

Act 170 compliant

29 January 13

BURNETT COUNTY

LAND USE/ZONING ORDINANCE

Chapter 30- Land Use

ARTICLE I. In General

Sec. 30-4 - DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Accessory structure means a subordinate structure customarily, the use of which is incidental to, and subordinate to customarily found in connection with, the principal structure or use of building and located on the same lot with such principal use or building of the property. Examples of this would include but not be limited to the following: tool shed, doghouse, wood shed, swing sets, and garages.

Accessory use means a use subordinate to and serving the principal use on the same lot, and customarily incidental thereto.

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

Boathouse means Any a permanent structure located on the same lot as the principal building and used for protecting or the storing storage of boats watercraft and associated materials used for noncommercial purposes in conjunction with a residence and includes all structures which are totally enclosed, have roofs or walls, or any combination of these structural parts. (See Section 4.4(5).)

Building means any structure used, designed or intended for the protection, shelter, or roofed enclosure of persons, animals or property.

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

Building, height of (Also includes the term “structure”), means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs to the decline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Bunkhouse/temporary guest quarters means an accessory structure or part of an accessory structure with or without plumbing which is used as temporary sleeping quarters only.

Camping ground means a parcel of land used or intended to be used, let or rented for occupancy by camping units which are not intended for year around occupancy.

Camping unit means a portable vehicle or unit designed and used for temporary sleeping purposes while engaging in the pastime of camping.

Common open space means undeveloped land within a Planned Residential Development that has been designated, dedicated, reserved or restricted in perpetuity from further development, and is set aside in the interest of the 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 archeological sites including Indian mounds, and/or such recreational facilities for residents as indicated on the approved development plan.

Conservation Easement means the grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open or wooded state, precluding future or additional development.

Conditional Use means a use that is specifically listed in a local zoning ordinance as a Conditional Use, and that can only be permitted if the Burnett County Land Use and Information Committee determine that the conditions specified in the ordinance for that use are satisfied.

County Zoning Agency means the Committee created or designated by the county board under s. 59.69(2) (a) Wisconsin Stats., to act in all matters pertaining to county planning and zoning.

Department means the Department of Natural Resources.

Development means any artificial change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of the percentage of damage or improvement; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings and structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; the storage, deposition or extraction of materials or equipment, and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Development Envelopes means areas within which grading, lawns, pavement and buildings will be located.

Dwelling means a building designed or used as the living quarters for one or more families. A dwelling is construed to include manufactured homes.

Dwelling, multifamily means a dwelling or group of dwellings on one plot containing separate living units for two or more families but which may have joint services or facilities or both.

Enclosed dwelling area means a space, measured by floor area, which is enclosed by walls (solid, windows, or screens) and covered by roof, and is measured for each story of a multi-story structure, but does not include basements or garages.

Essential Services means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage and communications systems and accessories thereto such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Expansion means an addition to an existing structure regardless of whether the addition is vertical or horizontal or both.

Family means one or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Farming, general means the production of field or truck crops or the raising of livestock or livestock products for commercial gain.

Floodplain means the land that has been or may be hereafter covered by floodwater during the regional flood. ~~The floodplain~~ It includes the floodway and the flood fringe, and may include other designated flood plain areas for regulatory purposes. See Chapter NR 116, Wis. Administrative Code.

Footprint means the land covered by a structure at ground level, measured on a horizontal plane.

Forest management programs means the production of forest products applying the generally accepted forestry management practices that promote sound management of a forest, such as of prescribed burning, reforestation, timber stand improvement, Christmas tree culture, pest control, thinning and harvesting, including those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines, identified as PUB FR-226. Also may include the use of portable mechanical equipment not situated in the same general location for a period longer than six months.

Foundation means the underlying base of a building or other structure, including but not limited to pillars, footings and concrete and masonry walls.

Guest cabin. Considered the same as dwelling. See "Dwelling".

Home Occupation means a gainful occupation conducted by a member of the family within his or her place or residence where the space used is incidental to residential use and no article is sold or offered for sale except such as is produced by such home occupation.

Hospital. Unless otherwise specified, the term "Hospital" shall be deemed to include sanitarium, sanatorium, preventorium clinic, rest home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for diagnosis, treatment or other care of human ailments.

