



-
- Natural Resources
 - Setbacks
 - Water Quality
 - Sanitation

Normal Building – Room 205
104 S. Eyder Avenue
Phillips, WI 54555
Phone: (715) 339-3272
Fax: (715) 339-5295
zonedep@co.price.wi.us

Notice of Public Hearing
Before
The Price County Land Use & UW-Extension Committee

TO ALL INTERESTED PARTIES:

A public hearing will be held on March 24, 2016 for the purpose of hearing evidence regarding a conditional use permit and ordinance amendment:

- 9:00 a.m. Conditional Use permit filed by David J. Russell for the purpose of renting a house, outbuilding and land on a short term basis including possible future recreational opportunities for veterans. The property is located within the SW1/4 NE1/4, SE1/4 NE1/4, NW1/4 SE1/4, and NE1/4 SE1/4, Section 4, Township 36N, Range 3E, Town of Hackett (N7102 County Road D).
- 9:05 a.m. Public hearing to repeal the current Shoreland Zoning Ordinance and adopt the revised 2016 Shoreland Zoning Ordinance to come into conformance with the NR115 rule changes.

*All times are approximate.

The meeting will take place at the UW-Extension Office, Conference Rooms A & B Normal Building, Phillips, WI.

All persons interested in presenting evidence are welcome to attend.

PRICE COUNTY LAND USE & UW-EXTENSION COMMITTEE.

Robert Kopisch
Dennis Marmitt
Jim Hintz
Bruce Jilka
James Adolph

pc: The Price County Review
WNBI/WCQM Radio



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February 23, 2016

This is notification that David J. Russell has applied for a Conditional Use permit for the purpose of renting a house, outbuilding and land on a short term basis including possible future recreational opportunities for veterans. The property is located within the SW1/4 NE1/4, SE1/4 NE1/4, NW1/4 SE1/4, and NE1/4 SE1/4, Section 4, Township 36N, Range 3E, Town of Hackett (N7102 County Road D). You may review the application in our office between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday or online at: <http://www.co.price.wi.us>.

The Price County Land Use & UW-Extension Committee welcomes all opinions on the proposed use. Opinions may be sent to our office on or before Wednesday March 23, 2016 or you may give your opinion and/or testimony at the public hearing being held on Thursday March 24, 2016 at 9:00 a.m. The Notice of Public Hearing is enclosed.

Sincerely,

Amanda McMeekin,
 Assistant Zoning Administrator

Pc: Town Clerk (Certified)
 County Board Supervisor
 WI DNR

----- (clip and mail if you wish to protest or comment) -----

Regarding – David J. Russell – Conditional Use permit for the purpose of renting a house, outbuilding and land on a short term basis including possible future recreational opportunities for veterans. The property is located within the SW1/4 NE1/4, SE1/4 NE1/4, NW1/4 SE1/4, and NE1/4 SE1/4, Section 4, Township 36N, Range 3E, Town of Hackett (N7102 County Road D).

Signed _____ Date _____

File # 16-042-016
Computer # 016 108405000

016-1084-06-000, 016-1085-08-000, 016-1085-07-000

Price County Conditional Use Permit Application

- This application shall be fully completed and submitted with the \$170 fee before the Zoning Department will begin to process your application. Incomplete applications will be returned to you.
- Completed applications must be received by the 1st working day of the month in order to schedule a public hearing on your proposal at the Zoning Meeting to be held the following month.
- You should contact the Town Board Chairman of where you're proposing a conditional use to determine if there is a need to discuss your proposal at a Town Board Meeting.
- The Zoning Department will publish a notice in the newspaper and notify all landowners within 300 feet of the property you're proposing a conditional use as to what you're proposing and where a public hearing will be conducted on your proposal. It's advisable that you contact adjacent landowners in advance of the hearing to inform them of your intentions to help clarify any concerns.

Applicant's name: David J Russell Phone number: 920-619-9745

Applicant's address: PO Box 284 Tomahawk WI 54487

Owner(s) of property: (as listed on the deed) David J Russell

Address of property: N-7102 Highway D Beantwood WI 54487

Zoning District: (circle one) (A-1) RR-1 (RF-1) RB-R CI-I CI-C CI-1 RF-C C-1

Legal description: SW 1/4 NE 1/4, SE 1/4 NE 1/4, NW 1/4 SE 1/4, NE 1/4 SE 1/4
Government Lot ___ or ___ 1/4 ___ 1/4, Section 4, Township 36 North,
Range 3 East / West (circle one), Town of Hackett.
Lot ___ of the _____ Subdivision

Section 53038(3)(a) and 530-41(C)(8) of the Price County Zoning Ordinance provides the authority for this application to be submitted for the proposed conditional use.

Please answer these questions to help explain your proposal

1. Proposed Conditional Use: (Attach additional sheets if necessary. Describe the main activities and equipment to be used.)

House, outbuilding, & land for daily and/or weekly rental for recreational use. We are looking into providing veterans outdoor recreational opportunities

2. Hours of operation. 24 / 7
3. Number of employees. myself and immediate family possibly Hilgart Realty
4. Will your proposal increase the percentage of impervious surface upon the property in which the conditional use is being proposed. Yes No If yes, please quantify the amount of impervious surface to be created and mitigation measures to be implemented to reduce erosion potential to adjoining property. _____

5. Will your proposal have an adverse effect on public health? Yes No If yes, please explain. _____

6. Will your proposal have an adverse effect the established character and quality of the area? Yes No If yes, please explain. _____

7. Will your proposal have an adverse effect on any existing public roadway in your community? Yes No If yes, please explain the volume of traffic you anticipate. _____

8. Will your proposal create harmful or nuisance effects that include noise, dust, smoke, odor, or other factors? Yes No If yes, please explain. _____

9. Will your proposal involve any excavation on the respective property? Yes No If yes, please attach a topographical map with 1 ft. contours indicating pre-construction and post-construction drainage patterns and the erosion control measures to be implemented during construction.

Plot Plan

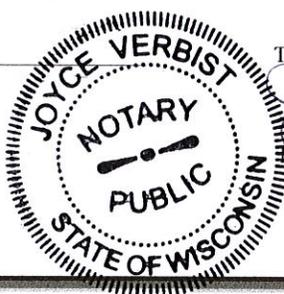
A plot plan shall be submitted with all conditional use permit applications. Use the last page of this application to draw your plot plan. The plot plan should be drawn to scale (indicate scale on map) and include items whether existing or proposed as follows:

1. All structures on the property upon which the conditional use is being proposed. (Indicate the length, width, and height of each structure.)
2. The well, septic system (including tanks and drainfield), and garbage/recycling containers.
3. All public roads, private driveways and parking areas.
4. Wetlands, floodplains, and ordinary highwater mark of any navigable lake, river, or stream.
5. Property boundary. If parcel is >5 acres in area, draw the items listed above at a scale that is discernable and simply indicate the distance to the boundary lines.

