

**ST. CROIX COUNTY
CODE OF ORDINANCES
LAND USE AND
DEVELOPMENT**

**SUBCHAPTER III
SECTION 17.30
SHORELAND OVERLAY DISTRICTS**

**EFFECTIVE APRIL 1, 2014
AMENDED 5-15-16**

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ST. CROIX COUNTY CODE OF ORDINANCES

LAND USE AND DEVELOPMENT

SUBCHAPTER III, SECTION 17.30

ST. CROIX COUNTY SHORELAND OVERLAY DISTRICTS

The Board of Supervisors of St. Croix County, Wisconsin, does ordain as follows: The Code of Ordinances Subchapter III. Section 17.25-17.35 Shoreland Zoning as amended, is repealed and recreated as Subchapter III. Section 17.30 Shoreland Overlay Districts as follows:

A. TITLE, AUTHORITY, EFFECTIVE DATE

1. TITLE

- a. This section shall be cited as: Section 17.30, St. Croix County Shoreland Overlay Districts.

2. STATUTORY AUTHORIZATION

- a. Section 17.30 is adopted pursuant to the authorization in §59.692 Wis. Stats to implement 59.69, 59.694, 87.30, 236.45, and 281.31.

3. EFFECTIVE DATE

- a. Section 17.30 is effective on April 1, 2014. Ordinance No. 830(2014)

B. FINDINGS OF FACT & PURPOSE

1. FINDING OF FACT

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

2. PURPOSE & INTENT

- a. For the purpose of promoting the public health, safety, convenience and welfare, and promoting and protecting the public trust in navigable waters, Section 17.30 and [Chapters 12](#) and [13](#) have been established to:
 - 1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation;
 - b) Establishing minimum lot sizes to provide adequate area for private on-site wastewater treatment systems;
 - c) Controlling filling and grading to prevent soil erosion problems;

- d) Limiting impervious surfaces to control runoff which carries pollutants; and
 - e) Preserving wetlands for groundwater recharge and to minimize runoff and soil erosion.
- 2) Protecting spawning grounds, fish, aquatic life and wildlife habitat by:
 - a) Preserving wetlands and other fish and aquatic habitat;
 - b) Regulating pollution sources; and
 - c) Controlling shoreline alterations, dredging and lagooning.
 - 3) Controlling development, placement of structures and land uses by:
 - a) Separating conflicting land uses;
 - b) Prohibiting certain uses detrimental to the shoreland area;
 - c) Regulating side yards and buildings setbacks from roadways and waterways;
 - d) Setting minimum lot sizes and widths;
 - e) Setting the maximum height of near shore structures; and
 - f) Minimizing adverse impacts to wetlands.
 - 4) Preserving and restoring shoreland vegetation and natural scenic beauty by:
 - a) Restricting the removal of natural shoreland cover;
 - b) Preventing shoreline encroachment by structures;
 - c) Controlling shoreland excavation and other earth moving activities;
 - d) Regulating the use and placement of boathouses and other structures;
 - e) Preventing the destruction and degradation of wetlands; and
 - f) Preserving native wetland plant/tree communities.
 - 5) Preventing flood damages by:
 - a) Restricting filling, grading, and the placement of structures in floodplains and wetlands;
 - b) Preserving the ecological integrity of floodplains and wetlands; and
 - c) Restoring floodplains and wetlands to increase floodwater storage.

C. INTERPRETATION

1. ABROGATION & GREATER RESTRICTIONS

- a. The provisions of Section 17.30 supersede all the provisions of any prior county zoning ordinance adopted under §59.692, Wis. Stats., which relates to shorelands and wetlands. However, where an ordinance adopted under a statute other than §59.692, Wis. Stats., is more restrictive than Section 17.30, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - 1) Section 17.30 shall not require approval or be subject to disapproval by any town or town board.
 - 2) Section 17.30 is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law.
- b. The Shoreland Districts are overlay zoning districts and apply in addition to other zoning regulations found in [Chapter 17](#) to all unincorporated areas within St. Croix County.
 - 1) If any provision of Section 17.30 conflicts with any provision of [Chapter 17](#), the more restrictive provision shall apply.

- 2) To the extent not covered in Section 17.30, the provisions of the St. Croix County General Zoning Ordinance shall control land use in the Shoreland Overlay Districts.

2. COMPLIANCE

- a. The use of any land, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, and the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations.
- b. All structures shall require a permit unless otherwise expressly excluded by a provision of Section 17.30.
- c. Owners of property in the Shoreland Overlay, Shoreland-Wetland Overlay, and Inland-Wetland Overlay districts together with all of their agents are responsible for compliance with the terms of Section 17.30.

3. MUNICIPALITIES & STATE AGENCIES REGULATED

- a. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with Section 17.30, and obtain all necessary permits. State agencies are required to comply when §13.48(13), Wis. Stats., applies.
- b. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to Section 17.30 Shoreland Overlay Districts if §30.2022(1) Wis. Stats., applies.

4. LIBERAL CONSTRUCTION

- a. In their interpretation and application, the provisions of Section 17.30 shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of Section 17.30 is required by a standard in Ch. NR 115, Wis. Adm. Code, and where the section provision is unclear, the provision shall be interpreted in light of the Ch. NR 115 standards in effect on the date of the adoption of Section 17.30 or in effect on the date of the most recent text amendment to Section 17.30.

