

(2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(B) The size of a structure shall be allowed to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

7.7.8.3 DISCONTINUED NONCONFORMING USE. If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.

7.7.8.4 MAINTENANCE OF NONCONFORMING PRINCIPAL STRUCTURE. An existing principal structure that was lawfully placed when constructed, but does not comply with the required building setback per section 7.7.4, may be maintained and repaired within its existing building envelope. Maintenance and repair includes such activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, siding, or roof.

7.7.8.5 VERTICAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURE. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 7.7.4 may be expanded vertically, provided that all of the following requirements are met:

- (A) The use of the structure has not been discontinued for a period of 12 months or more.
- (B) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (C) Vertical expansion is limited to the height allowed in section 7.7.3.4.
- (D) A Zoning Permit shall be required, along with a mitigation plan to be implemented by the property owner by the date specified in the permit. The mitigation plan shall meet standards found in section 7.7.6.2.
- (E) All other provisions of the Shoreland Ordinance shall be met.

7.7.8.6 EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURE BEYOND SETBACK. An existing principal structure that was lawfully placed when constructed, but does not comply with the required building setback under section 7.7.4, may be expanded horizontally, landward or vertically provided the expanded area meets building setback requirements per section 7.7.4 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 7.7.6.

7.7.8.7 REPLACEMENT OR RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURE. An existing principal structure that was lawfully placed when constructed, but does not comply with the required building setback per section 7.7.4, may be replaced or relocated on the property provided all of the following requirements are met:

- (A) The use of the structure has not been discontinued for a period of 12 months or more.
- (B) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (C) No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (D) Determination has been made by Portage County Planning and Zoning staff that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement per section 7.7.4.
- (E) A Zoning Permit shall be required, along with a mitigation plan to be implemented by the property owner, by the date specified in the permit. The mitigation plan shall meet standards found in section 7.7.6.2.

(F) All other structures on the lot or parcel that do not comply with the shoreland setback requirement per section 7.7.4 and are not exempt under section 7.7.4.3 to be removed by the date specified in the permit.

(G) All other provisions of the Shoreland Ordinance shall be met.

7.7.8.8 WET BOATHOUSES. The maintenance and repair of nonconforming boathouses, which extend beyond the ordinary high water mark of any navigable waters, shall be required to comply with s. 30.121, Stats.

7.7.8 SHORELAND-WETLAND DISTRICT

7.7.8.1 DESIGNATION

~~This district shall include all shorelands subject to regulations under Section 7.7.2.1 which are wetlands of five acres or more shown on the Wisconsin Wetland Inventory Maps that have been adopted under Section 7.7.2.2 of this ordinance. Wetlands in the shoreland area that extend across corporate limits of an adjacent municipality or across the shoreland boundary shall be included in this district if the total contiguous wetland area is five acres or more.~~

~~7.7.8.1.1 Locating shoreland wetland boundaries. Where an apparent discrepancy exists between the Shoreland Wetland District shown on the official wetlands maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate field office of the Department of Natural Resources to determine if the Shoreland Wetland District as mapped is in error. If the Department of Natural Resources' staff 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 land use permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning map, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period of time.~~

7.7.8.2 PURPOSE

~~The purpose of the Shoreland Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fishing spawning grounds and aquatic life and to preserve shore cover and natural beauty. Development in wetlands should be limited and when development is permitted in a wetland, it should occur in a manner that minimizes the adverse impact upon the wetland.~~

~~7.7.8.2.1 Wetlands are seldom suitable as building sites for the following reasons:~~

~~(A) Septic tank systems will not function because of high groundwater.~~

~~(B) Water supplies are often polluted by septic tank wastes that have not been adequately absorbed by the soil.~~

~~(C) Foundations and roads crack due to poor support capabilities and frost action.~~

~~(D) Flooding is common in spring and other times of high water.~~

~~7.7.8.2.2 Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse. Wetlands help to prevent water pollution and flooding problems.~~

~~7.7.8.3 PERMITTED USES~~

~~The following uses shall be allowed subject to the general shoreland zoning regulations in Sections 7.7.3 through 7.7.6, the provisions of Chapters 30 and 31 of the Wisconsin Statutes, and the provisions of other State and federal laws, if applicable.~~

~~7.7.8.3.1 Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating:~~

~~(A) Hiking, fishing, trapping, hunting, swimming and boating.~~

~~(B) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.~~

~~(C) The practice of silviculture, including the planting, thinning and harvesting of timber.~~