Impervious Surfaces means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious Surface" includes rooftops, sidewalks, driveways, parking areas and private roads, unless specifically designed, constructed and maintained to be pervious. "Impervious surface" excludes frozen soil and surfaces that receive off-site treatment by means of stormwater ponds, constructed wetlands, infiltration basins or other engineered systems, or surfaces that discharge to internally drained areas. (Internally drained means no outlet.)

Junk yard. See "Salvage Yard".

Lot means a parcel of land occupied or capable of being occupied by structures and/or uses consistent with the provisions of this ordinance and the Burnett County Subdivision Ordinance. Adjoining lands of common ownership shall be considered a contiguous parcel even if divided by a public or private road, easement or navigable rivers or streams.

Lot area means the horizontal projection of a parcel of land, exclusive of any portion of public right-of-way or any portion of a lot thirty (30) feet or less in width. Measurements are to be made by standard surveying methods. This area shall be exclusive of lakebeds and easements. (This excludes blanket easements.)

Lot width means the shortest horizontal straight-line measurement between sidelines of a lot. A lot shall be judged to meet the minimum width requirement for the district in which it is located, if the district's width dimensions are maintained from the point(s) at which the lot's frontage width is determined (waterfront for shoreline lots and road frontage on all other lots) to the point(s) at which the lots minimum area requirement has been satisfied; no additional area of a particular lot in question need meet the minimum average width requirement.

Lot Lines means any line dividing one lot from another.

Maintenance and repairs mean any work done on a structure, including such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components; and repair of cracks in foundations, sidewalks, walkways, and the application of waterproof coatings to foundations, and by permit may allow repair of up to 50% of any of the structural components of a building or structure. It does not include *expansion, renovation or reconstruction*.

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. *Natural functions* are those listed in ch. 281.31 stats.

Mobile Home means any structure originally designed to be capable of transportation by motor vehicle upon public highway which does not meet standards established for manufactured housing construction and safety standards as administered by the U.S. Department of Housing and Urban Development (H.U.D.).

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) (d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats., and ch. NR 115, Wis. Admin. Code, do not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river.
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
3. Such lands are maintained in nonstructural agricultural use.

~~*Nonconforming Structure and/or Nonconforming Use* means a building, structure or use of land existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district or zone in which it is situated.~~

Nonconforming Structure means an existing lawful structure or building which is not in conformity with the provisions of the applicable zoning ordinance for the area which it occupies.

Nonconforming Use means a lawful use that existed prior to adoption of a zoning ordinance which prohibits or restricts said use.

Nonprofit conservation organization means any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural scenic or open-space values of real property, assuring the availability or real property for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

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

Planned Residential Development means a housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of the land are maintained to the greatest extent possible. (Also known as a Conservation Subdivision).

Principal ~~building~~ structure means a ~~building other than accessory structures.~~ A building or structure in which the principal use of the lot on which it is located is conducted.

Quarry includes but is not limited to sand, gravel and marl pits.

Regional Flood means a flood determined to be representative of large floods known to have occurred in the state. A regional flood is a flood with a one percent (1%) chance of being equaled or exceeded in any given year.

Reconstruction means replacement of all, or substantially all (>50%) of the components of a structure other than the foundation, or to the point when reconstruction of a principal structure will require the construction to be done in accordance with the Uniform Dwelling Code of Wisconsin, SPS 320-325, or the Commercial Building Code SPS 361.

Renovation of a principle structure means the process of improving a structure by alteration, refurbishment and /or restoration, including the replacement of no more than 50% of the structural members, but not to the point of requiring compliance as a new structure under the Uniform Dwelling Code of Wisconsin, SPS 320-325, or the Commercial Building Code, SPS 361.

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.

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

Salvage yard means a lot, land or structure, or part thereof, used for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

Shoreland area means lands in the unincorporated areas of the county within the following distance 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 a floodplain, whichever distance is greater.

Shoreland-wetland district means the zoning district, created as a part of the shoreland zoning section, comprised of shorelands that are designated as wetlands on the Wisconsin Wetland Inventory maps that have been adopted and made part of this ordinance.

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

Sign means any structure or natural object or part thereof or device attached thereto or printed or represented thereon which is intended to attract attention to any object, product, place, activity, person, institution, organization, or business, or which shall display or include any letter, word, banner, flag, pennant, insignia, device, or representation used as or which is in the nature of an announcement, direction, or advertisement.

