

CHAPTER 20

SHORELAND ZONING

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20.00 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE & TITLE

20.01 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 59.97, 59.971, 59.99, 87.30 and 144.26, Wis. Stats.

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

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

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

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

20.032 PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:

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

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

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

20.034 PRESERVE SHORE COVER AND NATURAL BEAUTY THROUGH:

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

20.04 TITLE. Shoreland Zoning Ordinance of La Crosse County, WI.

20.05 GENERAL PROVISIONS.

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

20.061 Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in La Crosse County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of La Crosse County" or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

20.062 Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in La Crosse County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county flood plain zoning maps shall be used to delineate floodplain areas.

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

20.064 Under s. 144.26(2)(d), Wis. Stats., notwithstanding any other provisions of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river.
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in nonstructural agricultural use.

20.07 SHORELAND ZONING MAPS. The maps designated below are hereby adopted and made a part of this ordinance. They are on file in the office of the zoning administrator for La Crosse County.

- (1) All that part of the following United States Geological Survey Maps that lie within La Crosse County:

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- (a) GALESVILLE QUADRANGLE Dated 1973
- (b) HOLMEN QUADRANGLE Dated 1973
- (c) LA CRESCENT QUADRANGLE Dated 1956
- (d) LA CROSSE QUADRANGLE Dated 1963
- (e) ONALASKA QUADRANGLE Dated 1963
- (f) NORTH BEND QUADRANGLE Dated 1969
- (g) PICKWICK QUADRANGLE Dated 1973
- (h) ST JOSEPH QUADRANGLE Dated 1963
- (i) SPARTA QUADRANGLE Dated 1947
- (j) STEVENSTOWN QUADRANGLE Dated 1969
- (k) STODDARD QUADRANGLE Dated 1965
- (l) WEST SALEM QUADRANGLE Dated 1963
- (m) VIROQUA QUADRANGLE Dated 1965

All subsequent and future revisions of the above quadrangle maps are hereby adopted as part of this ordinance as if set forth and fully described herein.

(2) The U.S. Department of Agriculture Soil Conservation Service Soil Survey of La Crosse County, Series 1956 No. 7, issued April, 1960.

(3) Flood Boundary and Floodway Map of the unincorporated areas of La Crosse County prepared by the Federal Emergency Management Agency, dated March 15, 1984. Adopted herewith are any amendments made thereto.

(4) "Flood Plain Information - Mississippi River and Tributaries La Crosse Wisconsin" prepared by the U.S. Army Corps of Engineers. Dated April 1970.

(5) Wisconsin Wetland Inventory maps stamped "FINAL" on December 6, 1983.

20.075 COMPLIANCE. The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (See section 20.60 for standards applicable to nonconforming uses) Buildings, and all other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance

20.076 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s. 13.48(13), WI Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.12(4) Wis. Stats., applies.

20.08 ABROGATION AND GREATER RESTRICTIONS. The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under s. 59.97, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than s. 59.97, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

20.081 This ordinance shall not require approval or be subject to disapproval by any town or town board.

20.082 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.

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

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

20.095 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.

20.10 LAND DIVISION REVIEW AND SANITARY REGULATIONS

20.11 LAND DIVISION REVIEW. The county shall review, pursuant to s. 236.45, Wis. Stats., all land division in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5 year period. In such review the following factors shall be considered:

- (a) Hazards to the health, safety or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters, as required by law.
- (d) Adequate storm drainage facilities.

(e) Conformity to State law and administrative code provisions.

(f) Conformity to Chapter 18 of the La Crosse County Code of Ordinances titled, "La Crosse County Subdivision Control Ordinances."

20.12 SANITARY REGULATIONS. Design and installation of private sewage disposal systems shall be governed by Chapter 12 of the La Crosse County Code of Ordinances adopted pursuant to s. 59.065 Wis. Stats. Where public water supply systems are not available, private well construction shall be required to conform to Ch. NR 112, Wis. Adm. Code.

20.20 DIMENSIONS OF BUILDING SITES.

20.21 LOTS NOT SERVED BY PUBLIC SANITARY SEWER.

20.211 MINIMUM AREA AND WIDTH FOR EACH MAIN BUILDING. The minimum lot area and average minimum lot width shall be in compliance with the respective zoning district and special district in which the land lies. The minimum lot width shall also be construed as being the minimum frontage measured along the ordinary high-water line. Not more than one principal or main building is permitted on any lot, with the exception of those permitted in a planned unit development under section 18.80 of the La Crosse County Subdivision Control Ordinance.