David J Russell 2-16-16

I certify by my signature that all information presented herein is true and correct to the best of my knowledge. I give permission for staff of the Price County Zoning Department to enter onto the property on which the conditional use is being proposed by this application during daylight hours to collect information relative to my proposal. I further agree to withdraw this application if substantive false or incorrect information has been included. I also understand that the \$170 fee is nonrefundable once a public hearing has been conducted on my proposal.

<i>David J Russell</i> Notarized Signature of Applicant or Agent	Subscribed and sworn to before me
2-16-16 Date	This <u>16th</u> day of <u>Feb.</u> , 20 <u>16</u>
	<i>Joyce Verbist</i> , Notary Public
	My Commission Expires <u>7/30/18</u>



Office use only

Conditions of approval:

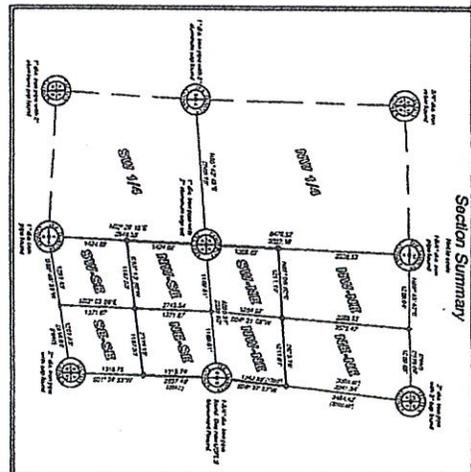
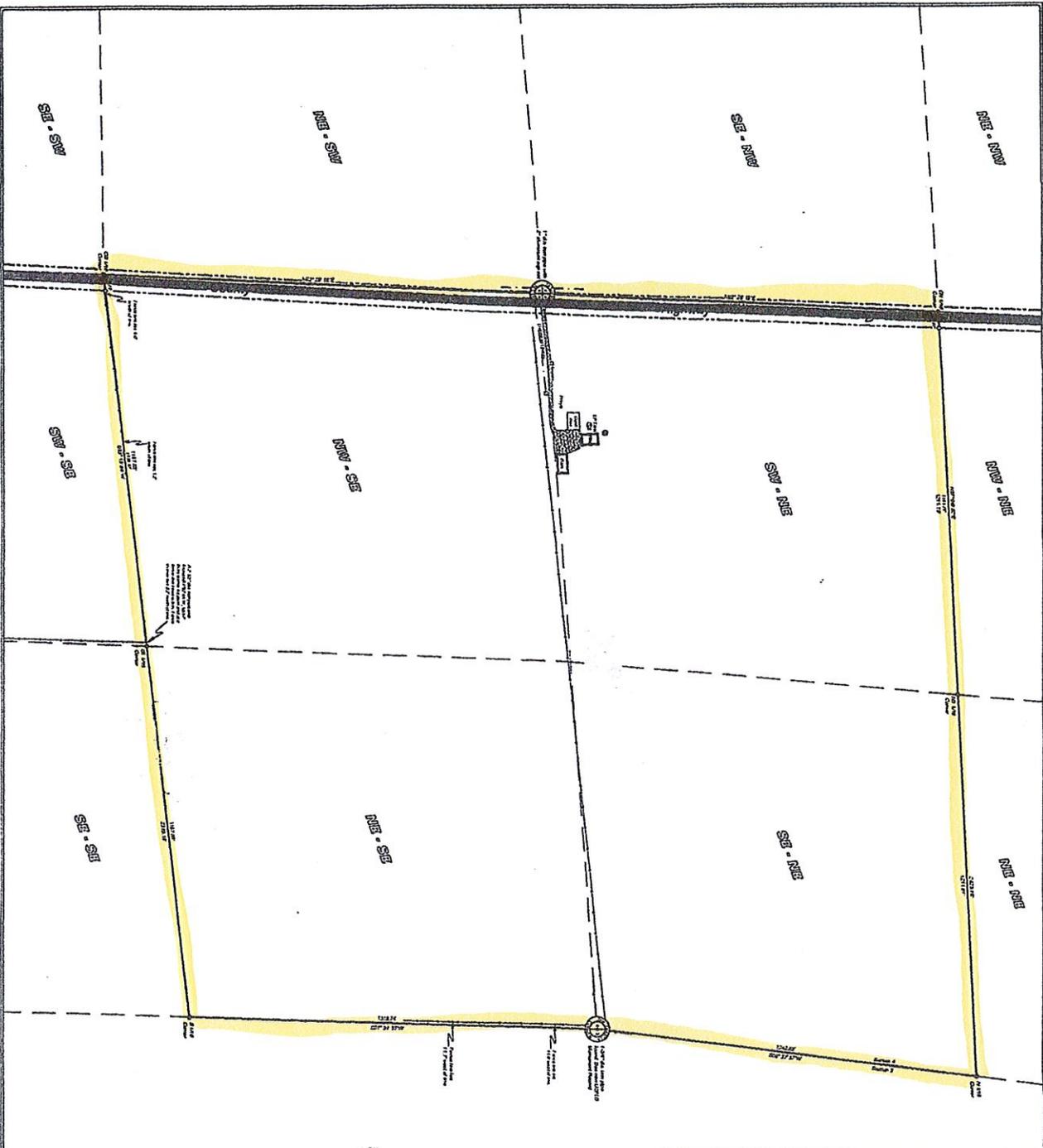
- 1.
- 2.
- 3.
- 4.

The Zoning Committee approved / denied this application on _____

Signature of Zoning Administrator

Date

N
↓



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[Signature]
 J. W. Davis
 J.W.D.



