

**MONROE COUNTY CODE OF ORDINANCES
CHAPTER 53 – ZONING – SHORELAND**

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MONROE COUNTY CODE OF ORDINANCES

CHAPTER 53 – ZONING – SHORELAND

SHORELAND PROTECTION ORDINANCE

ARTICLE I - STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE.

Sec. 53-1 - Statutory authorization. This ordinance is adopted pursuant to the authorization in s. 59.692, Stats, to implement 59.692 and 281.31, Stats.

Sec. 53-2 - Finding of fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Monroe County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to reserve shore cover and natural beauty. This responsibility is hereby recognized by Monroe County, Wisconsin.

Sec. 53-3 - Purpose and intent. To promote and protect the public trust in navigable waters and to effect the purposes of s. 281.31, Stats, by aiding in the fulfillment of the state's role as trustee of its navigable waters; limiting the direct and cumulative impacts of shoreland development; and promoting the public health, safety, convenience and general welfare, this ordinance has been established to:

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

Sec. 53-4 - Title. "Shoreland Protection Ordinance" for Monroe County, Wisconsin.

Secs. 53-5 – 53-30. Reserved.

ARTICLE II - GENERAL PROVISIONS.

Sec. 53-31 Areas to be regulated. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Monroe County which are:

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages or within one thousand (1,000) feet of the high-water mark of navigable glacial pothole lakes.
- (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater.
- (3) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1m), Stats, applies. Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Stats.
- (4) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator may contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark. The county may work with surveyors with regard to s. 59.692(1h).
- (5) Under s. 281.31(2m), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 - (a) Lands adjacent to farm drainage ditches if:
 1. Such lands are not adjacent to a natural navigable stream or river;
 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (b) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

Sec. 53-32 Compliance. The use of any land; the size, shape and placement of lots; the use, size, type and location of structures on lots; the filling, grading, lagooning, and dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings, other structures, and land disturbances (including filling and grading, etc.) shall require a permit unless otherwise expressly excluded by a provision of this ordinance.

Sec. 53-33 Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.2022(1m), Stats, applies.

Sec. 53-34 Abrogation and greater restrictions. The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than s. 59.692, Stats, does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- (1) This ordinance shall not require approval or be subject to disapproval by any town or town board.
- (2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- (3) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (4) This ordinance shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable, so far as practicable.
- (5) This ordinance may establish standards to regulate matters that are not regulated by a shoreland zoning standard under NR 115.05(1) and that further the purposes of shoreland zoning as described in section 53-3 of this ordinance.
- (6) This ordinance may not require any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (7) The following provisions of the Monroe County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this chapter otherwise imposes: Sections 47-61 through 47-797 of the Code of Ordinances.
- (8) The construction and maintenance of a facility is considered to satisfy the requirements of a county shoreland zoning ordinance enacted under s. 59.692, Stats, if any of the following applies:
 - (a) The department of natural resources has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.
 - (b) No department of natural resources permit or approval under subsection (a) is required for the construction or maintenance and the construction or maintenance is conducted in a manner that employs best management practices to infiltrate or otherwise control stormwater water runoff from the facility.

Sec. 53-35 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.

Sec. 53-36. - Relaxation of standards for persons with disabilities.

The zoning administrator may issue a special permit to relax the standards of this chapter in order to provide reasonable accommodations as required by provisions of the federal and state law. Such relaxation shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practical, be terminated when the facility is no longer used by the disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility. An affidavit for the reasonable accommodation shall be filed with the register of deeds.

Secs. 53-37--53-60 - Reserved.

ARTICLE III SHORELAND-WETLAND DISTRICT.

Sec. 53-61 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 within the shoreland zone. When development is permitted in a wetland, the development

should occur in a manner that minimizes adverse impacts upon the wetland.

Sec. 53-62 Designation. This district shall include all wetlands shown in the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

Sec. 53-63 Shoreland-wetland maps. The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <https://dnrm.wisconsin.gov/H5/?Viewer=SWDV>

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

Sec. 53-64 Permitted uses. NR 115 currently contains absolute standards for permitted uses in shoreland wetlands which cannot be made more or less restrictive. NR 115 does not prohibit counties to protect wetlands outside of the shoreland jurisdictional area.

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance:

- (1) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
 - (a) Hiking, fishing, trapping, hunting, swimming, and boating;
 - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (c) The pasturing of livestock and the construction and maintenance of fences;
 - (d) The cultivation of agricultural crops;
 - (e) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - (f) The construction or maintenance of duck blinds.

- (2) Uses which require the issuance of a zoning permit and must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
 - (a) The construction or maintenance of piers, docks or walkways built on pilings.
 - (b) The construction or maintenance of nonresidential buildings, provided that all of the following apply:
 1. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or used solely for a purpose which is compatible for wetland preservation;
 2. The building cannot, as a practical matter, be located outside the wetland;
 3. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - (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:
 1. no filling is done
 2. any private wildlife habitat area is used exclusively for that purpose.
 3. any ditching, excavating, dredging, dike and dam construction shall be allowed in wildlife refuges, game preserves, and private wildlife habitat areas for the purpose of improving wildlife habitat or to otherwise enhance wetland values. Any of these activities shall comply with the floodplain ordinance and secure all other required permit related to dike and dam construction.

- (3) Uses which do not require the issuance of a zoning permit but which may include filling, flooding, draining, dredging, ditching, tiling, or excavating as necessary but only to the extent specifically provided below:
 - (a) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
 - (b) The maintenance and repair of existing agricultural drainage systems *such as ditching and tiling* necessary to maintain the level of drainage required to continue the existing agricultural use.
 - (c) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges.