~~(D) The pasturing of livestock.~~

~~(E) The cultivation of agricultural crops.~~

~~(F) The construction and maintenance of duck blinds.~~

~~7.7.8.3.2 Uses which do not require the issuance of a zoning permit and which may involve filling, flooding, draining, dredging, ditching, tiling, or excavating to the extent specifically provided below:~~

~~(A) Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.~~

~~(B) Dikes and dam construction and ditching for the purpose of growing and harvesting cranberries.~~

~~(C) Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal or dredge spoil adjacent to the drainage system provided the dredge spoil is placed on existing banks where possible and such filling is permissible under Chapter 30, Wisconsin Statutes.~~

~~(D) Limited excavating and filling necessary for the construction and maintenance of fences for the pasturing of livestock.~~

~~(E) Limited excavating and filling necessary for the construction and maintenance of piers, docks, and walkways built on pilings.~~

~~(F) Limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing town and county highways and bridges.~~

~~7.7.8.3.3 Uses which are allowed upon the issuance of a zoning permit under Section 7.7.9.2 and which may include filling, flooding, draining, dredging, ditching, tiling or excavating only to the extent specifically provided below:~~

~~(A) The construction and maintenance of nonresidential buildings, provided that:~~

- ~~— (1) Any such building does not exceed 500 square feet in floor area;~~
- ~~— (2) Only limited excavating and filling necessary to provide structural support for the building is allowed;~~
- ~~— (3) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;~~
- ~~— (4) The building cannot, as a practical matter, be located outside the wetland.~~

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

- ~~— (1) The road cannot, as a practical matter, be located outside the wetland;~~
- ~~— (2) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetlands;~~
- ~~— (3) The road is designed and constructed with the minimum cross-section area practical to serve the intended use;~~
- ~~— (4) Road construction activities are carried out in the immediate area of the roadbed only; and~~
- ~~— (5) Any filling, flooding, draining, dredging, ditching, tiling or excavating that is done is necessary for the construction or maintenance of the road.~~

~~(C) The establishment and development of public and private parks and recreation areas, boat access sites, natural outdoor educational areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:~~

- ~~— (1) Any private recreational or wildlife habitat area is used exclusively for that purpose;~~
- ~~— (2) Only limited filling and excavating necessary for the construction of a public boat ramp and public boat landing access roads is allowed only where such construction meets the criteria under Section 7.7.8.3.3(B)(5);~~
- ~~— (3) Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.~~

~~(D) The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their numbers, provided that:~~

~~(1) The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland;~~

~~(2) Any filling excavating, ditching or draining that is done is necessary for such construction or maintenance and is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.~~

~~(E) The construction and maintenance of railroad lines, provided that:~~

~~(1) The railroad lines cannot, as a practical matter, be located outside the wetlands; and~~

~~(2) Any filling, excavating, ditching, or draining that is done is necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland.~~

7.7.8.4 PROHIBITED USES

~~Any use not listed in Section s 7.7.8.3.1, 7.7.8.3.2 or 7.7.8.3.3 is prohibited, unless the wetland or a portion of the wetland is rezoned by an amendment of this ordinance in accordance with the requirements of Section 59.97(5)(e), Wisconsin Statutes., Chapter NR115, Wisconsin Administrative Code and Section 7.7.8.5 and 7.7.9.7.~~

7.7.8.5 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT

~~Procedures to be followed for rezoning of lands under this ordinance;~~

~~7.7.8.5.1 For all proposed text and map amendments to the Shoreland Wetland District, the appropriate District and Area Offices of the Department of Natural Resources shall be provided with the following;~~

~~(A) A copy of every petition for a text or map amendment to the Shoreland Wetland District within 5 days of the filing of such petition with the County Clerk;~~

~~(B) Written notice of the public hearing to be held on a proposed amendment, at least ten days prior to such hearing;~~

~~(C) A copy of the County Planning and Zoning Committee's findings and recommendations on each proposed amendment within ten days after the submission of those findings and recommendations to the County Board; and~~

~~(D) Written notice of the County Board's decision on the proposed amendment within ten days after it is issued.~~

~~7.7.8.5.2~~ A wetland, or a portion thereof, in the Shoreland Wetland District shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following;