NO.	REVISIONS	
	BY	DATE
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7		
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9		
10		

JOB NO. 2015003
 DRAWN BY: JWD
 DATE: 02/05/2015
 SHEET 1 OF 1

The NW 1/4 of the SE 1/4, NE 1/4 of the SE 1/4, SW 1/4 of the NE 1/4, and the SE 1/4 of the NE 1/4, Section 4, T 36 N, R 3 E Town of Hackett Price County, Wisconsin

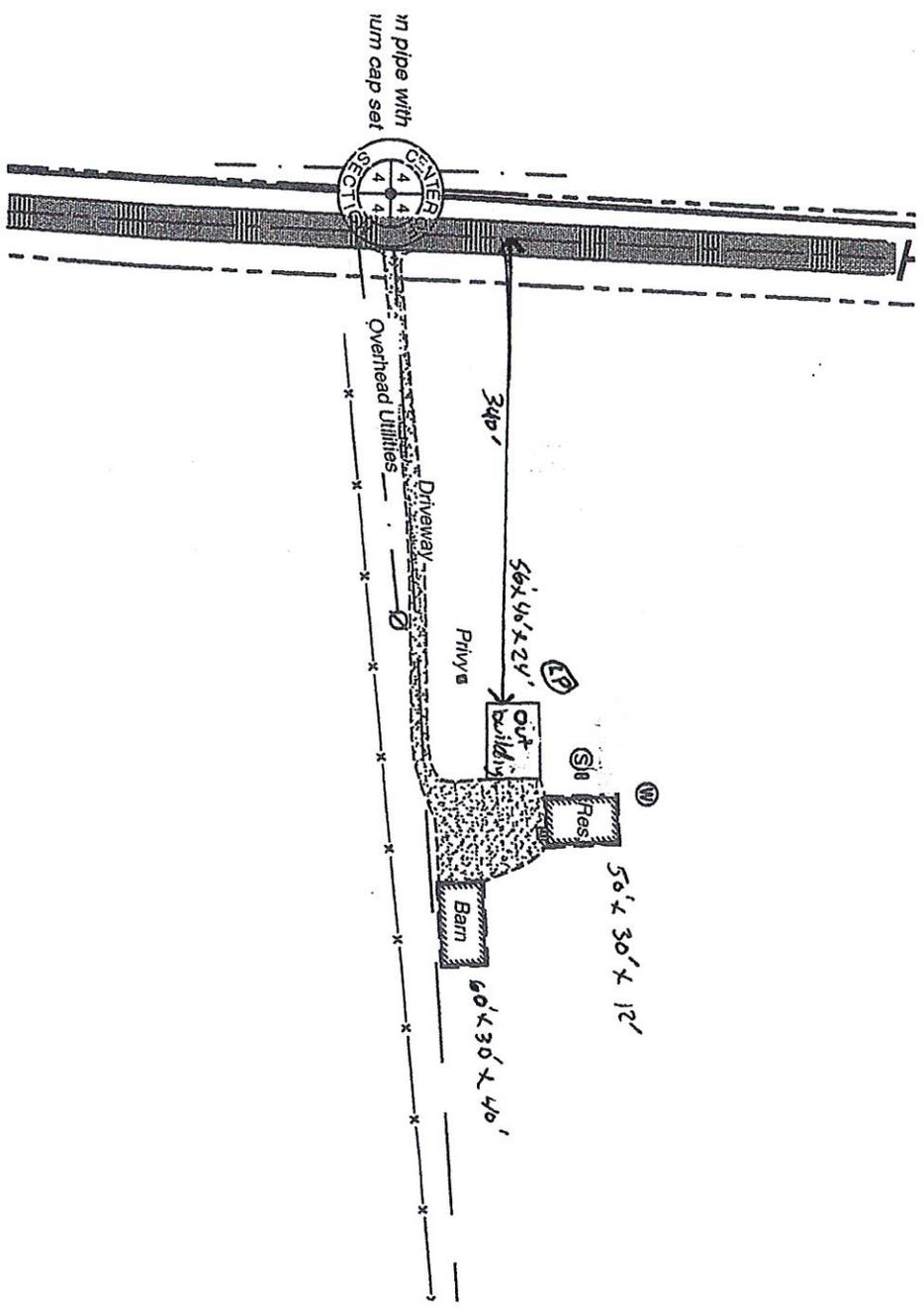
PREPARED FOR:
 David Rusek
 1934 County Road L
 Tomahawk, WI 54487

5200 Highway 70 West
 Eagle River, WI 54321
 Phone 715.472.2570
 1673 Highway 61 North
 Ashwaubenon, WI 54828
 Phone 715.255.9181
 www.mainesandassociates.com

