

POLK COUNTY
SHORELAND PROTECTION ZONING ORDINANCE
(Effective April 1, 2010)

The County Board of Supervisors of the County of Polk does ordain as follows:

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Article 1. Title

This ordinance shall be known as the Polk County Shoreland Protection Zoning Ordinance.

Article 2. Statutory Authorization

This ordinance is adopted pursuant to the authorization in Sections 59.692 and 281.31, Wisconsin Statutes.

Article 3. Purpose and Intent

The purpose of these shoreland regulations is to insure the proper management and development of the shoreland of all navigable lakes, ponds, flowages, rivers and streams in the unincorporated areas of Polk County. The intent of these regulations is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning ground for fish and aquatic life; control building sites, placements of structures, and land uses; and preserve shore cover and natural beauty. For those reasons, development and alterations that may affect the natural function of the shore lands of Polk County shall be controlled and regulated so as to cause no harm. The Shoreland Protection Zoning Ordinance shall be interpreted in harmony with federal, state, and local laws including, but not limited to, the Polk County Comprehensive

Zoning Ordinance, Polk County Nuisance Ordinance, Polk County Flood Plain Ordinance and others. Where any provision is inconsistent with applicable federal, state or local laws, rules and regulations, such provision shall be deemed void, but the remainder of this ordinance shall apply and remain in full force and effect. This ordinance shall conform to Chapters 30,59,281 of Wis. State Stats., and Wis. Admin Code Chapter NR 115, and the American Disabilities Act.

Article 4. Definitions

The following definitions apply to the provisions of this ordinance:

“ACCESSORY STRUCTURE OR USE” means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the dwelling or use to which it is related, and which is located on the same lot as that of the dwelling.

“ATTACHED STRUCTURE” means a structure connected to another structure by a common wall or roof.

“BED & BREAKFAST” means any place of lodging that provides 8 or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a 12-month period, is the owner’s personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

“BOATHOUSE” means a structure designed solely for boat storage and storage of related marine equipment and not used by humans as a place of settled residence or habitat in any manner or form.

“CAMPGROUND” means any public or private premise established for overnight habitation by persons using equipment designed for the purpose of temporary camping.

“DECK” See “Structure.”

“DESIGNATED AS WETLAND” means those wetlands shown with boundaries and classifications on the wetland map adopted and made part of this ordinance.

“DEVELOPMENT” means any man-made change to 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.

“DIRECT DRAINAGE” means runoff from riparian areas within 300 feet that flow directly into a surface water resource as defined within the ordinance.

“DWELLING” means a main building or principal structure designed for human habitation.

“EXCAVATING” means to remove by scooping or digging out.

“FARM ANIMALS” means cattle, hogs, sheep, goats, poultry, horses, ponies and mules, or similar animals raised or kept for agricultural purposes.

“FEEDLOT” means a lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals and specifically

designed as a confinement area in which animal waste may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots.

“FLOOD PLAIN” means the land that has been or may be hereafter covered by floodwater, during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Chapter NR 116, Wisconsin Administrative Code.

“GRADING” means the filling, placing or moving of rock and soil material.

“GENERAL PURPOSE DISTRICT” means district that includes all shorelands subject to regulation under this ordinance and not designated wetland areas on a shoreland zoning map.

“HANDICAP ACCESS” means any temporary deck extension, walkway, ramp, elevator, or any mechanical device used as a means of movement or access by a handicapped person, which is deemed medically necessary.

“HEIGHT” is defined as the elevation from the lowest exposed grade of the structure to the highest peak of the roof, excluding window wells and stairways.

“HOTEL” means a place where sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all related rooms, buildings and areas.

“IMPERVIOUS SURFACES” means surfaces that do not allow the infiltration of water to occur.

“INOPERABLE” means not able to perform its normal function.

“INDUSTRIAL USE” means industrial district or restricted as defined within Polk County Comprehensive Land Use Ordinance of 1993.

“JUNKYARD/SALVAGE YARD/RECYCLING CENTER” means an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, disassembled or handled for commercial or noncommercial purposes including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard/salvage yard/recycling center includes, but is not limited to, an automobile wrecking or dismantling yard or an area where more than one unlicensed or inoperable motor vehicle is kept on a regular basis.

“LANDSCAPING” means the removal or alteration of topsoil.

“LAND USE RUNOFF RATING” The land use runoff rating is mitigation to reduce the effects of development, particularly impervious surfaces, on water quality.

“LOT” means a legally recorded piece of land with designated boundaries.

“MITIGATION” A technique used to balance property owner’s rights with those of the public.

“MOBILE HOME” is that which is or was originally constructed and designed to be transported by motor vehicle upon a public highway and designed, and used or intended to be

used primarily for sleeping, eating, living quarters and must be skirted. If assessed value of additions, attachments, annexes, foundations and appurtenances is greater than 50% assessed value, it does not qualify as a mobile home.

“MOTEL” means a hotel that furnishes on-premise parking for motor vehicles of guests as part of the room charge, without extra cost, and that is identified as a “motel” rather than a “hotel” at the request of the operator.

“NAVIGABLE” means all lakes, ponds, flowages, rivers and streams in Polk County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources’ publication *Surface Waters Resources of Polk County*, or are shown on the United States Geological Survey Quadrangle Maps. Lakes, ponds, flowages, rivers and streams not included in these documents may also be determined to be navigable. Also, 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 281.31(2)(d), Wisconsin Statutes, notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under Section 59.692, Wisconsin Statutes, and Chapter NR 115, Wisconsin Administrative Code do not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river;
2. The drainage ditch was not a navigable stream before ditching; and
3. Such lands are maintained in agricultural use.

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

“ORDINARY MAINTENANCE AND REPAIR” means those activities necessary to maintain the structural integrity and current function of the existing structure. Ordinary maintenance and repair may include replacement of windows, doors, siding, insulation, roofing, and roof replacement provided the pitch does not exceed the pitch necessary to match the existing roof.

“PATIO” means any unrailed, open, wooden or paved area, not to exceed nine inches above existing grade.

“PERMIT” means a written form issued by the Zoning Department (See Article 17.B.).

“PREEXISTING USE” means a building, structure, or use, which lawfully existed on the effective date of this ordinance as revised and the use of which has been continued uninterrupted and that does not conform to this ordinance.

“SETBACK” means the shortest horizontal distance from the structure to a lot line, or in case of the shoreland setback the shortest horizontal distance from a structure to the OHWM.

“SETBACK AVERAGING” means setback averaging formula as described in Article 11.I.

“SHORELAND” means area landward of the ordinary high water mark within the following distances: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

“SHORELAND PROTECTION AREA” means a vegetative strip of land 35 feet measured perpendicular from the ordinary high water mark.

“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.

