

16.1 SHORELAND ZONING

16.1001 STATUTORY AUTHORIZATION, PURPOSE AND FINDING OF FACT

- 1) Statutory Authorization. This ordinance is adopted pursuant to the authorization contained in Sections 59.69, 59.692 and 87.30 of the Wisconsin Statutes.
- 2) Purpose. For the purpose of promoting public health, safety, convenience and welfare this Ordinance has been established to:
 - a) Further the maintenance of safe and healthful conditions and prevent and control water pollution by limiting structures to areas where soil and geological conditions are suitable for such construction, establishing minimum lot sizes and controlling filling and grading to minimize soil erosion.
 - b) Protect spawning ground, fish and aquatic life by preserving wetlands and other aquatic habitat, regulating pollution sources and controlling shoreline alterations, dredging and lagooning. Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to aquatic life habitat.
 - c) Control placement of structures and land uses by establishing minimum lot sizes, widths and setbacks and prohibiting uses that may be detrimental to the shoreland area.
 - d) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover, establishing minimum setbacks from the shoreline and controlling shoreland excavation.
- 3) Finding of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Marquette County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Marquette County, Wisconsin.

16.1002 ABROGATION AND GREATER RESTRICTION

- 1) It is not otherwise intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law, other than zoning, to the extent specified in this Ordinance.
- 2) 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 the Wisconsin Statutes.

- 3) Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected hereby.
- 4) This Ordinance supersedes all provisions of any County zoning ordinance enacted under Section 59.69 Wisconsin Statutes that relate to shorelands, to the extent that it is more restrictive.
- 5) This Ordinance shall not require approval or be subject to disapproval by any Town or Town Board.

16.1003 JURISDICTION

Areas regulated by this Ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Marquette County, which are:

- 1) Within one thousand (1000) feet of the ordinary high-water mark of navigable lakes, ponds and flowages. Lakes, ponds and flowages of Marquette County shall be presumed to be navigable if they are listed in the Department of Natural Resources publication "Surface Water Resources of Marquette County", shown on the United States Geological Survey Quadrangle map or otherwise determined to be navigable by the Wisconsin Department of Natural Resources.
- 2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams of Marquette County shall be presumed navigable if they are designated as continuous or intermittent waterways on the United States Geological Survey Quadrangle map or otherwise determined to be navigable by the Wisconsin Department of Natural Resources.
- 3) The State of Wisconsin shall be exempt from the terms of this Ordinance under the legal doctrine of the sovereignty of the State, but all other governmental bodies shall be under the jurisdiction of this Ordinance, except that the construction of public roadways and bridges is exempt from the provisions of this Ordinance.

16.1004 GENERAL PROVISIONS

- 1) The Zoning Administrator or his/her designee shall determine the ordinary high-water mark/wetland boundary of a navigable water in Marquette County. The Zoning Administrator may request assistance from the Wisconsin Department of Natural Resources if he/she determines such assistance is appropriate.

- 2) The floodplain boundary shall be determined using flood hazard maps or other floodplain zoning maps that have been adopted by Marquette County, for the purpose of determining the jurisdictional extent of this Ordinance.
- 3) No structure, land, water or air shall hereafter be used without full compliance with the provisions of this Ordinance. No structure or part, except as specifically allowed hereunder, shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made or land disturbing activity performed, without full compliance with this Ordinance. For each district the permitted uses are stated, others are specifically classified as requiring special exception permits and any uses not specifically classified shall require special exception permits.
- 4) No lot shall have more than one building for residential purposes.
- 5) Any lot or parcel legally created and recorded in the Register of Deeds Office prior to the adoption of this Ordinance, may be increased in size by the addition of all or part of the adjoining lots or parcels, and such lots or parcels may be used for the purpose permitted in the district in which they are located, provided that the resultant lots or parcels shall not be reduced below the minimum requirements contained herein.
- 6) Any lot or parcel legally created and recorded in the Register of Deeds Office prior to the adoption of this Ordinance, may be used as a building site, or for any purpose permitted by this Ordinance provided that it is a minimum of 7500 square feet in area, 50 feet in width and all other provisions of this Ordinance can be met.
- 7) Buildings used in whole or in part for single or two family residential purposes shall have not less than 864 square feet of year around living space per dwelling unit and shall have a minimum width of 16 feet.
- 8) Camping Provisions
 - a) Camping shall be permitted in the shoreland area subject to the following provisions.
 - 1) An owner of record of any lands being used for camping shall either be personally present or have provided written permission to those camping.
 - 2) Approved sanitary provisions shall be provided. Where determination of approved provisions is required the Zoning Administrator shall be the governing authority.
 - 3) Arrangements shall be made for the proper disposal of trash and garbage.