Close Up of Building Area

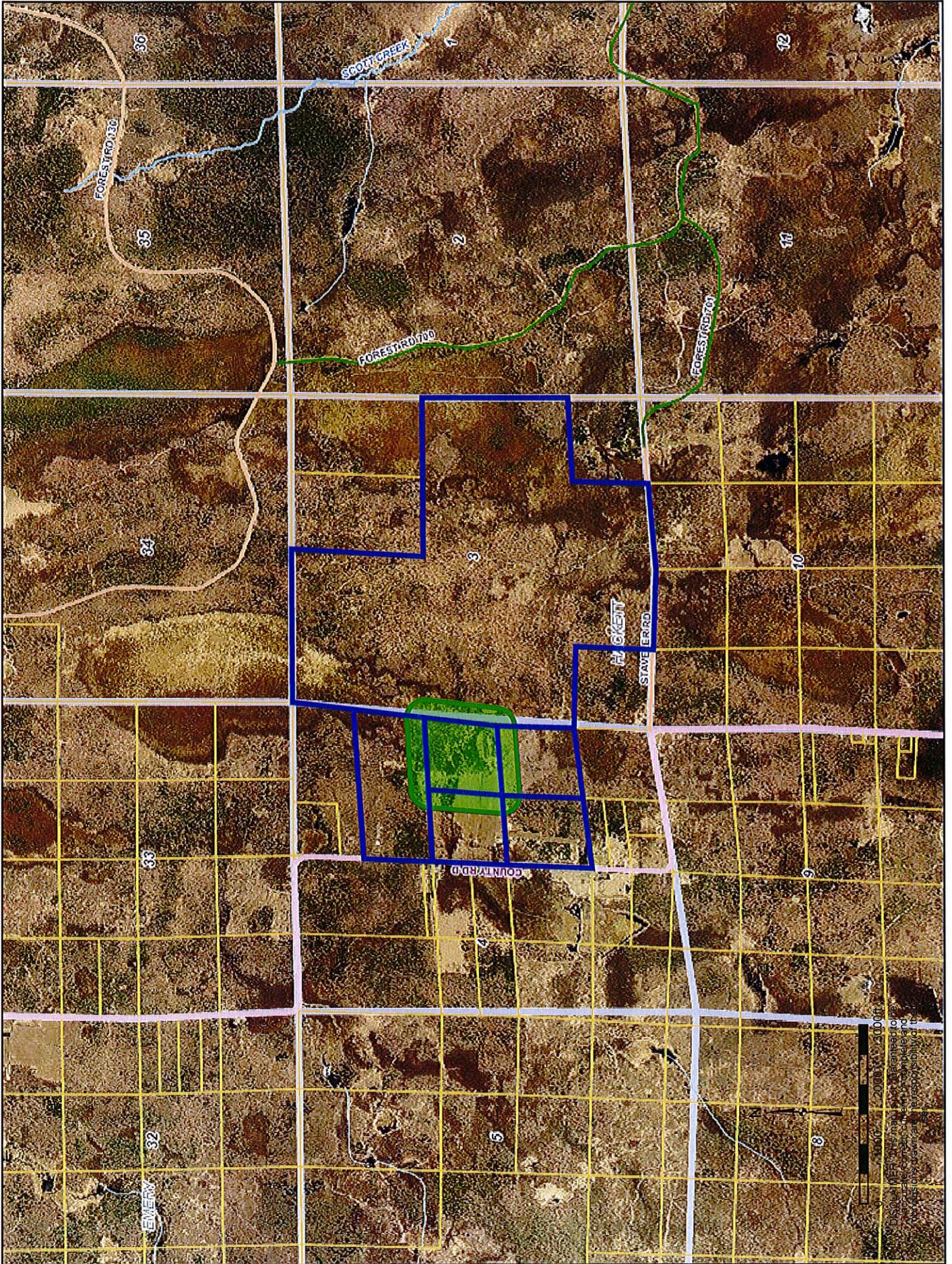
N ↑

David J Russell
N-7102 Highway D
Baraboo WI 54573

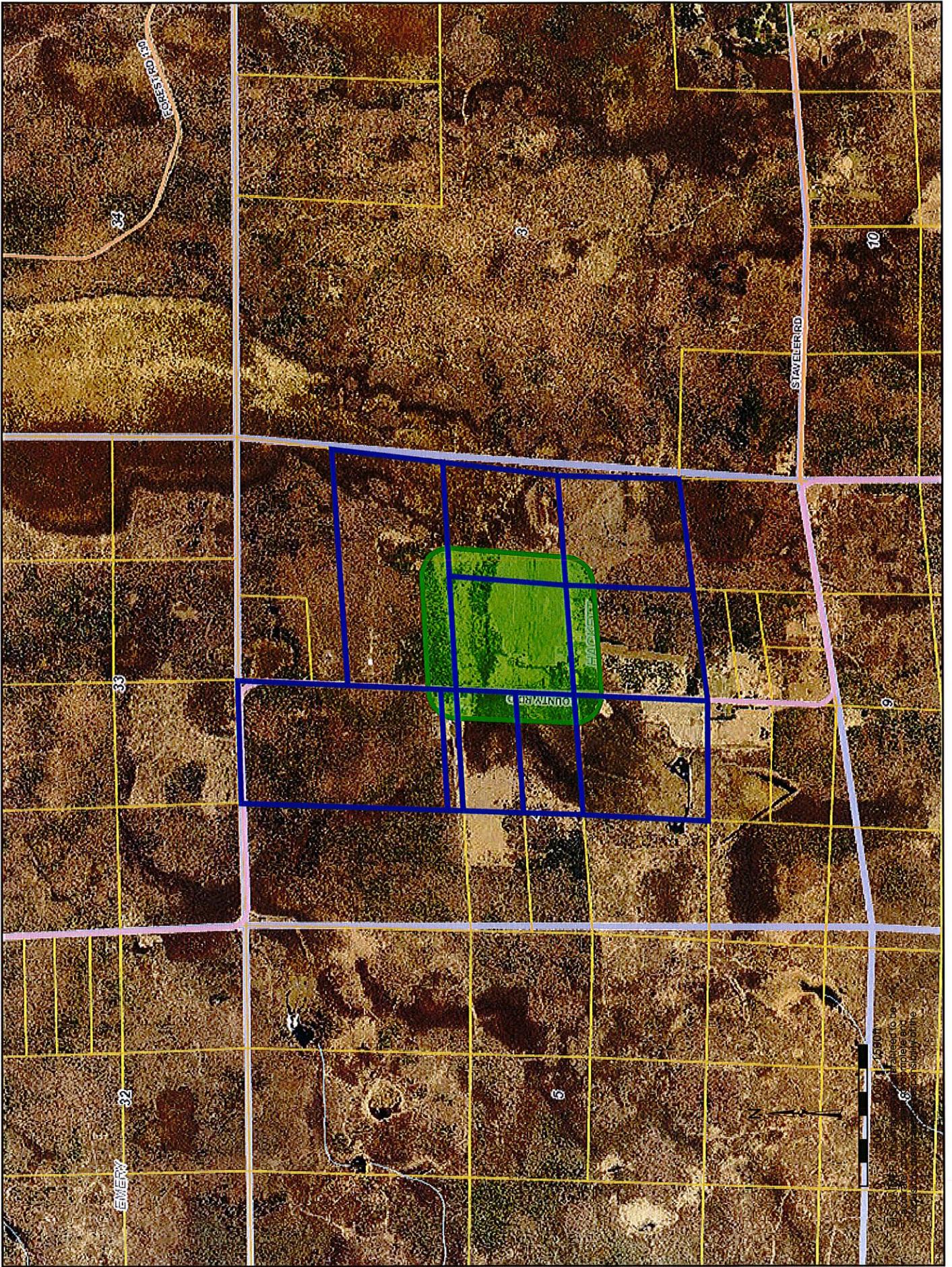




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AMIS FARMS INC
211 SECOND ST
REEDSBURG, WI 53959

CAMP X LLC
c/o DAN WILLIAMS
BELGIUM, WI 53004

BRADLEY J BUHSE
509 LINCLON AVE
WAUSAU, WI 54403

CLARENCE J & MARY ANN BOEHM rv trst
PO BOX 412
CUMBERLAND, WI 54829

DARREN W ZINK
N7195 COUNTY RD D
BRANTWOOD, WI 54513

DAVID J RUSSELL
1934 COUNTY RD L
TOMAHAWK, WI 54487

RYAN A & ARICA M BEARD
N7220 COUNTY RD D
BRANTWOOD, WI 54513

Wendy Orysen
Town of Hackett
N5766 Sams Ln
Prentice, WI 54556

Ronald Heikkinen – Cty Board
Supervisor

Price County Forest Land

Jack D. Hiatt
N6992 Cty Rd D
Brantwood WI 54513

Mine & Donna Koszycki rev trst
5789 E. Pier Lake Rd
Tripoli WI 54564

Robert Edwin Johnson
7009 Walnut Rd
Eau Claire WI 54701

BRADLEY J BUHSE
509 LINCLON AVE
WAUSAU, WI 54403

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Date: February 23, 2016
To: Price County Supervisors
From: Price County Land Use & UW-Extension Committee
Re: Ordinance revision.