5. SEVERABILITY

- a. If any portion of Section 17.30 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of Section 17.30 shall not be affected.

D. AREAS REGULATED

1. SHORELANDS REGULATED

- a. The provisions of Section 17.30 apply to regulation of the use and development of unincorporated shoreland areas in St. Croix County, and to annexed or incorporated areas therein except as provided in §59.692 (7), Wis. Stats.
- b. Shorelands regulated by Section 17.30 shall include all the lands (referred to herein as shorelands) which are:

- 1) Within 1,000 feet of the Ordinary High Water Mark (OHWM) of navigable lakes, ponds or flowages, including such lands lying within that distance of the St. Croix River that are not regulated by the Lower St. Croix Riverway Overlay District.
 - 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 boundary, whichever distance is greater.
- c. Determinations of Navigability and Ordinary High Water Mark
- 1) Lakes, ponds, flowages, rivers and streams in St. Croix County are presumed to be navigable if they are identified on the surface water layer of the *Wisconsin DNR Surface Water Data Viewer*, or listed in the Wisconsin Department of Natural Resources (WDNR) publication "*Surface Water Resources of St. Croix County*", or shown as perennial or intermittent waterways on the U.S. Geological Survey quadrangle maps or other St. Croix County base zoning maps, or if they meet statutory and case law definitions for navigable waterways.
 - 2) Determinations of navigability and ordinary high-water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate office of the WDNR for a final determination of navigability or ordinary high-water mark.

2. SHORELAND-WETLANDS & INLAND-WETLANDS REGULATED

- a. Shoreland-Wetlands regulated by Section 17.30 shall include all the lands in the unincorporated areas of St. Croix County which are designated as wetlands within the shorelands designated in **§17.30 D.1.** above.
- b. Inland-Wetlands regulated by Section 17.30 shall include all lands in the unincorporated areas of St. Croix County which are outside the shoreland areas and are designated as wetlands 1-acre or greater.
- c. Where an apparent discrepancy exists between the wetland boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, the county shall contact the WDNR to determine if the map is in error. If the WDNR 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 permit in accordance with the applicable regulations based on the WDNR determination as to whether the area is a 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.

3. NOT APPLICABLE

- a. Under §281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, these Shoreland Overlay Districts 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 non-navigable streams before ditching or had no previous stream history; and
 - 3) Such lands are maintained in nonstructural agricultural use.

4. OFFICIAL MAPS

- a. The maps designated below are adopted and made a part of Section 17.30. They are on file in the office of the Zoning Administrator for St. Croix County.

- b. Due to inaccuracies inherent in the mapping process, reliance thereupon cannot be guaranteed and on a case-by-case basis, the Zoning Administrator may require additional investigation to allow for proper application of the shoreland district regulations in determining designation.
- c. St. Croix County base zoning maps.
- d. *Wisconsin DNR Surface Water Data Viewer*, or listed in the Wisconsin Department of Natural Resources (WDNR) publication "*Surface Water Resources of St. Croix County*."
- e. Any current or revised Wisconsin Wetland Inventory maps.
- f. WDNR's Wetland & Wetland Indicator Maps, which include hydric soils and are available for review through the WDNR's Surface Water Data Viewer Web Mapping Application.
- g. United States Geological Survey 7.5 Quadrangle Maps for St. Croix County.
- h. Flood Insurance rate maps dated March 16, 2009 and Other Official maps adopted in [§17.40 B.](#), St. Croix County Floodplain Overlay Zoning District.
- i. St. Croix County soils survey.

E. ESTABLISHMENT OF DISTRICTS

1. SHORELAND OVERLAY DISTRICT

- a. This district shall include all shorelands designated by **§17.30 D.**

2. SHORELAND-WETLAND OVERLAY DISTRICT

- a. This district shall include all wetlands 10,000 square feet or greater in size, located within shorelands as designated by **§17.30 D.**

3. INLAND-WETLAND OVERLAY DISTRICT

- a. This district shall include all non-shoreland wetlands that are 1-acre or greater in size, as designated by **§17.30 D.**

4. DISTRICT BOUNDARIES

- a. The boundaries of the Shoreland, Shoreland-Wetland and Inland-Wetland districts can be identified from the information provided in **§17.30 D.** above or through consultation with the Zoning Administrator.
- b. The maps adopted in **§17.30 D.** above show the general location of wetlands and are intended to alert landowners if there is a high likelihood of the presence of a wetland. Maps do not represent the definitive presence and boundaries of wetlands and cannot serve as a substitute for a delineation of wetland boundaries by a certified wetland delineator or verification by the Wisconsin Department of Natural Resources (WDNR) or the United States Army Corps of Engineers (USACE).
- c. Wetland types (navigable, non-navigable and size) shall be determined by the Zoning Administrator. Certification of wetland delineation, if required, is the responsibility of the property owner.
- d. Map revisions are on file in the office of the Zoning Administrator. If more than one map or revision is referenced, the most restrictive information shall apply.
- e. The Zoning Administrator can rely on a boundary derived from a site survey.