“SHORELINE” means landward of the established ordinary high water mark.

“SPECIAL EXCEPTION” means a use that is permitted as well as listed by ordinance provided certain conditions specified in the ordinance are met and that a permit is granted by the Board of Adjustment.

“STRUCTURAL ALTERATION” means any change in the supporting members, such as bearing walls, columns, purlins, rafters, beams or girders, footings, and piles.

“STRUCTURE” means anything constructed by current or previous landowners, except utilities.

“TOURIST OR TRANSIENT” means a person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

“TOURIST ROOMING HOUSE” means single family tourist cabins and cottages in which sleeping accommodations are offered for pay to a maximum of 2 tourists or transients per bedroom plus 2, not to exceed 8. It does not include private boarding or rooming houses not accommodating tourists or transients, bed and breakfast establishments regulated under ch. HFS 197, or hotels and motels.

“TRANSIENT LODGING” means any bed & breakfast, hotel or motel that requires a license from the State Department of Health and Family Services.

“TRAVEL TRAILERS” means any vehicle, house car, camp car or any portable mobile vehicle on wheels, skids, rollers or blocks either self propelled or propelled by other means which is used or designed to be used for residential living or sleeping purposes as defined in Wisconsin Administrative Code HFS178.

“UNDEVELOPED LOT” means a lot that does not have a well and an installed sanitary system, not including a privy.

“UNNECESSARY HARDSHIP” means for area variances, compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. An unnecessary hardship must be based on conditions unique to the property rather than considerations personal to the property owner when reviewing a variance application.

“**VARIANCE**” means an action, which authorizes the construction or maintenance of a building in a manner inconsistent with the dimensional requirements of a zoning ordinance. A variance may only be granted in cases of unnecessary hardship and when the spirit of the ordinance is not violated.

“**VIEWING CORRIDOR**” means an area in which all trees and shrubs may be removed to create a visual view.

“**WETLANDS**” means those areas where water is at, near, or above the land surface long enough to support aquatic or hydrophytic (water-loving) vegetation and which have soils indicative of wet conditions.

Article 5. General Provisions

- A. Areas to be Regulated - The shorelands area shall be considered as those lands within one thousand (1,000) feet of the OHWM of any navigable lake, pond, or flowage, and those lands within three hundred (300) feet of the OHWM of any navigable river or stream, or to the landward side of the flood plain, whichever is greater.

All land within the shoreland area shall be placed within one of the zoning districts listed in Article 6.A. Uses within the shorelands shall conform to requirements of those respective districts and in addition, each use and property shall be subject to the requirements of this Ordinance.

- B. Greater Restrictions - The provisions of the shorelands and wetlands regulations supersede all the provisions of any county zoning ordinance adopted under Chapter 59, Wisconsin Statutes, which relate to shorelands. However, where an ordinance adopted under a statute other than Chapter 59, Wisconsin Statutes, applies and is more restrictive than this Ordinance, the more restrictive provision of said ordinance shall continue in full force and effect only to the extent of the greater restrictions that are applicable, but not otherwise. Section 4.B.3 of the Comprehensive Zoning Ordinance is not applicable from 0 to 300 feet. In addition:

1. Shorelands and wetlands regulations 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 Ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions, but not otherwise.
3. The shorelands regulations are not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

- C. Height Restrictions – Within the setback area, as provided in Article 11, Paragraph C, of the ordinary high water mark, the maximum height of any dwelling is 26 feet. If the dwelling is located beyond the setback area of the ordinary high water mark, the maximum height is 35 feet. The maximum height of any accessory structure is 25 feet. All height restrictions apply as measured on the lakeside of the structure.

- D. The use of phosphate fertilizers within shoreland areas is prohibited.

- E. Septic systems shall comply with the applicable federal, state, and local laws, including other county ordinances.

Article 6. Shoreland Zoning District Boundaries

- A. The shorelands of Polk County are hereby divided into the following Districts:
 - 1. Shoreland-Wetland District
 - 2. General Purpose District
- B. The following maps have been adopted and made part of this ordinance and are on file in the office of the Polk County Zoning Administrator:
 - 1. Department of Natural Resources Shoreland Wetland District Maps
 - 2. FEMA Floodplain Maps (*Federal Emergency Management Agency*)
 - 3. Lake Classification List
 - 4. County Identified Wetland Maps

Article 7. Shoreland-Wetland District

- A. Designation – The Shoreland-Wetland district includes all shorelands subject to regulation under Article 5.A, which are designated as wetlands on the wetlands maps that have been adopted and made a part of this ordinance under Article 6.B.
- B. Locating shoreland-wetlands boundaries. Where an apparent discrepancy exists between the Shoreland-Wetland District shown on the official wetlands maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate field office of the Department of Natural Resources to determine if the shoreland-wetland district, as mapped, is in error. If the Department of Natural Resources staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetlands, the Zoning Administrator shall have the authority to immediately grant or deny a land use permit in accordance with the regulations applicable to the correct zoning district.

In order to correct wetland-mapping errors shown on the official map, the Zoning Administrator shall complete a map amendment in a timely manner.
- C. Purpose and Importance - The purpose of the Shoreland-Wetland District is: to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and aquatic life, and to preserve shore cover and natural beauty.
- D. Allowed Uses – Allowed uses within the Shoreland-Wetland Zoning District are specifically enumerated in this paragraph. The following uses enumerated shall be allowed, subject to the regulations of this ordinance and the applicable provisions of Federal, State and local laws. The following uses are allowed within the Shoreland-Wetland District:
 - 1. Allowed- The following uses are allowed and do not need a permit, so long as the use involves no filling, flooding, draining, dredging, ditching, tiling, excavating or grading:
 - (a) Hiking, fishing, trapping, hunting, swimming, boating and fish farming.
 - (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 and the construction and maintenance of fences.
 - (d) The practice of silviculture, including the planting, thinning and harvesting of timber.
 - (e) The cultivation of agricultural crops.
 - (f) The construction and maintenance of duck blinds
2. Allowed -- The following uses are allowed, but an erosion control plan shall be filed with and approved by the Land and Water Resources Department for:
- (a) The construction and maintenance of piers and walkways, including those built on pilings.
 - (b) The maintenance, repair, replacement and reconstruction of existing town and county highways and bridges.
 - (c) Upon the approval of this ordinance, the Highway Commissioner shall develop an erosion plan for existing and future roadway maintenance and construction.
3. The following uses do not require the issuance of a zoning permit and which may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below:
- (a) Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silviculture activities if not corrected.
 - (b) Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.
 - (c) Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
4. The issuance of a zoning permit is required before the following uses may be commenced:
- (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
 - (1) The road cannot, as a practical matter, be located outside the wetland; and,
 - (2) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
 - (A) The road is designed and constructed as a single lane roadway with only such depth and width as is necessary to accommodate the machinery required to conduct agricultural and silvicultural activities; and,
 - (B) Road construction activities are carried out in the immediate area of the roadbed only; and,
 - (C) Any filling, flooding, draining, dredging, ditching, tiling or excavating that is done is necessary for the construction or maintenance of the road.
 - (b) The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot, as a practical matter, be located outside the wetland, provided that:

- (1) Any such building does not exceed 500 square feet in floor area; and,
 - (2) No filling, flooding, draining, dredging, ditching, tiling or excavating is to be done.
- (c) The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:
- (1) Any private recreation or wildlife habitat area is used exclusively for that purpose.
 - (2) No filling or excavation is done except for limited filling and excavation necessary for the construction of boat access sites which cannot, as a practical matter, be located outside the wetland.
 - (3) Ditching, excavating, dredging, dike and dam construction in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (d) The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light power or water to their members, provided that:
- (1) The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland; and
 - (2) Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (e) The construction and maintenance of railroad lines, provided that:
- (1) The railroad lines cannot, as a practical matter, be located outside the wetland; and
 - (2) Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- E. Prohibited Uses - Any use not specifically enumerated in Article 7.D, is prohibited, unless the wetland or portion of the wetland is rezoned by an amendment of this ordinance in accordance with the requirements of Section 59.69 (5)(e), Wisconsin Statutes, Chapter NR 115, Wisconsin Administrative Code and Article 7.F. of this Ordinance.
- F. Rezoning of Maps and amendments of text in the Shoreland-Wetland District - The following procedures shall be required for rezoning of lands within the Shoreland-Wetland District:
1. For all proposed text and map amendments to the Shoreland-Wetland District, the appropriate district office of the Department of Natural Resources shall be provided with the following:
 - (a) A copy of every petition for a text or map amendment to the Shoreland-Wetland District within 5 days of the filing of such petition with the County Clerk;

- (b) Written notice of the public hearing to be held on a proposed amendment, at least 10 days prior to such hearing;
 - (c) A copy of the County Zoning Department's findings and recommendations on each proposed amendment, within 10 days after the submission of those findings and recommendations to the County Board; and
 - (d) Written notice of the County Board's decision on the proposed amendment, within 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 water;
 - (d) Shoreline protection against soil erosion;
 - (e) Fish spawning, brooding, nursery or feeding grounds;
 - (f) Wildlife habitat; or,
 - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types.
3. If the Department of Natural Resources has notified the County Zoning Department that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Article 7.B., 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 59.692(6) of the Wisconsin Statutes. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure under Section 59.692(6) is completed or otherwise terminated.

Article 8. General Purpose District

- A. Designation - This district includes all shorelands subject to regulations under Article 5, which are not designated as wetland areas on the shoreland zoning maps in Article 6.
- B. Purpose - The General Purpose District shall be used to allow a wide range of uses, subject to the general provisions of this ordinance which are designed to further the maintenance of safe and healthful conditions, protect spawning grounds, fish and aquatic life; and preserve shore cover and natural beauty.
- C. Allowed Uses – All allowed and sanctioned uses that increase the impervious surfaces that are within 300 feet of the OHWM and have direct drainage to a water resource are required to comply with the Land Use Runoff Rating.

The following uses are allowed within the General Purpose District:

1. Any use allowed under Article 7.
2. Single-family dwelling for owner occupancy, rent or lease.
3. Accessory buildings, incidental to the primary use of the property provided that:
 - (a) Such buildings shall not be used for human habitation; and
 - (b) No more than two (2) accessory buildings, including a boathouse on a Class 1 lake, shall be allowed on a lot within 300 feet of the OHWM. This restriction does not apply from 300 feet to 1000 feet from the OHWM.
 - (c) Boathouses are prohibited on Class 2 lakes, Class 3 lakes, and rivers except:
 - (1) Where a Class 2 lake has an organized association, or more than 50% of the total lakeshore is developed consistent with the ordinance by lake class, may request by petition to the Polk County Land Information Committee to have the construction of boathouses allowed on their lake.
4. Where boathouses are allowed, they shall meet the following requirements:
 - (a) The maximum dimension is: 14' in width by 26' in depth by 11' in height.
 - (b) Open handrails under 3 ½ feet tall may be constructed on the roof of the boathouse.
 - (c) The roof must pitch away from the lake.
 - (d) Designed solely for boat storage and storage of related marine equipment and not used by humans as a place of settled residence or habitat.
 - (e) Shall not extend below the OHWM.
 - (f) Toilet facilities are excluded from the structure.
 - (g) Must be at least 10 feet landward of the OHWM.
 - (h) Legal boathouses which existed prior to the date of ordinance adoption are allowed ordinary maintenance and repair.
5. General agricultural buildings, provided that:
 - (a) Non-farm residences shall not be located within 300 feet of any feedlot or structure housing farm animals.
 - (b) Farm buildings housing animals, barnyards, feedlots and animal waste disposal facilities shall be located at least 100 feet from any navigable water and shall be so located and constructed that there will be no drainage either directly or indirectly from such facilities into any navigable water.
6. Home occupations, including professional offices, incidental to the residential use of the property, provided that no more than 50 percent of the one floor shall be devoted to such offices contained within the dwelling.
 - (a) Home occupation, when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that no article is offered for sale that is not produced by such home occupation, that no stock in trade is kept or sold and that no person other than a member of the resident family is employed.

- (b) Professional office, when such office is conducted solely by a member or members of the resident family, entirely within the residence and incidental to the residential use of the premises: provided further that there shall be no external alterations that would effect a substantial change in the residential character of the building and that not more than two persons not members of the resident family may be employed in non-professional capacities in any such office.
7. Snowmobile-bridges have received written approval from the Department of Natural Resources.
 8. A travel trailer will not be allowed on any lot for more than one fourteen day period in any sixty consecutive days. One travel trailer may be placed on a piece of property by the owner of the property for storage purposes only, if a main building exists. A temporary permit may be issued if the property owner has installed a state approved septic system and well and has provided the Zoning Administrator a plan to begin constructing a dwelling within one year. Travel trailers must meet the setback requirements of Article 11.
 9. Structures, including but not limited to, school bus stop shelters, deer stands, play houses, dog houses, tree houses and ice-fishing shacks shall not be deemed an accessory structure or use, do not require permits unless size limitations are exceeded, and shall conform to the lake classification setbacks and cannot be used for storage. Size limitations reference is in Article 11.G.
 10. Any other structures that are customarily associated with a dwelling.
 11. All agricultural activities that follow Best Management Practices as adopted by the Polk County Land Conservation Committee, Federal, State, and Local rules and ordinances.
- D. Special Exceptions - The following uses are authorized upon the issuance of a special exception permit according to the procedure set forth in Article 17. Unless a greater distance is specified, any structure shall be at least 100 feet from a residence other than that of the owner of the lot, his/her agent, or employee; 75 feet from a residential property line; or 25 feet from a lot line. Erosion control plans and storm water management plans shall be required.
1. Hotels, transient lodging, condominiums, including 2 or more single family dwellings for rent or lease, motels, restaurants, dinner clubs, taverns, private clubs, power generating stations, churches and cemeteries.
 - (a) Tourist Rooming Houses are exempt from Article 8.D.1. setbacks. The side yard setback as defined in Article 11.C.Table 1. for Principal Structures shall apply to tourist rooming houses.
 2. Institutions of a philanthropic or educational nature.
 3. Recreational camps and campgrounds provided all buildings are more than 100 feet from the side lot line. Recreational camps shall conform to Chapter HFS 175, Wisconsin Administrative Code and campgrounds shall conform to Chapter HFS 178 Wisconsin Administrative Code.
 4. Businesses customarily found in recreational areas.
 5. Marinas, boat liveries, sale of bait, fishing equipment, boats and motors, forest industries, snowmobile sales, service and maintenance, recreational archery, custom rod building, indoor archery range, storage units, and licensed daycare centers.