On Thursday, March 24, 2016 the Price County Land Use & UW-Extension Committee will hold a public hearing on the following ordinance revision. Enclosed are copies of the proposal.

- Repeal the current Shoreland Zoning Ordinance and adopt the revised 2016 Shoreland Zoning Ordinance to come into conformance with the NR115 shoreland rule changes.



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PRICE COUNTY SHORELAND PROTECTION ORDINANCE

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

1.1 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 59.692 Wis. Stats to implement 59.692, and 281.31.

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

1.3 PURPOSE AND INTENT. NR115.01 For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has been established to:

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

- (1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
- (2) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
- (3) Controlling filling and grading to prevent soil erosion problems.
- (4) Limiting impervious surfaces to control runoff which carries pollutants.

1.32 PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:

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

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

- (1) Prohibiting certain uses detrimental to the shoreland-wetlands.
- (2) Setting minimum lot sizes and widths.
- (3) Setting minimum building setbacks from waterways.
- (4) Setting the maximum height of near shore structures.

1.34 PRESERVE AND RESTORE SHORELAND VEGETATION AND NATURAL SCENIC BEAUTY THROUGH:

- (1) Restricting the removal of natural shoreland cover.
- (2) Preventing shoreline encroachment by structures.
- (3) Controlling shoreland excavation and other earth moving activities.
- (4) Regulating the use and placement of boathouses and other structures.

1.4 TITLE. Shoreland Protection Ordinance for Price County, Wisconsin.

2.0 GENERAL PROVISIONS.

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

2.11 Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes,

ponds or flowages. (NR 115.03(8))

Lakes, ponds or flowages in Price County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 "Wisconsin Lakes" book available electronically at the following web site: <http://dnr.wi.gov/org/water/fhp/lakes/lakemap/> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.

2.12 Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. (NR 115.03(8))

Rivers and streams in Price County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas

2.13 The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas 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 is not subject to local shoreland zoning ordinances if s. 30.2022 (1), Stats., applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Stats.

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

2.15 Under s. 281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:

A. 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**

B. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

2.2 SHORELAND-WETLAND MAPS The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrmmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>

2.3 COMPLIANCE. (NR 115.04) The use of any land, 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. Buildings and other structures

shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

2.4 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. 30.2022(1) Wis. Stats., applies.

2.5 ABROGATION AND GREATER RESTRICTIONS. (s. 59.692(5) Wis. Stats.) The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than s. 59.692, Wis. Stats., does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

2.51 (s. 59.692(2)(a), Wis. Stats.) This ordinance shall not require approval or be subject to disapproval by any town or town board.

2.52 (s. 59.692(2)(b), Wis. Stats.) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.

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

2.54 The following provisions of the Price 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.

2.55 (s. 59.692(1d)(b), Wis. Stats.) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 1.3 of this ordinance,

2.56 (s. 59.692(1k)(a)1., Wis. Stats.) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:

a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.

b. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

2.6 INTERPRETATION. (59.69(13) In their interpretation and application, the provisions of this ordinance 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 statute and a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

2.7 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.

3.0 SHORELAND-WETLAND DISTRICT. (NR 115.04)

3.1 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

3.11 LOCATING SHORELAND-WETLAND BOUNDARIES. (NR 115.04(b)2.note) Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

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

3.3 PERMITTED USES. (NR 115.04(3)) The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31 and 281.36, Wis. Stats. and the provisions of other applicable local, state and federal laws:

3.31 Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 3.31 or 3.32.

- (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.

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

- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
- (2) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,

- (3) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
- (4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
- (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
- (6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

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

- (1) 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 3.52;
 - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (d) Road construction activities are carried out in the immediate area of the roadbed only.
- (2) The construction or maintenance of nonresidential buildings, provided that:
 - (a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 - (b) The building cannot, as a practical matter, be located outside the wetland;
 - (c) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - (d) Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - (a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;
 - (b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section

3.33(1)(a)-(d) and;

- (c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- (4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
 - (a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - (b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 3.52.

3.4 PROHIBITED USES. NR 115.04(4) Any use not listed in sections 3.31, 3.32 or 3.33 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 3.5 of this ordinance and s. 59.69(5)(e), Wis. Stats.

3.5 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT (NR 115.04(2))

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

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

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

- (1) Storm and flood water storage capacity;
- (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Shoreline protection against soil erosion;
- (5) Fish spawning, breeding, nursery or feeding grounds;

- (6) Wildlife habitat; or
- (7) Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following web site:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf> .

3.53 If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 3.52 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

4.0 LAND DIVISION REVIEW AND SANITARY REGULATIONS (NR 115.05(2))

4.1 **LAND DIVISION REVIEW.** (NR 115.05(2))The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create parcels or building sites of 10 acres each or less. In such review all of the following factors shall be considered:

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

4.2 PLANNED UNIT DEVELOPMENT (PUD). (NR 115.05(1)(a)4.)

4.21 **PURPOSE.** The Planned Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

4.22 **REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT.** The county board may at its discretion, upon its own motion or upon petition, approve a Planned Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:

- (1) **Area.** The area proposed for the Planned Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
- (2) **Lots.** Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of Section 5.2 and 5.3 shall be a non-riparian lot.
- (3) **Lot sizes, widths, setbacks, and vegetation removal.** When considering approval of a Planned Unit Development the governing body shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in Section 7.2 shall apply except that maximum width of a lake frontage opening shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.

4.23 PROCEDURE FOR ESTABLISHING A PLANNED RESIDENTIAL UNIT DEVELOPMENT DISTRICT. The procedure for establishing a Planned Residential Unit Development district shall be as follows:

(1) **Petition.** A petition setting forth all of the facts required in Section 4.22 shall be submitted to the county clerk with sufficient copies to provide for distribution by the clerk as required by Section 13.1f..

(2) **Review and Hearing:** The petition shall be submitted to the county zoning agency established as required by s. 59.69(3)(d), Wis. Stats., which shall hold a public hearing and report to the county board as required by law. Copies of the petition and notice of the hearing shall also be sent to the appropriate office of the Department as described in Section 13.42 of this ordinance.

The county zoning agency's report to the county board shall reflect the recommendations of any federal, state or local agency with which the county zoning agency consults.