F. PROVISIONS APPLICABLE TO ALL SHORELAND DISTRICTS

1. COMPLIANCE WITH OTHER COUNTY REGULATIONS

- a. Land use and development in the Shoreland, Shoreland-Wetland and Inland-Wetland Overlay districts must comply with St. Croix County's Code of Ordinances Land Use and Development: [Chapter 11](#) Animal Waste Storage Facilities, [Chapter 12](#) Sanitary, [Chapter 13](#) Land Division, [Chapter 14](#) Non-metallic Mining and all other sections of [Chapter 17](#) Zoning.
- b. Insofar as shoreland property may also be subject to floodplain regulations, owners are required to consult [§17.40](#) Floodplain Overlay District, to determine the extent to which, if any, their properties are subject to those regulations, as well.

2. PUBLIC ACCESS PROVISION

- a. The county shall provide for public access to navigable lake or stream, pursuant to §236.16(3), Wis. Stats., in all proposed land divisions in the Shoreland Overlay District.
- b. Such access shall be at least 60-feet wide and connect to an existing public road.

3. MINIMUM LOT STANDARDS

- a. New lots, sewered or unsewered, the lot standards from the base zoning districts and [Chapter 13](#) Land Division of the St. Croix County Code of Ordinances Land Use and Development shall apply.
- b. Existing Lots
 - 1) A lot or parcel that is of record in the County Register of Deeds prior to the adoption of shoreland zoning on January 1, 1968 and which met minimum area and minimum average width standards when created, but does not meet current lot size standards, may be used as a building site, if all of the following apply:
 - a) Such use is permitted in the underlying Zoning District.
 - b) The existing lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by any owner into one property tax parcel.
 - c) The existing lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - d) The existing lot or parcel is developed in full compliance with all other ordinance requirements identified in [§17.30 F.1.a.](#) above.
- c. Other Substandard Lots
 - 1) Land Use Permits may be issued for the use or development of lots that do not meet the dimensional standards in [§17.30 F.3.b.1\)](#) above but only if a variance(s) is granted by the Board of Adjustment.

4. HEIGHT

- a. The maximum structure height shall be 35 feet unless otherwise provided in [§17.12\(6\)](#).
- b. Wireless communication service and other transmission facilities must meet the height requirements in [§17.80](#)-17.90.
- c. Height shall be measured according to the provisions in [§17.09](#), Structure Height Measurement.

5. SOIL CONSERVATION PRACTICES

- a. All best management practices designed to meet soil conservation practices, such as tiled terraces, runoff diversions and grassed waterways, used for erosion control shall not require a permit under **§17.30 I.**, but shall comply with the following technical standards:
- b. Natural Resources Conservation Service's *Wisconsin Field Office Technical Guide for St. Croix County, Wisconsin* or its successor, and including all Technical Notes applicable to St. Croix County.
- c. Such activity complies with the appropriate practices specified in the applicable Wisconsin Administrative Codes, such as, Chapter NR 151 Runoff Management.
- d. Utilize best management practices, which are in the Natural Resource Conservation Service (NRCS) Field Office Technical Guide at <http://efotg.sc.egov.usda.gov/treemenuFS.aspx> or the Post-Construction Technical Standards listed WIDNR stormwater management website found at <http://dnr.wi.gov/topic/stormwater/>.
- e. Any other technical methodology approved by the Zoning Administrator.

G. SETBACKS FROM NAVIGABLE WATERS, WETLANDS & BLUFFS

1. SETBACK STANDARDS

- a. Front, side and rear setbacks shall meet the provisions of the base zoning district, except as provided in **§§17.30 G.2.**, and **17.30 G.3.**, below.
- b. To determine compliance, measurement of setbacks shall be the horizontal distance from the closest point of a structure to the Ordinary High Water Mark (OHWM) or the delineated wetland boundary.
- c. In the case of appendages to structures, such as decks, cantilevers or overhangs, the measurement shall be from the point of such appendage closest to the OHWM or delineated wetland boundary.

2. STRUCTURE SETBACKS

- a. The structure setback on lots or parcels that abut navigable waters, wetlands or bluffs, unless exempted in **§17.30 G.3.** or reduced under **§17.30 G.4.**, below, shall be at least:
 - 1) Seventy-five (75) feet, measured horizontally, from the nearest ordinary high-water mark.
 - 2) Fifty (50) feet, measured horizontally, from the delineated boundary of shoreland-wetlands 10,000 square feet or greater in size.
 - 3) Fifty (50) feet, measured horizontally, from the delineated boundary of inland-wetlands 1-acre or greater in size.
 - 4) Twenty (20) feet, measured horizontally, from the nearest bluffline adjoining a 25% or greater slope (measured over a horizontal distance of 50 feet).
 - 5) As specified by **§17.40** Floodplain Overlay District.