- 4) Camping, parking or storing a unit on a lot or parcel, which does not have a dwelling, shall not be permitted between December 1st and April 15th.
 - 5) Occupation of a unit by a person having no other regular place of abode at the time the unit is so occupied is prohibited.
 - 6) Camping may take place on an interim basis while construction of a permitted dwelling is in progress, not to exceed one year.
 - 7) Camping shall comply with all other requirements of this Ordinance.
- 9) In each quadrant of every public street intersections, excepting those controlled by arterial or stop signs and also excepting Class A intersections there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them 75 feet from the intersection. Objects permitted within highway setback lines and visual triangles are as follows:
- a) Open fences.
 - b) Telephone, telegraph and power transmission poles, lines and portable equipment and livestock housing that is readily removable in their entirety are permitted where they do not obstruct the view.
 - c) The planting and harvesting of crops, shrubbery and trees except that the view within the visual triangle shall not be obstructed.
- 10) Prohibited uses. On lands within Marquette County that are under the jurisdiction of this Ordinance the following activities are prohibited:
- a) High capacity wells. Except as set forth in sub. c below, the construction of any high capacity well to extract water intended for retail consumption or the construction of any high capacity well system to extract water intended for retail consumption shall be prohibited.
 - b) High capacity property. Except as set forth in sub. c below, the designation of property, as high capacity property is prohibited.
 - c) Exceptions. Prohibitions set forth in this subsection shall not apply to uses by Marquette County Municipalities or political subdivisions, nor shall it apply to agricultural uses.
- 11) Shoreland signage. Commercial signs, which are visible from public waters may only be located on the premises which they serve. Temporary real estate signs may be placed on properties offered for sale.

16.1005 ZONING PROVISIONS

- 1) The minimum lot area shall be 30,000 square feet and the minimum lot width shall be 100 feet.
- 2) The minimum setback for a structure to a lotline shall be 10 feet.
- 3) On parcels where a septic system maintenance agreement has not been filed, an applicant for a zoning permit to expand an existing dwelling is required to sign and have filed with the Zoning Office a Marquette County Septic System inspection form. The inspection report must be signed by an individual licensed by the Wisconsin Department of Commerce to inspect private on-site wastewater treatment systems (POWTS) and certify that the septic system is functioning properly and meets all applicable Marquette County Sanitary Ordinance requirements. In cases where the inspection demonstrates that the continued use of the existing system may be permitted, a Marquette County Septic System Maintenance Agreement must be filed with the Register of Deeds Office.
- 4) An applicant for a zoning permit to construct or expand an accessory structure must file a Marquette County Septic System Maintenance Agreement, if one does not already exist, with the Register of Deeds.
- 5) Any construction or expansion of a dwelling or construction of an accessory structure greater than 75 feet from the ordinary high water mark shall require 3 mitigation points under Section 16.1010 of this Ordinance if all of the following criteria apply:
 - a) The construction is within 150 feet of the ordinary high water mark.
 - b) Area of construction has surface drainage into a navigable water.
 - c) The parcel is a waterfront property.
 - d) Total new construction, after January 1, 2001, exceeds 600 square feet in area.
 - e) Property is not in compliance with Section 16.1008.
 - f) Property has a structure located less than 75 feet to the ordinary high water mark.

16.1006 HIGHWAY SETBACKS

- 1) For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the highways of Marquette County are divided into the following classes:
 - a) All State and Federal highways are hereby designated as Class A highways.
 - b) All county trunks are hereby designated as Class B highways. For the purpose of this Ordinance, any road will be considered a county trunk

after it has been placed on the County Trunk System by the County Board and approved by the Wisconsin Department of Transportation.

- c) All town roads, public streets and highways not otherwise classified, are hereby-designated Class C highways.
- 2) The minimum setbacks from the various Class highways are as follows:
 - a) The setback from a Class A highway shall be 110 feet from the centerline of the highway or 50 feet from the right of way line, whichever is greater.
 - b) The setback from a Class B highway shall be 75 feet from the centerline of the highway or 42 feet from the right of way line, whichever is greater.
 - c) The setback from a Class C highway shall be 63 feet from the centerline of the highway or 30 feet from the right of way line, whichever is greater.
 - 3) Permits shall be required for all new access points to Class A, B and C highways. Applications for Class A highways shall be made with the Wisconsin Department of Transportation. Applications for Class B C shall be made with the Marquette County Highway Department.
 - 4) On Class A highways where more restrictive setbacks are required by State law the more restrictive setback shall apply.
 - 5) On lots or parcels, which abut a Class B or C highway and where the requirements of the Ordinance cannot be met, a reduced setback from the road may be permitted when there is an existing pattern of development. The setback shall be the average of the setbacks on adjoining properties within 500 feet. For purpose of averaging the setbacks shall be for comparable structures. In no case shall the average be less than 50 feet from the centerline of the highway.

16.1007 SETBACKS FROM THE SHORELINE

- 1) Except as set forth in sub. 4 below, all buildings and structures, except piers and boat hoists, which may require a lesser setback, shall be set back at least 75 feet from the ordinary high water mark/wetland boundary.
- 2) All distances unless otherwise specified shall be measured horizontally. The measurement shall be taken from the ordinary high water mark to the closest point of a building or structure, including steps, decks, overhangs, eaves or landings.

- 3) An Administrative Review Permit application may be submitted to the Zoning Administrator for stairways, walkways and motorized lifts. The Zoning Administrator may permit such structures, within the 75 foot shoreland setback area, if it is determined they are necessary for access to the water. If approved, stairs and railing structures shall be restricted to a four foot maximum width, landings shall not exceed forty square feet in area and permanent benches or tables are not permitted. As part of the permit approval the Zoning Administrator may establish conditions or restrictions to further the intent of this ordinance.
- 3) As authorized under ss 59.692(1v), the placement of a structure within seventy-five feet of the ordinary high water mark shall be permitted under the following conditions:
 - a) The structure is located a minimum of 35 feet from the ordinary high water mark.
 - b) The total area for all structures located within the legal setback area shall not exceed 200 square feet.
 - c) The structure has open or screened sides.
 - d) The property owner implements a Shoreland Buffer Restoration plan under Section 16.1009 of this Ordinance.