6. Mobile home parks, provided that:

- (a) The minimum size of mobile home parks shall be 5 acres.
- (b) The maximum number of mobile homes shall be 8 per acre.
- (c) Minimum dimensions of a mobile home site shall be 50 feet wide by 100 feet long.
- (d) All drives, parking areas and walkways shall be hard surfaced or graveled, maintained in good condition, have natural drainage, and the driveways shall be lighted at night.
- (e) In addition to the requirements of Article 11, there shall be a minimum setback of 40 feet from all other lot lines and a minimum shoreline setback of 150 feet.
- (f) The park shall conform to the requirements of Chapter ATCP 125 Wisconsin Administrative Code.
- (g) No mobile home site shall be rented for a period of less than 30 days.
- (h) Each mobile home site shall be separated from other mobile home sites by a yard not less than 15 feet wide.
- (i) There shall be 2 surfaced automobile parking spaces for each mobile home.
- (j) Unless adequately screened by existing vegetation cover, the mobile home park shall be screened by a temporary planting of fast growing plant material capable of reaching 15 feet or more, and so arranged that, within 10 years, there shall be formed a screen equivalent in screening capacity to a solid fence or wall. Such permanent planting shall be grown and maintained to a height of not less than 15 feet.
- (k) The mobile home park site shall meet all applicable town and county subdivision regulations.
- (l) Any mobile home site shall not have individual onsite soil absorption sewage disposal system unless it meets the minimum lot size specification as stated in Article 11.

7. Travel trailer parks provided that:

- (a) The minimum size of the travel trailer park shall be 5 acres.
- (b) The maximum number of travel trailers shall be 15 per acre.
- (c) Minimum dimensions of a travel trailer site shall be 25 feet by 40 feet.
- (d) Each travel trailer site be separated from other travel trailer sites by a yard not less than 15 feet wide.
- (e) There shall be 1½ automobile parking spaces for each trailer site.
- (f) In addition to the requirements of Article 11, there shall be a minimum setback of 40 feet from all other exterior lot lines.
- (g) The park shall conform to the requirements of Chapter HFS 178, Wisconsin Administrative Code.
- (h) The screening provisions for mobile home parks shall be met.
- (i) The travel trailer park site shall meet all applicable town and county subdivision regulations.

8. Nonmetallic mining - The extracting of the material consisting of, but not limited to, stone, clay, peat, and topsoil.

9. Industrial Use

E. Prohibited Uses - Any use not specifically enumerated in Article C and D above is prohibited.

Article 9. Classification of Waters

- A. Navigable waters in Polk County are classified according to criteria established in the Polk County Lakes Classification System, which was adopted by the Polk County Board of Supervisors on April 20, 1999 and is hereby incorporated herein and made part of this ordinance.
- B. Polk County waters are classified into three (3) classes.
- C. Class 1 waters are those that are least vulnerable; Class 2 waters are those that are moderately vulnerable and includes all rivers and streams; and Class 3 waters are those that are most vulnerable and includes all lakes that are twenty (20) acres or less in size, and all unnamed lakes not appearing on the DNR publication entitled: *Surface Water Resources of Polk County*. The Zoning Administrator shall make available a copy upon demand.
- D. Any named lake inadvertently omitted from the DNR’s *Surface Water Resources of Polk County* will be classified according to available information.

Article 10. Reclassification of Waters

Waters may be reclassified by amendment of the Polk County Waters Lakes Classification System under Article 10 of this ordinance. A petitioner for reclassification shall provide evidence related to each of the criteria described below and identify the waterway or specific portion of a waterway, which is the subject of the request. To avoid fragmentation of watersheds by numerous management strategies and to preserve administrative efficiency, a contiguous portion of a waterway, which is less than 0.5 mile in length, may not be reclassified. The following criteria shall be the sole basis for the County Board decision on the petition: The criteria specified in the Polk County Waters Classification System.

**Article 11. Lot Requirements, Setbacks,
& Minimum Shoreland Lot Dimensional Requirements**

A. Preexisting Lots of Record

Any owner must obtain a permit prior to improving an existing lot. The Zoning Administrator shall not issue a permit unless the subject property meets Shoreland and side yard setbacks in Article 11.C and the lot area and dimensions as follows:

- 1. Dimensions of Building Sites for Lots Recorded Prior June 1, 1967:
 - (a) Lots not served by a public sanitary sewer:
 - (1) Minimum lot area.....10,000 sq. feet
 - (2) Minimum lot width.....65 feet
 - (3) Minimum Average Lot Width65 feet
 - (b) Lots served by public sanitary sewer:
 - (1) Minimum lot area.....7,500 sq. feet
 - (2) Minimum lot width50 feet
 - (3) Minimum average lot width...50 feet

2. Dimensions of Building Sites After June 1, 1967 But Before Passage Of This Ordinance:

- (a) Lots not served by a public sanitary sewer:
 - (1) Minimum lot area.....20,000 sq. feet
 - (2) Minimum lot width90 feet
 - (3) Minimum average lot width...100 feet
- (b) Lots served by public sanitary sewer:
 - (1) Minimum lot area.....10,000 sq. feet
 - (2) Minimum lot width60 feet
 - (3) Minimum average lot width...65 feet

3. Dimensions of Building Sites After July 1,1996 But Before The Passage Of This Ordinance:

- (a) Lots not served by a public sanitary sewer:
 - (1) Minimum lot area.....43,560 sq. feet
 - (2) Minimum lot width100 feet
- (b) Lots served by public sanitary sewer:
 - (1) Minimum lot area.....20,000 sq. feet
 - (2) Minimum lot width90 feet

B. Other Substandard Lots

- 1. Other Substandard Lots. Except for lots which meet the requirements of Article 11.A., a building permit for the improvement of a lot having lesser dimensions than those stated in the requirements of Section A of Article 11 shall be issued only after the Board of Adjustment grants a variance consistent with the requirements of Article 17.