~~(A) Storm and flood water storage capacity;~~

~~(B) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;~~

~~(C) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;~~

~~(D) Shoreline protection against soil erosion;~~

~~(E) Fish spawning, breeding, nursery or seeding grounds;~~

~~(F) Wildlife habitat; or~~

~~(G) Areas of special recreational, scenic or scientific interest, including scarce wetland types.~~

~~7.7.8.5.3~~ If the Department of Natural Resources has notified the County Planning and Zoning Committee that a proposed amendment to the Shoreland Wetland District may have a significant adverse impact upon any of the criteria listed in Section 7.7.8.5.2, 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 since written notice of the County Board's approval of this amendment was mailed to the Department of Natural Resources. During that 30 day period the Department of Natural Resources may notify the County Board that it will adopt a superseding shoreland ordinance for the County under Section 59.971(6) of the Wisconsin Statutes. If the Department of Natural Resources does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure under Section 59.971(6) is completed or otherwise terminated."

7.7.9 ADMINISTRATIVE PROVISIONS

7.7.9.1 ZONING ADMINISTRATOR

The Zoning Administrator shall have the following duties and powers:

(A) 7.7.9.1.1 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.

(B) 7.7.9.1.2 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.

(C) 7.7.9.1.3 Keep records of all permits issued, inspections made, work approved, and other official actions.

(D) 7.7.9.1.4 Have access to any structure or premises between 8:00 am and 6:00 pm for the purpose of performing these duties.

~~(E) 7.7.9.1.5~~ Submit copies of variances, special exceptions and decisions on appeals for map or text interpretations and map or text amendments within ten days after they are granted or denied to the appropriate District and Area Offices of the Department of Natural Resources.

~~(F) 7.7.9.1.6~~ Investigate and report violations of this ordinance to the appropriate county zoning committee and the District Attorney's Office Portage County Corporation Counsel.

7.7.9.2 ZONING PERMITS

Zoning Permits shall be issued in compliance with the following provisions:

~~(A) 7.7.9.2.1~~ When required. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in Sections 7.7.8.3.1 and 7.7.8.3.2), a Zoning Permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 7.7.9.9.1(G), or any change in the use of an existing building or structure is initiated.

~~(B) 7.7.9.2.2~~ Application. An application for a Zoning Permit shall be made to the Zoning Administrator upon forms furnished by the County and shall include, for the purpose of proper enforcement of these regulations, the following data:

~~(1 A)~~ Name and address of applicant and property owner.

~~(2 B)~~ Legal description of the property and type of proposed use.

~~(3 C)~~ A sketch of the dimensions of the lot and location of buildings from the lot lines, centerline of abutting highways and the **ordinary** high water mark of any abutting watercourses and water mark at the day of the sketch.

~~(4 D)~~ Whether or not a private water or sewage system is to be installed.

~~7.7.9.3 CERTIFICATES OF COMPLIANCE~~

~~A Certificate of Compliance shall be issued as follows:~~

~~7.7.9.3.1~~ No land shall be occupied or used, and no building hereafter erected, altered or moved shall be occupied, until a Certificate of Compliance is issued by the Zoning Administrator.

~~(A) The Certificate of Compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.~~

~~(B) Application of such Certificate shall be concurrent with the application for a Zoning Permit.~~

~~(C) The Certificate of Compliance shall be issued within ten days after the completion of the work specified in the Zoning Permit, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.~~

~~7.7.9.3.2~~ The Zoning Administrator may issue a temporary Certificate of Compliance for part of a building, pursuant to rules and regulations established therefore by the County Board.

~~7.7.9.3.3~~ Upon written request from the owner, the Zoning Administrator shall issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this ordinance, certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.

7.7.9.3.4 SPECIAL EXCEPTION PERMITS

The following provisions apply to the granting of Special Exceptions:

(A) 7.7.9.4.1 Applications 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 Portage County Board of Adjustment.