16.1008 REMOVAL OF SHORE COVER WITHIN SHORELANDS

Regulation of vegetation removal in the shoreland area is necessary to protect scenic and natural beauty, provide wildlife habitat, control erosion and reduce sediment and nutrient flow from the shoreland. There shall be a vegetation protection area on each parcel that shall extend from the ordinary high water mark to a line 35 feet inland, which runs parallel to the shoreline. Within this area the removal of vegetation (including trees, shrubs and ground cover) and other land disturbing activities are prohibited with the following exceptions:

- 1) One viewing corridor no more than 30-feet in width may be established for every one hundred feet of frontage. The corridor shall be more or less perpendicular to the shoreline. Except as provided for in par.3 below, within this corridor trees, shrubs and ground cover shall not be removed, however selective pruning and trimming is permitted for the purpose of providing a view of the water.
- 2) On parcels, which are less than 100-feet in width, the viewing corridor width requirement shall be reduced proportionately.
- 3) One access corridor no more than 10-feet in width may be established. The access corridor shall be located within the view corridor and sufficient vegetative cover shall be maintained in this area to prevent erosion and sedimentation. In no case shall the complete removal of vegetation be permitted.

- 4) All pedestrian accesses, walkways and stairways must be located within the access corridor. In addition, they must comply with all other regulations contained in this Ordinance.
- 5) The placement of piers, wharves and boatlifts must be within or adjacent to the viewing/access corridor.
- 6) Outside of the viewing/access corridor the removal of dead, dying and diseased vegetation may be permitted if they pose a safety hazard or with a recommendation from the County Forester, County Conservationist or the Department of Natural Resources.
- 7) The removal of nuisance and exotic species may be permitted with a recommendation from the County Forester, County Conservationist or the Department of Natural Resources provided they are replaced with comparable native species as soon as practical.
- 8) The cutting and removal of vegetation from outside of the 35-foot buffer area shall be done with consideration of its effect on natural and scenic beauty. In addition, it shall be done using best forestry and soil conservation practices, as described in the Department of Natural Resources Wisconsin Forestry Best Management Practices Field Guide Document number PUB-FR-093 95 or similar publications that are subsequently approved, and in a manner that protects water quality.

16.1009 SHORELINE BUFFER RESTORATION

As required by other sections of this Ordinance, an applicant for a zoning permit shall restore the water quality, habitat and natural beauty protection functions of the shoreline buffer area. A restoration plan, to be reviewed for approval by the Land Conservation Department, shall be submitted and show compliance with the following criteria:

- 1) Restoration must extend throughout the vegetative protection area described under Section 16.1008 of this Ordinance.
- 2) Re-vegetation species shall be selected from a listing of native vegetation maintained by the Land Conservation Department. Other species may be used with approval by the Land Conservation Department.
- 3) An affidavit shall be filed with the property deed, which informs any future property owner about the restoration plan and restrictions for removal of vegetation in the shoreline buffer area.
- 4) Once re-established, vegetation removal is generally prohibited, but may be done in accordance with Section 16.1008 of this Ordinance.

16.1010 MITIGATION

A plan to mitigate for the adverse effects of construction, on a waterfront property, within 300-feet of the ordinary high water mark of a navigable water is required under other sections of this Ordinance. The number of mitigation points necessary for a zoning permit depends on the type, size and location of the construction activity. The Zoning Department must approve a mitigation plan and an affidavit shall be filed with the property deed. The following activities will be awarded the number of points indicated:

- 1) The removal of a legal non-conforming structure, which is non-conforming because it does not meet the requirements of Section 16.1007(1) and which is less than 100 square feet in area (2 points).
- 2) The removal of a legal non-conforming structure, which is non-conforming because it does not meet the requirements of Section 16.1007(1) and which is greater than 100 square feet in area (3 points).
- 3) The implementation of a shoreland buffer restoration plan under Section 16.1009, which is on the property of the proposed construction (3 points).
- 4) The implementation of a shoreland buffer restoration plan under Section 16.1009, on a shoreland property other than that of the proposed construction (2 points).
- 5) At the discretion of the Zoning Administrator and with the approval of the Zoning Committee, up to three mitigation points may be approved for an activity that provides significant benefits to meet the objectives of this Ordinance.

16.1011 LAND DISTURBING ACTIVITIES

- 1) Filling, grading, lagooning, dredging, ditching, clearcutting and excavating are considered land disturbing activities and shall be permitted in the shoreland area subject to the following conditions:
 - a) All land disturbing activities are prohibited within 35 feet of the ordinary high-water mark/wetland boundary.
 - b) All land disturbing activities are prohibited on slopes exceeding 40%.
 - c) The land disturbing activity must be in compliance with all other Sections of this Ordinance and not prohibited by applicable Federal and State regulations.
 - d) All land disturbing activities, which involve the construction of a structure, shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.