- (4) Uses which require the issuance of a zoning permit and which may include filling, flooding, draining, dredging, ditching, tiling or excavating as necessary, but only to the extent specifically provided below:
 - (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - 1. The road cannot as a practical matter be located outside the wetland;
 - 2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 53-66(b);
 - 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
 - 4. Road construction activities are carried out in the immediate area of the roadbed only.
 - 5. The construction of a road for silvicultural activities for temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 - (b) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members provided:
 - 1. Such construction or maintenance is done in a manner designed to minimize flooding and adverse impact on the natural functions of the wetland enumerated in section 53-66(b).
 - (c) The construction or maintenance of railroad lines provided that:
 - 1. The railroad lines cannot, as a practical matter, be located outside the wetland;
 - 2. Such construction or maintenance is done in a manner designed to minimize flooding and adverse impact upon the natural functions of the wetland enumerated in section 53-66(b).

Sec. 53-65 Prohibited uses. Any activity or use not listed in section 53-64 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 53-66 of this ordinance and s. 59.69(5)(e), Stat.

Sec. 53-66 Rezoning of lands in the shoreland-wetland district.

- (1) For all proposed shoreland wetland rezoning requests under this ordinance, the appropriate office with the Department shall be provided with the following:
 - (a) A copy of every proposed petition for a shoreland wetland rezoning request under this ordinance, within 5 days of the filing of such request with the county clerk.
 - (b) Written notice of the public hearing to be held on a proposed shoreland wetland rezoning request at least 10 days prior to such hearing;
 - (c) A copy of the county zoning agency's findings and recommendations on each proposed shoreland wetland rezoning request 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 each proposed shoreland wetland rezoning request within 10 days after it is issued.

- (2) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning

may result in a significant adverse impact upon any of the following:

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

(3) If the Department notifies the county zoning agency that a proposed shoreland wetland rezoning request under this ordinance may have a significant adverse impact upon any of the criteria listed in section 53-66(2) of this ordinance, that shoreland wetland rezoning request, if approved by the county board, shall contain the following provision:

"This shoreland wetland rezoning shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this shoreland wetland rezoning is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Stat. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6), Stat, adoption procedure is completed or otherwise terminated."

Secs. 53-67 – 53-90 – Reserved.

ARTICLE IV. GENERAL PURPOSE DISTRICT

Sec. 53-91. Designation.

This district includes all shorelands subject to regulation under section 53-31 which are not included in the shoreland-wetland district.

Sec. 53-92. Purpose.

Areas other than those contained in the shoreland-wetland district are potentially suited to a wide range of uses, including industrial, commercial, agricultural, residential, forestry and recreational uses. A general purpose district shall be used to allow a wide range of uses, subject to the general provisions of this chapter 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. Minimum separating distances are provided to reduce conflicting land uses between potentially incompatible uses. All permitted uses or conditional uses are subject to the general provisions of this chapter and all other applicable laws and regulations.

Sec. 53-93. Permitted uses.

- (1) Any use permitted under section 53-63.
- (2) Single-family dwellings for owner occupancy, rent or lease.
- (3) Accessory uses.
- (4) Uses listed in sections 47-792 through 47-801 of the Code of Ordinances.

Sec. 53-94. Conditional uses.

The following uses are permitted upon the issuance of a conditional use permit according to the procedure set forth in section 53-333. Unless a greater distance is specified, any structure shall be at least 100 feet from a resident other than that of the owner of the establishment, his agent or employee, 75 feet from a residential property line and 25 feet from any lot line:

- (1) Hotels, resorts, condominiums, including two or more single-family dwellings for rent or lease, motels, bed and breakfast establishments, tourist rooming houses, restaurants, dinner clubs, taverns, and private clubs.
- (2) Institutions of a philanthropic or educational nature.
- (3) Recreational camps and campgrounds provided all buildings shall be more than 100 feet from the side lot line. Recreational camps shall conform to Wisconsin Administration Code Chapter. ATCP 78 and campgrounds shall conform to Wisconsin Administration Code Chapter. ATCP 79.
- (4) Gift, retail and specialty shops 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 and indoor archery range.
- (6) Mobile home parks. Mobile home parks shall follow the regulations listed under Sec. 47-604 of the Code of Ordinances.
- (7) Golf Courses and festival grounds.
- (8) Community Based Residential Facilities
- (9) Recreational Vehicle sales
- (10) Public and semipublic uses
- (11) Sawmills of a commercial nature permanently fixed to the ground. A plan for storm water management following Best Management Practices shall be a condition of approval of a Sawmill.
- (12) Small Business
- (13) Agribusiness
- (14) Two-Family Dwelling

Sec. 53-95. Prohibited Uses:

- (1) Solid waste disposal operations, incinerators and salvage yards.
- (2) Storage of materials outside. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored inside a roofed structure with four solid walls.

Secs. 53-96 – 53-120 Reserved.

ARTICLE V LAND DIVISION REVIEW AND SANITARY REGULATIONS

Sec. 53-121 Land division review.

Pursuant to s. 236.45, Stats, all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less shall be reviewed within a 5-year period. All of the following factors shall be considered during such a review:

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

Sec. 53-122 Planned unit development (PUD).

(1) *Purpose.* The Planned Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Unit Development at the time of its approval. A condition of all planned residential unit development that contains areas within Shorelands is the preservation of certain open space, preferably adjacent to the water, in perpetuity.