3. EXEMPTIONS TO THE STRUCTURE SETBACKS

- a. The following structures are allowed within the 75 foot setback from an OHWM, if the following conditions are met:

- 1) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two meters or less in diameter.
- 2) Utility transmission and distribution lines, towers, water towers, poles, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with DSPS 383 and [Chapter 12](#) St. Croix County Sanitary Ordinance, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
- 3) Fences
 - a) Open fences may not exceed 6-feet in height.
 - b) Open fences are considered to be chain-link, wire, or chain and must have greater than 80% open space.
 - c) Fencing for agriculture use, livestock crossings and watering areas that are constructed according to Natural Resource Conservation Service- Conservation Practice Standard- 382-Fence.
 - d) Existing non-conforming fences shall not be replaced, expanded or enlarged but may be maintained and repaired, limited however to their existing dimensions and type of material.
- b. The following structures are allowed with a Land Use Permit within the setback from the OHWM subject to **§17.30 H.4.**, and **§17.30 P.4.**
 - 1) Open sided and screened structures such as gazebos, decks, patios and screen houses that satisfy the requirements in §59.692(1v), Wis. Stats.
 - 2) Stairways, walkways, and lifts that are necessary to provide pedestrian access to the shoreline because of steep slopes, rocky or wet, unstable soils.
 - 3) Retaining walls and terracing shall only be allowed in the setback where the owner can demonstrate that there is a current erosion problem that cannot be remedied by re-sloping and re-vegetating the area or other means consistent with natural shoreline aesthetics. Walls or terracing shall only be permitted to the extent that they resolve a continuing erosion problem and shall not be permitted in order to create a level outdoor living space in the near-shore area.
 - 4) Boathouses
 - 5) All uses or structures not listed are prohibited in the setback area.
- 4. REDUCED PRINCIPAL STRUCTURE SETBACK**
 - a. The Zoning Administrator may allow a reduced minimum setback from the OHWM for a proposed principal structure if an existing development pattern exists and all of the following conditions are met:
 - 1) A Land Use Permit per **§17.30 P.4.** is required.
 - 2) The lot is a legal lot of record that complied with the applicable lot size standards in effect at the time that the lot was recorded at the county Register of Deeds office.
 - 3) The required setback for the proposed principal structure may be reduced to the average shoreland setback using the nearest principal structure on each adjacent lot, if:
 - a) The adjacent lots are previously developed and their principal structures do not meet the required building setbacks.

- b) The adjacent lots on both sides have principal structures within 250 feet of the proposed structure.
- c) The principal structures on neighboring lots were legally placed non-conforming structures.
- 4) The required setback may not be reduced to less than 35 feet from the OWHM of any navigable waterbody.
- 5) All other provisions of Section 17.30 are met.

H. SHORELAND OVERLAY DISTRICT

1. PERMITTED USES & STRUCTURES

- a. The uses below are allowed subject to the shoreland regulations contained in Section 17.30.
- b. All uses permitted in [§17.16](#) Conservancy District.
- c. All uses permitted in [§17.30 N.](#) Shoreland-Wetland Overlay District.
- d. Year-round or seasonal single-family residence and accessory uses and structures, subject to the standards [§17.30 H.4.](#) below.
- e. Public and private parks, picnic areas, and similar uses.
- f. Signs, subject to [§17.65.](#)
- g. Vegetation Management, subject to [§17.30 A.](#)
- h. Land Disturbance Activities, subject to [§17.30 I.](#)

2. CONDITIONAL USES

- a. The uses identified in b. – i. below are permitted upon issuance of a conditional use permit per [§17.70](#) (7) of this chapter provided:
 - 1) All structures shall be setback at least 100 feet from a residence on the adjacent lots.
 - 2) All structures shall be setback 75 feet from a residential property line.
 - 3) All structures shall be setback 25 feet from a side-lot line.
- b. Two-family dwellings or multiple family dwellings involving 3 or more units.
- c. Hotels, resorts (including 2 or more seasonal family dwellings for rent or lease), motels, bed & breakfasts, restaurants, dinner clubs, taverns and other private clubs.
- d. Recreational and educational camps and campgrounds provided:
 - 1) All buildings shall be more than 100 feet from the lot line.
 - 2) Recreational and educational camps shall conform to Ch. DHS 175 Wisconsin Administrative Code.
 - 3) Campgrounds shall conform to Ch. DHS 178 Wisconsin Administrative Code.
- e. Gift and specialty shops customarily found in recreational areas.
- f. Marinas, boat liveries, fish farms, forest industries and sale of bait, fishing equipment, boats and motors.
- g. Wireless Communication Service and Other Transmission Facilities per [§17.80](#)-17.90.
- h. Any construction or dredging commenced on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the Ordinary High Water Mark (OHWM) of a navigable body of water or where the purpose is to ultimately connect with a navigable body of water.

- i. Mobile Home Parks provided:
 - 1) The minimum size of a mobile home park shall be 10 acres.
 - 2) The maximum number of mobile homes shall be 10 per acre.
 - 3) The minimum dimensions of a mobile home site shall be 50 feet wide by 85 feet long.
 - 4) All drives, parking areas and walkways may be pervious-surfaced.
 - 5) The minimum setback from all other exterior lot lines shall be 40 feet.
 - 6) Mobile Home Parks shall conform to the Ch. ATCP 125 Wisconsin Administrative Code.

3. PROHIBITED USES

- a. All uses or structures not listed as allowed, permitted or conditional uses are prohibited.