- e) Land disturbing activities, between 35-75 feet of the ordinary high water mark exceeding 500 square feet in area shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.
 - f) Land disturbing activities, between 75-300 feet of the ordinary high water mark exceeding 1000 square feet in area shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.
 - g) Land disturbing activities, which are greater than 300 feet from the ordinary high water mark exceeding 10,000 square feet in area shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.
 - h) Land disturbing activities that occur greater than 35 feet from the ordinary high water mark, but are less than the square footage listed under items d, e, f and g of this Section, shall comply with appropriate best management practices as specified in the Wisconsin Construction Site Best Management Practice Handbook published by the Department of Natural Resources, or similar publications that are subsequently approved.
 - i) The installation of a septic system shall be exempt from the requirements of this Section, but if occurring within 300 feet of the ordinary high water mark a silt fence shall be properly installed prior to construction and the site shall be seeded and mulched immediately after backfilling.
 - j) Agricultural practices are exempt from the requirements of this Section.
- 2) A Special Exception Permit, under Section 16.0107 of the Zoning Administration Ordinance, shall be required for filling, grading, lagooning, dredging, ditching, clearcutting and excavating of any area within the jurisdiction of this Ordinance, which has surface drainage into a navigable water or associated wetland, and meets the following condition:
- a) The land disturbing activity exceeds 10,000 square feet in area.
- 3) An Administrative Review Permit, under Section 16.0103 of the Zoning Administration Ordinance, shall be required for filling, grading, lagooning, dredging, ditching, clearcutting and excavating of any area within the jurisdiction of this Ordinance, which has surface drainage into a navigable water or associated wetland, and meets any of the following conditions:
- a) The land disturbing activity is on a slope of 20% or greater.
 - b) The land disturbing activity exceeds 5000 square feet on a slope of 12-20%.

- 4) A Stormwater Management Plan, approved by the Land Conservation Department, shall be required for all approved subdivision plats on lands located within the jurisdiction of this Ordinance.

16.1012 NON-CONFORMING USES AND STRUCTURES

The lawful use of a building, structure or property existing at the time of adoption of this Ordinance or any amendment to this Ordinance, may be continued, subject to the following conditions:

1) NON-CONFORMING USES

- a) No such use shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
- b) If such use is discontinued for twelve consecutive months, any future use of the building, structure, or property shall conform to this Ordinance.
- c) Uses or adjuncts thereof which are nuisances shall not be permitted to continue as non-conforming uses.
- d) The property owner bears the burden of proof when claiming that a use is legal non-conforming because it predates a zoning provision.

2) NON-CONFORMING STRUCTURES

- a) Except as set forth under sub. f below, legal non-conforming accessory buildings and structures are limited to ordinary maintenance and repair and shall not be improved or expanded.
- b) Legal non-conforming dwellings are permitted unlimited ordinary maintenance, repair and remodeling provided it is confined to the existing building envelope and no more than 25% of the structural members of the existing external walls and roof are modified or replaced.
- c) Legal non-conforming dwellings, which are 0-25 feet from the ordinary high water mark are prohibited from expansion.
- d) Legal non-conforming dwellings, which are 25-50 feet from the ordinary high water mark are permitted a one time 25% square footage expansion provided:
 - 1) The expansion is on the landward side of the structure.
 - 2) There are no new basements or stories.

- 3) Three mitigation points are obtained under Section 16.1010 of this Ordinance.
- e) Legal non-conforming dwellings, which are 50-75 feet from the ordinary high water mark are permitted a one time 50% square footage expansion provided:
- 1) The expansion is not on the shoreline side of the structure.
 - 2) Side expansion is limited to open air structures.
 - 3) No new stories are added.
 - 4) Three mitigation points are obtained under Section 16.1010 of this Ordinance.
- f) As authorized under Wisconsin State Statutes 59.692 (1s), legal non-conforming structures that are damaged or destroyed are permitted to be rebuilt subject to the following conditions:
- 1) The non-conforming structure was damaged or destroyed after October 14, 1997.
 - 2) The damage or destruction was caused by violent wind, vandalism, fire or a flood.
 - 3) The structure is restored to the location, size and use it had immediately before the damage occurred.
 - 4) No limits are imposed on the cost of the reconstruction.
 - 5) An increase in size is permitted if necessary to comply with State or Federal regulations.

16.1013 ZONING DISTRICTS AND MAPS

The shorelands of Marquette County are hereby divided into the following Zoning Districts:

- 1) Shoreland-Wetland District
- 2) Recreational-Residential District
- 3) General Purpose District

16.1014 OFFICIAL SHORELAND ZONING MAPS

- 1) The following maps are hereby incorporated by reference and made a

part of this Ordinance:

- a) Shoreland Zoning Maps adopted July 15, 1969.
 - b) Wisconsin Wetlands Inventory Maps for Marquette County dated July 10, 1984.
 - c) Flood Hazard Boundary Maps dated September 27, 1991
 - d) United States Geological Survey Quadrangle Maps.
 - e) Wisconsin Department of Natural Resources Wetland Survey dated April 26, 1991 as delineation of the Wisconsin Wetlands Inventory Maps for Marquette County.
- 2) All maps developed after the effective date of this Ordinance, upon adoption by the County Board, shall supersede any existing maps.
 - 3) All official maps are to be kept on file in the office of the Zoning Administrator for Marquette County.
 - 4) Determination of the exact location of district boundaries shall be decided by the Zoning Administrator subject to appeal to the Board of Adjustment.