(2) *Requirements for planned unit developments.* A Planned Unit Development may be approved upon finding, after a public hearing, that all of the following facts exist:

(a) *Area.* A planned unit development may be allowed on a single lot that is at minimum 2 acres in size and has a minimum of 200 feet of frontage on a navigable water.

(b) *Density.* The maximum number of lots or dwellings permitted in the development shall be determined by dividing the total area of the subdivision by the minimum lot sizes required by chapters 47, 50 and 53, or by a municipal governing body resolution, or by applicable state standards, whichever is greater.

(c) *Individual lots.*

(a) Riparian lots need to meet the requirements of sections 53-152 and 53-153.

(b) Non-riparian lots may be less than the required minimums found in sections 53-152 and 53-153. The zoning committee shall consider whether the proposed lot sizes and widths provide adequate building area after considerations of all setbacks and required impervious surface percentages are met as well as reviewing potential impacts to prevent pollution, erosion and impacts to natural scenic beauty.

(d) *Shoreland setback.* In exchange for the allowance of reduced non-riparian lots, the shoreland setback shall be a minimum of 100 feet from the ordinary high water mark to help offset the impacts of the reduced lots on habitat, water quality and natural scenic beauty. This requirement is a condition of approval of the Planned Unit Development.

(e) *Vegetative buffers.* The location of lots and the dedication of part of the land for use by the public or residents of the planned residential unit development shall preserve the vegetative buffer zone a minimum distance of 70 feet landward of the ordinary high water mark in order to enhance scenic beauty of the navigable water, prevent erosion, and provide wildlife habitat. In cases where the vegetative buffer does not exist it shall be reestablished to a minimum of 70 feet landward of the ordinary high water mark. This requirement is a condition of approval of the Planned Unit Development.

(f) *Impervious surface requirements.* All impervious surface requirements shall be met. There is no relaxation for required impervious surface ratio maximums.

(g) *Open space.* All lands not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the county, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

(3) *Application and permit requirements.* The procedure in section 35-143 of the Monroe County Subdivision Ordinance shall be followed for establishing a planned unit development under this section.

(a) *Additional data required:* In addition to the requirements of section 35-144, 35-202 and 35-251 the sketch plan, preliminary and final plat shall include the following information:

1. Proposed greater shoreland setback and greater vegetative buffer that offsets the development impacts.
2. Location of shoreland-wetlands.

- (b) A recorded final plat or certified survey map is required prior to any construction activities.
- (c) No construction activities shall commence without the issuance of a regular zoning permit for each structure.

Sec. 53-123 Sanitary regulations.

Sanitary regulations for the protection of health and the preservation and enhancement of water quality shall be adopted.

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

Secs. 53-124 – 53-150 Reserved.

ARTICLE VI MINIMUM LOT SIZE, SETBACKS AND HEIGHT.

DIVISION 1. MINIMUM LOT SIZE

Sec. 53-151 Purpose. Minimum lot sizes in the shoreland area have been established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included.

Sec. 53-152 Sewered lots. For each lot served by public sanitary sewer the minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet with at least 65 feet of frontage width at the ordinary high water mark.

Sec. 53-153 Unsewered lots. For each lot not served by public sanitary sewer the minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage width at the ordinary high water mark.

Sec. 53-154 Substandard lots.

- (1) A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
 - (a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - (b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - (c) The substandard lot or parcel is developed to comply with all other ordinance requirements.

Sec. 53-155 Other substandard lots. Except for lots which meet the requirements of section 53-154 a zoning permit for the improvement of a lot having lesser dimensions than those stated in sections 53-152 and 53-153 shall be issued only if a variance is granted by the board of adjustment.

Sec. 53-156 Illegally created lots.

An illegally created lot is one that was created in violation of the required minimum area and minimum average width requirements of the County's shoreland zoning ordinance at the time of creation. Illegally created lots shall not be used for construction purposes without the granting of a variance.

Secs. 53-157 – 53-179 Reserved.

DIVISION 2. SETBACKS.

Sec. 53-180 Purpose. Setbacks within the shoreland area have been established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards, protect against water pollution, and otherwise limit the direct and cumulative impacts of shoreland development of the adjacent water body.

Sec. 53-181 Shoreland setback. A setback of 75 feet from the ordinary high water mark of any navigable water to the nearest part of a building or structure shall be required.

Sec. 53-182 Reduced shoreland setback for a new principal structure.

(1) *Existing principal structures in both directions (i.e. two-sided averaging).* Where there are existing principal structures in both directions of a new proposed principal structure, a shoreland setback less than the required 75-foot setback from the ordinary high water mark of section 53-181 shall be permitted for a new proposed principal structure provided all of the following are met:

- (a) Both of the existing principal structures are located on lots immediately adjacent to the lot of the proposed new principal structure.
- (b) Both of the existing principal structures are located within 250 feet of the proposed new principal structure.
- (c) Both of the existing principal structures are the closest principal structure on their respective lots to the new proposed principal structure.
- (d) Both of the existing principal structures are located less than 75 feet from the ordinary high water mark.
- (e) The reduced shoreland setback shall equal the average of the distances that the two existing principal structures are set back from the ordinary high water mark.
- (f) The reduced shoreland setback shall not be reduced to less than 35 feet from the ordinary high water mark.