Structure means ~~anything constructed or erected excluding utility poles~~ any manmade object with form, shape and utility that is constructed or otherwise erected, either permanently or temporarily attached to, placed upon, or set into the ground, lakebed or streambed or upon another structure.

Structural alteration means the replacement of or alteration of one or more of the structural components of any nonconforming structure.

Structural component means any part of the framework of a building or other structure. A structural component may be non-load bearing, such as the gable end of a one-story house. Wall-coverings, such as siding on the exterior or drywall on the interior, are not included in the definition of *structural component*.

- The structural components of a building’s exterior walls include the vertical studs, top and bottom plates, sheathing and window and door sills and headers.
- The structural components of a building’s roof include the ridge board, rafters, rafter ties, or roof trusses, and roof sheathing.
- The structural components of a building’s floors and ceilings include girder(s), joist, bridging, subfloor(s), and posts.
- The structural components of a building’s foundation include footings and foundation walls.

Unnecessary hardship means ~~A~~ that circumstance, as ~~determined by the Board of Adjustment~~, 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.

Use means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "Permitted Use" or its equivalent shall not be deemed to include any nonconforming use.

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.

Vegetative buffer zone generally contains three layers of native vegetation: trees, shrubs and ground cover. Under the shoreland habitat standard in 643A NRCS, which provides that shoreland habitat means an “area adjacent to a water body or water course in a non agricultural setting that is vegetated with a diverse mixture of native species that can include grasses, grass like species, forbs, shrubs and trees.”

Wetlands means 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.

Wetland, designated as means those wetlands shown with boundaries and classifications on the wetland maps adopted and made part of this Chapter in Section 30-28.

Yard, front means an open, unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

Yard, rear means an open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard, side means an open, unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard.

ARTICLE II. Zoning Districts

DIVISION 12 SP: SHORELAND PROTECTION DISTRICT [OVERLAY DISTRICT]

Sec. 30-329 – Purpose

This district provides for the protection of waters and shorelands, and for safe and orderly shoreland development in Burnett County. The intent is 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 uses, and to preserve ~~shorecover~~ shore cover and natural beauty. This district includes all lands in the unincorporated areas of the county within the following distance from the ~~normal~~ ordinary high water ~~elevation~~ mark of navigable water bodies: 1000 feet from a lake, pond or flowage, and 300 feet from a river or stream or to the landward side of a the floodplain, whichever distance is greater.

Sec. 30-330 - Permitted Uses.

The following are permitted uses in the SP Shoreland Protection District (overlay district):

- (1) Any use permitted in the underlying districts, subject to the shoreland provisions of this chapter.
- (2) Any necessary use permitted in the underlying districts, subject to the shoreland provisions of this chapter.

Sec. 30-331 – Conditional Uses

The following are the uses authorized by conditional permit in the SP Shoreland Protection District (overlay district):

Any conditional use authorized in the underlying districts, subject to the shoreland provisions of this chapter.

DIVISION 14 - SW-1: SHORELAND-WETLAND DISTRICT

Sec. 30-378. - Designation.

This district shall include all shorelands within the jurisdiction of this chapter ~~shoreland area~~ as defined in Section 30-4 which are designated as wetlands on the ~~wetlands map~~ Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance in section 30-28.

Sec. 30-377.1 - Locating Shoreland-Wetland Boundaries.

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, 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. 30-378.2 - Purpose.

(a)

The Shoreland-Wetland district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning ~~grounds~~ **grounds**, aquatic life and wildlife habitat, to preserve shore cover and natural beauty, to reduce flood hazards to life and property and to control building and development in **wetlands whenever possible**. **When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetlands.**

(b)

~~This district shall include all lands within the shoreland area as defined in section 30-4 which are designated as wetlands on the wetlands map adopted and made part of this chapter in section 30-28.~~

Sec. 30-379. - Permitted and Conditional Uses:

The following uses shall be allowed subject to the general zoning regulations in articles III through IX of this chapter, the provisions of Chapters 30, ~~and 31, 281.36 and 281.37~~ of the Wisconsin Statutes, and the provisions of other **applicable local**, state and federal laws, ~~if applicable.~~

- (1) Activities and uses which do not require the issuance of a land use permit but which must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating:
 - (a) Hiking, fishing, trapping, hunting, swimming, boating, snowmobiling and skiing.
 - (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 practice of silviculture, **including the planting, thinning, and harvesting of timber**, except as regulated under section 30-505.
 - (d) The pasturing of livestock. ~~and the construction and maintenance of fences.~~
 - (e) The cultivation of agricultural crops.

