

CHAPTER 9

SHORELAND ZONING

Part I. General Provisions.

- | | | | |
|------|-------------------|-------|--------------------------|
| 9.01 | Title. | 9.03 | Statement of Purpose. |
| 9.02 | Findings of Fact. | 9.04. | Statutory Authorization. |

Part II. Definitions.

- 9.05 Definitions.

Part III. Applicability and Compliance

- | | | | |
|------|--|------|--------------------------------------|
| 9.06 | Areas to be Regulated. | 9.10 | Abrogation and Greater Restrictions. |
| 9.07 | Shoreland - Wetland Maps. | 9.11 | Interpretation. |
| 9.08 | Compliance. | 9.12 | Severability. |
| 9.09 | Municipalities and State Agencies Regulated. | | |

Part IV. Shoreland - Wetland Zoning District.

- | | | | |
|------|-----------------|------|--|
| 9.13 | Designation. | 9.16 | Prohibited Uses. |
| 9.14 | Purpose. | 9.17 | Rezoning of Lands in the Shoreland-Wetland District. |
| 9.15 | Permitted Uses. | | |

Part V. Land Division Review and Sanitary Regulations.

- | | | | |
|------|---------------------------------|------|-----------------------|
| 9.18 | Land Division Review. | 9.20 | Sanitary Regulations. |
| 9.19 | Planned Unit Development (PUD). | | |

Part VI. Minimum Lot Size.

- | | | | |
|------|---------------|------|-------------------|
| 9.21 | Purpose. | 9.23 | Unsewered Lots. |
| 9.22 | Sewered Lots. | 9.24 | Substandard Lots. |

Part VII. Setbacks.

- | | | | |
|------|--------------------------------------|------|--|
| 9.25 | Shoreland Setback. | 9.29 | Lake Michigan Shoreline Protection Area. |
| 9.26 | Exempt Structures. | 9.30 | Floodplain Structures. |
| 9.27 | Existing Exempt Structures. | 9.31 | Height. |
| 9.28 | Reduced Principal Structure Setback. | | |

Part VIII. Vegetation.

- | | | | |
|------|----------|------|-------------------------|
| 9.32 | Purpose. | 9.33 | Vegetative Buffer Zone. |
|------|----------|------|-------------------------|

Part IX. Shoreland Alterations.

- | | | | |
|------|---|------|--|
| 9.34 | Purpose. | 9.38 | Ponds and Wetland Scrapes Less Than Two (2) Acres in Area. |
| 9.35 | General Standards. | 9.39 | Ponds and Wetland Scrapes Two (2) Acres and Greater in Area. |
| 9.36 | Filling and Grading. | 9.41 | Soil Conservation Practices. |
| 9.37 | Artificial Waterways, Canals, Ditches, and Lagoons. | | |

Part X. Impervious Surface Standards.

- | | | | |
|------|---------------------------------------|------|---|
| 9.42 | Purpose. | 9.46 | Treated Impervious Surfaces. |
| 9.43 | Calculation of Impervious Surface. | 9.47 | Existing Impervious Surfaces. |
| 9.44 | General Impervious Surfaces Standard. | 9.48 | Other Ordinance Provisions Not Abrogated. |
| 9.45 | Maximum Impervious Surface. | | |

Part XI. Nonconforming Uses and Structures.

- | | | | |
|------|---|------|--|
| 9.49 | Purpose. | 9.53 | Expansion of a Nonconforming Principal Structure beyond Setback. |
| 9.50 | Discontinued Nonconforming Use. | 9.54 | Relocation of Nonconforming Principal Structure. |
| 9.51 | Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures. | 9.55 | Maintenance, Repair, Replacement or Vertical Expansion of Structures that were Authorized by Variance. |
| 9.52 | Lateral Expansion of Nonconforming Principal Structure within the Setback. | 9.56 | Wet Boathouses. |

Part XII. Mitigation Options.

9.57	Mitigation.	List.	
9.58	Mitigation Plan.	9.62	Shoreland Buffer Restoration Plan Requirements.
9.59	Minimum Standard of a Vegetative Buffer.	9.63	Implementation Schedule.
9.60	Types of Vegetation Buffer Establishment.	9.64	Certification of Completion.
9.61	Manitowoc County Native Plant	9.65	Subsequent Development.

Part XIII. Administrative Provisions.

9.66	Department Director.	9.75	Conditional Use Permit Revocation.
9.67	Permits Required.	9.76	Variances.
9.68	Permit Application.	9.77	Board of Adjustment.
9.69	Expiration of Permit.	9.78	Powers and Duties.
9.70	Reasonable Accommodation for Disabled or Handicapped Persons.	9.79	Appeals to the Board.
9.71	Conditional Use Permit Application.	9.80	Hearing Appeals and Application for Variances and Conditional Use Permits.
9.72	Standards Applicable to All Conditional Use Permits.	9.81	Amendments and Changes.
9.73	Conditions Attached to Conditional Use Permits.	9.82	Violations and Penalties.
9.74	Recording.	9.83	Effective Date.

PART I. GENERAL PROVISIONS.

9.01 Title.

This ordinance may be referred to as the Manitowoc County Shoreland Zoning Ordinance or the Shoreland Zoning Ordinance.

9.02 Findings of Fact.

Uncontrolled use of shorelands and pollution of the navigable waters of Manitowoc 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 Manitowoc County, Wisconsin.

9.03 Statement of Purpose.

For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this Shoreland Zoning Ordinance has been established to:

- (1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - (b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 - (c) Controlling filling and grading to prevent soil erosion problems.
 - (d) Limiting impervious surfaces to control runoff which carries pollutants.
- (2) Protect spawning grounds, fish, and aquatic life through:
 - (a) Preserving wetlands and other fish and aquatic habitat.
 - (b) Regulating pollution sources.
 - (c) Controlling shoreline alterations, dredging, and lagooning.
- (3) Control building sites, placement of structures, and land uses through:
 - (a) Prohibiting certain uses detrimental to Shoreland-Wetlands.
 - (b) Setting minimum lot sizes and widths.
 - (c) Setting minimum building setbacks from waterways.
 - (d) Setting the maximum height of near shore structures.
- (4) Preserve and restore shoreland vegetation and natural scenic beauty through:
 - (a) Restricting the removal of natural shoreland cover.
 - (b) Preventing shoreline encroachment by structures.
 - (c) Controlling shoreland excavation and other earth moving activities.
 - (d) Regulating the use and placement of boathouses and other structures.

9.04 Statutory Authorization.

This Shoreland Zoning Ordinance is adopted pursuant to the authorization in Wis. Stat. § 59.692 to implement Wis. Stats. §§ 59.692 and 281.31.

PART II. DEFINITIONS.

9.05 Definitions.

For the purpose of administering and enforcing this Shoreland Zoning 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 Shoreland Zoning Ordinance mean:

- (1) “Access and viewing corridor” means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone provided in Section 9.33(2) of this Shoreland Zoning Ordinance.
- (2) “Accessory Structure” means a subordinate structure that is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.
- (3) “Bluff” means the lakeward edge of land, generally greater than 10 feet high, that is high enough to contain complex, multiple layers of soil and groundwater.
- (4) “Boathouse” 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.
- (5) “Building” means a structure.
- (6) “Building envelope” means the three dimensional space within which a structure is built.
- (7) “County Board” means the Manitowoc County Board of Supervisors.
- (8) “Conditional use” means a use which is permitted by this Shoreland Zoning Ordinance provided that certain conditions specified in the Shoreland Zoning Ordinance are met and that a permit is granted by the Board of Adjustment.
- (9) “County zoning agency” means the Manitowoc County Planning and Zoning Department.