(2) *Existing principal structures in only one direction (i.e. one-sided averaging).* Where there is an existing principal structure in only one direction of a new proposed principal structure, a shoreland setback less than the required 75' setback from the ordinary high water mark of section 53-181 may be permitted for a new proposed principal structure provided all of the following are met:

- (a) The existing principal structure is located on a lot immediately adjacent to the lot of the proposed new principal structure.
- (b) The existing principal structure is located within 250 feet of the proposed new principal structure.
- (c) The existing principal structure is the closest principal structure on its lot to the new proposed principal structure.
- (d) The existing principal structure is located less than 75 feet from the ordinary high water mark.
- (e) The reduced shoreland setback shall equal the average of 75 feet and the distance that the existing principal structure is set back from the ordinary high water mark.
- (f) The reduced shoreland setback shall not be reduced to less than 35 feet from the ordinary high water mark.

Sec. 53-183 Exempt structures in the shoreland setback area. All of the following structures are exempt from the shoreland setback established under section 53-181:

- (1) *Dry boathouses.* Boathouses located entirely above the ordinary high water mark, entirely within the access and viewing corridor, that do not contain plumbing, and are not used for human habitation. The roof of a boathouse may be used as a deck provided that:
 - (a) The boathouse has a flat roof.
 - (b) The roof has no side walls or screens.
 - (c) The roof may have a railing that meets the Department of Safety and Professional Services standards.
- (2) *No side, open-sided, and screened structures.* No side, open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area, provided the following requirements of s. 59.692(1v), Stats, are met:
 - (a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
 - (b) The total floor area of all the structures in the shoreland setback area of the property will not exceed 200 square feet. Boathouses shall be excluded from the calculation.
 - (c) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - (d) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
- (3) *Fishing rafts.* Fishing rafts that are authorized on the Wolf River and Mississippi River under s. 30.126, Stats.
- (4) *Broadcast signal receivers.* Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
- (5) *Utility structures.* Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, and private on-site wastewater treatment systems that comply with ch. SPS 383, Wis. Admin. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that are constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.
- (6) *Walkway, stairway, or rail system.* A walkway, stairway, or rail system that is necessary to provide pedestrian access to the shoreline and is a maximum of 60-inches in width.
- (7) *Devices or systems used to treat runoff from impervious surfaces.* Devices or systems used to treat runoff from impervious surfaces, provided the requirements of s. 59.692(1k)(a)6, Stats, and s. 59.692(1k)(am)1, Stats, are met.
- (8) *Fence.* A fence along a roadway that meets all of the following requirements:
 - (a) Is not taller than 15 feet.
 - (b) Is located not less than 2 feet landward of the ordinary high water mark.
 - (c) Is located entirely outside of a highway right-of-way.
 - (d) Is located not less than 10 feet from the edge of a roadway and not more than 40 feet from the edge of a roadway or highway right-of-way, whichever is greater.
 - (e) Is generally perpendicular to the shoreline.
- (9) *Bridges.* A bridge for which the department has issued a permit under s. 30.123, Stats.

Sec. 53-184 Structures in the floodplain.

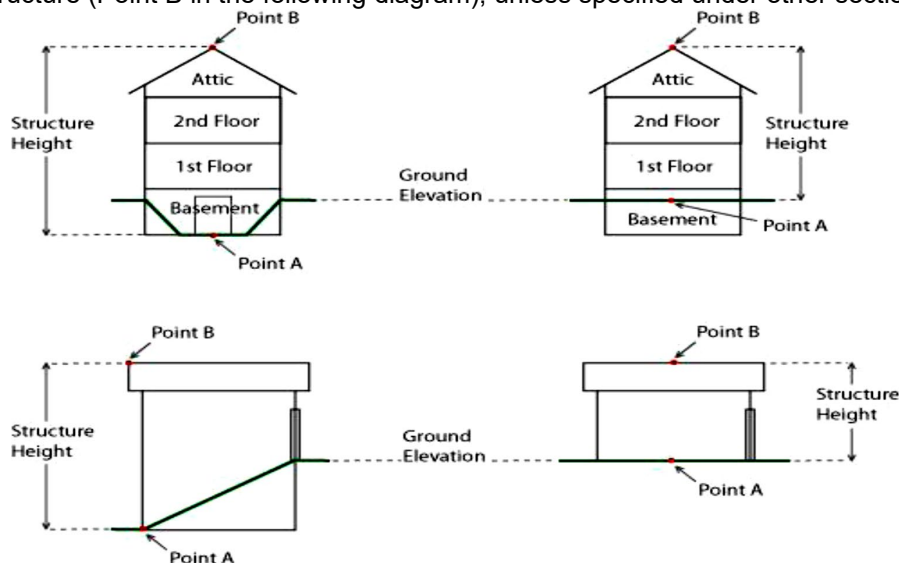
Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

DIVISION 3 HEIGHT.

Sec. 53-185 Purpose: To protect and preserve wildlife habitat and natural scenic beauty.

Sec. 53-186 Height standard. A structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters is prohibited.

Sec. 53-187 Measuring height. Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.



Secs. 53-188 – 53-210 Reserved.

ARTICLE VII VEGETATION.

Sec. 53-211 Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, vegetation removal shall be regulated in a manner to protect water quality and reduce soil erosion and the flow of effluents, sediments and nutrients.

