

September 1985

AN ORDINANCE ADOPTING A SHORELAND/AMENDATORY ORDINANCE FOR ASHLAND COUNTY

WHEREAS, Section NR 115.05(2)(b) Wisconsin (Administrative) Code requires each county after receipt of Final Wisconsin Wetland Inventory Maps for that county from the Department of Natural Resources to zone all shorelands within that county that are designated as wetlands on the Wisconsin Wetland Inventory Maps in a Shoreland/Wetland Zoning District; and

WHEREAS, Ashland County received Final Wisconsin Wetland Inventory Maps for Ashland County from the Department of Natural Resources; and

WHEREAS, on August 5, 1985 at 9:00 a.m. a hearing was held at the Ashland County Courthouse in the City of Ashland, Ashland County, Wisconsin for the purpose of soliciting comments on proposed amendments to Ashland County's Amendatory Ordinance which was adopted January 19, 1971 which amendments are intended to meet the requirements regarding wetlands imposed upon the county by Chapter 115 Wisconsin Administrative Codes; and

WHEREAS, proper notice of this August 5, 1985 hearing was given by publication in Ashland County of a Class 2 Notice under Chapter 985 Wisconsin Statutes and a copy of such notice was also mailed by registered mail to the town clerks of each town affected by the proposed ordinance more than ten days prior to August 5, 1985 and a copy of this notice was also posted and sent to interested persons; and

WHEREAS, no disapprovals of the proposed amendments to Ashland County's Amendatory Ordinance were filed or submitted at this public hearing; and

WHEREAS, after such public hearing was concluded the Zoning Committee of the Ashland County Board of Supervisors did on August 5, 1985 approve this proposed Shoreland/Amendatory Ordinance and the accompanying maps and voted to recommend that the Ashland County Board of Supervisors adopt this ordinance,

WHEREFORE,

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF ASHLAND DOES ORDAIN AS FOLLOWS:

The Shoreland/Amendatory Ordinance as now amended which is attached hereto as a part of this document and is hereby incorporated into this document by reference together with the Final Wisconsin Wetland Inventory Maps for Ashland County which are now on file in the Office of the Zoning Administrator for Ashland County be and they hereby

are adopted by the Ashland County Board of Supervisors.

The County Clerk of Ashland County is directed to publish and distribute this Ordinance in the manner required by Section 59.09 (1) Wisconsin Statutes.

Dated at the City of Ashland, Wisconsin this 10th day of September 1985.

Clifford J Barry Thomas J. King

Sue Thero Robert Holmes

Carl E. Bumbal Gu Yang

Bruce M. Holt _____

Alton M. ... _____

(This ordinance is being submitted for consideration by the Zoning Committee of the Ashland County Board of Supervisors)

SHORELAND/AMENDATORY ORDINANCE
Adopted January 19, 1971
Amended September 10, 1985

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SHORELAND/ AMENDATORY ORDINANCE

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

1.1 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in State Statutes 59.97, 59.971, 59.99, 87.30 and 144.26, Wisconsin Statutes.

1.2 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Ashland County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Ashland County, Wisconsin.

1.3 PURPOSE. For the purpose of promoting the public health, safety, convenience and welfare, this ordinance has been established to:

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

- (1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
- (2) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
- (3) Controlling filling and grading to prevent serious soil erosion problems.

1.32 PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:

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

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

- (1) Separating conflicting land uses.
- (2) Prohibiting certain uses detrimental to the shoreland area.
- (3) Setting minimum lot sizes and widths.
- (4) Regulating side yards and building setbacks from waterways.

1.34 PRESERVE SHORE COVER AND NATURAL BEAUTY THROUGH:

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

1.4 TITLE. Shoreland Zoning Ordinance for Ashland County, Wisconsin.

2.0 ABROGATION AND GREATER RESTRICTIONS

2.1 The shoreland provisions of this Ordinance supersede all the provisions of any county zoning ordinance adopted under Section 59.97, Wisconsin Statutes, which relate to shorelands. However, where an ordinance adopted under a statute other than Section 59.97, Wisconsin Statutes is more restrictive than this Ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

2.2 All land uses shall comply with the Ashland County Sanitary and Subdivision Control Ordinances.

3.0 JURISDICTION

3.1. GENERAL PROVISIONS

3.11 Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply when section 13.48(13), Wisconsin Statutes, applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when section 30.12(4)(a), Wisconsin Statutes applies.

3.12 These regulations shall not require the approval of or be subject to disapproval by any town or town board.

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

3.21 Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Ashland County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Ashland County" or shown on the United States Geological Survey quadrangle maps.