20.212 SINGLE FAMILY DWELLINGS.

ZONING DISTRICT	MINIMUM LOT AREA	MINIMUM LOT WIDTH
All Residential Districts	20,000 sq. ft.	100 feet
All Commercial Districts	20,000 sq. ft.	100 feet
Agricultural District "A"	20,000 sq. ft.	100 feet
Agricultural District "B"	20,000 sq. ft.	120 feet
Exclusive Agriculture District	35 acres	300 feet
Transitional Agriculture District	35 acres	300 feet

20.213 TWO FAMILY DWELLINGS.

ZONING DISTRICT	MINIMUM LOT AREA	MINIMUM LOT WIDTH
Residential District "B"	25,000 sq. ft.	100 feet
Residential District "C"	25,000 sq. ft.	100 feet
Agricultural District "A"	25,000 sq. ft.	100 feet
Agricultural District "B"	25,000 sq. ft.	120 feet
Exclusive Agriculture District	35 acres	300 feet
Transitional Agriculture District	35 acres	300 feet

20.214 MULTI-FAMILY DWELLINGS.

ZONING DISTRICT	MINIMUM LOT AREA	MINIMUM LOT WIDTH
Exclusive Agriculture District	35 acres	300 feet
Transitional Agriculture District	35 acres	300 feet

In Residential District "C", Agriculture District "A", and in Agriculture District "B", the minimum lot area shall be 20,000 sq. ft. for the first living unit plus 5,000 sq. ft for each additional unit. The minimum lot width for a multi-family dwelling is 120 feet.

20.215 BLACK RIVER DISTRICT. All lots abutting the Black River in the area from the La Crosse-Jackson County line downstream to State Trunk Highway 93 shall contain a minimum lot width of 200 feet at the water's edge and a minimum lot area of 1.50 acres.

20.216 SIDE YARDS. There shall be a side yard for each main building. The minimum width of one main side yard shall be 10 feet, the minimum combined width of both main side yards shall be 25 feet, exclusive of boat houses, one accessory building is permitted. There shall be a side yard of 5 feet for accessory structures excluding fences.

20.22 LOTS SERVED BY SANITARY SEWER.

20.221 MINIMUM AREA AND WIDTH FOR SINGLE FAMILY DWELLINGS. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 75 feet with at least 75 feet of frontage at the ordinary high-water mark.

20.222 MINIMUM AREA AND WIDTH FOR TWO FAMILY DWELLINGS. The minimum lot area shall be 14,400 sq. ft. and the minimum average lot width shall be 80 feet with at least 80 feet of frontage at the ordinary high-water mark.

20.223 MINIMUM AREA AND WIDTH FOR MULTI-FAMILY DWELLINGS. The minimum lot area shall be 17,000 sq. ft. for a 3 family dwelling and a minimum of 3,000 sq. ft. of lot area shall be required for each additional living unit.

20.224 SIDE YARDS. For building less than 1½ stories, the minimum width of one main side yard shall be 8 feet. The minimum combined width of both main side yards shall be 20 feet. For buildings from 1½ to 2½ stories high, the sum of the widths of the required side yard shall not be less than 25 feet, and no single side yard shall be less than 10 feet in width. There shall be a side yard of 4 feet for accessory structures excluding fences.

20.23 SUBSTANDARD LOTS.

20.231 SUBSTANDARD LOTS SERVED BY A PUBLIC SANITARY SEWER. A substandard lot served by a public sanitary sewer which is at least 7,500 sq. ft. in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the ordinary high water mark may be used as a building site for a single family dwelling upon issuance of a zoning permit if it meets all of the following requirements:

- (1) Such use is permitted in the zoning district.
- (2) The lot was on record in the county register of deeds office prior to September 14, 1970
- (3) The lot was in separate ownership from abutting lands prior to September 14, 1970. If abutting lands and the substandard lot were owned by the same owner after September 14, 1970, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance.

20.232 SUBSTANDARD LOTS NOT SERVED BY PUBLIC SANITARY SEWER. A substandard lot not served by public sanitary sewer which is at least 10,000 sq. ft. in area and at least 65 feet in width at the building set back line and at least 65 feet in width at the ordinary high water mark may be used as a building site for a single family dwelling upon issuance of a zoning permit if it meets all of the requirements of section 20.231(1)-(3) of this ordinance.