16.1015 SHORELAND-WETLAND DISTRICT

- 1) This district includes all shorelands subject to regulation under Section 16.1003 which are designated as wetlands on the Wisconsin Wetlands Inventory Maps incorporated by reference and made a part of this Ordinance by Section 16.1014, except that wetlands under five acres in size shall not be regulated under this section.
- 2) Locating Shoreland-Wetland District boundaries. Where an apparent discrepancy exists between the Shoreland-Wetland District shown on the official wetland maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district or area office of the Department of Natural Resources to determine if the Shoreland-Wetland District 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. The Zoning Administrator shall be responsible for initiating a map amendment to correct mapping errors within a reasonable period of time.
- 3) The purpose of the Shoreland-Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible. When

development is permitted in wetlands it should occur in a manner that minimizes adverse impacts upon the wetland.

4) Permitted Uses:

- a) The harvesting of wild crops such as, marsh hay, ferns, mosses, wild rice, berries, fruits and seeds, in a manner that is not injurious to the natural reproduction of such crops.
- b) The practice of silviculture, including the planting, thinning and harvesting of timber.
- c) Grazing of livestock (on parcels of more than 5 acres).
- d) Agricultural uses (on parcels of more than 5 acres).
- e) Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silviculture activities if not corrected.
- f) Ditching, tilling, dredging, excavating, or filling done to maintain or repair existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that the dredged spoil is placed on existing spoil banks where possible.
- g) Limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing town and county roads and bridges.
- h) Parks and recreational areas.
- i) Historic and scientific areas.
- j) Wildlife refuges.
- k) Game farms.
- l) Fish hatcheries.
- m) Public boat launch facilities.
- n) Public utilities installations.

5) Rezoning of lands in the Shoreland-Wetland District.

- a) For all proposed text and map amendments to the Shoreland-Wetland District, the appropriate district and area office of the Department of Natural Resources shall be provided with

the following:

- 1) A copy of every petition for a text or map amendment to the Shoreland-Wetland District within 5 days of the filing of such a petition with the County Clerk.
 - 2) Written notice of the public hearing to be held on a proposed amendment, at least 10 days prior to such a hearing;
 - 3) A copy of the county zoning agency's findings and recommendations on each proposed amendment, within 10 days of the submission of those findings and recommendations to the County Board; and
 - 4) Written notice of the County Board's decision on the proposed amendment, within 10 days after it is issued.
- b) A wetland, or a portion thereof, in the Shoreland-Wetland District shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
- 1) Storm and flood water storage capacity;
 - 2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
 - 3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - 4) Shoreline protection against soil erosion;
 - 5) Fish spawning, breeding, nursery or feeding grounds;
 - 6) Wildlife habitat; or
 - 7) Areas of special recreational, scenic or scientific interest, including scarce wetland types.
- c) If the Department of Natural Resources notifies the county zoning agency that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Section 16.1015(5(b)) of this Ordinance, that amendment, if approved by the County Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed since the written notice of the County Board's

approval of this amendment was mailed to the Department of Natural Resources. During that 30 day period the Department may notify the County Board that it will adopt a superseding shoreland ordinance for the County under Section 59.692 (6), Wisconsin Statutes. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure in Section 59.692 (6) is completed or otherwise terminated."

16.1016 RECREATIONAL-RESIDENTIAL DISTRICT

- 1) This district includes all shorelands not within the Shoreland-Wetland or General Purpose districts and designated Recreational-Residential on the Shoreland Zoning Map of Marquette County.
- 2) The purpose of the Recreational-Residential District is to protect the waters and shorelands of Marquette County by providing for safe and orderly shoreland development. Recreational-Residential shorelands are particularly suited for residential and recreational uses.
- 3) Permitted Uses:
 - a) Single family dwellings.
 - b) Agriculture uses (on parcels of more than 5 acres) provided that farm animals shall be housed a least one hundred feet from any non-farm residence. Farm buildings housing animals, barnyards or feedlots shall be at least one hundred feet from any navigable water and shall be so located that manure will not pollute any navigable water.
 - c) Camping as regulated under Section 16.1004 (8).
 - d) Accessory buildings.
- 4) The following uses shall be permitted upon the granting of a Special Exception:
 - a) Hotels and motels.
 - b) Restaurants.
 - c) Multi-family dwellings.
 - d) Recreational camps.
 - e) Campgrounds and travel trailer parks.
 - f) Mobile home parks.

- g) Gift and specialty shops.
 - h) Marinas.
- 5) The following uses shall be permitted upon the granting of an Administrative Review Permit:
- a) Home occupations.