Sec. 53-212 Activities allowed within a vegetative buffer zone. A vegetative buffer zone is maintained or created to protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote the preservation and restoration of native vegetation. The vegetative buffer zone is the area that extends from the ordinary high water mark to 35 feet landward. Removal or destruction of vegetation in the vegetative buffer zone shall be prohibited except as follows:

- (1) Routine maintenance of vegetation which means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (2) The removal or destruction of vegetation for the creation of an access and viewing corridor provided the

following requirements are met:

- (a) The access and viewing corridor remains a strip of vegetated land for the purpose of providing safe pedestrian access to the shore through the vegetative buffer zone.
 - (b) The access and viewing corridor may be 35% of the shoreline frontage but in no case shall it be less than 10 feet or greater than 200 feet.
 - (c) The viewing corridor may run contiguously for the entire maximum width allowed based on the shoreline frontage owned.
- (3) The removal of trees and shrubs on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in NR 1.25(2)(b), Wis. Adm. Code, and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
- (4) The removal of vegetation to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard provided that any vegetation removed be replaced by replanting in the same area with native species as soon as practicable.
- (5) A permit may be issued for additional vegetation management activities in the vegetative buffer zone. The permit also shall require an enforceable restriction to preserve the newly restored area be filed at the Register of Deeds. A perpetual operation and maintenance plan shall be required to be developed for each specific site and be filed with the permit. Failure to follow the operation and maintenance plan will void the permit. A permit issued under this Section shall require the following information to be provided by the permittee:
- (a) Detailed plans approved by the County documenting the need and purpose of the vegetation removal.
 - (b) Sufficient information within the plans showing that it is designed to:
 - 1. Control erosion by limiting sedimentation into the waterbody;
 - 2. Improve the plant community by replanting in the same area; and
 - 3. Maintain and monitor the newly restored area.
- (6) Removal of vegetation within the vegetative buffer zone in conjunction with stream bank restoration or habitat improvement projects through Monroe County Land Conservation Department and/or the natural resource conservation service.

Secs. 53-213 – 53-239 Reserved

ARTICLE VIII FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCAVATING.

Sec. 53-240 Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, land disturbances may be allowed and authorized only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

Sec. 53-241 Applicability. Filling, grading, lagooning, dredging, ditching, and excavating may be authorized by permit according to sections 53-242 and 53-244, and only if done in a manner that meets the purpose of section 53-240 and in accordance with the provisions of section NR 115.04, the requirements of Wis. Stats. ch. 30, and other state and federal laws where applicable.

Sec. 53-242 General requirements. In order to implement section 53-241, a permit for filling, grading, lagooning, dredging, ditching or excavating within in the shoreland area may be granted provided that:

- (1) A permit is required to be issued for filling, grading, lagooning, dredging, ditching, or excavating within 300 feet

of the ordinary high water mark of navigable waters.

(2) It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer or for the construction of an exempt structure under section 53-183, or is in conjunction with stream bank restoration project or habitat improvement projects through Monroe County Land Conservation Department and/or the natural resource conservation service.

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

(4) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of Article III.

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

(6) Any fill placed in the shoreland area is protected against erosion by the use of vegetative cover or stabilized in another acceptable and approved manner.

Sec. 53-243. Soil conservation practices and agricultural drainage maintenance. The maintenance of existing agricultural drainage systems shall be allowed in conformity with the following construction standards:

(1) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a permit under subsection 53-242 is obtained.

(2) Ditch banks shall be constructed at a slope of two horizontal to one vertical (50 percent grade) or flatter.

(3) Ditch banks shall be maintained in a sod cover and free of woody vegetation.

(4) A thirty-five-foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

Sec. 53-244 Permit conditions. The following conditions shall apply to permits granted under this article:

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

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

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

(4) Lagoons shall be constructed to avoid fish trap conditions.

(5) Fill shall be stabilized according to accepted engineering standards.

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

(7) Construction associated with land disturbances are encouraged to incorporate slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated and stabilized.

(8) Other project-related conditions may be considered.

Secs. 53-245 – 53-270 Reserved.

ARTICLE IX IMPERVIOUS SURFACE STANDARDS.

Sec. 53-271 Purpose. Impervious surface standards shall be established to protect water quality, fish and wildlife habitat, and to protect against pollution of navigable waters.

Sec. 53-272 Applicability. Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface that is or will be located within 300 feet of the ordinary high water mark of any navigable waterway on any of the following:

- (1) A riparian lot or parcel.
- (2) A non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high water mark of any navigable waterway.

Sec. 53-273 Calculation of percentage of impervious surface. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in sections 53-274 and 53-275 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

Sec. 53-274 Treated impervious surfaces. Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under section 53-273:

- (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
- (2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.

Sec. 53-275 Roadways & sidewalks. Roadways defined in s. 340.01(54), Stats, and sidewalks defined in s. 340.01(58), Stats, shall be excluded from the impervious surface calculation under section 53-273.

Sec. 53-276 General impervious surface standard. The percentage of impervious surface allowed on a lot or parcel described under section 53-272 and as calculated under section 53-273 shall not exceed 15%.

Sec. 53-277 Maximum impervious surface standard. A lot or parcel may exceed the impervious surface standard under section 53-276 provided the following standards are met:

- (1) A lot or parcel described under section 53-272, calculated under section 53-273, and under the general impervious surface standard of section 53-276 may have greater than 15% impervious surface but not more than 30% impervious surface.
- (2) For lots or parcels that exceed the standard under section 53-276 but do not exceed the maximum standard section 53-277(1), a permit can be issued for development with a mitigation plan that meets the standards found in section 53-323.

Sec. 53-278 Existing impervious surfaces. For existing impervious surfaces that were lawfully placed when

constructed but that do not comply with the impervious surface standard in section 53-276 or the maximum impervious surface standard in section 53-277, the property owner may do any of the following:

- (1) Maintain and repair the existing impervious surfaces;
- (2) Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
- (3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in sections 53-180 through 53-184.