C All New Developed Lots and Construction Allowed After April 30th, 2002 That Have Riparian Access Must Conform To Table 1.

Table 1. Site Dimensions				
	Class 1	Class 2	Class 3	Rivers/Streams
Lot Size	43,560 sq. ft. 20,000 sq. ft.*	60,000 sq. ft.	100,000 sq. ft.	60,000 sq. ft.
Lot Width	100 ft. 90 ft.*	150 ft.	250 ft.	150 ft.
Shoreline (OHWM) Setback	75 ft.	100 ft.	100 ft.	100 ft.
Shoreline Vegetation Protection Area Landward from OHWM	35 ft	35 ft	35 ft	35 ft
Side Yard Setback to a Principal Structure	10 ft	15 ft	25 ft	15 ft
Side Yard Setback to an Accessory Structure	5 ft	10 ft	25 ft	10 ft
Rear Setback for a Dwelling	25 ft	25 ft	25 ft	25 ft
Rear Setback for Accessory Structure	10 ft	10 ft	10 ft	10 ft

*Minimum lot size and width for lots served by a public sewer system.

D. Private Access Outlots

1. Any lot created to provide lake access shall meet the following requirements:
 - (a) Such access strip must be a minimum of 50 feet in width for its entire depth.
 - (b) No private access strip may serve more than five single-family dwellings.
 - (c) No camping or RV parking is allowed on such access strip.
 - (d) No structures are allowed on such access strip.
 - (e) Private access strips must be at least 1,000 feet apart.

E. For all properties located within the Shoreland Zoning District, the following setback requirements shall apply:

1. The setback from any state or federal highway shall be 110 feet from the centerline of the highway or 50 feet from the right of way, whichever is greater.
2. The setback from any county highway shall be 75 feet from the centerline of the highway or 42 feet from the right of way, whichever is greater.
3. The setback from any town road, public street, or highway shall be 63 feet from the centerline of the road or 30 feet from the right of way, whichever is greater or as required by the Polk County Subdivision Ordinance.
4. The setback from any private road shall be 35 feet from the centerline of the road.
5. All buildings and structures shall be set back from the OHWM of navigable waters as required by the table of dimensional standards in Article 11.C., Table 1. Such setback shall be measured as the shortest horizontal distance from the structure to the OHWM.
6. The following structures are exempt from shoreline, drainage way, and wetland setback requirements:
 - (a) Shoreline protection structures permitted by the Department of Natural Resources;
 - (b) Piers, boat hoists, public boat ramps, fences with open construction, and TV satellite dishes that are one meter or less in diameter;
 - (c) Elevated pedestrian walkways, stairways, and railings essential to access the shore due to steep slopes or wet soils and which comply with Article 12. Such stairways or walkways may be no more than four (4) feet in width and landings may not exceed 32 square feet;
 - (d) Erosion control projects designed to remedy significant, existing erosion that cannot otherwise be controlled provided the project is received prior to project start and approved by the Land and Water Resource Department.
7. Boathouses shall be set back at least ten (10) feet from the ordinary high water mark of non-navigable streams and drainage ways.
8. All buildings and structures except for those permitted to be within wetland areas shall be setback at least 25 feet from the boundary of mapped wetlands.

F. For preexisting structures located within the applicable setback areas, the following will apply:

1. Preexisting accessory structures: All preexisting accessory structures are limited to ordinary maintenance and repair (no expansion).

2. Preexisting dwellings: The following shall apply to preexisting dwellings:
 - (a) Preexisting dwellings less than 50 feet from the OHWM are permitted ordinary maintenance and repair. Such structures may be improved and expanded provided:
 - (1) The maximum size of the dwelling shall not exceed a 750 square feet footprint, including an attached garage. The maximum height of the dwelling shall not exceed 26 feet.
 - (2) Additions to building footprint must be located on the landward side of the dwelling;
 - (3) Limitations on land disturbing activities in Article 15 are observed; and
 - (4) The mitigation requirements of Article 14 are received, approved and implemented.
 - (b) Preexisting dwellings 50-75 feet from the OHWM are permitted ordinary maintenance and repair. Such structures may be improved and expanded provided:
 - (1) The maximum size of the dwelling shall not exceed an 1100 square feet footprint, including an attached garage. The maximum height of the dwelling shall not exceed 26 feet;
 - (2) Additions to building footprint must be located on the landward side of the dwelling;
 - (3) Limitations on land disturbing activities in Article 15 are observed; and
 - (4) The mitigation requirements of Article 14 are received, approved and implemented.
 - (c) On Class 2 and 3 lakes and rivers, preexisting dwellings 75 to 100 feet from the OHWM are permitted ordinary maintenance and repair. Such dwellings may be improved and expanded provided that:
 - (1) Any enclosed livable space must be landward of the OHWM;
 - (2) Limitations on land disturbing activities in Article 15 are observed and
 - (3) The mitigation requirements of Article 14 are received, approved and implemented.
3. Preexisting structures in the Shoreland-Wetland District that are damaged or destroyed may be reconstructed provided:
 - (a) Replacement of damaged structures. In conformance with Section 59.692(1s), Wis. Stats., if a landowner can establish that a preexisting structure is located at less than the applicable setback (nonconforming structure) in the shoreland district has been destroyed or damaged after October 14, 1997 by violent wind, fire, flood or vandalism, then that structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:
 - (1) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired.

- (2) Except as provided in Section 87.30(1d), Wis. Stat., nonconforming buildings that are subject to regulation under the Floodplain Zoning Ordinance may not be reconstructed or repaired except in compliance with the Floodplain Zoning Ordinance.
- (3) The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged nonconforming structure had immediately before the destruction or damage occurred.
- (4) Repairs are authorized under this provision only to the extent that they are necessary to repair that which has resulted from specific damage caused by violent wind, vandalism, fire or flood, and only that portion of the nonconforming structure that has been destroyed may be reconstructed.

G. Size Limitations – Playhouses and tree houses that have a footprint greater than 64 sq. ft. or a height greater than 11 feet and doghouses that have a footprint greater than 16 sq. ft or a height greater than 6 feet shall require a permit.

H. Boathouses - Maintenance and repair of preexisting boathouses that extend beyond the ordinary high water mark of any navigable waters shall comply with the requirements of Chapter 30.121(3) Stats.