- (10) “Department” means the Department of Natural Resources.
- (11) “Department Director” means the director of the Manitowoc County Planning and Zoning Department or the Department Director's designee. Any reference in the county code to a code administrator or a zoning administrator is deemed a reference to the Department Director.
- (12) “Development” means any artificial change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition or extraction of materials.
- (13) “Drainage System” means one or more artificial ditches, tile drains or similar devices that collect surface runoff or groundwater and convey it to a point of discharge.
- (14) “Existing development pattern” means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (15) “Facility” means any property or equipment of a public utility, as defined in Wis. Stat. § 196.01(5), or a cooperative association organized under Wis. Stat. ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.
- (16) “Floodplain” means the land that 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 Wis. Admin. Code ch. NR 116.
- (17) “Footprint” means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) - a single horizontal plane bounded by the furthest portion of the structure projected to natural grade.

Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under Wis. Admin. Code ch. NR 115 and would need to follow Wis. Admin. Code § NR 115.05(1)(g)5.

- (18) “Generally accepted forestry management practices” 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.

- (19) “Habitable Rooms” means any room or portion thereof used or designed for living, sleeping, eating or cooking, or combinations thereof. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry and utility spaces, basement recreation rooms, and similar areas shall not be used as habitable rooms.
- (20) “Habitable Structure” means any structure or portion thereof used or designed for human habitation.
- (21) “Human Habitation” means the use of a structure for living for any period of time, for activities such as sleeping, eating or cooking, or combinations thereof.
- (22) “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. Roadways as defined in Wis. Admin. Code § NR 340.01(54), or sidewalks as defined in Wis. Admin. Code § NR 340.01(58), are not considered impervious surfaces.
- (23) “Lot” means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this Shoreland Zoning Ordinance.
- (24) “Lot area” means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of lake or pond.
- (25) “Lot of Record” means any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.
- (26) “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.
- (27) “Mitigation” means balancing measures that are designed, implemented, and function to restore natural functions and values that are otherwise lost through development and human activities.
- (28) “Navigable waters” means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stat. § 281.31(2)(d)

notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 59.692 and Wis. Admin. Code ch. NR 115 do not apply to lands adjacent to:

- (1) 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
 - (2) Artificially constructed drainage ditches, ponds, or storm water retention basins that are not hydrologically connected to a natural navigable water body.
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- (29) “Nonconforming structure” means a building or other structure whose dimensions, location, or other physical characteristics do not conform to the requirements of this Shoreland Zoning Ordinance, but that conformed to the requirements of the ordinance in effect at the time it was constructed or placed in its current location.
 - (30) “Nonconforming use” means a current use of land or a structure that does not conform to the use regulations for the zoning district in which it is located, but that conformed to the use requirements of the ordinance in effect at the time that the current use began.
 - (31) “Ordinary high water mark” or “OHWM” means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
 - (32) “Principal structure” means the main structure on a lot, intended for primary use as permitted by the regulations of the district in which it is located, including any functional appurtenances, such as decks, stairways, and balconies, which are attached to said building.
 - (33) “Recession” means the landward movement of a shoreline caused primarily by erosion of the shore.
 - (34) “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.
 - (35) “Routine maintenance of vegetation” means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
 - (36) “Shoreland” 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.

- (36m) “Shoreland Alteration” means any land disturbing activity in the shoreland that is done on the landward side of the ordinary high water mark of a navigable body of water such as filling, grading, lagooning, dredging, ditching, excavating, or similar activity.
- (37) “Shoreland setback” also known as the “Shoreland setback area” in Wis. Stat. § 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 pursuant to Wis. Stat. § 59.692.
- (38) “Shoreland-Wetland district” means the zoning district, created as a part of this Shoreland Zoning Ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin Wetland Inventory maps which have been adopted and made a part of this Shoreland Zoning Ordinance.
- (39) “Stable Slope” means the natural angle to which a coastal bluff or bank will erode even when unaffected by other forces, such as shoreline recession or heavy loads like buildings.
- (40) “Structure” means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.
- (41) “Substandard Lot” means 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 for a new lot.
- (42) “Toe” means the lake-level base of a bluff, bank or shore protection structure.
- (43) “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 Shoreland Zoning Ordinance.
- (44) “Variance” means an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Shoreland Zoning Ordinance.
- (45) “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.

PART III. APPLICABILITY AND COMPLIANCE.

9.06 Areas to be Regulated.

Areas to be regulated by this Shoreland Zoning Ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Manitowoc County which are:

- (1) Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds, or flowages. Lakes, ponds or flowages in Manitowoc 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/>; they are shown on the United States Geological Survey quadrangle maps, (1:24,000 scale); or they are shown on other zoning base maps.
- (2) 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. Rivers and streams in Manitowoc 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.
- (3) 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 Wis. Stat. § 13.48(13) 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 the Shoreland Zoning Ordinance if Wis. Stat. § 30.2022(1) applies. Shoreland zoning requirements in annexed or incorporated areas are as provided in Wis. Stat. §§ 61.353 and 62.233.
- (4) Determinations of navigability and ordinary high water mark location shall initially be made by the Department Director. When questions arise, the Department Director shall contact the appropriate office of the Department for a final determination of navigability or ordinary high water mark. Manitowoc County may work with surveyors with regard to Wis. Stat. § 59.692(1h).
- (5) Under Wis. Stat. § 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this Manitowoc County 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.
- (b) Lands adjacent to artificially constructed drainage ditches, ponds, or storm water retention basins that are not hydrologically connected to a natural navigable water body.

9.07 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 hereby made part of this ordinance. The maps can be viewed at: <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>.

9.08 Compliance.

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 Shoreland Zoning Ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a zoning permit unless otherwise expressly excluded by a provision of this Shoreland Zoning Ordinance. Property owners, builders, and contractors are responsible for compliance with the terms of this Shoreland Zoning Ordinance.

9.09 Municipalities and State Agencies Regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Shoreland Zoning Ordinance and obtain all necessary permits. State agencies are required to comply when Wis. Stat. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stat. § 30.2022(1) applies.

9.10 Abrogation and Greater Restrictions.

The provisions of this Shoreland Zoning 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 Shoreland Zoning Ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than Wis. Stat. § 59.692 does not solely relate to shorelands and is more restrictive than this Shoreland Zoning Ordinance, for example a

floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- (1) This Shoreland Zoning Ordinance shall not require approval or be subject to disapproval by any town or town board.
- (2) If an existing town ordinance relating to shorelands is more restrictive than this Shoreland Zoning Ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- (3) This Shoreland Zoning Ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Shoreland Zoning Ordinance imposes greater restrictions, the provisions of this Shoreland Zoning Ordinance shall prevail.
- (4) This Shoreland Zoning Ordinance may establish standards to regulate matters that are not otherwise regulated in Wis. Admin. Code ch. NR 115, but that further the purposes of shoreland zoning as described in Section 9.03 of this Shoreland Zoning Ordinance.
- (5) This Shoreland Zoning Ordinance shall not be construed to require 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) Any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (6) Structures that require authorization or permits from the DNR pursuant to Wis. Stat. chs. 30 and 31 and structures that are to be located below the ordinary high water mark, namely bridges, dams, culverts, piers, wharves, navigational aids, and waterway crossings of transmission lines, shall comply with all applicable federal, state, county, and local regulations.
- (7) The construction and maintenance of a facility is considered to satisfy the requirements of the Manitowoc County Shoreland Zoning Ordinance if the Department has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stat. chs. 30, 31, 281, or 283.

9.11 Interpretation.

In their interpretation and application, the provisions of this Shoreland Zoning Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of

Manitowoc County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this Shoreland Zoning Ordinance is required by statute and a standard in Wis. Admin. Code ch. NR 115, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and Wis. Admin. Code ch. NR 115 standards in effect on the date of the adoption of this Shoreland Zoning Ordinance or in effect on the date of the most recent text amendment to this Shoreland Zoning Ordinance.

9.12 Severability.

If any portion of this Shoreland Zoning Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Shoreland Zoning Ordinance shall not be affected.

PART IV. SHORELAND - WETLAND ZONING DISTRICT.