Secs. 53-279 – 53-300 Reserved.

ARTICLE X NONCONFORMING USES AND STRUCTURES.

DIVISION 1 NONCONFORMING USES

Sec. 53-301 Applicability. This section applies to a use of a dwelling, building, or parcel of land that existed lawfully before the existing zoning ordinance was enacted or amended, but that does not conform to the allowed uses in the current ordinance.

Sec. 53-302 General rule.

- (1) The continuance of the lawful use of any building, premises, structure, or fixture for any trade or industry for which such building, premises, structure, or fixture is used at the time that the ordinance takes effect may not be prohibited.
- (2) The alteration of, or addition to, or repair in excess of 50 percent of its assessed value of any existing building, premises, structure, or fixture for the purpose of carrying on any prohibited trade or new industry within the district where such buildings, premises, structures, or fixtures are located, may be prohibited.
- (3) The county may prohibit the continuance of the nonconforming use of a temporary structure.
- (4) If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the ordinance.
- (5) A manufactured home community licensed under s. 101.935, Stats, that is a nonconforming use continues to be a nonconforming use notwithstanding the occurrence of any of the following activities within the community:
 - (a) Repair or replacement of homes.
 - (b) Repair or replacement of infrastructure.

DIVISION 2 NONCONFORMING STRUCTURES.

Sec. 53-303 Applicability. This section applies to an existing principal or accessory structure that was lawfully placed when constructed but that does not comply with the current required ordinary high water mark setback of a navigable waterway.

Sec. 53-304 Maintenance, repair, replacement or vertical expansion of nonconforming structures. A structure that was lawfully placed when constructed but that does not comply with the required shoreland setback per sections 53-180 through 53-184 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does

not expand the footprint of the nonconforming structure. Further, a structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. The expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.

Sec. 53-305 Lateral expansion of nonconforming principal structures within the setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required shoreland setback per sections 53-180 through 53-184 may be expanded laterally, provided that all of the following requirements are met:

- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (4) Issue a permit that requires an approved mitigation plan that shall be implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 53-323.
- (5) All other provisions of the shoreland ordinance shall be met.

Sec. 53-306 Expansion of nonconforming principal structures beyond the setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required shoreland setback under sections 53-180 through 53-184 may be expanded horizontally, landward, or vertically provided that the expanded area meets the shoreland setback requirements per sections 53-180 through 53-184 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per sections 53-180 through 53-184 or Article IX.

Sec. 53-307 Relocation of nonconforming principal structures. An existing principal structure that was lawfully placed when constructed but that does not comply with the required shoreland setback per sections 53-180 through 53-184 may be relocated on the property provided all of the following requirements are met:

- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (3) No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (4) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement sections 53-180 through 53-184.
- (5) The county issues a permit that requires an approved mitigation plan that shall be implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 53-323.
- (6) All other provisions of the shoreland ordinance shall be met.

Secs. 53-308 – 53-319 Reserved.

ARTICLE XI MAINTENANCE, REPAIR, REPLACEMENT OF A STRUCTURE AND MITIGATION

Sec. 53-320 Maintenance, repair, replacement, or vertical expansion of a structure authorized by variance.

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

Sec. 53-321 Maintenance, repair, or replacement of an existing exempt structure in the shoreland setback area.

(1) All or any part of an existing exempt structures under section 53-183 may be maintained, repaired, replaced, restored, rebuilt or remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure.

(2) An activity allowed under section 53-321(1) shall be allowed to expand the footprint of the structure provided it is the minimal expansion necessary to comply with applicable state or federal requirements.

Sec. 53-322 Maintenance, repair, or replacement of a building or structure in violation of a county shoreland zoning ordinance that may not be enforced.

(1) An enforcement action may not commence against a person who owns a building or structure that is in violation of a shoreland zoning standard or this shoreland zoning ordinance if it has been in place for more than ten years.

(2) A building or structure that is in violation of a shoreland zoning standard or this shoreland zoning ordinance but has been in place for more than ten years may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. However, the structure may not be vertically or laterally expanded.

Sec. 53-323 Mitigation.

The purpose of mitigation is to establish and maintain measures adequate to offset the impacts of development on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.

(1) A plan to mitigate for the adverse effects of construction, on a waterfront property, within the shoreland area of a navigable body of water is required under other sections of this chapter. The number of mitigation points necessary for a land use permit depends on the type, size and location of the construction activity. The Monroe County Zoning Department must approve a mitigation plan and an affidavit shall be filed with the property deed. The following activities will be awarded the number of points indicated:

(a) The removal of a nonconforming structure, which is nonconforming because it does not meet the requirements of section 53-181 and which is 125 square feet or less in area - 2 points.

(b) The removal of a nonconforming structure, which is nonconforming because it does not meet the requirements of section 53-181 and which is greater than 125 square feet in area - 3 points.

(c) The implementation of a shoreland vegetative buffer zone under section 53-212 which is on the property of the proposed construction - 3 points.

- (d) Use of exterior building materials or treatments that are inconspicuous and blend with the natural setting of the site - 1 point.
- (e) Removal of waterward improvements (seawalls, dockage, artificial sand beaches, etc.) and/or restoration of emergent aquatic vegetation - 2 points.
- (f) Any other mitigation that is deemed appropriate by the zoning administrator may be used to meet the mitigation requirements of subsection (a) of this section.