I. Reduced Roadway and Shoreline Setbacks for Preexisting Lots (Table 2):

Table 2. Shoreline setbacks				
Lake Class	1	2	3	Rivers/Streams
Shoreline (OHWM) setback for structures	75'	100'	100'	100'
Setback averaging OR	1. Distance from proposed building site: 100' or less from main building to main building 2. Number of buildings needed: 2, one on each side 3. Setback is the average of the principal structures on adjoining lots plus 10 feet 4. Minimum setback: 50' 5. Mitigation.			
If setback averaging does not apply, then setback reduction formula does apply	If a 30 foot deep building site cannot be achieved as a result of required roadway, rear yard, and shoreline setbacks, then: Step 1: Reduce roadway setback by up to 50% with township approval. Step 2: Reduce shoreline setback by up to 33%. Step 3: Mitigation.			

J. Special Exception Permit- A special exception permit to develop a reduced lot size and width may be granted when subdividing an existing riparian lot that was created prior to the effective date of this ordinance provided:

- 1. The existing lot has enough frontage to provide that one new lot meet the minimum lot dimension as to frontage and acreage for its Lake Classification, and any new lot created must be at least 75% of the minimum dimensions as to width and acreage for its Lake Classification;
- 2. The landowner applies for a Special Exception Permit. The Board of Adjustment shall hold a public hearing on a request for a Special Exception Permit. A Class 2 notice shall be published for the hearing. Additionally, notice shall be mailed to the town(s) and lake

district (if applicable) in which the proposed subdivision is located, any municipality with extraterritorial subdivision approval jurisdiction, and adjacent landowners. The Land Records Director shall be responsible for providing all notices. The applicant shall pay a hearing fee before the hearing is scheduled;

3. The Board of Adjustment shall make a decision of the application for Special Exception Permit within ten (10) days of the hearing. Written findings of fact, conclusions, and the reasons for the decision shall be prepared, and signed by the members of the Board of Adjustment. The original decision shall be filed in the Land Records Director's office. A copy of the decision shall be mailed to the landowner, the town(s), lake districts, and municipalities;
4. Any persons that are affected by the decision on the application of Special Exception Permit may commence an action in circuit court seeking the remedy available by certiorari. The procedures in Section 59.694(10), Wisconsin Statutes, apply to this action.

K. Special Exception Permit: A special exception permit may be granted by the Board of Adjustment when the class setback is greater than 75 feet, and the lot width is greater than that required by the table of dimensional standards in Article 11. The required setback may be reduced by one (1) foot for each five (5) feet in width over the minimum required lot width, provided the property owner gives the county or a public or private conservancy a conservation easement in perpetuity prohibiting the subdivision of the lot. The minimum setback shall be 75 feet. In addition, the landowner must comply with provisions in Article 19.

Article 12. Shoreland Protection Area

A. The shoreland protection area of all lots shall conform with Admin Code NR115.05 (3)(c) trees and shrubbery. Developed lots can be maintained in their present condition without removal of trees and shrubs within the shoreland protection area. Accordingly:

1. In the vegetated strip of land 35 feet wide measured perpendicular from the ordinary high water mark, no more than 30%, not to exceed 30 feet measured parallel to the shore, on any lot shall be clear-cut (removal of all trees and shrubs) for a viewing corridor.
2. In the shoreland areas more than 35 feet wide inland, trees and shrubbery cutting shall be governed by consideration of the effect on water quality and consideration of sound forestry practices and soil conservation practices.
3. The tree and shrubbery cutting regulation shall not apply to the removal of dead, diseased or dying trees and shrubs.

B. Allowed uses by permit or Special Exception Permit in a shoreland protection area.

1. Placement of a pier, wharf, temporary boat shelter or boatlift shall be confined to waters immediately adjacent the viewing corridor described in Article 12.A.1. unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions.
2. One developed pedestrian access to the shoreline may be provided if:
 - (a) It is located within the viewing corridor unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions;
 - (b) It is located and constructed so as to avoid erosion;
 - (c) It is located and constructed so as to maintain screening of development from view from the water;

- (d) It is the minimum construction necessary to provide access and includes no additional construction other than railings essential for safety;
 - (e) It is no more than four (4) feet wide with landings of 32 square feet or less; and,
 - (f) It is constructed of materials that blend with the natural ground cover in the vicinity of the pathway.
3. An elevated walkway or powered lift may be added to a developed access if:
 - (a) It is the minimum construction essential to access the shore because of steep slopes, wet soils or similar limiting conditions;
 - (b) It complies with the standards for location and construction of such pathways;
 - (c) Construction plans are approved by the Zoning Office; and
 - (d) Stairways on 20% or greater slopes are constructed to minimize erosion.
 4. Shoreline protection activities authorized by a state permit with erosion control measures approved by the County Land and Water Resources Department must be designed to remedy significant, existing erosion problems.
 5. Removal of dead and diseased trees that are a safety hazard, which endanger structures, and the removal of noxious vegetation which poses a threat to health or safety, (i.e., poison ivy).
 6. Roadways be constructed adjacent to permitted stream crossings.
 7. Public and private water craft constructed launching sites are authorized only by the following standards and are authorized as a special exception use permit provided the following are maintained:
 - (a) Construction allowed on slopes of less than 20%.
 - (b) There is no general public access otherwise available to the waterway.
 - (c) Launching sites on residential property shall not be paved.
 - (d) Access sites shall be located within the viewing corridor unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions.
 - (e) A State Chapter 30 permit shall be obtained for all construction and also be required when areas of 10,000 square feet are disturbed above the OHWM and must be obtained prior to said county application, and;
 - (f) Vegetation removal and land disturbing activities minimized and runoff diverted or controlled so that erosion within the access corridor is avoided.
 8. Fish and wildlife habitat management projects included in a Department of Natural Resources approved management plan.
 9. Commercial timber harvest is allowed and exempt from permit requirements of Article 12.A-B, if one or both of the following conditions is satisfied:
 - (a) Such activity complies with appropriate practices specified in Wisconsin's *Forestry Best Management Practices For Water Quality* published by the Department of Natural Resources or a plan approved by the County Forest Committee.
 - (b) Such activities are conducted on public lands and conform to Federal, State, and County management plans. Respective master plans are deemed to meet the intent of this Ordinance by established riparian protection standards through aesthetic

managements zones and appropriate management practices to maintain water quality and wildlife habitat.

10. Agricultural cultivation is allowed exemption from the provisions of this Section related to the vegetation protection area and land disturbing activities if such activity complies with Federal, State, and local laws or ordinances.