9.13 Designation.

This district shall include all shorelands within the jurisdiction of this Shoreland Zoning Ordinance that 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. Where an apparent discrepancy exists between the Shoreland-Wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, Manitowoc 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, Manitowoc County shall have the authority to immediately grant or deny a 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.

9.14 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.

9.15 Permitted Uses.

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this Shoreland Zoning Ordinance, the provisions of Wis. Stat. chs. 30 and 31,

and Wis. Stats. §§ 281.36 and 281.37 and the provisions of other applicable local, state and federal laws:

- (1) Activities and uses that 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.
 - (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 pasturing of livestock.
 - (d) The cultivation of agricultural crops.
 - (e) The practice of silviculture, including the planting, thinning, and harvesting of timber.
 - (f) The construction or maintenance of duck blinds.
- (2) Uses that do not require the issuance of a zoning permit and may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
 - (a) 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.
 - (b) The cultivation of cranberries including flooding, dike and dam construction, or ditching necessary for the growing and harvesting of cranberries.
 - (c) 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.
 - (d) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 - (e) The construction or maintenance of piers, docks, or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.

- (f) 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) Uses that require the issuance of a zoning permit and may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
- (a) The construction and maintenance of roads that are necessary to conduct silvicultural activities or 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 adverse impact upon the natural functions of the wetland enumerated in Section 9.17(2) of this Shoreland Zoning Ordinance.
 - 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
 - 4. Road construction activities are carried out in the immediate area of the roadbed only.
 - (b) The construction or maintenance of nonresidential buildings, provided that:
 - 1. 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.
 - 2. The building cannot, as a practical matter, be located outside the wetland.
 - 3. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area.
 - 4. Only limited filling or excavating necessary to provide structural support for the building is authorized.
 - (c) 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:
 - 1. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Wis. Stat. ch. 29, where applicable.

2. 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 Sections 9.15(3)(a)1-4 of this Shoreland Zoning Ordinance.
 3. 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.
- (d) 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:
1. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
 2. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 9.17(2) of this Shoreland Zoning Ordinance.

9.16 Prohibited Uses.

Any use not listed in Section 9.15(1), 9.15(2) or 9.15(3) is prohibited, unless the wetland or portion of the wetland has been rezoned in accordance with Section 9.17 of this Shoreland Zoning Ordinance and Wis. Stat. § 59.69(5)(e).

9.17 Rezoning of Lands in the Shoreland-Wetland District.

- (1) For all proposed text and map amendments to the Shoreland-Wetland provisions of this Shoreland Zoning Ordinance, the appropriate office with the Department shall be provided with the following:
 - (a) A copy of every petition for a text or map amendment to the Shoreland-Wetland provisions of this Shoreland Zoning Ordinance, within five (5) days of the filing of such petition with the Manitowoc County Clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this Shoreland Zoning Ordinance describing any proposed rezoning of a Shoreland-Wetland.

- (b) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.
 - (c) 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.
 - (d) Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.
- (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 feeding grounds.
 - (f) Wildlife habitat.
 - (g) 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 Wis. Admin. Code § NR 103.04 which can be accessed at the following web site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.
- (3) If the Department notifies the county zoning agency that a proposed text or map amendment to the Shoreland-Wetland provisions of this Shoreland Zoning Ordinance may have a significant adverse impact upon any of the criteria listed in Section 9.17(2) of this Shoreland Zoning Ordinance, that amendment, if approved by the County Board, shall contain the following provision:

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

be stayed until the Wis. Stat. § 59.692(6) adoption procedure is completed or otherwise terminated.”

PART V. LAND DIVISION REVIEW AND SANITARY REGULATIONS.

9.18 Land Division Review.

- (1) Manitowoc County shall review, pursuant to Wis. Stat. § 236.45, all land divisions in shoreland areas that create three (3) or more parcels or building sites of five (5) acres each or less within a 5-year period. In such review, all of the following factors shall be considered:
 - (a) Hazards to the health, safety, or welfare of future residents.
 - (b) Proper relationship to adjoining areas.
 - (c) Public access to navigable waters, as required by law.
 - (d) Adequate storm water drainage facilities.
 - (e) Conformity to state law and administrative code provisions.

9.19 Planned Unit Development (PUD).

- (1) 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 Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.
- (2) 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:
 - (a) 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.
 - (b) Lots. Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of Section 9.22 or 9.23 of this Shoreland Zoning Ordinance shall be a non-riparian lot.

- (c) 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 9.33 of this Shoreland Zoning Ordinance 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.
- (3) Procedure for Establishing a Planned Unit Development District. The procedure for establishing a Planned Residential Unit Development district shall be as follows:
- (a) Petition. A petition setting forth all of the facts required in Section 9.19(2) of this Shoreland Zoning Ordinance shall be submitted to the Manitowoc County Clerk with sufficient copies to provide for distribution by the Manitowoc County Clerk as required by Section 9.81(3) of this Shoreland Zoning Ordinance.
 - (b) Review and Hearing: The petition shall be submitted to the county zoning agency. The Planning and Parks Commission 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 9.81(3) of this Shoreland Zoning 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.
 - (c) Findings and Conditions of Approval. The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 9.19(2) of this Shoreland Zoning Ordinance. 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 9.19(2) of this Shoreland Zoning Ordinance. 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.
 - (d) Planning Studies. A landowner or petitioner may at his or her own expense develop the facts required to establish compliance with the provisions of Section 9.19(2) of this Shoreland Zoning Ordinance or may be required to contribute funds to Manitowoc County to defray all or part of the cost of such studies being undertaken by Manitowoc County or any agency or person with whom Manitowoc County contracts for such work.

9.20 Sanitary Regulations.

- (1) Where public water supply systems are not available, private well construction shall conform to Wis. Admin. Code ch. NR 812.
- (2) Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment systems shall, comply with Chapter 13 (Private Sewage System) of the Manitowoc County Code.

PART VI. MINIMUM LOT SIZE.

9.21 Purpose.

The purpose of establishing minimum lot sizes in the shoreland area is to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

9.22 Sewered Lots.

The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet for sewered lots. The width shall be measured at the ordinary high water mark and building setback line.

9.23 Unsewered Lots.

The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet for unsewered lots. The width shall be measured at the ordinary high water mark and building setback line.

9.24 Substandard Lots.

- (1) A substandard lot may be used as a building site if all of the following apply:
 - (a) 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.
 - (b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - (c) The substandard lot or parcel is developed to comply with all other ordinance requirements.

- (2) Except for lots that meet the requirements set forth in Section 9.24(1) of this Shoreland Zoning Ordinance, a zoning permit to build a new structure shall be issued only if a variance is granted by the Board of Adjustment.

PART VII. SETBACKS.

9.25 Shoreland Setback.

All buildings and structures shall be setback a distance of 75 feet from the ordinary high water mark of any navigable waters to the nearest part of a structure unless exempt under Section 9.26 of this Shoreland Zoning Ordinance, or reduced under Section 9.28 of this Shoreland Zoning Ordinance.

9.26 Exempt Structures.

All of the following structures are exempt from the shoreland setback standards in Section 9.25 of this Shoreland Zoning Ordinance:

- (1) Boathouses according to the following standards:
 - (a) A boathouse shall be designed and constructed solely for the storage of boats and related equipment.
 - (b) A boathouse shall not extend forward of the ordinary high water mark of the adjacent navigable water.
 - (c) A boathouse shall have its largest door or opening facing the water and such door or opening shall be adequate in size to accommodate a boat directly from the water.
 - (d) A boathouse constructed after the effective date of this Shoreland Zoning Ordinance shall have a pitched roof of three (3) horizontal to one (1) vertical or steeper.
 - (e) A boathouse shall be located entirely within the access and viewing corridor allowed by Section 9.33(2) of this Shoreland Zoning Ordinance.
 - (f) A boathouse shall not contain plumbing.
 - (g) A boathouse shall not be used for human habitation.
 - (h) A boathouse shall have a maximum of two (2) windows not to exceed nine (9) square feet per window.