16.1017 GENERAL PURPOSE DISTRICT

- 1) This district includes all shoreland not within the Shoreland-Wetland or Recreational-Residential districts and designated as General Purpose on the Shoreland Zoning Map of Marquette County. Areas other than those contained in the Shoreland-Westland District and Recreational-Residential District are potentially suited to a wide range of uses, including industrial, commercial, agricultural, residential, forestry and recreational uses. Selecting prospective locations for these uses and designating specific zones for each of them along navigable waters will require detailed, county-wide comprehensive planning. Until such planning is undertaken and more detailed amendments to this Ordinance can be enacted, a General Purpose District will be used to allow a wide range of uses, subject to the general provisions of this Ordinance which are designed to: further the maintenance of safe and healthful conditions; protect spawning grounds, fish and aquatic life; and preserve shore cover and natural beauty. Minimum separating distances are provided to reduce conflicting land uses between potentially incompatible uses.
- 2) Permitted uses:
- a) Any use permitted in a Shoreland-Wetland or Recreational-Residential District.
- 3) The following uses will be permitted upon the granting of a Special Exception:
- a) Commercial uses.
 - b) Industrial uses.
 - c) Any uses listed as a Special Exception under Section 16.1016.
- 4) The following uses shall be permitted upon the granting of an Administrative Review Permit:
- a) Home occupations.

Purpose. In some instances where an individual lot or small tract of land has unique characteristics, such as terrain, which would result in unnecessary hardship if the owner were required to comply with one or more of the requirements for minimum lot sizes, width and setbacks, the Board of Adjustment may grant a variance. In other instances where much larger areas are involved, the appropriate method for seeking a relaxation of the same minimum is by a limited rezoning procedure so as to establish for the area a Planned Residential Unit Development Overlay. The planned residential unit development is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from the navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without the special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all planned unit developments would require the preservation of certain open spaces, preferably on the shoreland, in perpetuity.

- 1) The County Board may in its discretion upon its own motion or upon petition approve a Planned Residential Unit Development either by approving first an overlay and then a plat or by approving only a plat for the specific planned residential project on finding after a public hearing that all of the following facts exist:
 - a) **Size.** The area proposed for the planned residential unit is at least 40 acres in size.
 - b) **Pollution Control.** The location and nature of the septic systems which will serve the homesites individually or collectively is such as to assure that effluent from the septic tank(s) will not reach the ground or surface waters in a condition which will contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of the adjacent or nearby navigable waters.
 - c) **Preservation of Ground Cover.** The location of homesites and the restriction placed on part of the land for use by the public or residents of the Planned Unit Development are such as to preserve the ground cover of the shoreland and the scenic beauty of the navigable water and prevent erosion and the other pertinent factors listed in Section 16.1003 of this Code. Excess land not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the county, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowners association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted

land by covenant, grant or easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary shall vest in the public body the right to enforce the restriction at law or in equity against any one who has or acquires an interest in the land subject to the restriction.

- d) **Density.** The number of platted homesites will not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of the zoning ordinance. This figure should be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot size provided in this Ordinance and the Marquette County Subdivision Ordinance.
- e) **Lot Sizes, Width, Setbacks and Tree Cutting.** The lot sizes, width and setbacks shall not be less than those provided for in current statutes and shall not be so small as to cause pollution or erosion along streets or other public ways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood. Shore cover provisions in Section 16.1008 shall apply.

2) The procedure for establishing limited rezoning in the form of a Planned Residential Unit Development District shall be as follows:

- a) A petition setting forth all of the facts required by Section 16.1018 (1) shall be submitted to the County Clerk with sufficient copies to provide for distribution by the Clerk as required by sub. b below. If the county, regional planning commission or other appropriate agency shall have prepared factual data clearly responsive to one or more of the requirements of Section 16.1018 (1), such data may be incorporated by reference in the petition.
- b) The petition shall be submitted to the county zoning agency established as required by Section 59.69(5)(e), Wisconsin Statutes, which shall hold a public hearing thereon and make a report to the County Board as required by law. Copies of the petition and notice of the hearing shall also be sent to the District offices of the Department of Natural Resources and the office of the regional planning commission in which the county is located. The County Zoning agency's report to the County Board shall reflect the recommendations of the above agencies and of any other federal or state agency, which the county zoning agency may consult. If a petition seeks approval of a planned use development plat without first seeking the granting of any overlay, a hearing must be held on such plat as on any regular amendment to the zoning ordinance. If, however, a hearing is first held on the overlay for a planned residential district, a second public hearing need not be held in connection with the approval of a subsequent plat or plats which complies with the overlay district as approved.

- c) The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 16.1018(1). If the petition is granted in whole or part, the County Board's approval shall attach such written conditions to the approval as shall be required by or be consistent with Section 16.1018(1). The condition of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes width, setbacks, and the location of septic tanks and the preservation of ground cover and/or open space.
- d) A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provisions of Section 16.1018(1) or may contribute funds to the county to defray all or part of the cost of such studies being undertaken by the county or any agency or person with whom the county contracts for such work.

16.1019 MOBILE HOME PARKS

- 1) Mobile home park means a plot or plots of ground upon which 3 or more units which are mobile homes, as defined herein, and occupied for dwelling purposes are located.
- 2) The minimum size of a mobile home park shall be 10 acres.
- 3) The maximum number of mobile homes shall be 8 per acre.
- 4) Minimum dimensions of a mobile home site shall be 50 feet wide by 100 feet long.
- 5) All drives, parking areas and walkways shall be surfaced.
- 6) In addition to the requirements of this Ordinance, there shall be a minimum setback of 25 feet from all exterior lot lines.
- 7) The parks shall conform to the requirements of the Wisconsin Administrative Code.
- 8) Each mobile home site shall be separated from other mobile home sites by a yard not less than 20 feet wide.
- 9) There shall be 2 surfaced automobile parking spaces for each mobile home.
- 10) Unless adequately screened by existing vegetative cover, the mobile home park shall be screened by a temporary planting of fast growing material, capable of reaching a height of 15 feet, or more, the individual trees to be such a number and so arranged that within 10 years they will have formed a screen equivalent in capacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less

than 10 feet.