OTHER SUBSTANDARD LOTS. Except for lots which meet the requirements of sections 20.231 or 20.232, a zoning permit for the improvement of a lot having lesser dimensions than those stated in sections 20.21 and 20.22 shall be issued only after granting of a variance by the board of adjustment.

20.30 SETBACKS FROM THE WATER.

20.31 LOTS THAT ABUT ON NAVIGABLE WATERS. All buildings and structures, except piers, boat hoists, boathouses and open fences which may require a lesser setback, shall be set back at least 75 feet from the ordinary high-water mark of navigable waters, except as provided in Section 20.32 and 20.33 of this Code, and except for the following permitted exception:

(a) A stairway, walkway or lift is permitted in the shoreland setback area only when it is essential to provide pedestrian access to the pier or shoreline because of steep slopes, rocky or wet unstable soils, and when the following conditions are met:

1. There are no other locations or facilities on the property which allow adequate access to a pier or to the shoreline. Only one stairway or one lift is allowed, not both, except where there is an existing stairway and the lift will be mounted to or lie immediately adjacent to the existing stairway.

2. Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas.

3. Vegetation which stabilizes slopes or screens structural development from view shall not be removed.

4. Structures shall be colored and screened by vegetation so as to be inconspicuous when viewed against the shoreline.

5. Canopies, roofs and sides are prohibited; open railings may be provided where required for safety.

6. A maximum width of four (4) feet from the outside dimensions of the stairways, walkways and lifts is allowed.

7. Landings are allowed when required for safety purposes and shall not exceed forty (40) square feet; attached benches, seats, tables, and similar attachments, etc., are prohibited.

8. Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavation that is proposed must comply with requirements of Sections 20.40 through 20.447 of this Ordinance.

20.32 SPECIAL SETBACK REQUIREMENTS FOR THE BLACK RIVER. The minimum setback for all buildings and structures from the ordinary high water mark of the Black River in the area from the La Crosse-Jackson County line downstream to State Trunk Hwy. 35 shall be 100 feet or 25 feet landward from the bluff line, whichever distance is more restrictive.

20.33 REDUCED BUILDING SETBACKS. A setback of less than that required by section 20.31 may be permitted by the zoning administrator where there is at least one main building on higher side of the applicant's lot, within 150 feet of the proposed site that is built to less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest main building on each side of the proposed site or, if there is an existing main building on only one side, the setback shall be the average of the existing building's setback and the required setback. Any other setback reduction may be permitted by the board of adjustment pursuant to section 20.75 of this ordinance.

20.34 BOATHOUSES. The use of a boathouse for human habitation and the construction or placing of a boathouse waterward beyond the ordinary high-water mark of any navigable waters is prohibited. Boathouses shall be designed solely for storage of boats and related equipment. The highest point of the roof elevation of the boathouse shall not be more than 10 feet vertical measurement above the ordinary high-water mark. Railings may be placed on top of the boathouse in excess of the 10-ft. height standard provided the railing is not solid in appearance and not greater than 3.5 feet in height. Boathouses shall not be constructed where the existing slope is more than 20%. Not more than 1 boathouse may be permitted on any lot, and no such building shall have a floor area in excess of 600 square feet.

20.35 REMOVAL OF SHORE COVER.

20.36 PURPOSE. Regulation of tree and shrubbery cutting along the shores of navigable waters is necessary to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland. These provisions shall not apply to the removal of dead, diseased or dying trees at the discretion of the land owner, or to the silvicultural thinning upon recommendation of a Forester.

20.37 SHORELINE CUTTING. Tree and shrubbery cutting in an area parallel to the ordinary high-water mark, and extending 35 feet inland from all points along the ordinary high-water mark, shall be limited in accordance with the following provisions:

20.371 No more than 30 feet in any 100 feet, as measured along the ordinary high-water mark, may be clear cut to the depth of the 35-foot area.

20.372 No more than 30 feet in any 200 feet, as measured along the ordinary high-water mark, may be clear cut to the depth of the 35 foot area along the Black River, from the La Crosse-Jackson County line downstream to State Trunk Highway 35.