(B) 7.7.9.4.2 Standards applicable to all Special Exceptions. In passing upon a Special Exception Permit, the Portage County Board of Adjustment shall evaluate the effect of the proposed use upon:

- (1A) The maintenance of safe and healthful conditions;
- (2B) The prevention and control of water pollution including sedimentation.
- (3G) Existing topographic and drainage features, and vegetative cover on the site.
- (4D) The location of the site with respect to floodplain and floodways of rivers and streams.
- (5E) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6F) The location of the site with respect to existing or future access roads.
- (7G) The need of the proposed use for a shoreland location.
- (8H) Its compatibility with uses on adjacent land.
- (9I) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.
- (10J) Location factors under which:
 - (a1) Domestic uses shall be generally preferred;
 - (b2) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - (c3) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

(C) 7.7.9.4.3 Conditions attached to Special Exceptions. Upon consideration of the factors listed above, the Portage 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. Violations of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration; type of shore cover; increased setbacks and yards; 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 Portage County Board of Adjustment may require the applicant to furnish, in addition to the information required for a Zoning Permit, the following information:

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

(D) 7.7.9.4.4 Notice and public hearing. Before passing upon an application for a Special Exception Permit, the Portage 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 as a Class 2 notice under Chapter 985, Wisconsin Statutes, and notice shall be mailed to the appropriate District and Area Offices of the Department of Natural Resources at least ten days prior to the hearing. The Board shall state in writing the grounds for refusing a Special Exception permit.

(E) 7.7.9.4.5 Recording. When a Special Exception Permit is approved, an appropriate record shall be made of the land use and structures permitted, and such permit shall be applicable solely to the structures, use, and property so described. A copy of any decision on a Special Exception Permit shall be mailed to the appropriate District and Area Offices of the Department of Natural Resources within ten days after they are granted or denied.

(F) 7.7.9.4.6 Revocation. Where the conditions of a Special Exception Permit are violated, the Special Exception Permit shall be revoked by the Portage County Board of Adjustment and/or the Portage County Zoning Administrator.

7.7.9.5 FEES

The County Board may, by resolution, adopt fees for the following;

7.7.9.5.1 GENERAL

- ~~(A) Land use permits.~~
- ~~(B) Building permits.~~
- ~~(C) Certificates of Compliance.~~
- ~~(D) Planned Residential Unit Development reviews.~~
- ~~(E) Public hearings.~~
- ~~(F) Legal notice publications.~~
- ~~(G) Special Exception Permits.~~

7.7.9.4.6 PORTAGE COUNTY BOARD OF ADJUSTMENT

The Chairman of the Portage County Board shall appoint a Board of Adjustment under Section 59.99, 694 Wisconsin Statutes., consisting of ~~three~~ five members, and the County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by Section 59.99(3), 694(3), Wisconsin Statutes.

(A) ~~7.7.9.6.1~~ Powers and duties of the Portage County Board of Adjustment are as follows:

(1) ~~A~~ The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by Section 59.99(3), 694, Wisconsin Statutes.

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

(3) ~~C~~ It shall hear and decide applications for Special Exception Permits.

(4) ~~D~~ It may authorize upon appeal, in specific cases, such variance from the terms of the ordinance as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship.

(a) ~~4~~ In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property which is prohibited in that zoning district by this property.

(b) ~~2~~ For the purposes of this Section “unnecessary hardship” means any unique and extreme inability to conform to the requirements of this ordinance due to a special condition affecting a particular property, which was not self-created and is not solely related to economic gain or loss. Unnecessary hardship is present only where, in absence of a variance, no feasible use can be made of the property.

(B) ~~7.7.9.6.2~~ Appeals to the Board. Appeals to the Portage County Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the ground thereof. The Zoning Administrator or other officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(C) ~~7.7.9.6.3~~ Hearing Appeals.

(1) ~~A~~ The Portage County Board of Adjustment shall fix a reasonable time for the hearing of the appeal. The Board shall give public notice thereof by publishing a Class 2 notice under Chapter 985, Wisconsin Statutes., specifying the date, time and place of hearing and the matters to come before the Board, and shall mail notices to the parties in of interest and the appropriate District and Area Offices of the Department of Natural Resources at least ten days prior to the public hearing.

(2) B) A decision regarding the appeal shall be made as soon as practical and a copy shall be submitted to the District and Area Offices of the Department of Natural Resources within ten days after the decision is issued.

(3) C) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and designated agent of the Board. Such resolution shall state the specific facts, which are the basis of the Board's determination, and shall either affirm, reverse, vary or modify the order, requirement, decision or determination and requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

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

7.7.9.5 7 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 Section 59.97 69(5)(e), Wisconsin Statutes, and Section 7.7.8.5 where applicable.

(A) 7.7.9.7.1 Amendments to this ordinance may be made on petition of any interested party as provided in Section 59.97 69(5)(e)(1), Wisconsin Statutes.