Article 13. Open Structures in Shoreland Setback Area

- A. As required by Section 59.692(1v), Wis. Stats., the construction or placement of certain structures within the shoreland setback area shall be granted special zoning permission. An Administrative Land Use Permit will be issued for the structure for record keeping purposes. Structures will be allowed if all of the following conditions are met:
 1. The structure has no sides or has open or screened sides. The structure shall not be attached to any other structure unless the side of such structure at the point of attachment is open or screened;
 2. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark;
 3. The total floor area of all structures in the shoreland setback area on the property will not exceed 200 square feet. This calculation shall include the area of any deck, patio, the portion of any pier landward of the OHWM, and any other structure, but boathouses, walkways and stairs shall be excluded;
 4. The side yard setback shall be a minimum of 10 feet;
 5. The structure shall not exceed a height of 13 feet; and
 6. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

Article 14. Land Use Runoff Rating

- A. The land use runoff rating is a means to reduce the effects of development, particularly impervious surfaces, on water quality. The Land Use Runoff Rating is based on the amount of storm water runoff from various land uses provided in *Urban Hydrology for Small Watersheds*, Technical Release 55, June 1986, Natural Resources Conservation Services, United States Department of Agriculture. The Land Use Runoff Rating numbers indicate the amount of runoff from a lot. The rating number of 69 represents an average allowable runoff from developed lots.
- B. The Zoning Department will provide all materials needed to determine or calculate the Land Use Runoff Rating applicable to the lot that will be developed.
- C. Land Use Runoff Rating – A rating number is determined for the entire lot, up to 300 feet of the ordinary high water mark and drains directly to the lake, for lake Classes 1, 2, 3 and rivers. To calculate the runoff rating the landowner/agent must complete the following steps:
 1. Measure each land use of the lot and draw them to dimension or scale. Convert the land use areas into percentages of the lot.
 2. Determine the Hydrologic Soil Type (HST) from a map that will be provided by the Zoning Department which indicates the assigned HST number.

3. Multiply each land use percentages by the HST number, and add the products of all the land uses resulting in the land use rating applied to the lot.
 4. If the rating number for the lot is less than or equal to the rating of 69, the landowner/agent is not required to take any action to reduce the runoff rating. If the runoff rating is greater than 69, then the landowner/agent must implement measures as approved by the Zoning Department to arrive at a runoff rating of 69 or less. Such measures are as follows, but are not limited to: rain basins, retention ponds, vegetative areas, redirecting water away from the navigable water.
 5. Point Credits:
 - (a) One point credit will be applied for the lots with public sewage and a 1.5 point credit for landowners who establish continuous vegetative cover starting from the OHWM and continuing landward.
 6. Runoff rating plans approved after September 1 of each calendar year must be completed by June 1 of following year, all others must be completed by October 31 of the same calendar year.
 7. All structural practices must be installed prior to issuance of permit and any runoff control practices installed must have an operation and maintenance plan and have that plan recorded on the deed.
- D. Alternate Mitigation – A maximum 15 percent impervious surface limit along with a restored vegetated strip meeting the requirements of Article 12.A.1, 2, and 3.
- E. Equal Runoff Alternate for lots that are predominately D type soils – The post-development runoff rating shall be less than or equal to the pre-development (current conditions) runoff rating.
1. Use the method described in Article 14.C. to determine the pre-development and post-development runoff ratings.
 2. If the post development number is greater than the pre-development number, the landowner/agent must implement measures as approved by the Zoning Administration. Such measures can include but are not limited to rain basins, retention ponds, vegetative areas, or redirecting water away from navigable waters.

Article 15. Filling, Grading, and Ditching

- A. Filling, grading, lagooning, dredging, ditching, or excavating which does not require a permit may be allowed in the Shoreland-Wetland Zoning District Area provided that:
1. Such activities are implemented in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
 2. All applicable federal, state, and local permits are obtained.
 3. An erosion control plan shall be required and reviewed by the Land and Water Resources Department.
- B. Except as provided in Article 15.C, a special exception permit is required before filling or grading of any area which is within 300 feet of the ordinary high water mark of a navigable water and which has surface drainage toward the water and on which such activities will occur:

1. On areas having slopes of 20% or more.
 2. Areas of 1,000 square feet or more on slopes of 12% to 20%.
 3. Areas of 2,000 square feet or more on slopes of 12% or less.
 4. Re-vegetation of existing slope without alteration requires a permit only.
- C. Excavating for dwellings and sanitary systems in addition to soil conservation practices including, but not limited to, terraces, runoff diversions, and grassed waterways which are used for sediment retardation shall not require a special exception permit provided:
1. Soil conservation practices that are planned and supervised by the Land and Water Resources Department may be exempted from a special exception permit. Soil conservation practices examples include, but are not limited to, terraces, runoff diversions, and grassed waterways, which are designed to retard sediment or control animal waste runoff.
 2. Excavation for dwellings, garages, and sanitary systems are exempted from special exception permit under Article 15.B., if the excavation plan has been approved by the Zoning Office prior to construction.
- D. In granting a special exception permit under Article 15.B., the Board of Adjustment shall attach the following conditions where appropriate, in addition to those provisions specified in Article 17:
1. Ground shall be exposed for as short a time as feasible.
 2. Temporary ground cover (mulch or jute netting, etc.) shall be used and permanent vegetation cover shall be established.
 3. Diversion berms, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
 4. Fill shall be stabilized according to accepted engineering standards.
 5. Filling shall comply with any local Floodplain Ordinance, and shall not restrict a flood way or destroy the flood storage capacity of a flood plain.
 6. Channels or artificial water courses shall be constructed with side slopes of two (2) units horizontal distance to (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

Article 16. Off-Street Parking and Loading

- A. Loading Space - All commercial uses shall provide sufficient maneuvering, loading, and parking space on the premises for pick-up, delivery and service vehicles necessary for normal operations.
- B. Off-Street Parking - Each parking space shall be 200 square feet in area. Each use shall provide the following minimum off-street parking spaces:
1. Dwellings - one space for each dwelling unit.
 2. Restaurants, taverns and similar establishments - one space for each 50 square feet of floor space devoted to patrons. Drive-in eating stands offering car service - five spaces for each person employed to serve customers.
 3. Motels and tourist cabins - one space per unit.
 4. Retail businesses and service establishments--one space for each 200 square feet of floor area.

5. Warehouses - one space for each two employees on the premises at a maximum employment on the main shift.

Article 17. Administrative Provisions

A. Zoning Administrator - The Zoning Department staff shall have the following duties and powers and the Land & Water Resources Department staff shall assist in the same:

1. Advise applicants on the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
2. Issue permits and inspect properties for compliance with this ordinance.
3. Keep records of all permits issued, inspections made, work approved and other official actions.
4. Must have permission to access any premises between 8:00 a.m. and 6.00 p.m. for the purpose of performing duties set forth in this ordinance.
5. Submit copies of variances, special exceptions and decisions on appeals for map or text interpretation and map or text amendments within 10 days after they are granted or denied to the Department of Natural Resources.
6. Investigate and report all violations of this ordinance to the County Land Information Committee.