20.373 Natural shrubbery shall be preserved as far as practical and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

20.38 PATHS. Any path, road or passage within the 35-foot area shall be constructed and surfaced so as to effectively control erosion.

20.39 CUTTING PLAN. As an alternative to the above, a special cutting plan allowing greater cutting may be permitted by the Zoning and Land Information Committee by issuance of a special exception permit pursuant to section 20.74. An application for such permit shall include a map of the lot providing the following information: Location of parking, topography of the land, existing size and species of trees, location and species of shrubs, the proposed cutting and the proposed replanting. The committee may grant such a permit only if it finds that such special cutting plans; (a) will not cause undue erosion or destruction of scenic beauty, and (b) will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the committee may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.

20.395 CUTTING MORE THAN 35 FEET INLAND. From the inland edge of the 35-foot strip to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

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

20.41 GENERAL STANDARDS. Filling, grading, lagooning, dredging, ditching ting which does not require a permit under section 20.42 may be permitted in the shoreland area provided:

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

20.412 Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of section 20.532 and 20.533 of this ordinance.

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

20.414 Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

20.42 PERMIT REQUIRED. Except as provided in section 20.43 a special exception permit is required:

20.421 For any filling or grading of any area which is within 300 feet landward of the ordinary high-water mark of navigable water and which has surface drainage toward the water and on which there is either;

- (1) Any filling or grading on slopes of more than 20%.
- (2) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
- (3) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.

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

20.43 SOIL CONSERVATION PRACTICES. Soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for erosion control shall not require a permit under section 20.42 when designed and constructed to Soil Conservation Service technical standards.

20.44 PERMIT CONDITIONS. In granting a special exception permit under section 20.42, the Zoning and Land Information Committee shall attach the following conditions, where appropriate, in addition to those provisions specified in section 20.742 and 20.743:

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

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

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

20.444 Lagoons shall be constructed to avoid fish trap conditions.

20.445 Fill shall be stabilized according to accepted engineering standards.

20.446 Filling shall comply with the La Crosse County Floodplain Zoning Ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

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

20.50 SHORELAND-WETLAND DISTRICT.

20.51 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of 5 acres or more, (excluding point symbols) and which are shown on the Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance. A portion of a wetland which is less than 5 acres in size, and which is located in the unincorporated shoreland area within the county, shall be included in the shoreland-wetland district where the wetland as a whole is 5 acres or larger, but extends across the corporate limits of a municipality, across the county boundary or across the shoreland limits, so that the wetland is not regulated in its entirety by the county.

20.511 LOCATING SHORELAND-WETLAND BOUNDARIES. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory Map and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district.

20.52 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 development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

20.53 PERMITTED USES. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 10 and 31, Wis. Stats., and the provisions of other applicable local, state and federal laws.

20.531 Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under section 20.532 or 20.533.

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

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

- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;

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- (2) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
- (3) The maintenance and repair of existing agricultural drainage systems where permissible by s. 30.20, Wis. Stats., including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that the filling is permissible by ch. 30 Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
- (4) The construction or maintenance of fences for the pasturing or livestock, including limited excavating and filling necessary for such construction and maintenance;
- (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construct in and maintenance; and
- (6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

20.533 Uses which require the issuance of a zoning permit under section 20.72 and which may include filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - (a) The road cannot as a practical matter be located outside the wetlands.
 - (b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 20.552,
 - (c) The road is designed and constructed with the minimum cross sectional area practical to serve the intended use;
 - (d) Road construction activities are carried out in the immediate area of the roadbed only.
- (2) The construction or maintenance of nonresidential buildings, providing:
 - (a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland wetland district;
 - (b) The building cannot, as a practical matter, be located outside the wetland;

(c) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and

(d) Only limited filling or excavating necessary to provide structural support for the building is authorized.

(3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animals, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

(a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable:

(b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 20.533(1)(a)-(d) and;

(c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

(4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

(a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetlands;

(b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 20.552.

20.54 PROHIBITED USES. Any use not listed in sections 20.531, 20.532 or 20.533 is prohibited, unless the wetlands or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 20.55 of this ordinance and s. 59.97(5)(e), Wis. Stats.

20.55 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT

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

(1) A copy of every petition for a text map amendment to the shoreland wetland provisions of this ordinance, within 5 days of the filing of such petition with the Zoning Administrator who is a Deputy County Clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of the shoreland-wetland;

- (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
- (3) A copy of the county zoning agencies findings and recommendations to the county board; and
- (4) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

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

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

20.553 If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 20.552 of this ordinance, that amendment, if approved by the county board shall contain the following provisions:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30 day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.971(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.971(6) adoption procedure is completed or otherwise terminated."