(2) A shoreland mitigation affidavit shall be signed and recorded at the Monroe County Register of Deeds Office prior to the issuance of the zoning permit for the expansion or improvement of a nonconforming principal structure which requires mitigation under section 53-305.

(3) An impervious surface maximum as established in section 53-277 is permitted as long as the following standards are met:

- (a) Three mitigation points from subsections (1)(a)—(f) of this section are obtained.
- (b) The mitigation plan affidavit is recorded at the register of deeds office.
- (c) Impervious surfaces cannot exceed 15 percent within 0—35 feet from the ordinary high-water mark of a navigable body of water.

(4) Expansion of a nonconforming structure, which is located a minimum of 35 feet from the ordinary high-water mark must meet the following:

- (a) Three mitigation points from subsections (1)(a)—(f) are obtained.
- (b) The mitigation plan affidavit is recorded at the register of deeds office.

Secs. 53-324 – 53-330 Reserved.

ARTICLE XII ADMINISTRATIVE AND ENFORCEMENT PROVISIONS.

Sec. 53-331. Zoning administrator. The zoning administrator and staff shall have the following duties and powers:

- (1) Administer a system of permits for new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county zoning administrator unless prohibited by Wis. Stats. § 59.692(1k). Inspect permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
- (2) Maintain a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.
- (3) Maintain a map of the zoning districts and the recording, on an official copy of such map, of all district boundary amendments.

Sec. 53-332. Permits.

(1) *When required.* Except where another section of this chapter specifically exempts certain types of development from this requirement, a permit shall be obtained from the zoning administrator before any new development.

(2) *Application.* An application for a 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 information:

- (a) Name and address of applicant and property owner.
- (b) Legal description of the property and type of proposed use.
- (c) A to scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, centerline of abutting highways and the ordinary high-water mark of any abutting or adjacent waterways.
- (d) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

- (e) Plans for appropriate mitigation when required.
- (f) Payment of the appropriate fee.
- (g) Additional information required by the zoning administrator.

(3) *Expiration of permit.* Zoning permits shall expire 12 months from date issued if no substantial work has commenced.

Sec. 53-333. Conditional use permits (special exception permits).

(1) *Application for a conditional use permit (special exception permit).* Any use listed as a special exception or conditional use in this chapter or chapter 47, shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit or special exception permit has been granted by the zoning committee per section 47-584 of this Code. 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:

- (a) A plan of the area showing surface contours, soil types, ordinary high-water marks, groundwater conditions, subsurface geology and vegetative cover.
- (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- (c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
- (d) Specifications for areas of proposed filling, grading, lagooning or dredging.
- (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.
- (f) Rationale for why the proposed conditional use or special exception meets all of the conditional use or special exception criteria listed in the ordinance.

(2) *Standards applicable to all conditional uses and special exceptions.* In deciding a conditional use or special exception application, the zoning committee shall evaluate the effect of the proposed use upon:

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

(3) *Conditions attached to conditional uses and special exceptions.* 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. Upon consideration of the factors listed above, the zoning committee shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter. In granting a conditional use permit or special exception permit, the zoning committee may not impose

conditions which are more restrictive than any of the specific standards in this chapter. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this chapter.

(4)*Decision.* The zoning committee shall state in writing the grounds for granting or denying a conditional use or special exception permit.

(5)*Recording.* When a conditional use permit or special exception permit is approved, an appropriate record shall be made of the land use and structures permitted. Such permit shall be applicable solely to the structures, use and property so described.

(6)*A conditional use permit holder may apply for a replacement conditional use permit.* The replacement process shall follow section 47-584. If the replacement conditional use permit is granted the original conditional use permit shall be surrendered. If the replacement conditional use permit is denied by the zoning committee or vetoed by the town board the original conditional use permit or permits shall remain in effect.

(7)*Expiration.* A conditional use permit shall expire three years from the issue date if the use has not begun.

(8)*Pending violations or arrears.* A conditional use permit may not be issued for any property upon which there are:

- (a) Pending violations of chapters 35, 41, 47, 50 or 53 of the Monroe County Code; or
- (b) Delinquent real estate taxes for the property as determined by the Monroe County Treasurer.

(9)*Abatement order.* The abatement process for a conditional use permit is in addition to other penalties allowed in this chapter.

- (a) *Issuance of order.* If the zoning department administrator, after investigation, has reasonable grounds to believe that a violation of a condition on a conditional use permit is occurring or has occurred, the zoning administrator may issue and serve an order of abatement directed to the conditional use permit holder. Service shall be by U.S. Post Office mail sent to the address listed for the real estate property taxes for the subject property of the permit.
- (b) *Content of order.* An abatement order issued as set out above shall contain all of the following: The name and address of the conditional use permit holder; identification of the real property subject to the conditional use permit; the condition alleged to be violated; a brief description of the violation; a prohibition on further violations; a description of measures necessary to correct the alleged violation.
- (c) *Process.* Along with the above content, the order for abatement shall inform the conditional use permit holder that the order of abatement may be appealed to the zoning committee. The request for appeal must be within the ten-day period following service of the order, by filing the request with corporation counsel office. The hearing shall be informal in nature. The zoning committee shall either confirm the order of abatement or cancel the order of abatement.

(10) *Revocation of conditional use permit.* If the zoning department administrator, after investigation, has reasonable grounds to believe that a second violation of a condition on a conditional use permit is occurring or has occurred within one year of a first violation, the zoning administrator may issue and serve an order of revocation directed to the conditional use permit holder. Service shall be by US. Post Office mail sent to the address listed for the real estate property taxes for the subject property of the permit.