3.22 Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Ashland County shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, Flood Boundary-Floodway Maps, County Soil Survey Maps or other existing county floodplain zoning maps used to delineate floodplain areas which have been adopted by Ashland County, shall be used to determine the extent of the floodplain of navigable rivers or streams in Ashland County.

3.23 Determinations of navigability and ordinary highwater mark shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary highwater mark.

3.3 LOCATING SHORELAND-WETLAND BOUNDARIES. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the Wisconsin Wetland Inventory Maps, the zoning administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period of time.

3.4 COMPLIANCE. The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see Section 10.0 for standards applicable to nonconforming uses). Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

3.5 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in Chapter NR 115, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Chapter NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

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

4.0 ZONING DISTRICTS.

4.1 The shorelands of Ashland County are divided into the following districts: General Purpose District, Recreational/Residential District, Wetland District.

4.2 The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Ashland County.

4.21 Official Shoreland Zoning Maps adopted January 19, 1971.

4.22 United States Geological Survey Quadrangle Maps for Ashland County
Maps No.

- | | |
|---------------------------|-----------------------|
| 1. Rocky Island (1963) | 8. Mellen (1967) |
| 2. Outer Island (1963) | 9. Clam Lake (1942) |
| 3. Bayfield (1964) | 10. Glidden (1942) |
| 4. Madeline Island (1964) | 11. Butternut (1940) |
| 5. Ashland (1964) | 12. Draper (1944) |
| 6. Odanah (1964) | 13. Kennedy (1941) |
| 7. Marengo (1967) | 14. Park Falls (1941) |

4.23 Wisconsin Wetland Inventory Maps stamped "FINAL" on January 16, 1985.

4.24 Floodplain zoning maps identified as Flood Boundary and Floodway Maps and Flood Insurance Rate Maps dated February 15, 1978.

4.3 The uses named in districts other than the Wetland District are without limitation because of enumeration, provided that such uses are compatible with the uses in the district.

4.4 GENERAL PURPOSE DISTRICT. This district includes all shorelands in Ashland County which are not included in the Recreational/Residential or Wetland districts.

1. Permitted uses:

Commercial, agricultural, forestry and recreational.

2. Conditional uses:

Industrial uses may be permitted, provided the applicant received permission from the Division of Resource Development as provided in Section 144.95, Wisconsin Statutes. Provided further, that such industrial use meets all the standards of the sanitary and subdivision control ordinances of Ashland County, Wisconsin.

4.5 RECREATIONAL/RESIDENTIAL DISTRICT. This district includes all shorelands designated in RED on the official Shoreland Zoning Map of Ashland County, Wisconsin, a copy of which shall at all times be on file in the office of the Zoning Administrator, Courthouse, Ashland, Wisconsin.

1. Permitted uses:

Seasonal and year round residences.

2. Accessory uses:

Horticultural, gardening and any permitted use allowed under Section 4.6.

3. Conditional uses:

Resorts, dinner clubs, taverns, marinas, mobile home parks or similar uses.

4.6 WETLAND DISTRICT.

4.61 Designation. This district shall include all shorelands within the jurisdiction of this Ordinance which are wetlands of 5 acres or more on the Wisconsin Wetland Inventory maps, stamped "FINAL" on January 16, 1985, that are hereby adopted and made a part of this Ordinance and are on file in the office of the zoning administrator for Ashland County. That portion of a wetland located in the shoreland area that extends across the corporate limits of a municipality, across the County boundary or across the shoreland limits in the unincorporated area of the County, shall be included in this district if the wetland would otherwise be regulated if it were wholly within the shoreland area under County jurisdiction.

4.62 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.

4.63 Permitted Uses. The following uses shall be allowed, subject to general shoreland zoning regulations in sections 5.0 through 10.0 of this Ordinance, the provisions of Chapters 30 and 31, Wisconsin Statutes, and the provisions of other local, state and federal law, if applicable:

4.631 Activities and uses which do not require the issuance of a zoning permit, but which may not include filling, flooding, draining, dredging, ditching, tiling or excavating:

- (1) Hiking, fishing, trapping, hunting, swimming and boating;
- (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
- (3) The pasturing of livestock;
- (4) The cultivation of agricultural crops;
- (5) The practice of silviculture, including the planting, thinning and harvesting of timber; and
- (6) The construction or maintenance of duck blinds.