- (f) The construction and maintenance of duck blinds that comply with state and federal hunting regulations.
 - ~~(g) The construction and maintenance of piers, docks and walkways.~~
- (2) Permitted uses which do not require a land use permit and which may involve filling, flooding, draining, dredging, ditching, tiling or excavating **but only** to the extent specifically provided below:
- (a) Temporary water level stabilization measures, ~~in the practice of silviculture, which are~~ necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on ~~the conduct of silviculture~~ **silvicultural** activities if not corrected.
 - (b) **The cultivation of cranberries including flooding, dike and dam construction and or ditching necessary for the purpose of growing and harvesting of cranberries.**
 - (c) **The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating or and filling done necessary to maintain or repair existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.**
 - (d) **The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction and maintenance.**
 - (e) **The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.**
 - (f) **The maintenance, repair, replacement and or reconstruction of existing town, and county and state highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.**
- (3) ~~Conditional Uses which require County Land Use/Zoning Committee approval pursuant to Section 8.0 of this ordinance~~ **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:**
- (a) The construction and maintenance of ~~private driveways and~~ roads which are necessary to conduct silvicultural activities or ~~are necessary for~~ agricultural cultivation provided that:
 - (1) The road cannot as a practical matter be located outside the wetland; ~~and~~
 - (2) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland ~~and meets the following standards:~~ **enumerated in section 30-381.1;**

- (3) ~~The roads shall be~~ is designed and constructed as a single lane roadway, with only such depth and width necessary to accommodate the machinery required conducting agricultural and silvicultural activities ~~the minimum cross-sectional area practical to serve the intended use;~~
 - (4) Road construction activities are to be carried out in the immediate area of the roadbed only. ~~and~~
 - ~~(e) Any filling, flooding, draining, dredging, ditching, tiling or excavating that is to be done must be necessary for the construction of maintenance of the road.~~
- (b) The construction and maintenance of nonresidential buildings ~~provided that:~~
- (1) ~~The building is essential for and~~ used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals; ~~or used solely for some other purpose use which is compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetland.~~ permitted in the shoreland-wetland district;
 - (2) The building cannot, as a practical matter, be located outside the wetland;
 - (3) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - (4) Only the limited filling or excavating necessary to provide structural support for the building is authorized.
- (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 ~~bird and animal farms, fur animal farms, and private wildlife habitat areas,~~ fish hatcheries and ~~ponds,~~ public boat launching ramps and attendant access roads, provided that:
- (1) Any private ~~recreation or wildlife habitat area must be~~ development is used exclusively for ~~that purpose~~ the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable.
 - (2) ~~No Filling is to be done except for limited filling and grading or excavating necessary for the construction or maintenance of a public boat access site~~ launching ramps or attendant access roads is allowed only where such construction or maintenance will meet the road construction criteria ~~under~~ in sections (3) a. 1, 2, 4 and 5. 30-379 (a) (1)-(4) and:

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

~~(4) In addition to complying with requirements of Section 4.4(4) of this ordinance, the Zoning Administrator shall consider alternative sites and methods to minimize adverse effects upon the wetlands and shall issue the permit only where significant adverse impacts to the wetland values enumerated in Section 3.3(14)(d) of this ordinance will not result.~~

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

(1) The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland; and

(2) ~~Any filling, excavating, ditching or draining that~~ Such construction or maintenance is to be done ~~must be necessary for such construction or maintenance and must be~~ done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands enumerated in section 30-381.1.

(d) The construction and maintenance of railroad lines provided that:

(1) The railroad lines cannot as a practical matter be located outside the wetland and

(2) ~~Any filling, excavating, ditching or draining that~~ Such construction or maintenance is to be done ~~must be necessary for such construction or maintenance and must be~~ done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland enumerated in section 30-381.1.

Sec. 30-380. - Prohibited Uses.:

Any use not listed in Section ~~3.3(14)(a)~~ 30-379 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section ~~59.9769(5)(e)~~ Wisconsin Statutes, Chapter NR 115 Wisconsin Administrative Code, and Section ~~3.3(14)(e)~~ 30-381. of this ordinance.