4. ACCESSORY STRUCTURE STANDARDS

a. Open Sided & Screened Structures

- 1) A Land Use Permit is required, if located within the 75-foot setback from the OHWM.
- 2) The part of the structure that is nearest to the water is located at least 35 feet landward from the OHWM.
- 3) The structure is not constructed on a slope of in excess of 20%.
- 4) The total combined footprint of all the structures within the shoreland setback area of the parcel shall not exceed 200 square feet. Walkways and stairways, shall be excluded in calculating the combined footprint.
- 5) The structure height shall not exceed 12 feet above the lowest grade within the structure footprint.
- 6) Roofs of existing structures shall not be converted to decks or seating areas.
- 7) Structures shall not be connected to water, gas or sewer utilities.
- 8) All proposed land disturbance activities shall meet the requirements of **§17.30 I.**

b. Walkways

- 1) A Land Use Permit is required, if located within in the 75-foot setback from the OHWM.
- 2) Located within the access and viewing corridor, where topography allows.
- 3) Width may not exceed 48 inches.
- 4) All proposed land disturbance activities shall meet the requirements of **§17.30 I.**

c. Stairways

- 1) A Land Use Permit is required, if located within in the 75-foot setback from the OHWM.
- 2) Located within the access and viewing corridor, where topography allows.
- 3) The tread width of the stairway may not exceed 48 inches.
- 4) Landings may be allowed for safety concerns and shall not exceed 40 square feet in area.
- 5) One landing is allowed for every 40 feet of vertical stairs, landing separation should be approximately 20 vertical feet however the specific location shall be determined by site conditions.
- 6) Handrails may be permitted in conjunction with stairways and shall be painted or stained the same color as the stairways.
- 7) Canopies or roofs are not allowed on stairways.

- 8) Stairways, handrails and landings shall be anchored and supported above grade with pilings or footings.
 - 9) Stairways shall be earth-tone colors.
 - 10) All proposed land disturbance activities shall meet the requirements of **§17.30 I.**
- d. Lifts
- 1) A Land Use Permit is required, if located within in the 75-foot setback from the OHWM.
 - 2) Located within the access and viewing corridor, where topography allows.
 - 3) No lifts shall be constructed to transport boats or machines to or from the shoreline.
 - 4) The car of the lift may not exceed 4 feet by 6 feet. Cars may have handrails, but no canopies or roofs shall be allowed.
 - 5) Lifts and associated equipment shall be located in the most visually inconspicuous portion of the lot. All visible parts of the lift shall be finished in earth-tone colors.
 - 6) A plan shall be submitted to the Zoning Administrator and certified by a registered professional engineer or architect showing that the lift components are securely anchored to prevent them from shifting and from causing accelerated erosion.
 - 7) All proposed land disturbance activities shall meet the requirements of **§17.30 I.**
- e. Boathouses
- 1) Shall be designed and used exclusively for the storage of watercraft and related equipment.
 - 2) Do not contain plumbing and are not used for human habitation.
 - 3) Only one boathouse allowed on the property.
 - 4) Located entirely above the OHWM, with the water side of a boathouse set back at least 5 feet and no more than 20 feet from the OHWM and shall meet the standards in §17.40 Floodplain Overlay District.
 - 5) Located entirely within the access and viewing corridor.
 - 6) The area of a boathouse shall not exceed 350 square feet in floor area.
 - 7) A one (1) foot wide soffit may extend beyond the exterior walls.
 - 8) The entire width of the structure, parallel to the shore, shall not exceed 14 feet.
 - 9) The boathouse is one-story with a maximum sidewall height not to exceed 10 feet.
 - 10) Roof pitch shall not be less than 4:12 (rise over run) and no steeper than 6:12.
 - 11) The exterior structure shall use earth-tone colored building materials.
 - 12) The main door shall face the water.
 - 13) Boathouses shall not be equipped with potable water supply, patio doors, bay windows, fireplaces, decks, platforms, indoor carpeting, furniture and other features or uses that are inconsistent with the use of the structure exclusively as a boathouse.
 - 14) Land disturbance activities shall be done in a manner to minimize erosion and sedimentation and meet the erosion control standards in §17.30 K.2.
 - 15) All other provisions in Chapter 17 and §17.30 are met, including side yard and rear yard setbacks, construction and land disturbance affecting slopes 20% or greater and accessory building standards.

5. REASONABLE ACCOMMODATION FOR DISABLED PERSONS

- a. Ramps, walkways or decks to provide a disabled person with reasonable access to their property as required by the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the Wisconsin Fair Housing Act are allowed by Land Use Permit, subject to the following standards:
 - 1) Only the minimum relaxation of dimensional, density or other standards needed to provide reasonable access may be approved.
 - 2) No use, structure or other relaxation of standards may be approved that would violate or undermine the stated purposes of Section 17.30.
 - 3) The Land Use Permit will expire and the structure removed once the property is no longer primarily used by a disabled person. Subsequent landowners no longer needing disabled access shall not replace or expand the facilities.
 - 4) Routine maintenance is allowed.
- b. An affidavit describing the approved Land Use Permit shall be executed and recorded with the County Register of Deeds by the property owner within 14 days after approval of the permit.
 - 1) The affidavit shall state that the ramp, walkway, or deck must be removed as required above, and shall alert subsequent purchasers of the land of the requirements of the Land Use Permit.