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

- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
- (2) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
- (3) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that dredged spoil is placed on existing spoil banks where possible;
- (4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
- (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
- (6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

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

- (1) The construction or maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
 - (a) The road cannot, as a practical matter, be located outside the wetland;
 - (b) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland;
 - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (d) Road construction activities are carried out in the immediate area of the roadbed only; and
 - (e) Only limited filling, flooding, draining, dredging, ditching, tiling or excavating necessary for the construction or maintenance of the road is allowed.

- (2) The construction or maintenance of nonresidential buildings, provided that:
 - (a) The building is essential for and used solely in conjunction with a use permitted in the shoreland-wetland district;
 - (b) The building cannot, as a practical matter, be located outside the wetland;
 - (c) Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and
 - (d) Only limited filling or excavating necessary to provide structural support for the building is allowed.

- (3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - (a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Chapter 29, Wisconsin Statutes, where applicable;
 - (b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 4.633(1); and

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

4.634 Prohibited Uses. Any use not listed in sections 4.631, 4.632, or 4.633 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Ordinance in accordance with section 4.635 of this Ordinance and Section 59.97(5)(e), Wisconsin Statutes.

4.635 Rezoning of lands in the Shoreland-Wetland Zoning District.

4.6351 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:

- (1) A copy of every petition for a text or map amendment to the shoreland-wetland district, within 5 days of the filing of such petition with the county clerk;
- (2) Written notice of the public hearing to be held on a proposed amendment, at least 10 days prior to such hearing;
- (3) A copy of the County Zoning Agency's findings and recommendations on each proposed amendment, within 10 days after the submission of those findings and recommendations to the County Board; and
- (4) Written notice of the County Board's decision on the proposed amendment, within 10 days after it is issued.

4.6352 A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

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

4.6353 If the Department notifies the County Zoning Agency that a proposed amendment to the shoreland-wetland district may have a significant adverse impact upon any of the criteria listed in section 4.6352 of this 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 since written notice of the County Board's approval of this amendment was mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the County Board that it will adopt a superseding shoreland ordinance for the county under section 59.971(6) of the Wisconsin Statutes. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the section 59.971(6) adoption procedure is completed or otherwise terminated."

5.0 SETBACKS FROM WATER

5.1 All permanent structures, except legally erected piers, wharfs and boathouses, shall be setback a minimum distance of seventy-five (75) feet from the normal highwater elevation of any navigable water.

5.2 Reduced building setbacks. A setback of less than that required by section 5.1 may be permitted by the zoning administrator where there is at least one main building on either side of the applicant's lot, within 200 feet of the proposed site that is built to less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest main building on each side of the proposed site or, if there is an existing main building on only one side, the setback shall be the average of the existing building's setback and the required setback. In no case will a setback be less than forty (40) feet. Any other setback reduction may be permitted by the board of adjustment pursuant to section 11.4 of this ordinance.

5.3 Boathouses. The use of a boathouse for human habitation and the construction or placing of a boathouse waterward beyond the ordinary highwater mark of any navigable waters are prohibited. Boathouses shall be designed solely for storage of boats and related equipment. The highest point of the roof elevation of the boathouse shall not be more than 10 feet vertical measurement above the ordinary highwater mark. Railings may be placed on top of the boathouse in excess of the 10-foot height standard provided the railing is not solid in appearance and not greater than 3.5 feet in height. Boathouses shall not be constructed where the existing slope is more than 20%. Boathouses shall not exceed 20' x 12' or 240 square feet in floor area.

6.0 REMOVAL OF SHORE COVER. The cutting of trees and natural shrubbery within a 35 foot strip, paralleling the shoreline, from the normal highwater elevation shall be limited as follows:

6.1 Within any (100) foot length of this strip no more than 30 percent shall be clear-cut to the depth of the strip. In the remaining (70) percent of the strip, cutting shall be limited so as to preserve natural beauty and to control erosion.

6.2 A conditional use permit will be required for clear-cutting on slopes greater than (20) percent within the strip.

6.3 From the inland edge of the 35 foot strip to the outer limits of the shoreland area, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality. Such cutting shall not require the issuance of a zoning permit.

7.0 SIGNS. Any sign intended to be read from the water must be setback (75) feet from the normal highwater elevation and shall not exceed (30) square feet in gross area.

8.0 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING.

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

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

8.12 Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 4.632 and 4.633 of this ordinance.

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

8.14 Any fill placed in the shoreland area is protected against erosion by the use of rip-rap, vegetative cover or a bulkhead.

8.2 PERMIT REQUIRED. A conditional use permit is required:

8.21 For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there are slopes of more than 20%.

8.22 For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary highwater mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

8.3 PERMIT CONDITIONS. In granting a conditional use permit under section 8.2, the zoning committee shall attach the following conditions, where appropriate, in addition to those provisions specified in sections 11.32 and 11.33:

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

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

8.33 Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.