20.60 NONCONFORMING USES & STRUCTURES.

20.61 The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance took effect and which is not in conformity with the provisions of this ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

20.611 If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.

20.612 The maintenance and repair of nonconforming boathouses that extend waterward beyond the ordinary high-water mark of any navigable waters shall comply with the requirements of s 30.121, Wis. Stats.

20.613 If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.

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

20.615 No structural alteration, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure, over the life of the building or structure, shall exceed 50 percent of its current estimated fair market value unless it is permanently changed to conform to the requirements of this ordinance.

20.616 If the alterations, addition or repair of a building or structure, with a nonconforming use or a nonconforming building or structure is prohibited because it is in excess of 50% of the current estimated fair market value, the property owner may still make the proposed alteration, addition or repair if:

(1) A nonconforming use is permanently changed to a conforming use:

(2) The property owner appeals the determination of the zoning administrator and either the county board of adjustment or the circuit court find in the property owner's favor under ss. 59.99(4) or 59.99(10), WI. Stats.

(3) The property owner successfully petitions to have the property rezoned by amendment to this ordinance in accordance with section 20.80 of this ordinance and s. 59.97(5)(e), Wis. Stats.

20.70 ADMINISTRATIVE PROVISIONS.

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

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

20.712 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.

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

20.714 Submit copies of variances, special exceptions and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted or denied to the district office of the Department.

20.715 Investigate and report violations of this ordinance to the county zoning committee and the corporation counsel.

20.72 ZONING PERMITS.

20.721 WHEN REQUIRED. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 20.531 and 20.532), a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 20.92(5) or any change in the use of an existing building or structure, is initiated.

20.722 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 enforcement of these regulations, the following data:

- (1) Name and address of applicant and property owner.
- (2) Legal description of the property and type of proposed use.
- (3) A sketch of the dimensions of the lot and location of buildings relative to the lot lines, centerline of abutting highways and the ordinary high-water mark of any abutting watercourses and water level on a date specified.
- (4) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

20.723 EXPIRATION OF PERMIT. Zoning permits shall expire 12 months from date issued if no substantial work has commenced.

20.73 CERTIFICATES OF COMPLIANCE

20.731 No land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied, until a certificate of compliance is issued by the zoning administrator.

- (1) The certificate of compliance shall certify that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- (2) Application for such certificate shall be concurrent with the application for a zoning permit.
- (3) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.

20.732 The zoning administrator may issue a temporary certificate of compliance for part of a building, pursuant to rules and regulations established by the county board.

20.733 Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.

20.74 SPECIAL EXCEPTION PERMITS

20.741 APPLICATION FOR A SPECIAL EXCEPTION PERMIT.

(1) Any use listed as a special exception in this ordinance shall be commenced only after an application has been submitted to the Zoning & Land Information Department and a special exception permit has been granted by the Planning, Resources & Development Committee. The application fee for a special exception permit shall be \$150.00 and as set forth in s. 17.87 of this Code.

(2) Whenever an activity listed as a special exception in this ordinance has been commenced or completed by any person, firm or corporation prior to the granting of a special exception permit by the Planning, Resources & Development Committee, the County may elect, in lieu of prosecution, to require that person, firm or corporation to make an application for an after-the-fact permit. The application fee for an after-the-fact special exception permit shall be twice the normal fee, referred to in (1) of this section and as set forth in s. 17.87 of this Code.

20.742 STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS. In passing on a special exception permit, the Zoning & Land Information Committee shall evaluate the effect of the proposed use upon:

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

20.743 CONDITIONS ATTACHED TO SPECIAL EXCEPTIONS. Upon consideration of the factors listed above, the Zoning & Land Information Committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purpose of this ordinance. Violations of any of these conditions may be deemed a violation of this ordinance. Such conditions may include specifications for, without limitations because of specific enumeration; type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Zoning & Land Information Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

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

20.744 NOTICE, PUBLIC HEARING AND DECISION. Before passing upon an application for a special exception permit, the Zoning & Land Information Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the committee, shall be given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be mailed to the district office of the Department at least 10 days prior to the hearing. The committee shall state in writing the grounds for granting or refusing a special exception permit.