Sec. 30-381. - Rezoning of lands in the Shoreland-Wetland District. Procedure.

For all proposed test and map amendments to the Shoreland-Wetland ~~District,~~ provisions of this ordinance, the appropriate office of the Department of Natural Resources shall be provided with the following:

- (a) A copy of every petition for a text or map amendment to the Shoreland-Wetland District, within 5 days of the filing of such petition with the County Clerk;
Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland.
- (b) Written notice of the public hearing to be held on a proposed amendment, at least 10 days prior to such hearing;
- (c) A copy of the County Zoning Agency's findings and recommendations on each proposed amendment, within 10 days after the submission of those findings and recommendations to the County Board; and
- (d) Written notice of the County Board's decision on the proposed amendment, within 10 days after it is issued.

Sec. 381.1 - Rezoning of lands in the Shoreland-Wetland District. Prohibition.

A wetland, or 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 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) Shoreland 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 w~~
Wetlands types both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following web site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>

Sect. 30-382. - Notification.

If the Department of Natural Resources has notified the County Zoning Agency that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Section 30-381.1 of this ordinance, that amendment, if provided by the County Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed since written notice of the County Board's approval of this amendment ~~was~~ **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), Wis. Stats. If the Department does so notify the county board, the effect of the amendment shall be stayed until the s. 59.692(6) adoption procedure is completed or otherwise terminated."**

ARTICLE III. Supplementary Regulations

Division 2. Standard District Regulations

Sec. 30-446 - Lot Sizes

- (a) After adoption of this ordinance, no lot area shall be so reduced that the dimensional and yard requirements required by this ordinance cannot be met. Lots existing and of record prior to adoption of this ordinance, but of substandard size, may be devoted to uses permitted in the district in which located.
- (b) **Substandard Lots.** 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 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.
- ~~(c) If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this ordinance, the lots involved shall be considered to be an individual parcel for the purposes of this ordinance.~~
 - ~~a. Existing lots having 100 feet of frontage are exempt from this provision;~~
 - ~~b. Existing lots with less than 100 feet must be combined to meet minimum requirements of this Ordinance.~~
- (d) Lots created after adoption of this ordinance and which are not served by public sewer systems shall meet minimum requirements of the Burnett County Sanitary Code and the Burnett County Subdivision Control Ordinance.

Division 4. Shoreland Regulations

Sec. 30-508. - Piers and Boat Shelters *Reserved for Impervious Surface Standards*

- ~~(a) Piers may only be placed by the riparian property owner in the riparian zone. No permits will be required for piers meeting the following criteria and state guidelines:~~

- ~~(b) Piers may be placed to the line of navigation, which generally means the three-foot depth contour, an established pierhead line or depth required by boat to be berthed. A pier may not unreasonably obstruct navigable waters.~~
- ~~(c) Piers shall be a maximum width of 6 feet, shall not enclose any portion of water and shall not have decks, platforms, or other construction not essential for berthing of boats. T's, L's, and other finger shaped docks are permitted subject to mooring slip guidelines.~~
- ~~(d) The number of berths or moorings shall be limited to two for the first 50 feet of shoreline and one for each additional 50 feet.~~
- ~~(e) Only one pier shall be permitted for each minimum lakeshore frontage as required by the Lake Classification, i.e. on a Class 1 lake, one pier is allowed for each 150 feet of frontage.~~
- ~~(f) Piers shall meet all state guidelines.
 "Pier" means any structure extending into navigable waters from the shore with water on both sides, build or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft and may include a temporary boat hoist and a boat shelter which is removed seasonally. [s.30.01, Stats.]
 Mooring (noun) means a mooring anchor and mooring buoy together with attached chains, cables, ropes and pennants and related equipment and is considered to be a storage space for a single watercraft.~~
- ~~(g) Permanent boat shelters are not allowed.~~

Sec. 30-512. - Shoreline Setback Nonconformities

- (a) Purpose.** To protect water quality, fish and wildlife habitat, and natural scenic beauty, some control is needed over the modification and reconstruction of these structures.
- (b) General rule for nonconforming uses and structures**
 - 1. Restrictions that are applicable to damaged or destroyed nonconforming structures and are contained in an ordinance enacted under s. 59.692 Wis. Stats. may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to Par. 2, location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction or improvement if all of the following apply:
 - i. The nonconforming structure was damaged or destroyed after October 14, 1997.
 - ii. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
 - iii. A property owner has demonstrated by documentation submitted with the permit application the scope, nature, and extent of the damage done as well as the dimensions of the damaged structure and proposed restoration.