8.34 Lagoons shall be constructed to avoid fish trap conditions.

8.35 Fill shall be stabilized according to accepted engineering standards.

8.36 Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

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

9.0 DIMENSIONS OF BUILDING SITES.

9.1 Lots not served by public sewer shall be (150) feet at the shoreline, or other frontage, (150) feet average width and (30,000) square feet in area. Any part of a lot less than (30) feet in width shall not be used in computing the minimum area.

9.2 Lots served by public sewer shall have a minimum width of (65) feet at the shoreline or other frontage, (65) feet average width, (10,000) square feet in area.

9.3 The Zoning Committee may require larger lot sizes in case of adverse soil or topographical conditions or to provide a greater degree of protection for natural resources.

9.4 Substandard lots being used for a single family dwelling, not served by public sewer, shall have a minimum width of (65) feet at the shoreline or other frontage, (65) feet average width and (10,000) square feet in area, if the lots meet the following provisions:

- (1) Such use is permitted in the zoning district.
- (2) The lot is of record in the County Register of Deeds Office prior to the effective date of this ordinance.
- (3) The lot is in separate ownership from abutting lands.
- (4) All dimensional requirements of this ordinance are complied with insofar as practical.

9.5 Substandard lots being used for a single family dwelling, served by a public sewer, shall have a minimum width of (50) feet at the shoreline or other frontage, (50) feet average width and (7,500) square feet in area, if the lot meets the provisions of 1, 2, 3 and 4 under Section 9.4.

9.6 Side yards. There shall be a side yard for each main building. The minimum width of one main side yard shall be 10 feet. The minimum combined width of both main side yards shall be 20 feet. There shall be a side yard of 5 feet for accessory structures excluding fences--determined from the furthest protrusion of the building.

10.0 NONCONFORMING USES AND STRUCTURES.

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

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

10.12 The maintenance and repair of nonconforming boathouses that extend beyond the ordinary highwater mark of any navigable waters shall comply with the requirements of section 30.121, Wisconsin Statutes.

10.13 The continuance of the nonconforming use of a temporary structure may be prohibited.

10.14 Uses which are nuisances shall not be permitted to continue as nonconforming uses.

10.15 No structural alteration, addition or repair to any nonconforming building or structure, over the life of the building or structure, shall exceed 50 percent of its current estimated fair market value.

10.16 If the alteration, addition or repair of an existing nonconforming building or structure is prohibited because it is in excess of 50 percent of the current estimated fair market value, the property owner may still make the proposed alteration, addition or repair if:

- (1) The nonconforming building or structure with a nonconforming use is permanently changed to a conforming use;
- (2) The property owner appeals the determination of the zoning administrator, and either the County Board of Adjustment or the Circuit Court find in the property owner's favor under section 59.99(4) or 59.99(10), Wisconsin Statutes; or
- (3) The property owner successfully petitions to have the property rezoned by amendment of this Ordinance in accordance with section 12.0 of this Ordinance and section 59.97(5)(e), Wisconsin Statutes.

11.0 ADMINISTRATIVE PROVISIONS.

11.1 ZONING ADMINISTRATOR. The zoning administrator shall have the following duties and powers:

11.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.

11.12 Issue permits and inspect properties for compliance with this ordinance.

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

11.14 Submit copies of variances, conditional uses and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted or denied to the appropriate area office of the Department.

11.15 Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.

11.16 Issue citations after approval from the zoning committee.

11.2 ZONING PERMITS.

11.21 When required. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 4.631, 4.632 and 6.3, a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 14.2(5), or any change in the use of an existing building or structure, is initiated.

11.22 Application. An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following data:

- (1) Name and address of the property owner.
- (2) Legal description of the property and type of proposed use.
- (3) A sketch of the dimensions of the lot and location of buildings relative to the lot lines, center line of abutting highways and the ordinary highwater mark of any abutting watercourses and water level on a date specified.
- ← (4) Location and description of any existing private water supply or sewage system or notification of plans for any such installations.
- (5) The property owner is required to furnish any other information requested by the zoning administrator or the zoning committee.
- (6) No action will be taken on any information defined to be incomplete or inaccurate.
- (7) The property owner is required to sign and be responsible for all information provided on the permit application form or other plans.

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

11.24 Zoning permits shall be properly posted--failure to post a permit can result in a citation being issued.

11.3 CONDITIONAL USE PERMITS.

11.31 Application for a conditional use permit. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the zoning committee.