B. Zoning Permits - The following applies to the issuance and revocation of permits:

1. When Required - Except where another section of this ordinance specifically exempts certain types of activities, development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any said activity or development, structural alteration, or repair, as defined in Article 8, is initiated, including, but not limited to, building or structure, or any change to a structure within the setback area.
2. Application - An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the County and shall include, for the purpose of proper enforcement of these regulations, the following data:
 - (a) Name and address of applicant and property owner.
 - (b) Legal description of the property and type of proposed use.
 - (c) A sketch of the dimensions of the lot and location of buildings from the lot lines, centerline of abutting highways and the ordinary high water mark at the day of the sketch.
 - (d) Whether or not a private water or septic system is to be installed.
3. Land Use Permits for land use changes shall expire twelve months from their date of issuance where no action has been taken to accomplish such changes or two (2) years after issuance.

C. Revocation - Where the conditions of a zoning permit, Special Exception Permit or a variance are violated, the same are deemed revoked.

D. Board of Adjustment - The chairman of the County Board shall appoint a Board of Adjustment under Chapter 59.69, Wisconsin Statutes, consisting of 5 members, with no less than 1 of the members being a riparian landowner, and the County Board shall adopt such

rules for the conduct of the business of the Board of Adjustment as required by Section 59.69(3), Wisconsin Statutes.

1. Powers and Duties - The Board of Adjustment shall have the following powers and duties:

- (a) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by Section 59.69 Wisconsin Statutes.
- (b) It shall hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (c) It may authorize upon application, in specific cases, such variances from the terms of the ordinance as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship.
 - (1) In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property, which is prohibited in that zoning district by this ordinance.

2. Special Exception Permits - the following shall apply to Special Exception Permits:

- (a) Application for a Special Exception Permit - Any use listed as a special exception in this ordinance shall be permitted only after an application has been submitted and an appropriate application fee paid to the Zoning Administrator and a special exception permit has been granted by the Board of Adjustment.
- (b) Standards Applicable to All Special Exceptions - In passing upon a Special Exception Permit, the Board of Adjustment shall evaluate the effect of the proposed use upon the following criteria:
 - (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
 - (6) The location of the site with respect to existing and future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of septic waste to be generated and the adequacy of the proposed disposal system.
 - (10) Location factors that:
 - (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; and
 - (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

- (c) Conditions Attached to Special Exception Permit - Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this Ordinance as are necessary to further the purposes of this Ordinance. Violations of any of these conditions shall be deemed a violation of this Ordinance and result in immediate revocation of the Special Exception Permit. Such conditions may include, without limitation of a specific enumeration: type of shore cover; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; bonding; deed restrictions; location of piers, docks, parking and signs; and type of construction. 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 Special Exception Permit, the following information:
- (1) A plan of the area showing contours, soil types, ordinary high water marks, ground water conditions, bedrock, slope 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 arrangements 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.
- (d).Notice and Public Hearing - Before passing upon an application for a special exception permit, the Board of Adjustment shall hold a public hearing. Notice of such public hearing, specifying the time, place, and matters to come before the Board of Adjustment, shall be given as a Class 2 notice under Chapter 985, Wisconsin Statutes, and notice shall be mailed to the appropriate district office of the Department of Natural Resources at least 10 days prior to the hearing as well as all property owners within 300 feet of the site under consideration. The Board of Adjustment shall state in writing the grounds for refusing a Special Exception Permit.
- (e) Recording - When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a special exception permit shall be mailed to the appropriate district office of the Department of Natural Resources within 10 days after application for the special exception permit is granted or denied.
- (f) Revocation - Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the Zoning Department
- (g) Expiration -Special Exception Permits for construction, alteration or removal of structures shall expire twelve months from their date of issuance if no building activity has begun within such time.

3. Appeals to the Board of Adjustment - Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within a feasible time, as provided by the rules of the Board of Adjustment, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the ground thereof. The Zoning Administrator or other officer from when the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appeal was made.
4. Hearing Appeals - The following procedures shall be taken in hearing any appeals:
 - (a) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. The Board shall give public notice thereof by publishing a Class 2 notice under Chapter 985, Wisconsin Statutes, specifying the date, time and place of hearing and the matters to come before the Board, and shall mail notices to the parties within 300 feet of the site under consideration and the appropriate district office of the Department of Natural Resources at least 10 days prior to the public hearing.
 - (b) A decision regarding the appeal shall be made as soon as practical and a copy shall be submitted to the Department of Natural Resources within 10 days after the decision is issued.
 - (c) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and 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 persecution or grant the application.
 - (d) At the public hearing, any party may appear in person or by agent or by attorney.
 - (e) All decisions may be reviewed by a court of competent jurisdiction.

- E. Fees - The Land Information Committee may, by motion, adopt fees for the following:
1. Land Use Permits.
 2. Erosion Control Plan reviews.
 3. Storm water Management Plan review.
 4. Public Hearings.
 5. Legal Notice Publications.
 6. Special Exception Permits.
 7. Appeals to the Board of Adjustment

Article 18. Changes and Amendments

- A. 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 Chapter 59.97(5)(e), Wisconsin Statutes, and Article 7 where applicable.
- B. Amendments to this Ordinance may be made on petition of any interested party as provided In Chapter 59.97(5)(e), Wisconsin Statutes.

- C. Every petition for a text or map amendment filed with the County Clerk shall be referred to the County Zoning Agency. A copy of each petition shall be mailed to the appropriate district office of the Department of Natural Resources 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 of Natural Resources at least 10 days prior to the hearing.
- D. A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department of Natural Resources within 10 days after the decision is issued.

Article 19. Enforcement and Penalties

- A. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this Ordinance contrary to the provisions of this Ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. As authorized by Wis. Stat. CHAPTER 66, the Zoning Administrator or the County Zoning Agency shall issue citations for any violations of this Ordinance. 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 two-hundred (\$200.00) dollars nor more than one-thousand (\$1000.00) dollars per offense, together with the taxable costs of action. Each day of continued violation shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance there may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Section 87.30(2), Wisconsin Statutes. The County also retains the summons and complaint avenue for forfeitures and remedial action as provided by Wis. Stat. Section 59.69(11).
- B. There shall be a penalty fee of five-hundred (\$500.00) dollars added to the regular fee in those cases where building is commenced without first obtaining a land use permit, providing the structure is in conformance with the provisions of this Ordinance.
- C. The Zoning Department may issue an on-site stop work order, as appropriate, whenever it determines that a violation of this Ordinance or the building permit is taking place.

Effective Date: This Polk County Shoreland Protection Zoning Ordinance shall take effect upon passage and publication, effective **April 1, 2010.**