I. LAND DISTURBANCE ACTIVITY – SHORELAND DISTRICT

1. STANDARDS

- a. Filling, grading, lagooning, dredging, ditching, excavating or other land disturbance activity in the Shoreland Overlay District may be permitted provided that the following standards are met:
 - 1) It is done in accordance with the provisions in Section 17.30 and with the provisions in **§17.30 N.1.b.**
 - 2) A Land Use Permit per **§17.30 P.4.** is required.
 - 3) The requirements of Ch. 30, Wis. Stats., and other state and federal laws where applicable are met.
 - 4) An Erosion Control Plan is required per **§17.30 K.2.**, where practices are designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

2. PERMIT REQUIRED

- a. A Land Use Permit is required for any land disturbance activity which is within 300 feet landward of the Ordinary High Water Mark (OHWM) of a navigable waterbody, which slopes toward and drains directly to the water body and meets one of the following:
 - 1) Any construction or land disturbance activities of more than 2,000 sq. ft. on slopes less than 12%.
 - 2) Any construction or land disturbance activities of more than 1,000 sq. ft. on slopes of 12%-19.9%.
 - 3) Any construction or land disturbance activities affecting slopes 20 to 24.9%.
 - 4) Any construction or land disturbance activities affecting slopes 25% or greater shall be prohibited.
 - 5) Any construction or land disturbance activities for public improvements affecting slopes 30% or greater shall be prohibited.
- b. A Land Use Permit is required for any land disturbance activity 10,000 square feet or greater and within 1,000 feet landward of the OHWM of a navigable waterbody, which slopes toward and drains directly to the water body.
- c. A conditional use permit is required for any construction or dredging commenced on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the OHWM of a navigable body of water or where the purpose is to ultimately connect with a navigable body of water.
- d. Land disturbance activity of any area, any size at or below the OHWM of a navigable body of water requires approval by the WDNR.
- e. Cultivation of agricultural fields is not considered a land disturbance activity, provided it is done in conformance with appropriate practices specified in **§17.30 F.5.**, or has a site-specific farm conservation plan approved by the Zoning Administrator.

J. IMPERVIOUS SURFACE – SHORELAND DISTRICT

1. STANDARDS

- a. Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high-water mark of any navigable waterway.
- b. Stormwater Management per **§17.30 K.1.** is required.

2. IMPERVIOUS SURFACE CALCULATION

- a. The percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the Ordinary High Water Mark (OHWM) by the total area of that portion of the lot or parcel that is within 300 feet of the OHWM and multiplying the result by 100.
- b. Impervious calculations shall not include any area within the Right-of-Way (ROW) or below the OHWM.

3. NEW IMPERVIOUS SURFACE

- a. The amount of new impervious surfaces on the portion of a lot or parcel that is within 300-feet of the Ordinary High Water Mark is limited to the following:
- b. Impervious surface is allowed on up to 10% of the lot with a Land Use Permit.
- c. Greater than 10% but no more than 25% impervious surface is allowed with a Land Use Permit and a Mitigation Plan per **§17.30 P.4.**, and **§17.30 M.**

4. EXISTING IMPERVIOUS SURFACES

- a. For existing impervious surfaces that were lawfully placed when constructed, but do not comply with impervious standards in **§17.30 J.3.** above, the property owner may do any of the following:
 - 1) Ordinary maintenance and repair of existing impervious surfaces.
 - 2) Replace existing impervious surfaces with similar surfaces within the existing footprint.
 - 3) Relocate or modify an existing impervious surface with a similar or different impervious surface, provided that:
 - a) The relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of this amendment to Section 17.30.
 - b) The impervious surface meets the applicable setback requirements in **§17.30 G.**
 - c) The impervious surface meets the nonconforming structure provisions in **§17.30 O.**

K. PERFORMANCE STANDARDS -- SHORELAND DISTRICT

1. STORM WATER MANAGEMENT STANDARDS

- a. Storm water management shall reduce runoff onto adjacent properties, down steep slopes, and into navigable waterbodies or other drainage ways.
- b. All Best Management Practices (BMPs) shall meet or exceed the applicable WDNR Technical Standards for Storm Water Management.

- c. Storm water management must meet all of the following standards:
- 1) Infiltrate 100% of the proposed impervious development storm water volume for the site for a 1.5-inch rainfall event.
 - 2) A model that calculates runoff volume and estimates infiltration such as RECARGA, SLAMM, P8 or equivalent may be used.
 - 3) Include measures to minimize and mitigate construction-related soil compaction.
 - 4) Include a maintenance schedule to ensure the long-term function of the storm water management measures.
 - 5) Infiltration requirements will be applied to the maximum extent practicable in areas limited by the following factors:
 - a) Soils with an infiltration rate less than 0.6 inches/hour measured at the bottom of the infiltration system.
 - b) Less than five feet of separation from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 - 6) The property owner is responsible for any damage caused to neighboring properties through increased run-off, grade changes, etc.

2. EROSION CONTROL STANDARDS

- a. Erosion control management shall reduce sedimentation onto adjacent properties, down steep slopes, and into navigable waterbodies or other drainage ways.
- b. Erosion and sediment control shall meet or exceed the applicable WDNR Technical Standards for Erosion and Sediment Control.
- c. Best management practices, which are in the Natural Resource Conservation Service (NRCS) Field Office Technical Guide at <http://efotg.sc.egov.usda.gov/treemenuFS.aspx> or the Post-Construction Technical Standards listed WIDNR stormwater management website found at <http://dnr.wi.gov/topic/stormwater/>.
- d. Erosion and sediment management must meet all of the following standards:
 - 1) Vegetation management including permanent and temporary stabilization methods for all disturbed areas including the rate, species, planting dates for all seed mixes; fertilizer rates; and mulching rates.
 - 2) Description of the winter suspension schedule.
 - 3) The smallest amount of bare ground shall be exposed for as short a time as feasible.
 - 4) Include measures to minimize and mitigate construction-related soil compaction.
 - 5) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
 - 6) Fill shall be stabilized according to accepted technical standards.
 - 7) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
 - 8) The property owner is responsible for any damage caused to neighboring properties through increased run-off, grade changes, etc.