- (a) *Content of order.* An order of revocation issued as set out above shall contain all of the following: The name and address of the conditional use permit holder; identification of the real property subject to the conditional use permit; the date and basis for the finding of the first violation; the condition alleged to be violated; a brief description of the violation.
- (b) *Process.* Along with the above content, the order for revocation shall inform the conditional use permit holder that the order of revocation may be appealed to the zoning committee. The request for appeal must be within the ten-day period following service of the order, by filing the request with corporation counsel office. The

hearing shall be informal in nature. The zoning committee shall either confirm the order of revocation or cancel the order of revocation.

Sec. 53-334. Variances.

The board of adjustment may grant upon appeal a variance from the standards of this chapter. Sections 47-885 through 47-889 of this Code shall apply. In addition the applicant must convincingly demonstrate that:

- (1) Literal enforcement of the provisions of the chapter will result in unnecessary hardship on the applicant;
- (2) The hardship is due to special conditions unique to the property; and
- (3) Is not contrary to the public interest.

Sec. 53-335. Fees.

See section 47-854 of this Code.

Sec. 53-336. Changes and amendments.

The county board may from time to time, alter, supplement or change the regulations contained in this chapter in accordance with the requirements of Wis. Stats. § 59.69(5)(e); ch. NR 115, Wis. Admin. Code; and this chapter where applicable.

- (1) Shoreland wetland map amendments. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency and shall follow section 53-66.

Sec. 53-337. Notice to department of natural resources.

(1) Written notice to the appropriate office of the department at least ten days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under Article V of this chapter. Upon request of the department the county shall provide to the appropriate office a copy of any permit issued under section 53-332.

(2) Submission to the appropriate office of the department, within ten days after grant or denial, of copies of any permit, any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

Sec. 53-338. Enforcement and penalties.

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, 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 corporation counsel who shall expeditiously prosecute violations. Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this chapter shall be subject to a forfeiture of not less than \$50.00, nor more than \$500.00 for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this chapter and as such, forfeitures shall apply accordingly.

Secs. 53-339 – 53-630 Reserved.

ARTICLE XIII DEFINITIONS.

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

unless otherwise specified shall be measured horizontally.

The following terms used in this ordinance mean:

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

Accessory structure means a subordinate structure which is devoted to a use incidental to the principal use of the property. Accessory structures include, but are not limited to, a detached garage, shed, barn, boathouse, gazebo, patio, deck, porch, fire pit, swimming pool, hot tub, fence, retaining wall, driveway, parking lot, sidewalk, walkway, detached stairway and lift.

Agribusiness in this chapter means a retail or manufacturing business which supports the production operations of a farm, the manufacture and distribution of farm equipment and supplies, and the processing, storage, and distribution of farm commodities.

Boathouse means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

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

Campground means a parcel or tract of land owned by a person, state, or local government that is designed, maintained, intended, or used for the purpose of providing campsites offered with or without charge, for temporary overnight sleeping accommodations of four or more camping units or one to three units if represented as a campground by advertising through media, a sign or a symbol.

Club means an association of persons for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

Common open space means undeveloped land within a planned unit development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment of residents of the development. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historic structures and archaeological sites including Indian mounds and/or such recreational facilities for residents.

Community-based residential facility (CBRF) means a place where five or more unrelated adults reside, in which care, treatment or services above the level of room and board, but not including nursing care, are provided to persons residing in the facility as a primary function of the facility.

Condominium means a community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Wis. Stats. ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style.

County zoning agency means that committee or commission created or designated by the county board under s. 59.69(2)(a), Stats, to act in all matters pertaining to county planning and zoning.

Department means the Department of Natural Resources.

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.

Existing development pattern means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

Facility means any property or equipment of a public utility, as defined in s. 196.01 (5), Stats, or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

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 ch. NR 116, Wis. Adm. Code.

Footprint means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5.

Generally accepted forestry management practices means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not to be calculated as impervious surfaces. "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively. "Sidewalk" means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, constructed for use of pedestrians.

Lot means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.

Lot area means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.

Lot of record means any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Mitigation means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

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 s. 281.31(2)(m), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

- (a) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such

- lands were not navigable streams before ditching; and
- (b) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body

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

Previously developed means a lot or parcel that was developed with a structure legally placed upon it.

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.

Routine maintenance of vegetation means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

Salvage yard means the site used for the storage or sale of salvageable materials or for the purpose of salvage, wrecking, dismantling or demolition of salvageable materials, including the collection and/or dismantling of automobiles or other objects for transportation, reuse or resale.

Salvageable material and recyclables means discarded material no longer of value as intended, but which is stored or retained for salvage, sale or further reuse.

Shoreland 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.

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

Shoreland-wetland zoning district means a zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

Small business means any occupation for gain or support conducted on property by resident occupants which is customarily incidental to the principal use of the premises.

Solid waste means garbage, refuse and all other discarded or salvageable material, including waste material resulting from industrial, commercial and agricultural operations, and from domestic use and public service activities, but does not include solid or dissolved material in wastewater effluents or other common water pollutants.

Special exception (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.

Structure means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch, or fire pit.

Substandard Lots means a legally created lot or parcel that met minimum area and minimum average width

requirements when created, but does not meet current requirements for a new lot.

Tourist rooming house means all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under ch. ATCP 73 Wis. Admin. Code.

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

Variance means an authorization granted by the board of adjustment to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

Wetlands means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.