- (i) A boathouse shall have a maximum size of 400 square feet in floor area with sidewalls no higher than 10 feet.
 - (j) Only one boathouse shall be allowed per lot.
 - (k) Boathouses which existed prior to the adoption of this Shoreland Zoning Ordinance that have a flat roof may be used as a deck provided:
 - 1. The roof has no walls or screens.
 - 2. The roof has no railing other than those that meet the Department of Safety and Professional Services standards.
- (2) Open sided and screened structures such as gazebos, decks, patios, and screen houses in the shoreland setback area that satisfy the following requirements pursuant to Wis. Stat. § 59.692(1v).
- (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 does not exceed 200 square feet.
 - (c) The structure that is the subject of the request for permission pursuant to this section has no sides or has open or screened sides.
 - (d) The county zoning agency must approve a mitigation 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.
 - (e) An enforceable affidavit must be filed with the Manitowoc County Register of Deeds prior to construction acknowledging the limitations on vegetation removal pursuant to Section 9.26(2)(d) of this Shoreland Zoning Ordinance.
- (3) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two (2) meters or less in diameter.
- (4) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with Wis. Admin. Code 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, provided the walkway, stairway, or rail system meets the following standards:
 - (a) The walkway, stairway, or rail system shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction and to be visually inconspicuous as viewed from the adjacent waterway and public roads.
 - (b) The walkway, stairway, or rail system shall be located entirely within the access and viewing corridor.
 - (c) The walkway, stairway, or rail system shall be no more than sixty inches (60") wide.
 - (d) Open railings not exceeding forty-two inches (42") in height are permitted only where required by safety concerns.
 - (e) Canopies, roofs, closed railings/walls on walkways, stairways and rail systems are prohibited.
 - (f) Stairways shall be supported on piles or footings rather than being excavated from erodible soils on steep slopes or bluff faces.
 - (g) Landings for stairways are permitted only where required by safety concerns and shall not exceed twenty-five (25) square feet in area.
- (6) Devices or systems used to treat runoff from impervious surfaces.

9.27 Existing Exempt Structures.

Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt, and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.

9.28 Reduced Principal Structure Setback.

A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure pursuant to following:

- (1) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing adjacent principal structures are set back from the ordinary high water mark provided all of the following are met:

- (a) Both of the existing principal structures are located on lots directly adjacent to the proposed principal structure.
 - (b) Both of the existing principal structures are located within 250' of the proposed principal structure.
 - (c) Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
- (2) Where there is an existing principal structure in only one direction, the setback shall equal the distance the existing adjacent principal structure is set back from the ordinary high water mark and the required setback of 75' from the ordinary high water mark provided all of the following are met:
- (a) The existing principal structure is located on a lot adjacent to the proposed principal structure.
 - (b) The existing principal structure is located within 250' of the proposed principal structure.
 - (c) The existing principal structure is located less than 75' from the ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.

9.29 Lake Michigan Shoreline Protection Area.

Bluff erosion and shore recession are natural processes that exist along the Lake Michigan shoreline caused by bluff instability, wave action and fluctuating water levels. These unique ecological characteristics require additional consideration in the siting of coastal buildings and structures. To protect life and property and reduce costly damages, the following procedures shall be used for development along Lake Michigan.

- (1) The setback line shall be established by use of the following procedure in areas where bluffs of ten feet (10') or more in height that rise ten feet (10') or more vertically for every twenty-five feet (25') of horizontal distance:

A stable slope angle setback shall be established for bluffs at a ratio of 2.5 feet of horizontal distance for every one (1) foot of vertical distance. There shall be two (2) such measurements made for every one hundred feet (100') of shoreline at points not less than fifty feet (50') apart. The stable slope angle setback shall be a line connecting these two (2) points or such line extended. In cases of highly irregular

shoreline, more than two (2) measurement points per one hundred feet (100') feet may be required by the Department Director. The measurement shall be made horizontally from the toe of the bluff.

- (2) The average annual long term recession rate along Lake Michigan is two (2) feet per year. A recession rate setback shall be established by use of the following procedure:

The average annual long term recession rate is multiplied by a structural design life of fifty (50) years for principal or conditional uses or a structural design life of twenty-five (25) years for accessory uses. The recession rate setback measurement shall be made horizontally from the toe of the bluff.

- (3) In areas where both shoreline recession and bluffs exist, the stable slope angle setback shall be added to the recession rate setback to arrive at the required setback. In areas where only one condition exists, either shoreline recession in areas without bluff, or a bluff along the shoreline which is not receding, only the applicable setback shall apply.
- (4) This section shall not apply to those structures listed in Section 9.26 of this Shoreland Zoning Ordinance.

9.30 Floodplain Structures.

Buildings and structures to be constructed or placed in a floodplain shall comply with the Manitowoc County Floodplain Zoning Ordinance.

9.31 Height.

No structure taller than 35 feet that is located within 75 feet of the ordinary high water mark of any navigable waters may be constructed, placed, located, expanded, rebuilt, reconstructed, replaced, or relocated. Height when used with respect to a building means the vertical distance from the finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or the highest gable of a gambrel, hip, or pitched roof.

PART VIII. VEGETATION.

9.32 Purpose.

To protect natural scenic beauty, fish and wildlife habitat, and water quality, Manitowoc County regulates 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.

9.33 Vegetative Buffer Zone.

To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the Manitowoc County Shoreland Zoning Ordinance hereby designates land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibits removal of vegetation in the vegetative buffer zone except as follows.

- (1) Routine maintenance of vegetation.
- (2) Removal of trees and shrubs in the vegetative buffer zone to create an access and viewing corridor. The access and viewing corridor may be 35 feet wide for every 100 feet of shoreline frontage. The access and viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
- (3) 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 Wis. Admin. Code § NR 1.25(2)(b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal is consistent with those practices.
- (4) 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 a zoning permit is replaced by replanting in the same area as soon as practicable.
- (5) Additional vegetation management activities in the vegetative buffer zone. A zoning permit issued under this section shall require that all management activities comply with detailed plans approved by Manitowoc 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 zoning permit also shall require an enforceable restriction to preserve the newly restored area.

PART IX. SHORELAND ALTERATIONS.

9.34 Purpose.

To minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty shoreland alterations may be permitted only in accordance with the provisions of Wis. Admin. Code § NR 115.04, the requirements of Wis. Stat. ch. 30 and other state and federal laws where applicable.

9.35 General Standards.

Any shoreland alteration that does not require a conditional use permit under this Shoreland Zoning Ordinance may be permitted in the shoreland area provided:

- (1) Any filling, grading, lagooning, dredging, ditching, or excavating is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
- (2) Any shoreland alteration in a Shoreland-Wetland district meets the requirements of Sections 9.15(2) and (3) of this Shoreland Zoning Ordinance.
- (3) All applicable federal, state and local permits are obtained in addition to a zoning permit under this Shoreland Zoning Ordinance.
- (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, jute netting, plastic cover, filter fabric fencing, vegetative cover or bulkhead.

9.36 Filling and Grading.

- (1) **Permit Required.** A zoning permit is required for any filling or grading of any area that is within 300 feet landward of the ordinary high water mark of navigable water body and has surface drainage toward the water and where there is either:
 - (a) Filling or grading on slopes of 20 percent or more;
 - (b) Filling or grading of more than 1,000 square feet on slopes greater than 12 percent and less than 20 percent; or
 - (c) Filling or grading of more than 2,000 square feet on slopes of 12 percent or less.
- (2) **Permit Conditions.** In addition to meeting all other requirements specified in this Shoreland Zoning Ordinance, the following conditions shall be met as part of any zoning permit issued under this § 9.36.
 - (a) The smallest amount of bare ground shall be exposed for the as short a time as feasible.
 - (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetation cover shall be established.
 - (c) Diversion berms or bales, silting basin, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
 - (d) Lagoons shall be constructed to avoid fish trap conditions.