L. VEGETATION MANAGEMENT – SHORELAND DISTRICT

1. VEGETATIVE BUFFER ZONE

- a. Land between the Ordinary High Water Mark (OHWM) to 35 feet inland is designated as a vegetative buffer zone.
- b. Removal of vegetation from the vegetative buffer zone is prohibited except as allowed in 2. below.

2. VEGETATION REMOVAL

- a. Routine vegetation maintenance in the vegetative buffer zone is allowed.
- b. Removal of trees and shrubs in the vegetative buffer zone is allowed as provided below:
 - 1) There is minimal soil disturbance and replanting with native vegetative species takes place concurrently where applicable.
 - 2) The applicant contacts the Zoning Administrator prior to performing maintenance to determine if a Land Use Permit per d. and/or e. below is required.
 - 3) It is necessary to manage the following:
 - a) Exotic or invasive species.
 - b) Damaged vegetation.
 - c) Diseased vegetation.
 - d) Vegetation causing an imminent safety hazard.
- c. Removal of trees and shrubs is allowed to create access and viewing corridors that meet the following conditions:
 - 1) Each single access and viewing corridor shall be either 30% of the shoreline frontage or 30 feet in width, whichever is less.
 - 2) There shall be a minimum separation distance of 70 feet of undisturbed shoreline between each corridor on the same lot.
 - 3) The combined width of all access and viewing corridors shall not exceed 200 feet per riparian parcels in continuous ownership.
 - 4) Corridors may be created by the selective removal of shrubs and saplings (a young tree not over four inches in diameter at chest height) and the selective delimiting of larger trees to provide a filtered view.
- d. Additional vegetation management activities in the buffer zone are allowed subject to the following conditions:
 - 1) A Land Use Permit per **§17.30 P.4.** is required.
 - 2) A detailed project plan is submitted per the *Wisconsin Biology Technical Note 1: Shoreland Habitat*, USDA publication or other method approved by the Zoning Administrator.
 - 3) The project design maintains shore or channel bank stabilization and controls erosion by limiting sedimentation into the waterbody.
 - 4) The project design improves the plant community and maintains scenic beauty by replanting in the same area.
 - 5) The newly restored area is maintained and monitored.
 - 6) An agreement, affidavit or deed restriction, recorded in the Register of Deeds office prior to issuance of the permit.
 - 7) A compliance deposit is held in escrow to ensure the preservation of the newly restored area.

- e. If the County determines that re-vegetation is necessary due to removal, ordinance violation or other similar circumstance that undermines the purpose of Section 17.30, vegetation shall be replaced per the *Wisconsin Biology Technical Note 1: Shoreland Habitat*, USDA publication or other method approved by the Zoning Administrator.
 - 1) Replacement vegetation shall be similar size and age or the most mature plant size reasonably available.
- 3. 2ND VEGETATIVE BUFFER ZONE**
 - a. Land from 35 feet inland to 75 feet inland is designated as a secondary vegetative buffer zone.
 - b. Removal of vegetation from the secondary vegetative buffer zone is prohibited except as allowed in 4. and 5. below.
- 4. VEGETATION REMOVAL**
 - a. Selective removal of trees and shrubbery in the secondary vegetative buffer zone is allowed as provided in §17.30 L.2.a., 17.30 L.2.b., 17.30 L.2.c. and 17.30 L.2.e. above.
 - b. Additional vegetation management activities in the 2nd vegetative buffer zone are allowed subject to the following conditions:
 - 1) The project design maintains shore or channel bank stabilization and controls erosion by limiting sedimentation into the waterbody.
 - 2) The project design improves the plant community and maintains scenic beauty by replanting in the same area.
 - 3) The newly restored area is maintained and monitored.
- 5. FORESTRY & AGRICULTURAL MANAGEMENT**
 - a. Forested parcels of 10 acres or larger, outside the 35-foot landward from the OHWM, and currently in forested land use, shall be managed utilizing generally accepted forestry management practices as defined in Wisconsin Administrative Code NR 1.25 (2) (b), and described in WDNR publication *Wisconsin Forest Management Guidelines* (FR-226).
 - b. Agricultural cultivation outside the 35-foot landward from the OHWM or top of bank, whichever is greater, shall be managed utilizing appropriate practices specified in Wisconsin Administrative Code Chapter NR 151 Runoff Management.

M. MITIGATION – SHORELAND DISTRICT

- 1. APPLICABILITY**
 - a. Mitigation shall be designed to proportionately compensate for the loss of natural shoreland functions and vegetation when development or improvements occur.
 - b. Mitigation Points are required as indicated for the following activities:
 - 1) Reduced Principal Structure Setback
 - a) New structure located at or between 74-65 feet - 2 points required
 - b) New structure located at or between 64-50 feet - 3 points required
 - c) New structure located at or between 49-35 feet - 5 points required
 - 2) New Impervious Surfaces greater than 10% of the lot area
 - a) 10.1 – 15% total lot impervious - 1 points required
 - b) 15.1 – 20% total lot impervious - 2 points required
 - c) 20.1 – 25% total lot impervious - 3 points required

- 3) Vertical Expansion of Non-Conforming Principal Structure
 - a) Vertical expansion <10 feet in height - 1 points required
 - b) Vertical expansion 10-20 feet in height - 2 points required
 - c) Vertical expansion 21-35 feet in height - 3 points required
- 4) Replacement or Relocation of Non-Conforming Principal Structure
 - a) Structure located at or between 74-65 feet - 2 points required
 - b) Structure located at or between 64-50 feet - 3 points required
 - c) Structure located at or between 49-35 feet - 5 points required
- c. Failure to comply with mitigation standards does not constitute a hardship in relation to a variance application.