2. An ordinance enacted under this section to which Par. 1 applies shall allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- (c) **Discontinued Nonconforming Use.** If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.
- (e) **Maintenance of a Nonconforming Principal Structure.** An existing principal structure that was lawfully placed when it was constructed but that does not comply with the required building setback per section 30-504 (1) may be maintained and repaired within its existing building envelope. Maintenance and repair includes such activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, and siding. By land use permit, up to 50% of the structural components may be altered or replaced, including replacement of the entire roof system, so long as the pitch does not exceed 6/12.
- (f) **Vertical Expansion and Renovation of Nonconforming Principal Structure within the Setback.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 30-504 (1) may be expanded vertically, and renovated, 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. Vertical expansion is limited to the height allowed in section 30-515 (35 feet).
 4. The county land use permit requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 30-514.
 5. All other structures on the lot or parcel that do not comply with the shoreland setback requirement per section 30-504 (1) and are not exempt under section 30.504 (1) shall be removed by the date specified on the permit.
 6. All other provisions of the shoreland section of the ordinance shall be met, including limitations on maintenance and repair found in Section 30-512(d).
- (g) **Expansion and Renovation of a Nonconforming Principal Structure Beyond Setback.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 30-504 (1) may be renovated and expanded horizontally and vertically provided that the expanded area meets the building setback requirements per section 30-504 (1), and 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 county land use permit requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified on the permit. The mitigation plan shall meet the standards found in section 30-514.
3. All other structures on the lot or parcel that do not comply with the shoreland setback requirement per section 30-504 (1) and are not exempt under section 30-504 (1) shall be removed by the date specified on the permit.
4. All other provisions of the shoreland section of the ordinance are met, including limitations on maintenance and repair found in Section 30-512(d).

(h) Replacement or Relocation of a Nonconforming Principal Structure. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 30-504 (1) may be replaced or relocated on the property provided all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more, 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 replaced or 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 with a comparable size building envelope to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement per section 30-504 (1).
5. The county land use permit requires:
 - i. A mitigation plan that shall be approved by the county and implemented by the date specified on the permit. The mitigation plan shall meet the standards found in section 30- 514.
 - ii. All other structures on the lot or parcel that do not comply with the Shoreland setback requirement per section 30-504 (1) and are not exempt under section 30-504 (1) to be removed by the date specified on the permit.
6. All other provisions of the shoreland section of the ordinance are met.

(i) Maintenance of Nonconforming Accessory Structure. An accessory structure that was lawfully placed when it was constructed but does not comply with the required building setback per section 30-504 (1) may be provided ordinary maintenance within its existing building envelope, but not expanded, structurally altered, or reconstructed unless:

1. Authorized by s.59.692 (1s) Wisconsin Stats. and section 30-512 (b) 1, or
2. Is made to conform to all other provisions of this Chapter.

- (j) **Expansion of a Nonconforming Principal Structure at, or greater than, 75 feet from the ordinary high water mark, but less than the required setback from the Ordinary High Water Mark of a Class 3 water body.** An existing nonconforming principal structure that was lawfully placed when constructed but does not comply with the setback from a Class 3 water body per section 30-504(1) (100 feet) is allowed expansion no closer to the ordinary high water mark than the closest part of the existing principal structure.

~~(a) Nonconforming principal structures less than 40 feet from the ordinary high water mark are permitted internal improvement and ordinary maintenance and repair. This includes replacement of similar size windows, doors, roofing and siding, upgrading of insulation and electrical.~~

~~Such structures may be structurally altered when a land use permit is issued provided:~~

- ~~(1) No more than 25% of the structural members of the existing foundation, external walls and roof are modified or replaced;~~
- ~~(2) Internal improvement is confined to the building envelope (i.e. no new basements, additional stories, lateral expansion or accessory construction outside of the perimeter of existing enclosed dwelling and~~
- ~~(3) The property owner implements a plan approved by the County Land Conservationist, which restores the shoreline cover buffer zone as per Section 4.4(2).~~