- (e) Fill shall be stabilized according to accepted engineering standards.
- (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (g) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical distance or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

9.37 Artificial Waterways, Canals, Ditches, and Lagoons.

A conditional use permit is required for any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway that is within 300 feet landward of the ordinary high water mark of a navigable body of water and where the purpose is the ultimate connection with a navigable body of water.

9.38 Ponds and Wetland Scrapes Less Than Two (2) Acres in Area.

A zoning permit is required for the construction and maintenance of ponds and wetland scrapes less than two (2) acres in area that are located within the Shoreland - Wetland Zoning District. Such a zoning permit may be issued provided that:

- (1) All spoil materials are removed to an upland area outside of the Shoreland - Wetland Zoning District.
- (2) The pond or wetland scrape is not connected to a navigable body of water or a waterway or a ditch that ultimately is connected to a navigable body of water or waterway.
- (3) The project(s) does not create an increase in the height of the regional flood.
- (4) The side slopes of the ponds or wetland scrapes shall not be steeper than eight feet horizontal to one foot vertical.
- (5) All disturbed upland areas are leveled, graded, and seeded to permanent vegetation as soon as possible to prevent erosion of silt into the pond or scrape.
- (6) The pond or wetland scrape shall be for the purpose of improving wildlife or fish habitat or for recreational opportunities and may not be associated with a commercial use.
- (7) Ponds shall be no more than five (5) feet deep.
- (8) All Department general permit conditions for wetland scrapes and wildlife ponds shall be followed.

9.39 Ponds and Wetland Scrapes Two (2) Acres and Greater in Area.

A conditional use permit is required for ponds and wetland scrapes that are two (2) acres and greater in area.

9.41 Soil Conservation Practices.

- (1) Soil conservation practices such as tiled terraces, runoff diversions, and grassed waterways used for erosion control shall not require a permit under this Shoreland Zoning Ordinance when designed and constructed to Natural Resource Conservation Service technical standards.
- (2) The maintenance of existing agricultural drainage systems shall not require a permit under this Shoreland Zoning Ordinance when designed and constructed according to Natural Resource Conservation Service technical standards.

PART X. IMPERVIOUS SURFACE STANDARDS.

9.42 Purpose.

These impervious surface standards are established to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. Manitowoc 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.

9.43 Calculation of Impervious Surface.

The 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. Treated impervious surfaces described in Section 9.46 of this Shoreland Zoning Ordinance 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. Calculations shall be completed by an engineer, landscape architect, surveyor, or other licensed contractor acceptable by the Department Director.

9.44 General Impervious Surface Standard.

Except as permitted in Sections 9.45 and 9.46 of this Shoreland Zoning Ordinance, no more than 15% impervious surface is permitted on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark.

9.45 Maximum Impervious Surface.

A property may exceed the impervious surface standard under Section 9.44 of this Shoreland Zoning Ordinance provided the following standards are met:

- (1) For properties where the general impervious surface standard applies under Section 9.44 of this Shoreland Zoning Ordinance, 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 Section 9.44 of this Shoreland Zoning Ordinance but do not exceed the maximum standard under Section 9.45(1) of this Shoreland Zoning Ordinance, a zoning permit can be issued for development with a mitigation plan that meets the standards found in Part XII of this Shoreland Zoning Ordinance.

9.46 Treated Impervious Surfaces.

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 9.43 of this Shoreland Zoning Ordinance.

- (1) The impervious surface is treated by devices such as storm water ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems.
- (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.
- (3) To qualify for this exemption, a property owner shall submit a complete zoning permit application that is reviewed and approved by the county zoning agency. The application shall include the following:
 - (a) Calculations showing how much runoff is coming from the impervious surface area.
 - (b) Documentation that the runoff from the impervious surface is being treated by a proposed treatment system, treatment device, or internally drained area.

- (c) An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the zoning permit.

9.47 Existing Impervious Surface.

For existing impervious surfaces that were lawfully placed when constructed but do not comply with the general impervious surface standard in Section 9.44 of this Shoreland Zoning Ordinance or the maximum impervious surface standard in Section 9.45 of this Shoreland Zoning Ordinance, 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 this Shoreland Zoning Ordinance, and the impervious surface meets the applicable setback requirements in Wis. Admin. Code § NR 115.05(1)(b).

9.48 Other Ordinance Provisions Not Abrogated.

The provisions of this Part X (Impervious Surface Standards), inclusive of Sections 9.42 to 9.48 of this Shoreland Zoning Ordinance, shall not be construed to supersede any other provision in this Shoreland Zoning Ordinance.

PART XI. NONCONFORMING USES AND STRUCTURES.

9.49 Purpose.

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

9.50 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 this Shoreland Zoning Ordinance.

9.51 Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures.

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. Expansion of a structure beyond the existing footprint is permitted if the expansion is necessary to comply with applicable state or federal laws.

9.52 Lateral Expansion of Nonconforming Principal Structure Within the Setback.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback in Section 9.25 of this Shoreland Zoning Ordinance 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) No portion of the expansion is any closer to the ordinary high water mark than the closest point of the existing principal structure.
- (4) The lateral expansion does not exceed a maximum of 200 square feet over the life of the structure.
- (5) The county zoning agency issues a zoning permit that requires a mitigation plan that complies with Section 9.58 of this Shoreland Zoning Ordinance. The mitigation plan shall be approved by the county zoning agency and implemented by the property owner by the date specified in the zoning permit. The mitigation plan shall include mitigation practices that meet the standards found in Section 9.57 of this Shoreland Zoning Ordinance, and shall include enforceable obligations of the property owner to establish or maintain measures that the county zoning agency 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 obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Manitowoc County Register of Deeds.
- (6) All other provisions of this Shoreland Zoning Ordinance shall be met.

9.53 Expansion of a Nonconforming Principal Structure Beyond Setback.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required shoreland setback under Section 9.25 of this Shoreland Zoning Ordinance, may be expanded horizontally, landward, or vertically provided that the expanded area meets the shoreland setback requirements under Section 9.25 of this Shoreland Zoning Ordinance and that all other provisions of this Shoreland Zoning Ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be otherwise required under other sections of this Shoreland Zoning Ordinance, including Sections 9.26(2), 9.45(2), 9.52, and 9.54.

9.54 Relocation of Nonconforming Principal Structure.

An existing principal structure that was lawfully placed when constructed but does not comply with the required shoreland setback under Section 9.25 of this Shoreland Zoning Ordinance may be replaced or 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.
- (2) The existing principal structure is at least 35 feet from the ordinary high water mark.
- (3) 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.
- (4) Manitowoc 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 replacement or relocation that will result in compliance with the shoreland setback requirement under Section 9.25 of this Shoreland Zoning Ordinance.
- (5) The county zoning agency issues a zoning permit that requires a mitigation plan that complies with Section 9.58 of this Shoreland Zoning Ordinance. The mitigation plan shall be approved by the county zoning agency and implemented by the property owner by the date specified in the zoning permit. The mitigation plan shall include mitigation practices that meet the standards found in Section 9.57 of this Shoreland Zoning Ordinance, and shall include enforceable obligations of the property owner to establish or maintain measures that the county zoning agency 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 Manitowoc County Register of Deeds.
- (6) All other provisions of this Shoreland Zoning Ordinance shall be met.

9.55 Maintenance, Repair, Replacement or Vertical Expansion of Structures That Were Authorized by Variance.

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Expansion beyond the existing footprint may be permitted if the expansion is necessary to comply with applicable state or federal laws.

9.56 Wet Boathouses.

The maintenance and repair of any nonconforming boathouse that extends beyond the ordinary high water mark of any navigable waters shall comply with Wis. Stat. § 30.121.