- 11) Each mobile home park shall set aside at least 5% of the total area for a recreation area. This shall be in addition to yard or open spaces. The area shall be provided with play equipment furnished and maintained by the park owner.
- 12) All mobile home parks shall comply with the County Sanitary Ordinance.

16.1020 CAMPGROUNDS AND TRAVEL TRAILER PARKS

- 1) The minimum size shall be 10 acres.
- 2) There shall be a maximum of 20 sites per acre.
- 3) Each site shall be a minimum of 25 feet wide and 40 feet long.
- 4) Each site shall be plainly marked.
- 5) Each site shall be separated from other sites by a yard not less than 15 feet wide.
- 6) There shall be one automobile parking space for each site.
- 7) In addition to the setbacks required in Sec. 16.1006, there shall be a minimum setback of 100 feet from all lot lines.
- 8) All shall comply with the Wisconsin Administrative Code.
- 9) The screening provisions for mobile home parks shall be met.

**16.1021 VIOLATIONS, PENALTIES, REMEDIAL ACTION,
ENFORCEMENT**

The provisions of this ordinance shall be enforced under direction of the County Board of Supervisors, through the Zoning Committee and the Zoning Administrator. For forfeitures and penalties related to non-compliance with this Ordinance, refer to Section 16.0110 of the Zoning Administration Ordinance and Marquette County Citation Ordinance 5.40.

16.1022 CHANGES AND AMENDMENTS

- 1) Whenever public necessity, convenience, general welfare or good zoning practice require, the County Board of Supervisors may, by Ordinance, change the district boundaries or amend or supplement the regulations established by this Ordinance in accordance with the provisions of the Wisconsin Statutes.
- 2) A petition for amendment must be made pursuant to the procedures set

forth in Sec. 59.69(5)(e) of the Wis. Stats. and the provisions of that statute followed before any amendment to this Ordinance may be considered.

- 3) Petition for any change to the district boundaries or amendments to the regulations shall be filed with the County Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - (a) Plot plan approved by the Zoning Administrator, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
 - (b) Owner's names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.
 - (c) Fee receipt from the Zoning Administrator.

16.1023 DEFINITIONS

For the purposes of this Ordinance, certain words are defined 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 "building" includes the word "structure" and the word "shall" is mandatory and not permissive.

1) ACCESSORY BUILDING

A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building. Mobile homes, semi-trailers, camping units, recreational vehicles, mobile office units, cargo boxes, buses, motor coaches, trailers and boxcars shall not be used as accessory buildings.

2) ADMINISTRATIVE REVIEW PERMIT

A permit for a use designated as an administrative review use in the ordinance, which requires a more detailed review by the Zoning Administrator than a permitted use, but allows for a more expedited review than a special exception.

3) AGRICULTURAL USE

Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind;

owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446 (d); and vegetable raising.

4) BOATHOUSE

Any structure designed for the purpose of protecting or storing boats for non-commercial purposes. Boathouses shall not be used for human habitation.

5) BUILDING

Anything constructed and designed to stand more or less permanently and occupying a space of land.

6) BUILDING AREA

The area bounded by the exterior dimensions of the outer wall at the ground line. Only year round habitable space shall be included.

7) BUILDING - PRINCIPAL

The main building on a lot, intended for primary use as permitted by the regulation of the Zone or district in which it is located.

8) CAMPGROUND

A parcel or tract of land maintained, intended or used for the purpose of supplying temporary or overnight living accommodations by providing designated areas for the placement of trailers, tents, buses, automobiles, trucks or sleeping bags, and may include buildings to provide services to patrons such as restrooms, bathing, laundry, recreation and commissary facilities.

9) DEPARTMENT

The Department of Natural Resources.

10) DRAINAGE SYSTEM

One or more artificial ditches, tile drains or similar devices which collect surface run-off or groundwater and convey it to a point of discharge.

11) DWELLING

A detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, or trailers.

12) DISTRICT

A portion or portions of Marquette County for which regulations governing the use of land and building are uniform.

13) FLOODPLAIN

The land which has been or may be hereafter covered by flood during the regional flood. The floodplain includes the floodway and the floodfringe as those terms are defined in NR 116, Wisconsin Administrative Code.

14) FLOODPROOFING

Any treatment of land or buildings and their attendant water supply and sanitary sewage disposal facilities that reduces flood damage and water contamination hazard. This includes sealing, anchoring, elevating and filling, but is not restricted thereto.

15) HIGH CAPACITY WELL

High capacity well means a well constructed on a high capacity property.

16) HIGH CAPACITY WELL PROPERTY

High capacity property means one property on which a high capacity well system exists or is to be constructed.