- ~~(b) Nonconforming principal structure located between 40 and 75' from the ordinary high water mark are permitted internal improvement and ordinary maintenance and repair. This includes replacement of similar size windows, doors, roofing and siding, upgrading of insulation and electrical.~~

~~These structures may be expanded by permit when the structure includes at least 500 square feet (footprint) of enclosed dwelling area provided:~~

- ~~(1) No more than 25% of the structural members of the existing foundation, external walls, and roof are modified or replaced (allows matching of existing roof lines);~~
- ~~(2) The total area of the existing structure and the proposed addition does not exceed 1,500 square feet of enclosed dwelling area not to include basements.~~
- ~~(3) All expansion is no closer to the water than the landward façade of the existing principal structure (placement of standard or walkout basements under existing structures is prohibited); except for a one time maximum 144 square foot expansion (including open patios and decks) which is no closer to the ordinary high water mark than the closest setback of the structure provided further that such addition does not extend toward the ordinary high water mark beyond the shoreline façade, of existing structure;~~
- ~~(4) Existing nonconforming accessory structures are removed from the property and~~
- ~~(5) The property owner implements a plan approved by the County Land Conservationist, which restores the shoreline cover buffer zone as per Section 4.4(2).~~

- ~~(c) Expansion of nonconforming principal structures between 75' and the required setback from the ordinary high water mark is allowed provided expansion is at least 75 from the ordinary high water mark, i.e. additions will be allowed to structures that are at least 75 feet back from a Class 3 lake/river.~~
- ~~(d) Nonconforming accessory structures are permitted ordinary maintenance and repair only, provided~~
 - ~~(1) No more than 25% of structural members of the existing foundation, external walls, and roof are modified or replaced.~~

Sec. 30-515. - Height. To protect and preserve wildlife habitat and natural scenic beauty, any construction that results in a structure taller than 35 feet, within 75 feet of the ordinary high water mark of any navigable waterway, is prohibited.

- (a) Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground to a line horizontal to the highest point of a structure.

ARTICLE VI. Telecommunications Facilities

Sec. 30-570. – Areas where telecommunications facilities may be allowed or prohibited.

- (a) Telecommunications facilities may be allowed as a conditional use in the following zoning districts, subject to public hearing, review and approval by the land use and information committee:
 - (1) Forestry.
 - (2) Agriculture.
 - (3) Commercial.
 - (4) Industrial.
 - (5) Residential/recreation 3.
- (b) Telecommunications facilities, except exempt facilities, shall not be allowed in the following areas due to potential harm to the environment:
 - (1) Shoreland. Wetlands.
 - (2) Floodplains.
- (c) Telecommunications facilities, except exempt facilities, shall not be allowed in the following areas due to potential conflict with other uses of the land:
 - (1) Historic sites and districts listed on the National Register of Historic Places.
 - ~~(2) Habitat areas of threatened or endangered species.~~
 - (2) Areas designated for high density planned residential use in the county comprehensive plan.
 - (3) Zoning districts:
 - a. Residential.
 - b. Residential/recreational 1 and 2.

ARTICLE X. Nonconforming Uses and Structures

Sec. 30-677 - Use of Structures which are not nonconforming to shoreland setbacks.

The existing lawful use of a structure or premises which is compliant with shoreland setbacks, but is not in conformance with other provisions of this ordinance Chapter may be continued subject to the following conditions:

- (1) No structural addition to any nonconforming structure over the life of the structure shall exceed fifty percent (50%) of its ~~current fair market value, unless the structure is permanently changed to a conforming use, the property rezoned to an appropriate zoning district~~ building envelope, or the replacement of more than fifty percent (50%) of its structural components, and may not increase the nonconformity, ~~or unless a variance permitting expansion beyond 50% of fair market value~~ its building envelope or replacement of more than 50 % of its structural components, or an increase in its nonconformity, is successfully obtained.

~~The amount of increase value will be determined by total cost of alteration and/or addition. Estimates of project cost must be provided using going labor rates and material costs.~~

- (2) **Discontinued nonconforming use.** ~~If such use is discontinued for a period of twelve (12) consecutive months, any future use of the building, structure and premises or property shall conform to this ordinance Chapter.~~ If a nonconforming use is discontinued for a period of twelve (12) consecutive months, any future use of the building, structure and premises shall conform to this ordinance Chapter.
- (3) Uses or adjuncts thereof which are nuisances shall not be permitted to continue as nonconforming uses.