PART XII. MITIGATION OPTIONS.

9.57 Mitigation.

When the county zoning agency issues a zoning permit requiring mitigation under Section 9.26(2), 9.45, 9.52, or 9.54 of this Shoreland Zoning Ordinance, the property owner must submit a mitigation plan application that is to be reviewed and approved by the county zoning agency. Existing buffer zones may be used to meet the mitigation point totals. The following mitigation practices may be used to obtain a minimum of three points.

- (1) Maintenance of Existing or Establishment of Buffer Options.
 - (a) Primary Active Buffer Zone - Shore buffer zone within 35 feet of the ordinary high water mark, including trees, shrubbery, ground cover, and other natural vegetation, subject to the conditions in Section 9.57(2) of this Shoreland Zoning Ordinance. Three points.
 - (b) Secondary Active Buffer Zone - An additional 15 feet of buffer zone depth inland from the ordinary high water mark beyond the 35 feet of buffer zone already established, providing a total of 50 feet of buffer zone depth, subject to the conditions in Section 9.57(2) of this Shoreland Zoning Ordinance. Two points.
 - (c) Recreational Area Buffer Zone - Shore buffer zone within 15 feet of the ordinary high water mark, including within the space that may otherwise have been occupied by the recreational area, except that a foot path of no more than four (4) feet in width may be maintained, subject to the conditions in Section 9.57(2) of this Shoreland Zoning Ordinance. Two points.

- (d) Passive Buffer Zone - Shoreland vegetation buffer area within 35 feet of the ordinary high water mark, including unmowed grass, or other ground cover vegetation, but without the tree and shrub layers required to meet the (3) point mitigation standard of Section 9.57(1)(a) of this Shoreland Zoning Ordinance. Two points.
 - (e) Side Lot Buffer Zone - A 10 foot wide side lot buffer zone including trees, shrubbery, ground cover, and other natural vegetation extending along a side lot line for a depth of at least 75 feet from the ordinary high water mark. One point. The side lot buffer area is subject to the conditions in Section 9.57(2) of this Shoreland Zoning Ordinance. Points for side lot line buffers may be additive, for a maximum of two (2) points, if buffer areas exist and are maintained along both side lot lines.
- (2) Conditions.
- (a) No mowing is permitted in the buffer zone.
 - (b) The establishment of buffer zones, except under Section 9.57(1)(d) of this Shoreland Zoning Ordinance, are subject to a density of at least one tree per 200 square feet and two (2) shrubs per 100 square feet of buffer zone area. Ground cover shall be established to provide an adequate number of ground cover plants to establish complete coverage of exposed soil in one growing season. This density must be maintained through the maturity of the species.
- (3) Removal of Structures. Points may be obtained for the removal of structures as set forth below:
- (a) Removal of an existing principal structure or parts of a principal structure located within the required shoreland setback to a site that meets the shoreland setback requirements for new development on that waterbody. Three points.
 - (b) Removal of all existing accessory structures located within 35 feet of the ordinary high water mark, with the result that all such structures, including boathouses, meet the setback required for the waterbody. Two points.
 - (c) Removal of any existing accessory structures located between 35 feet and the required setback from the ordinary high water mark, with the result that all such structures, including boathouses, are located to meet the required setback from the ordinary high water mark. One point.
 - (d) No accessory structures are located less than the required setback from the ordinary high water mark. This point is not additive to points awarded for removal of structures pursuant to Sections 9.57(3)(b) and (c) of this Shoreland Zoning Ordinance. One point.

(4) Other Practices.

- (a) At the discretion of the Department Director, up to three (3) additional mitigation points may be approved for restoration or protection activities that are likely to provide significant benefits to meet the objectives of this Shoreland Zoning Ordinance. Examples may include, but are not limited to, construction of a storm water detention basin or implementation of other storm water management plan activities, replacement of seawalls with bio-engineered structures, or removal of artificial sand beaches in compliance with all applicable statutes and provisions set forth in Wisconsin Administrative Codes.
- (b) Factors to be considered in making the determination of number of points and approval of alternative mitigation practices include, but are not limited to:
 - 1. Runoff diversion and/or retention.
 - 2. Lot configuration.
 - 3. Parcel size.
 - 4. Location of impervious areas.
 - 5. Sensitivity and level of development of the waterbody.
 - 6. Significance toward meeting ordinance objectives.
 - 7. Type, density and filtering capacity of vegetation/ground cover.
 - 8. Replacement of a private on-site wastewater treatment system with a code compliant system.
 - 9. Removal of existing impervious areas.

9.58 Mitigation Plan.

- (1) A property owner must submit a mitigation plan that describes the proposed mitigation measures. The mitigation plan shall be designed and implemented 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.
- (2) Mitigation plans shall be completed by an engineer, landscape architect, surveyor, or other licensed contractor acceptable by the Department Director.

- (3) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures shall be recorded in the office of the Register of Deeds.

9.59 Minimum Standard of a Vegetative Buffer.

Planting Densities. The table below describes planting standards for two major shoreland types: woodland, and barrens/dry prairie/wet prairie. The woodland has a nearly complete canopy of trees while the barrens/prairie and wetland are more open. Plant numbers are to be calculated based on the area in square feet to be reestablished and the appropriate density. The area to be reestablished shall be calculated for each layer.

(Table 1) Shoreland Buffer Planting Standards

Woodland Buffer			Wetland / Prairie Buffer	
Layer	Minimum number of species	Density per 100 square feet	Minimum number species	Density per 100 square feet
Tree Canopy*	3	1	1	0.2
Shrub Understory**	4	2	2	0.5
Groundcover Plant Plugs***	1	50 Must be Mulched	5	70 Must be Mulched
Groundcover	1	Varies Grass	5	Varies Grass
Seeding		4oz./1000 sq. ft. Forbs 3oz./1000 sq. ft.		4oz./1000 sq. ft. Forbs 3oz./1000 sq. ft.

* Tree must be 2 years old and 18” tall or taller
 ** Shrubs must be 1 Liter container size or larger
 *** Plugs must be 3” tall or 1” dia.

9.60 Types of Vegetation Buffer Establishment.

- (1) Avoidance - The buffer may be totally intact or undisturbed. If that is the case, the affidavit will state that a property will not disturb the area and will remain compliant with placement of a access and viewing corridor. The area designated as Vegetative Buffer must meet the density requirements of (Table 1).

- (2) Accelerated Recovery (enhancement) - This method entails installing some plant materials to achieve proper vegetation density as outlined in (Table 1). Under this establishment method, a property owner will be filling in areas that are too thin or where vegetation is missing.
- (3) Accelerated Recovery (creation) - This method is used when no buffer exists. The area in question may have been graded to bare soil or the site may have been mowed for many years. This establishment method will involve planting groundcover, shrubs, and trees after removal of existing vegetation.

9.61 Manitowoc County Native Plant List.

Species of plants must be selected from the Manitowoc County Native Plant List and approved for shoreline buffers by the Department Director. Substitutions must be approved by the Department Director. Substitutions to the list will be allowed in the event of lack of plant stock or seed availability on a case-by-case basis. All plants may be transplanted from areas outside of the buffer zone. The following link to the Wisconsin Botanical Information System shall be used to determine Manitowoc County native plants. County: Manitowoc, Origin: Native. <http://www.botany.wisc.edu/herb/Countysearch.html>

9.62 Shoreland Buffer Restoration Plan Requirements.

- (1) When restoration of a shoreland buffer is chosen as a mitigation option, a Shoreland Buffer Restoration Plan shall be completed by an engineer, landscape architect, surveyor, or other licensed contractor acceptable by the Department Director. Plans must be approved by the county zoning agency and must include:
 - (a) Name and address of property owner.
 - (b) Property address and legal description.
 - (c) Extent of the shoreland buffer.
 - (d) Scale (e.g. 1 inch = 10 feet).
 - (e) North arrow.
 - (f) Ordinary high water mark location.
 - (g) Location of all structures in the shoreland buffer zone.
 - (h) Access and viewing corridor.
 - (i) Boundary of the shoreland buffer zone.