(3) **Findings and Conditions of Approval.** The county board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 4.22. If the petition is granted in whole or part, the county board shall attach such written conditions to the approval as are required by and consistent with Section 4.22. The conditions of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks, dimensions of vegetative buffer zone and open space requirements.

(4) **Planning Studies.** A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provisions of Section 4.22 or may be required to contribute funds to the county to defray all or part of the cost of such studies being undertaken by the county or any agency or person with whom the county contracts for such work.

4.24 Back lot development. Permits may be issued for the development of shoreline property as an access lot for use by owners of back lots, subject to the following requirements, which shall be made conditions of any conditional use permit granted:

(1) The minimum width of an access lot shall be 150 feet measured at the lot's narrowest point.

(2) The proposed access lot shall not provide lake access for more than four back lots.

(3) The proposed access lot shall be 30,000 square feet in area, not including space devoted to any public roadway or right-of-way which may intersect the access lot.

(4) The back lots having access to the waterway over the access lot must be situated so that they are contiguous to each other, excepting roadways, and their furthest boundary no more than 1,000 feet from the back of the access lot.

(5) The owner of the access lot shall either:

(a) Provide a buffer strip of at least 60 feet between the access lot and the lot line of any adjacent property used or zoned for residential purposes.

(b) Provide written consent in recordable form of the owners of at least the first 60 feet of land adjoining both sides of the access lot stating that the owners of this land consent to the proposed use of the access lot.

(6) The owner of the access lot shall provide evidence that the proposed access lot

is subject to enforceable deed restrictions, which restrictions shall:

- (a) Recite in reasonable detail the specific purposes and uses of said access lot if the conditional use permit is granted.
- (b) List the number of existing or potential back lot dwellings whose owners and tenants are to use the access lot.
- (c) State that violations of the deed restriction shall subject the owner of the access lot to revocation of the conditional use permit and/or penalties as set forth under articles 13 and 15 of this chapter.

(7) Conditions that shall be required for an access site/lot shall include and are not limited to waste containment, sanitary facility, noise limits, screening, parking, parking controls (there shall be no parking within 75 feet of the ordinary high-water mark), time requirements, lighting and identification of sites, fish cleaning, gasoline and oil handling and disposal of all waste materials. Any conditional use permit shall include approval as per Ch. 30, Wis. Stats., and Ch. NR 326, WI Administrative Code.

4.3 SANITARY REGULATIONS (NR 115.05(3)) The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (1) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
- (2) Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with ch. SPS 383, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under s. 59.70(5), Wis. Stats.

5.0 MINIMUM LOT SIZE (NR 115.05(1))

5.1 PURPOSE (NR115.05(1)(a)) Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

5.2 SEWERED LOTS (NR 115.05(1)(a)1.) MINIMUM AREA AND WIDTH FOR EACH LOT. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

- (1) The width shall be calculated by averaging the measurements at the following locations:
 - a) The ordinary high water mark
 - b) The building setback line
 - c) The rear lot line

5.3 UNSEWERED LOTS. (NR 115.05(1)(a)2.) MINIMUM AREA AND WIDTH FOR EACH LOT. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet.

- (1) The width shall be calculated by averaging the measurements at the following locations:
 - a) The ordinary high water mark
 - b) The building setback line
 - c) The rear lot line

5.4 SUBSTANDARD LOTS (NR 115.05(1)(a)3.) A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

- (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
- (2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- (3) The substandard lot or parcel is developed to comply with all other ordinance requirements.

5.41 OTHER SUBSTANDARD LOTS. Except for lots which meet the requirements of section 5.4 a building permit for the improvement of a lot having lesser dimensions than those stated in sections 5.2 and 5.3 shall be issued only if a variance is granted by the board of adjustment.

6.0 BUILDING SETBACKS. (NR 115.05(1)(b)) Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

6.1 SHORELAND SETBACKS. (NR115.05(1)(b)1.) Unless exempt under 6.11, or reduced under 6.2, a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.

6.11 EXEMPT STRUCTURES (NR 115.05(1)(b)1m.) All of the following structures are exempt from the shoreland setback standards in subd 6.1:

- (1) Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.
 - a) The construction or placement of boathouses below the ordinary high-water mark of any navigable waters shall be prohibited.
 - b) Boathouses shall be designed and constructed solely for the storage of boats and water related equipment.
 - 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%.
 - e) Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - f) Boathouses shall not exceed one story and 300 square feet in floor area.
 - g) Boathouse roofs shall not be designed or used as decks, observation platforms or for other similar uses.
 - h) The main door shall face the water.
 - i) Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
- (2) Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats.
 - a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
 - b) The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 - c) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

- d) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
- (3) 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.
- (4) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS 383, 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.
- (5) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.

6.2 REDUCED PRINCIPAL STRUCTURE SETBACK. (NR 115.05(1)(b)1.) Existing development pattern means that principal structures exist within 250 feet of the proposed principal structure in both directions along the shoreline. Where there is an existing development pattern, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot of the proposed principal structure. The shoreland setback may not be reduced to less than 35-feet from the ordinary high-water mark of any navigable waters.

6.3 FLOODPLAIN STRUCTURES (NR 115.05(1)(b)2.) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

7.0 VEGETATION (NR 115.05(1)(c))

7.1 PURPOSE. (NR 115.05(1)(c)1.) To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider 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.

7.2 ESTABLISHMENT OF A VEGETATIVE BUFFER ZONE. (NR 115.05(1)(c)2.) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows.

- (1) The county may allow routine maintenance of vegetation.
- (2) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b), Stats. the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the for the entire maximum width or shoreline frontage owned.
- (3) The county may allow 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 publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
- (4) The county may allow 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 be replaced by replanting in the same area as soon as practicable.

- (5) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

8.0 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING (NR115.05(1)(d))

Filling, grading, lagooning, dredging, ditching and excavating may be permitted only in accordance with the provisions of s. NR 115.04, the requirements of ch. 30, Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

8.1 GENERAL STANDARDS. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 8.2 may be permitted in the shoreland area provided that:

- (1) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- (2) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 3.32 and 3.33 of this ordinance.
- (3) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

8.2 PERMIT REQUIRED. Except as provided in section 8.3, a permit is required:

- (1) For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:
 - (a) Any filling or grading on slopes of more than 20%.
 - (b) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
 - (c) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
- (2) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary highwater mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

8.3 PERMIT CONDITIONS. In granting a permit under section 8.2, the County shall attach the following conditions, where appropriate, in addition to those provisions specified in sections 13.2 or 13.4.