17) HIGH CAPACITY WELL SYSTEM

High capacity well system” means one or more wells, drillholes or mine shafts used or to be used to withdraw water for any purpose on one property, if the total pumping or flowing capacity of all wells, drillholes or mine shafts on one property is 70 or more gallons per minute based on the pump curve at the lowest system pressure setting, or based on the flow rate.

18) HOME OCCUPATION

Any occupation for gain or support conducted by resident occupants entirely in buildings provided the use does not alter the appearance of the premises, does not produce noise, vibration, light, odor, dust, smoke or other pollution detectable outside the parcel by persons with normal sensitivities, is not identifiable by an on-premises sign of more than 6 square feet in area, and there is only one such use on any lot. The use shall be incidental and subordinate to the primary or principal use of the property and no stock in trade shall be kept or sold except that made on the premises nor shall any non-resident be employed unless specifically approved by the Marquette County Board of Adjustment.

19) JUNK YARD

An area consisting of buildings, structures or premises where junk, waste, discarded, or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile salvage yards, as a for profit operation, or in excess of normal residential use.

20) KENNEL

Premises where 5 or more dogs, cats, or other household pets, not including offspring below the age of 6 months, are maintained, boarded, bred, trained, or cared for in return for remuneration or are kept for the purpose of sale.

- 21) LAGOON
An artificial enlargement of a waterway.
- 22) LOT
A parcel of land described in a recorded plat or deed.
- 23) LOT, CORNER
A lot abutting on two or more streets at their intersection.
- 24) LOT LINES AND AREA
The peripheral boundaries of a parcel of land and total area lying within such boundaries.
- 25) LOT DEPTH
The mean horizontal distance between the front and rear lot lines.
- 26) LOT WIDTH
The distance between side lines of the lot.
- 27) MANUFACTURING
The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure or an open yard, serviced by a modest volume of trucks or other service vehicles, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.
- 28) MINI-WAREHOUSE
A secure storage facility consisting of individual compartments that are for rent or lease.
- 29) MOBILE HOME
A single family dwelling which does not require substantial on-site fabrication and is transportable on its own chassis in one unit. This definition does not include double-wide units, which are not transportable on their own chassis.
- 30) MOBILE HOME PARK
A plot or plots of land upon which 3 or more units, which are mobile homes and occupied for dwelling purposes, are located, along with the necessary accessories.
- 31) NON-CONFORMING LOT, USE OR STRUCTURE
Any structure, land or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto which does not conform to the regulations of this Ordinance or amendments thereto.
- 32) ORDINARY HIGHWATER MARK

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.

33) PRIVATE SEWAGE DISPOSAL SYSTEM

A sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks and private owned common sewage facilities, including package treatment plants, lagoons and irrigation systems.

34) PUBLIC SEWAGE DISPOSAL SYSTEMS

Sewer and sewage treatment facilities used in connecting therewith which are maintained and operated by a municipality or sanitary district.

35) QUARRYING

The removal of rock, slate, gravel, sand, top soil, or other natural material from the earth by excavating, stripping, leveling or any other such process.

36) REGIONAL FLOOD

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 years.

37) SETBACK

The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare, right of way, water line, or prospective line to the nearest vertical wall or other element of a building or structure.

38) SHORELANDS

All lands lying within 1,000 feet of the normal high water mark of navigable lakes, ponds, flowages or within 300 feet of the normal high water mark of a river or stream, or to the landward side of a floodplain.

39) SILVERCULTURAL THINNING

A woodland management practice which, for the purpose of this Ordinance, improves or maintains the quality of adjacent surface water through responsible cutting in shorelands and by which long lived species are perpetuated and provision is made for efficient methods of slash disposal.

40) SPECIAL EXCEPTION

A use which is permitted by this Ordinance provided that certain conditions specified pursuant to the Ordinance are met and that a permit is granted by the Board of Adjustment.

41) SINGLE FAMILY DWELLING

A residential building containing one dwelling unit.

42) STRUCTURE

A structure includes any man made object with form, shape and utility, either permanently or temporarily attached to, placed upon or in the ground, or an attachment to something on a premises, including but not limited to dwellings accessory buildings, additions, decks, platforms, porches, balconies, gazebos, boathouses, stairs, walkways, sidewalks, piers, wharves, patios, bridges and retaining walls.

43) STRUCTURAL ALTERATION

Any change in the supporting members of a structure, such as walls, columns, beams, girders, or any substantial change in the roof and exterior walls.

44) TRAVEL TRAILER

A portable vehicle, designed to be towed by a motor vehicle and used as a temporary dwelling for travel, recreation, and vacation use, which does not fall within the definition of a mobile home.

45) UNNECESSARY HARDSHIP

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

46) USE

The purpose or activity for which the land or buildings thereon is designed, arranged or intended or for which it is occupied or maintained.

47) VARIANCE

A departure from the terms of this Ordinance as applied to a specific building, structure, or parcel of land, which the Board of Adjustment may permit, contrary to the regulations of the Ordinance for the district in which such building or structure or parcel is located. When the Board finds, after a public hearing that a literal application of such regulation will effect a limitation on the use of the property, which does not generally apply to other properties in the same district, and for which there is no compensating gain to the public health, safety, or welfare. A variance shall not permit a use which is not permitted in the district in which it is proposed.

48) WETLANDS

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.