- (j) Existing trees, shrubs, and native ground cover.
- (k) Areas to be planted with trees, shrubs, and groundcovers.
- (l) Implementation schedule.
- (m) A plant species list including a list of any substitutions from the authorized native plant list.
- (n) Erosion control practices (to be installed prior to and during buffer establishment).
- (o) Water diversions and channelized flow areas.
- (p) Buffer maintenance (weeding, replanting).

9.63 Implementation Schedule.

The approved Shoreland Buffer Restoration Plan must be started within one year from the issue date of applicable zoning permit. All plantings and any other required activities in the Shoreland Buffer Restoration Site Plan must be completed within two years of the zoning permit issue date.

9.64 Certification of Completion.

Within one (1) year of issuance of the zoning permit, the property owner shall complete the mitigation practices and shall certify in writing to the Department Director that the required mitigation has been completed. As part of the certification, the property owner shall submit photos documenting the mitigation measures and the county zoning agency may conduct an on-site compliance inspection.

9.65 Subsequent Development.

Subsequent zoning permit applications shall require additional mitigation and will be dependent on the scope of the project.

PART XIII. ADMINISTRATIVE PROVISIONS.

9.66 Department Director.

The Department Director shall have the following duties and powers:

- (1) Establishing a system of zoning permits for new construction, development, reconstruction, structural alteration, or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the Department Director.
- (2) Performing regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of this Shoreland Zoning Ordinance.
- (3) Establishing a variance procedure that authorizes the Board of Adjustment to grant such variance from the terms of this Shoreland Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of this Shoreland Zoning Ordinance, a literal enforcement of the provisions of the Shoreland Zoning Ordinance will result in unnecessary hardship.
- (4) Establishing a conditional use procedure.
- (5) Maintain complete records of all proceedings before the Board of Adjustment, county zoning agency, and planning agency.
- (6) Providing written notice to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, conditional use permit, appeal for a map or text interpretation, map or text amendment, and providing copies of all proposed land divisions submitted to the county zoning agency for review under Section 9.18 of this Shoreland Zoning Ordinance. Upon request of the Department Manitowoc County shall provide to the appropriate office a copy of any zoning permit issued under Section 9.67 of this Shoreland Zoning Ordinance.
- (7) Submitting to the appropriate office of the Department, within 10 days after grant or denial, of copies of any zoning permit, any decision on a variance, or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of the Shoreland Zoning Ordinance.
- (8) Mapping zoning districts and the recording, on an official copy of such map, of all district boundary amendments.
- (9) Establishing appropriate penalties for violations of various provisions of this Shoreland Zoning Ordinance, including forfeitures. Compliance with this Shoreland Zoning Ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in Wis. Stat. § 59.69(11).
- (10) The prosecution of violations of this Shoreland Zoning Ordinance.

9.67 Permits Required.

Except where another section of this Shoreland Zoning Ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from

the county zoning agency, or a conditional use permit from the Board of Adjustment if applicable, before any new development.

9.68 Permit Application.

An application for a zoning permit shall be made to the Department Director upon forms furnished by the county zoning agency and shall include the following information:

- (1) Name and address of applicant and property owner.
- (2) Legal description of the property and type of proposed use.
- (3) A to scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways, and the ordinary high water mark of any abutting waterways.
- (4) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
- (5) Plans for appropriate mitigation when required.
- (6) Payment of the appropriate fee.
- (7) Additional information required by the Department Director.

9.69 Expiration of Permit.

Zoning permits shall expire 24 months from date issued if no substantial work has commenced.

9.70 Reasonable Accommodation for Disabled or Handicapped Persons.

- (1) Manitowoc County will, upon receipt of a written request, issue a zoning permit that waives one or more specific zoning requirements if it determines that all of the following conditions have been met:
 - (a) The requested waiver is necessary to afford a handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (b) The requested waiver is the minimum deviation from the terms of this Shoreland Zoning Ordinance necessary to provide the handicapped or disabled person equal housing opportunity or equal access to public accommodations.

- (c) The requested waiver will not unreasonably undermine the basic purposes this Shoreland Zoning Ordinance.
- (2) A zoning permit issued pursuant to this section must state the provisions of this Shoreland Zoning Ordinance that are waived and describe with reasonable particularity the deviation from the terms of this Shoreland Zoning Ordinance that are authorized.
- (3) A zoning permit issued pursuant to this section must state that the permit is issued pursuant to the requirements of the Americans with Disabilities Act, the Fair Housing Act, the Rehabilitation Act, the Wisconsin Open Housing Law, a local ordinance, or a combination of these acts, laws, and ordinances in order to provide the reasonable accommodation necessary to avoid discrimination on the basis of disability or handicap.
- (4) A zoning permit issued pursuant to this section must include a provision stating that the permit is valid only for so long as the waiver is necessary for a disabled or handicapped person to occupy or use the premises and that the permit holder must notify the county zoning agency within 30 days of the date that the disabled or handicapped person no longer occupies or uses the premises.
- (5) A zoning permit issued pursuant to this section must include a provision stating that any addition or external structural change allowed by the waiver must be constructed, insofar as is practicable, in such a way that it can be removed when the disabled or handicapped person no longer occupies or uses the premises, unless Manitowoc County determines that removal will not be required and includes a written statement of the reason that removal is not required as part of the permit.
- (6) A zoning permit issued pursuant to this section that requires the removal of any addition or external structural change will not become effective until the permit holder:
 - (a) Signs an affidavit that contains the legal description of the property, acknowledges that the waiver granted by the zoning permit is authorized only for so long a disabled or handicapped person uses the premises, agrees to notify the county zoning agency within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person, and agrees to remove any addition or external structural change authorized by the zoning permit within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person; and
 - (b) Records the affidavit with the Register of Deeds and provides a copy of the recorded affidavit to the county zoning agency.

9.71 Conditional Use Permit Application.

Any use listed as a conditional use in this Shoreland Zoning Ordinance shall be permitted only after an application has been submitted to the Department Director and a conditional use permit has been granted by the Board of Adjustment. To secure information upon which to base its determination, the Board of Adjustment may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

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

9.72 Standards Application to All Conditional Use Permits.

In deciding a conditional use application, the Board of Adjustment shall evaluate the effect of the proposed use upon:

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

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

9.73 Conditions Attached to Conditional Use Permits.

Conditions attached to conditional use permits may include, but are not limited to, the following specifications: 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. Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this Shoreland Zoning Ordinance, as are necessary to further the purposes of this Shoreland Zoning Ordinance. Violations of any of these conditions shall be deemed a violation of this Shoreland Zoning Ordinance. In granting a conditional use permit, the Board of Adjustment may not impose conditions which are more restrictive than any of the specific standards in this Shoreland Zoning Ordinance. Where this Shoreland Zoning Ordinance is silent as to the extent of restriction, the Board of Adjustment may impose any reasonable permit conditions to affect the purpose of this Shoreland Zoning Ordinance.

9.74 Recording.

When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted. Such permit shall be applicable solely to the structures, use and property so described.

9.75 Conditional Use Permit Revocation.

Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked.

9.76 Variances.

The Board of Adjustment may grant upon appeal a variance from the standards of this Shoreland Zoning Ordinance where an applicant convincingly demonstrates that:

- (1) Literal enforcement of the provisions of this Shoreland Zoning Ordinance will result in unnecessary hardship on the applicant.
- (2) The hardship is due to special conditions unique to the property.
- (3) The variance is not contrary to the public interest.

9.77 Board of Adjustment.

The County Executive shall appoint, subject to County Board approval, a Board of Adjustment consisting of five (5) members under Wis. Stat. § 59.694. The County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by Wis. Stat. § 59.694(3).