(B) 7.7.9.7.2 Every petition for a text or map amendment filed with the County Clerk shall be referred to the County Planning and Zoning Committee. A copy of each petition shall be mailed to the appropriate District and Area Offices of the Department of Natural Resources within five 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 mailed to the appropriate District and Area Offices of the Department of Natural Resources at least ten days prior to the hearing.

(C) 7.7.9.7.3 A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate District and Area Offices of the Department of Natural Resources at least ten days prior to the hearing.

7.7.9.6 8 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 Planning and Zoning Committee shall refer violations to the District Attorney Portage County Corporation Counsel, who shall expeditiously prosecute violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than fifty (\$50) dollars nor more than one-thousand (\$1,000) dollars per offense, together with the taxable costs of action. Each day of continued violation 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 by action at suit of the County, the State, or any citizen thereof pursuant to Section 87.30(2), 59.69(11), Wisconsin Statutes.

7.7.9.7⁹ DEFINITIONS

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

(A) ~~7.7.9.9.1~~ The following terms used in this ordinance mean:

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

“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 that of the principal structure or use.

“Boathouse” means any structure designed solely for the purpose of protection or storing boats for noncommercial purposes, which shall not be used for either temporary or permanent dwelling purposes; a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

“Bulkhead line” means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wisconsin Statutes, and which allows filling to the landward side of the line, except where such filling is prohibited by the floodway provisions of this or a stricter ordinance.

“Building envelope” means the three dimensional space within which a structure is built.

“Campgrounds” mean any premises established for overnight habitation by persons using equipment designed for the purpose of temporary camping and for which a fee is charged.

“Channel” means a natural or artificial watercourse with definite bed and banks to confirm and conduct normal flow of water.

“County Planning and Zoning Committee” means that committee or agency created or designated by the County Board under Section 59.69~~97~~(2)(a), Wisconsin Statutes, to act in all matters pertaining to county planning and zoning.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, 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 disposition or extraction of earthen materials.

“Drainage system” means one or more artificial ditch, tile drain or similar device which collects surface runoff or groundwater and conveys it to a point of discharge.

“Existing development pattern” means that principal structures exist within 200 feet of a proposed principal structure in both directions along the shoreline.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

“Floodplain” means the land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Chapter NR116, Wisconsin Administrative Code.

“Floodproofing” means any treatment of land or buildings, and their attendant water supply and sanitary sewage disposal facilities that reduce the flood damage and water contamination hazard. This includes sealing, anchoring, elevating and filling.

“Impervious surface” means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil, but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious.

“Lagoon” means an artificial enlargement of a waterway.

“Lot width” means the shortest distance between the side lines at the building line. In the case of a shoreland lot, the lot width is the width of the lot 100 feet from the waterline.

“Maintenance and repair” includes such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components; and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.

“Mobile home” means a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

“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. Notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under Sections 59.692 974 and 281.31 144.26(2)(d), Wisconsin Statutes, and Chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:

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

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

“Regional flood” means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

“Setback from water” means the minimum horizontal distance from the ordinary high water mark of a body of water to the nearest part of a structure.

“Shorelands” means 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.

“Shoreland-Wetland District” means the zoning district, created as a part of this Shoreland Zoning Ordinance, comprised of shorelands that are designated as wetland on the wetland maps which have been adopted and made a part of this ordinance.

“Silvicultural thinning” means a woodland management practice which, for the purpose 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.

“Special Exception” means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Adjustment.

“Structure” means any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or in the ground, or any attachment to something on a premises, including but not limited to dwellings, accessory buildings, additions, signs, decks, swimming pools, platforms, porches, balconies, gazebos, satellite dishes, fences, boathouses, stairs, walkways, sidewalks, piers, wharves, patios, bridges and retaining walls.

“Subdivision” means the division of a lot, parcel, or tract of land by the owner or his agent or by the owner’s immediate grantee or his agent for the purposes of conveyance of title where the act of division or successive division creates two or more lots or outlots of fifteen acres each or less.

“Substandard lot” means a lot that does not conform to the dimensional requirements of this ordinance.

“Travel trailer” means a vehicular portable structure designed as a temporary dwelling for travel, recreation and vacation use, which does not fall within the definition of a mobile home.

“Unnecessary hardship” means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

“Variance” means an authorization granted by the [Portage County](#) Board of Adjustment to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

“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.

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