20.745 RECORDING. When a special exception permit is approved, a 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 district office of the Department within 10 days after it is granted or denied.

20.746 REVOCATION. Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the Zoning & Land Information Committee.

20.75 VARIANCES. The Board of Adjustment may grant, upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that literal enforcement of the provisions of the ordinance will:

- (1) result in unnecessary hardship on the applicant:

- (2) due to special conditions unique to the property; and
- (3) that such variance is not contrary to the public interest.

20.751 NO USE VARIANCE. A variance shall not grant or increase any use of property which is prohibited in the zoning district.

20.752 NOTICE, HEARING AND DECISION. Before passing on an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be mailed to the district office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall mail a copy of such decision to the Department district office within 10 days of the decision.

20.76 BOARD OF ADJUSTMENT. The Board of Adjustment created under s. 59.99 Wis. Stats., and by the La Crosse County Zoning Ordinance of 1953, is hereby authorized to act for the purpose of this ordinance. The Board of Adjustment shall exercise the powers conferred by s 59.99(7) Wis. Stats.

20.761 APPEALS TO THE BOARD. 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 Administration or other administrative office. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record upon which the action appealed from was taken.

20.762 HEARING APPEALS AND APPLICATIONS FOR VARIANCES

(1) The board of adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the district office 10 days prior to hearings on proposed shoreland variances, and appeals for map and text interpretations.

(2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the district office of the Department within 10 days after they are granted.

(3) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

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

20.763 FEES. The schedule of fees adopted by the County Board for zoning permits, zoning petitions, zoning appeals, conditional use and special exception permit applications as provided in Chapter 17 of the General Code of La Crosse County is adopted herewith, along with any amendments thereto.

20.80 CHANGES AND AMENDMENTS. The County Board of Supervisors of La Crosse County, Wisconsin may change or supplement the boundaries of use districts and the regulation contained in this ordinance in accordance with the requirements of s. 59.97(5)(e), Wis. Stats. Ch NR 115, Wis. Adm. Code and section 20.55 of this ordinance where applicable.

20.81 Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.97(5)(e), Wis. Stats.

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

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

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

20.90 DEFINITIONS.

20.91 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.

20.92 The following terms used in this ordinance mean:

(1) "Accessory structure or use" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.

(2) "Boathouse" means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for non-commercial purposes.

(3) "County Zoning Agency" means that committee or commission created or designated by the county board under s. 59.97(2)(a), Wis. Stats., to act in all matters pertaining to county planning and Zoning, and is the agency for the purpose of this ordinance to hear and decide on all special exception (conditional use applications).

(4) "Department" means the Wisconsin Department of Natural Resources.

(5) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; The construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavating or drilling operations, and the deposition or extraction of earthen material.

(6) "Drainage system" means one or more artificial ditches, tile drains or similar devices which collect surface run off or ground water and conveys it to a point of discharge.

(7) "Floodplain" means the land which 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 ch. NR 116, WI. Adm. Code.

(8) "Navigable waters" means all natural inland lakes, streams, ponds, flowages and the Wisconsin portion of the Mississippi River and other waters within the corporate limits of La Crosse County which are navigable under the laws of the State of Wisconsin. Under s. 144.26(2)(d), Wis. Stats., not withstanding any other provisions of law or administrative rule promulgated hereunder, shoreland ordinances required under s. 59.971, Wis. Stats., and ch NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands not adjacent to a natural navigable stream or river.

(b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

(c) Such lands are maintained in nonstructural agricultural use.

(9) "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.

(10) "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.

(11) "Setback" means the depth of the yard, measured horizontally on a lot from and at right angles to the front lot line or the right-of-way line of a street, road, highway, or the ordinary high water mark.

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(12) "Shorelands" means land within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(13) "Shoreland-wetland district" means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.

(14) "Silvicultural thinning" means a woodland management practice which, for the purpose of this ordinance, improves or maintains the quality of adjacent surface water through responsible cutting on shorelands; and by which long-lived species are perpetuated and provision is made for efficient methods of slash disposal.

(15) "Special exception (conditional use)" means a use permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Zoning Committee or, where appropriate, the county board.

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

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

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

20.99 EFFECTIVE DATE: This ordinance shall be in force from and after its passage, approval and publication according to law.