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

- (2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
- (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (4) Lagoons shall be constructed to avoid fish trap conditions.
- (5) Fill shall be stabilized according to accepted engineering standards.
- (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

9.0 IMPERVIOUS SURFACE STANDARDS. (NR 115.05(1)(e))

9.1 PURPOSE. Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

9.2 CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE. (NR 115.05(1)(e)1.) Percentage of impervious surface shall be calculated by dividing the surface area of the 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 lot or parcel, and multiplied by 100. Impervious surfaces described in 9.45 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

9.3 GENERAL IMPERVIOUS SURFACE STANDARD. (NR 115.05(1)(e)2.) Except as allowed in sections 9.31 through 9.5 allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

9.4 MAXIMUM IMPERVIOUS SURFACE. (NR 115.05(1)(e)3.) A property may exceed the impervious surface standard under 9.3 or 9.31 provided the following standards are met:

- (1) For properties where the general impervious surface standard applies under section 9.3, a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- (2) For properties that exceed the standard under 9.3 or 9.31 but do not exceed the maximum standard under 9.4(1) or 9.4(2), a permit can be issued for development with a mitigation plan that meets the standards found in section 12.0.

9.5 TREATED IMPERVIOUS SURFACES (NR115.05(1)(e)3m. and s. 59.692(1k)(a)1.e.) Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under section 9.2.

- (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems. The treatment device must be able to handle stormwater discharge from storms up to and including a ten-year, twenty-four-hour storm event.

- (2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil. The pervious area must be able to handle stormwater discharge from storms up to and including a ten-year, twenty-four-hour storm event.

9.6 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 the impervious surface standard in section 9.3 or the maximum impervious surface standard in section 9.4, 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 that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in s. Wis. Admin. Code NR 115.05 (1) (b).

10.0 HEIGHT. (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that result in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.

11.0 NONCONFORMING USES AND STRUCTURES. (NR 115.05(1)(g))

11.1 DISCONTINUED NONCONFORMING USE. (NR 115.05(1)(g)3.) 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.

11.2 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES. (s. 59.692(1k)(a)1.b. and d.) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level.

11.3 LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURE WITHIN THE SETBACK. (NR 115.05(1)(g)5.) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per sections 6.1 may be expanded laterally, provided that all of the following requirements are met:

- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (3) lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (4) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 12.0.

- (5) All other provisions of the shoreland ordinance shall be met.

11.4 EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURE BEYOND SETBACK. (NR 115.05(1)(g)5m.) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under section 6.1, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per section 6.1 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 9.0.

11.5 RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURE. (NR 115.05(1)(g)6.) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per sections 6.1 may be relocated on the property provided all of the following requirements are met:

- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (3) No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (4) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 6.1.
- (5) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 12.0. and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.
- (6) All other provisions of the shoreland ordinance shall be met.

12.0 MITIGATION. (s. 59.692(1v), Stats, NR 115.05 (1)(e)3., (g)5., (g)6.) When the county issues a permit requiring mitigation under sections 6.11(2), 9.4, 11.5, the property owner must submit a complete permit application, that is reviewed and approved by the county. The application shall include the following:

- (1) A site plan that describes the proposed mitigation measures
 - a) The site plan shall be designed and implemented to restore natural functions lost through development and human activities
 - b) The mitigation measures shall be either of the following activities.
 - 1) Implemented a stormwater management plan providing that there is no increase in stormwater discharge from the lot or unit as a result of the proposed construction for storms up to and including the ten-year, twenty-four-hour storm event.
 - 2) Restoring a shoreline buffer area of native vegetation meeting the requirements of section 7.2.
- (2) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.

- a) The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.
- (3) An inspection report by a Wisconsin Licensed Plumber showing that the associated sanitary system meets current standards.
 - a) If the associated sanitary system does not meet current standards, a permit to install a code compliant system must be obtained prior to being issued a land use permit. The sanitary system shall be installed within one year of the land use permit being issued.

13.0 ADMINISTRATIVE PROVISIONS.

13.1 ZONING ADMINISTRATOR The Zoning Administrator shall have the following duties and powers. The Zoning Administrator shall:

- (1) Advise applicants as to the provisions of this chapter and assist them in preparing permit applications and appeal forms.
- (2) Issue permits and inspect properties for compliance with this chapter
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Provide copies of variances, conditional uses and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted or denied to the appropriate local office of the Department.
- (5) Investigate and report violations of this chapter to the County Land Use and UW Extension Committee and the District Attorney or Corporation Counsel.

13.2 LAND USE PERMITS

- (1) When required. Except where another section of this chapter specifically exempts certain types of development from this requirement, a land use permit shall be obtained from the Zoning Administrator before any new development or any change in the use of an existing building or structure is initiated
- (2) Application. An application for a land use 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:
 - (a) Name and address of applicant and property owner.
 - (b) Legal description of the property and type of proposed use.
 - (c) A sketch of the dimensions of the lot and location of buildings relative to the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting watercourses and water level on a date specified.
 - (d) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
 - (e) Location of planned area of excavation, clearing, grading or spoil deposition, in order to assure that proper methods of erosion control will be addressed.
- (3) Expiration of permit. Land use permits shall expire 24 months from the date issued if no substantial work has commenced.

13.3 CONDITIONAL USE PERMITS

- (1) Application for a conditional use permit. Any use listed as a conditional use in a zoning district underlying shoreland areas shall be permitted only after application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Land Use and UW Extension Committee or the County Board.
- (2) Standards applicable to all conditional uses. In passing upon a conditional use

permit, the Land Use and UW Extension Committee shall evaluate the effect of the proposed use upon:

- (a) The maintenance of safe and healthful conditions.
 - (b) The prevention and control of water pollution, including sedimentation.
 - (c) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
 - (d) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (e) The location of the site with respect to existing or future access roads.
 - (f) The need of the proposed use for a shoreland location.
 - (g) Its compatibility with uses on adjacent land.
 - (h) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal system.
 - (i) Location factors under which:
 - (1) Domestic uses shall be generally preferred.
 - (2) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source.
 - (3) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (3) Conditions attached to conditional uses. Upon consideration of the factors listed above, the Land Use and UW Extension Committee shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration, type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Land Use and UW Extension Committee may require the applicant to furnish, in addition to the information required for a land use permit, the following information:
- (a) A plan of the area showing surface contours, soil types, ordinary high-water marks, groundwater conditions, subsurface geology and vegetative cover.
 - (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
 - (c) Plan of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
 - (d) Applications for area of proposed filling, grading, lagooning or dredging.
 - (e) Other pertinent information necessary to determining if the propose use meets the requirements of this chapter.
- (4) Notice, public hearing and decision. Before passing upon an application for a conditional use permit, the Land Use and UW Extension Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Committee, shall be given as a Class 2 notice under Ch. 985, Wis.

Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The Committee shall state in writing the grounds for granting or refusing a conditional use permit.

- (5) **Recording.** When a conditional use 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 conditional use permit shall be provided to the appropriate local office of the Department within 10 days after it is granted or denied.
- (6) **Revocation.** Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the Land Use and UW Extension Committee.

13.4 VARIANCES

- (1) The Board of Adjustment may grant upon appeal a variance from the dimensional standards of this chapter where an applicant convincingly demonstrates that:
 - (a) Literal enforcement of the provisions of this chapter will result in unnecessary hardship on the applicant.
 - (b) The hardship is due to special conditions unique to the property.
 - (c) Such variance is not contrary to the public interest.
 - (d) Such variance does not exceed the minimum relaxation of a standard which provides reasonable use of the property.
- (2) **No use variance.** A variance shall not grant or increase any use of property which is prohibited in the zoning district.
- (3) **Notice, hearing and decision.** Before passing on an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern shall be given as a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The Board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department local office within 10 days of the decision.

13.5 BOARD OF ADJUSTMENT The Chairperson of the County Board shall appoint a Board of Adjustment consisting of five members under § 59.694, Wis. Stats. The County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by § 59.694, Wis. Stats.

- (1) **Powers and duties.**
 - (a) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by § 59.694, Wis. Stats.
 - (b) It shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.
 - (c) It may grant a variance from the dimensional standards of this chapter pursuant to section 13.4.

- (2) Appeals to the Board. Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be made within a reasonable time, as provided by the rules of the Board, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other officer whose decision is in question shall promptly transmit to the Board all the papers constituting the record concerning the matter appealed.
- (3) Hearing appeals and applications for variances.
 - (a) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice thereof by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time, and place of the hearing and the matters to come before the Board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate local office of the Department at least 10 days prior to hearings on proposed shoreland variances and appeals for map or text interpretation
 - (b) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the appropriate local office of the Department within 10 days after they are granted or denied.
 - (c) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the Chairperson and Secretary of the Board. Such resolution shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
 - (d) At the public hearing, any party may appear in person or by agency or by attorney.
- (4) Reconsideration.
 - (a) Resubmission: No appeal or application which has been dismissed shall again be considered unless the applicant can show a material change in circumstances.
 - (b) Rehearing: No rehearing of any issue already decided by the Board shall take place except upon the affirmative vote of a majority of the members of the Board upon finding that substantial material new evidence is submitted which could not have been reasonably presented at the previous meeting. Requests for rehearing shall be in writing and shall state the reasons for the request and be accompanied by necessary data and diagrams. Rehearing shall be subject to the same notice requirements and fees as the original hearing.

13.6 FEES The County Board shall, by resolution, adopt fees for the following:

- (1) Land use permits
- (2) Planned residential unit development reviews.

- (3) Public hearings.
- (4) Legal notice publications.
- (5) Conditional use permits.

14.0 CHANGES AND AMENDMENTS.

14.1 AUTHORITY The County Board may, from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this chapter in accordance with the requirements of § 59.69(5)(e), Wis. Stats., and Chapter NR 115, Wisconsin Administrative Code.

14.2 PETITIONS.

- (1) Amendments to this chapter may be made on petition of any interested party as provide in § 59.69(5)(e), Wis. Stats.
- (2) Every petition for a text to map amendment filed with the County Clerk shall be referred to the County zoning agency. A copy of the petition shall be mailed to the appropriate district office of the Department 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 provided to the appropriate local office of the Department at least 10 days prior to the hearing.

14.3 FILING OF COPIES 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.

15.0 ENFORCEMENT

15.1 VIOLATIONS AND PENALTIES Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter by any person, firm, association or 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 or which violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture as provided in Chapter 290 of the County Code, together with the taxable cost of action. Each day which the violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to § 59.69(11), Wis. Stats.

15.2 LEGAL NONCONFORMING STRUCTURES. As required by § 59.692(1t), Wis. Stats., where a building or structure violates the dimensional or use standards of this chapter and the violating building or structure has been in place more than 10 years before an enforcement action is initiated, such building or structure shall be treated as a legal nonconforming structure. All provisions of section 11 of this chapter shall apply to such nonconforming buildings or structures.

15.3 DEFENSE Any property owner asserting as a defense to a charge of violating this chapter that the alleged violation has been in place more than 10 years before enforcement action was initiated has the burden of proving that:

- (1) The building or structure that is in violation has been in place more than 10 years before enforcement action was initiated.
- (2) The building or structure (and its use, if the use is nonconforming) has remained essentially unchanged for at least 10 years.

- (3) The use of the building or structure has been active and continual for 10 years or more. If use was discontinued for more than 12 months, that use shall not be considered active and continual.

16.0 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.

The following terms used in this ordinance mean:

- (1) "Access and viewing corridor" (NR 115.03(1d)) means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
- (2) "Boathouse" (NR 115.03(1h)) means 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.
- (3) "Building envelope" (NR 115.03(1p)) means the three dimensional space within which a structure is built.
- (4) "County zoning agency" (NR 115.03(2)) 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.
- (5) "Department" (NR 115.03(3)) means the Department of Natural Resources.
- (6) "Existing development pattern" (NR 115.03(3m)) means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (7) "Floodplain" (NR 115.03(4)) means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.
- (8) "Generally accepted forestry management practices" (NR 1.25(2)(b)) means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (9) "Impervious surface" (NR 115.03(4g)) 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.
- (11) "Mitigation" (NR 115.03(4r)) means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
- (12) "Navigable waters" (NR 115.03(5)) 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(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:
 - (a) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - (b) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body
- (13) "Ordinary high-water mark" (NR 115.03(6)) 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.

(14) "**Regional Flood**" (NR 115.03(7)) 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.

(15) "**Routine maintenance of vegetation**" (NR 115.03(7m)) means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

(16) "**Shoreland**" (NR 115.03(8)) means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(17) "**Shoreland setback**" also known as the "**Shoreland setback area**" in s. 59.692(1)(bn) means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.

(18) "**Shoreland-wetland district**" (NR 115.03(9)) means a zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.

(19) "**Special exception (conditional use)**" (NR 115.03(10)) means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.

(20) "**Structure**" (s.59.692(1)(e), Stats.) means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

(21) "**Unnecessary hardship**" (NR 115.03(11)) 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.

(22) "**Wetlands**" (NR 115.03(13)) 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.