11.32 Standards applicable to all conditional uses. In passing upon a conditional use permit, the zoning committee shall evaluate the effect of the proposed use upon:

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

11.33 Conditions attached to conditional uses. Upon consideration of the factors listed above, the zoning committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens, period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the zoning committee 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 marks, groundwater conditions, subsurface geology and vegetative cover.
- (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- (3) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
- (4) Specifications for areas of proposed filling, grading, lagooning or dredging.
- (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

11.34 Notice, public hearing and decision. Before passing upon an application for a conditional use permit, the zoning committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the committee, shall be given as a Class 2 notice under Chapter 985, Wisconsin Statutes. Such notice shall be mailed to the appropriate area office of the Department at least 10 days prior to the hearing. The zoning committee shall state in writing the grounds for granting or refusing a conditional use permit.

11.35 Recording. When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be mailed to the appropriate area office of the Department within 10 days after it is granted or denied.

11.36 Revocation. Where the conditions of a conditional use permit are violated, the conditional use permit may be revoked by the zoning committee.

11.4 VARIANCES. The board of adjustment may grant upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that literal enforcement of the provisions of the ordinance will:

- (1) Result in unnecessary hardship on the applicant;
- (2) Due to special conditions unique to the property; and
- (3) That such variance is not contrary to the public interest.

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

11.42 Notice, hearing and decision. Before passing on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Chapter 985, Wisconsin Statutes. Such notice shall be mailed to the appropriate area office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall mail a copy of such decision to the appropriate Department area office within 10 days of the decision.

11.5 BOARD OF ADJUSTMENT. The chairman of the county board shall appoint a board of adjustment consisting of 3 members under section 59.99, Wisconsin Statutes. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by section 59.99(3), Wisconsin Statutes.

11.51 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 section 59.99, Wisconsin Statutes.
- (2) It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (3) It may grant a variance from the dimensional standards of this ordinance pursuant to section 11.4.
- (4) The board of adjustment may hear appeals from zoning committee decisions concerning conditional use permits.

11.52 Appeals to the board. Appeals to the board of adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be made within a reasonable time, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

11.53 Hearing appeals and applications for variances.

- (1) The board of adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under Chapter 985, Wisconsin Statutes, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate area office of the Department at least 10 days prior to hearings on proposed shoreland variances, 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 and appeals for map or text interpretations shall be submitted to the appropriate area 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. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

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

11.6 FEES. The fees are cited in the fee schedule adopted by the county board.

12.0 CHANGES AND AMENDMENTS. The county board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of section 59.97(5)(e), Wisconsin Statutes, Chapter NR 115, Wisconsin Administrative Code and section 4.635 of this ordinance where applicable.

12.1 Amendments to this ordinance may be made on petition of any interested party as provided in section 59.97(5)(e), Wisconsin Statutes.

12.2 Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency by the county clerk. A copy of each petition shall be mailed to the appropriate area office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be mailed to the appropriate district office of the Department at least 10 days prior to the hearing.

12.3 A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate area office of the Department within 10 days after the decision is issued.

13.0 ENFORCEMENT AND PENALTIES. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to section 59.97(11), Wisconsin Statutes.

13.1 This ordinance is subject to Chapter 66.119, Wisconsin Statutes and the Ashland County Citation ordinance.

14.0 DEFINITIONS:

14.1 For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural 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.

14.2 The following terms used in this ordinance mean:

1. "Accessory structure or use" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use. This shall include without limitation due to enumeration, such accessory structures as satellite

2. "Boathouse" means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.
3. "County Zoning Agency" means that committee or commission created or designated by the county board under section 59.97(2)(a), Wisconsin Statutes, to act in all matters pertaining to county planning and zoning.
4. "Department" means the Department of Natural Resources.
5. "Development" means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.
6. "Drainage System" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
7. "Floodplain" means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Chapter NR 116, Wisconsin Administrative Code.
8. "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 section 144.26(2)(d), Wisconsin Statutes, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under section 59.971, Wisconsin Statutes, and Chapter NR 115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river;
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (c) Such lands are maintained to nonstructural agricultural use.
9. "Normal Highwater Mark" means the same as ordinary highwater mark.
10. "Ordinary Highwater Mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
11. "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.

12. "Shorelands" means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
13. "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 wetland maps which have been adopted and made a part of this ordinance.
14. "Silviculture" means a branch of forestry dealing with the development and care of forests.
15. "Conditional Use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.
16. "Unnecessary Hardship" means that circumstances where special conditions which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
17. "Variance" means an authorization granted by the board of adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.
18. "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.