9.78 Powers and Duties.

- (1) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by Wis. Stat. § 59.694.
- (2) The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an the Department Director in the enforcement or administration of this Shoreland Zoning Ordinance.
- (3) The Board of Adjustment shall hear and decide applications for conditional use permits.
- (4) The Board of Adjustment may grant a variance from the standards of this Shoreland Zoning Ordinance pursuant to Section 9.76 of this Shoreland Zoning Ordinance. In granting a variance, the Board of Adjustment may not impose conditions which are more restrictive than any of the specific standards in this Shoreland Zoning Ordinance. Where this Shoreland Zoning Ordinance is silent as to the extent of restriction, the Board of Adjustment may impose any reasonable permit conditions to effect the purpose of this Shoreland Zoning Ordinance.

9.79 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 Manitowoc County affected by any decision of the

Department Director. Such appeal must be made within 30 days of the date of the decision by filing with the Department Director, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Department Director shall promptly transmit to the Board of Adjustment all the papers constituting the record concerning the matter appealed.

9.80 Hearing Appeals and Applications for Variances and Conditional Use Permits.

- (1) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The Board of Adjustment shall give public notice thereof by publishing a Class 2 notice under Wis. Stat. ch. 985 specifying the date, time, and place of the hearing and the matters to come before the Board of Adjustment. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate office of the Department at least 10 days prior to hearings on proposed shoreland variances, conditional uses, and appeals for map or text interpretations.
- (2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, conditional uses, and appeals for map or text interpretations shall be submitted to the appropriate office of the Department within 10 days after they are granted or denied.
- (3) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the Board of Adjustment. Such resolution shall state the specific facts which are the basis of the Board of Adjustment's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application.
- (4) At the public hearing, any party may appear in person or by agent or by attorney.

9.81 Amendments and Changes.

- (1) The County Board may from time to time amend, supplement, or repeal the regulations or change the district boundaries of this Shoreland Zoning Ordinance in accordance with the procedure provided in Wis. Stats. § 59.69(5)(e), as amended and Wis. Admin. Code ch. NR 115. Amendments may be made upon petition by any interested party in accordance with the appropriate provisions of Wis. Stat. § 59.69. Actions that require an amendment include, but are not limited to any upgrading of the Shoreland Zoning Ordinance in accordance with Wis. Admin. Code ch. NR 115.
- (2) Map Amendments to the Shoreland-Wetland District.

A wetland, or portion thereof in a 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 feeding grounds.
 - (f) Wildlife habitat.
 - (g) Areas of special recreational, scenic, or scientific interest; including scarce wetland types.
- (3) For all proposed text and map amendments to the Shoreland-Wetland District the appropriate district office of the Department shall be provided with the following:
- (a) A copy of every petition for text or map amendment to the Shoreland-Wetland District within five (5) days of the filing of such petition with the Manitowoc County Clerk.
 - (b) A written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.
 - (c) A copy of the Planning and Park Commission's findings and recommendations on each proposed amendment within ten (10) days after the submission of those findings and recommendations to the County Board.
 - (d) Written notice of the County Board's decision on the proposed amendment within ten (10) days after it is issued.
- (4) If the Department notifies the Planning and Park Commission that a proposed text or map amendment to the Shoreland-Wetland provisions of this Shoreland Zoning Ordinance may have a significant adverse impact upon any of the criteria listed in Section 9.81(2) of this Shoreland Zoning Ordinance, that amendment if approved by the County Board shall not take effect until more than thirty (30) days have elapsed after written notice of the County Board's approval of the amendment is mailed to the Department. During that thirty (30) day period the Department may notify the County Board that it will adopt a superseding shoreland zoning ordinance for

Manitowoc County under Wis. Stat. § 59.692(6). If the Department does so notify the County Board, the effect of this amendment shall be stayed until Wis. Stat. § 59.692(6) adoption procedure is completed or otherwise terminated.

9.82 Violations and Penalties.

- (1) Any person, firm, or corporation who violates, disobeys neglects, omits, or refuses to comply with, or who resists the enforcement of any of the provisions of this Shoreland Zoning Ordinance shall, upon conviction, remove the building, structure, or part thereof or discontinue the use thereof which violates the terms of this Shoreland Zoning Ordinance, within ninety (90) days of such conviction. Upon failure to do so, the County Board may order the removal of such building, structure, use, or part thereof which violates the terms of this Shoreland Zoning Ordinance. Such removal may be performed by an agent or by contract arrangement with private persons and the cost of such removal shall become a lien upon the property, collectible as permitted by law.
- (2) Such person, firm, or corporation may also be required, upon conviction, to forfeit not less than twenty dollars (\$20) nor more than two thousand dollars (\$2000) for each offense, together with the costs of prosecution, and in default of the payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail of Manitowoc County until such forfeiture and costs are paid, but not to exceed thirty (30) days. Each day that a violation continues to exist shall constitute a separate offense. Every violation of this Shoreland Zoning Ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of Manitowoc County, any municipality, the State of Wisconsin, or any citizen thereof pursuant to Wis. Stat. § 87.30.
- (3) Statute of Limitations. Under Wis. Stat. § 59.692(1t), where a building or structure violates the dimensional or use standards of this Shoreland Zoning Ordinance and such building or structure has been in place for more than 10 years, no enforcement action may be commenced by Manitowoc County. A property owner claiming immunity from an enforcement action under this provision shall establish:
 - (a) That the noncompliant features or use of the building or structure have been in place for more than 10 years before commencement of an enforcement action.
 - (b) That use of such building or structure has been active and continuous for the 10 years prior to commencement of an enforcement action. If use of the structure was discontinued for more than 12 months, such use shall be deemed abandoned and this exemption from enforcement forfeit.

9.83 Effective Date.

This Shoreland Zoning Ordinance, upon passage and publication by the County Board shall be effective in all of the unincorporated areas within Manitowoc County and shall not require approval or be subject to disapproval by any town or town board as provided by Wis. Stats. §§ 59.692 and 87.30.

HISTORY

04/26/1988: Codified by Ord. No. 88/89-19 effective May 9, 1988.

Ordinance No. 2018/2019-4 effective May 26, 2019.

02/20/1990: Amended by Ord. No. 89/90-155 effective March 2, 1990.

09/20/1994: Secs. 9.04(4)(a)(1), (3), and (4); 9.04(2), 9.04(3)(a)-(c), (e), and (f); 9.05(5); and 9.05(10) amended by Ord. No. 94/95-77 effective September 29, 1994.

04/18/2000: Sec. 9.04(2)(b) amended by Ord. No. 2000/2001-9 effective April 18, 2000.

06/15/2010: Sec. 9.05 amended and sec. 9.05(5)(e)1 removed by Ord. No. 2010/2011-23 effective June 23, 2010.

07/19/2011: Title and secs. 9.01 - 9.11 amended by Ord. No. 2011/2012-39 effective August 1, 2011.

12/16/2014: Sec. 9.05(1) amended and sec. 9.05(1m) created by Ord. No. 2014-2015-68 effective December 27, 2014.

09/20/2016: Chapter 9 repealed and recreated by Ordinance No. 2016/2017-38 effective October 26, 2016.

09/19/2017: Secs. 9.05, 9.06, and 9.55 amended by Ordinance No. 2017/2018-46 effective September 25, 2017.

09/27/2017: Typographical correction made to Sec. 9.33(2).

05/21/2019: Secs. 9.05(41), 9.24(1), 9.24(2), 9.34, 9.35, 9.35(2), 9.35(4), 9.38(6), title to Part IX amended; sec. 9.40 repealed; secs. 9.36(1) thru (3) renumbered to 9.36(1)(a) thru (c) respectively; sec. 9.36 amended and renumbered to 9.36(1), sec. 9.41 amended and renumbered to 9.41(1); secs. 9.05(36m), 9.36(2), and 9.41(2) created; and table of contents updated accordingly by