2. STANDARDS

- a. A properly completed Land Use Permit application shall include a Mitigation Plan, an Implementation and Inspection Schedule, a Compliance Deposit, an Enforceable Obligation and follow all the requirements and procedures in **§17.30 P.4.**
- b. Inspect all privately owned wastewater treatment systems (POWTS) to insure all components are code compliant. Failing systems shall be relocated or designed to meet all applicable setbacks and [Chapter 12](#) Sanitary Ordinance.
- c. The Mitigation Plan shall include a site plan that describes the proposed mitigation measures and shall only apply to the lot or parcel for which the Land Use Permit is issued.
- d. An Enforceable Obligation on the property owner to establish and maintain the mitigation measures. The mitigation measures shall be maintained in perpetuity, unless the property owner receives approval of a new, approved mitigation plan.
 - 1) The enforceable obligation, such as a Shoreline Mitigation agreement, affidavit or deed restriction, recorded in the Register of Deeds office prior to issuance of the permit.
- e. Any shoreland buffer approved as part of a mitigation plan must be maintained or established per the following standards:
 - 1) Based on the Natural Resources Conservation Service Shoreland Habitat Code 643A and the Wisconsin Biology Technical Note 1: Shoreland Habitat shall be used as the standard or shoreland vegetation standards established by St. Croix County.
 - 2) The shoreland buffer must address invasive species control and eliminate channelized flow per **§17.30 A.**, Vegetation Management.
- f. Surface runoff from impervious surfaces shall be designed to meet the standards in **§17.30 K.1.**, Stormwater Management.
 - 1) Stormwater control is not limited to a single type, but can be a combination of natural or constructed surface basin(s) or constructed subsurface basins.
 - 2) Runoff infiltration may include raingardens, redirecting gutters to pervious surfaces, French drains, diverting overland flows, pervious pavers or installing gutters that direct rainwater to a raingarden or other infiltration area.

3. SHORELAND MITIGATION OPTIONS

- a. The following mitigation requirements will be assessed by the Zoning Administrator. The requirements will range in complexity based on stormwater retention and vegetative buffer capabilities.

- b. Requirements for mitigation will be proportional in scope to the development that is proposed, utilizing one or more of the following mitigation options to earn mitigation points:
- 1) Remove existing impervious surfaces within the area 35 feet landward from the OHWM (0-35')
 - a) 100-250 square feet removed - 2 points awarded
 - b) 251-400 square feet removed - 3 points awarded
 - c) 401 or greater square feet removed - 4 points awarded
 - 2) Remove existing impervious surfaces from shoreland setback 35 – 75 feet.
 - a) 100-250 square feet removed - 1 point awarded
 - b) 251-400 square feet removed - 2 points awarded
 - c) 401 or greater square feet removed - 3 points awarded
 - 3) Remove existing impervious surfaces from 75 – 300 feet.
 - a) 100-400 square feet removed - 1 point awarded
 - b) 401 square feet or greater removed - 2 points awarded
 - 4) Maintain or establish a primary shoreland buffer on 70% of the parcel area, 35 feet inland from the OHWM - 5 points awarded
 - 5) Maintain or establish a secondary shoreland buffer on 70% of the parcel area 35 feet inland to 75 feet. (only allowed if the first 35 feet is established)
 - a) 2 points awarded for every 700 square feet of vegetation
 - 6) Reduce the size of access and viewing corridors.
 - a) 1 point awarded for every 10 feet in reduced width
- c. When the above activities are not feasible, the following activities may be considered:
- 1) Maintain or establish aquatic habitat below the OHWM.
 - a) 1 point awarded for every 200 square feet
 - 2) Maintain or establish a shoreland buffer other than those identified in 4) or 5) above.
 - a) 1 point awarded for every 600 square feet (maximum of 3 points awarded)
 - 3) Decrease the visual impact of the structure on the natural setting and make it blend by implementing practices such as the earth-tone exterior building materials or window treatments - 1 point awarded
 - 4) Remove existing impervious surfaces within the area 35 feet landward from the OHWM. (0-35')
 - a) 1 point awarded for impervious surfaces less than 100 square feet
 - 5) Reduce surface runoff from impervious surfaces to exceed the standards in **§17.30 K.1.**, Stormwater Management (maximum of 2 points awarded)

N. SHORELAND-WETLAND & INLAND-WETLAND OVERLAY DISTRICTS

1. PERMITTED USES

- a. The uses below are allowed, subject to general shoreland regulations contained in Section 17.30, the provisions of Chs. 30, 31, 281.36 and 281.37, Wis. Stats. and the provisions of other applicable local, state and federal laws.
- b. Activities and uses which do not require the issuance of a permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under **§17.30 I.**
 - 1) Hiking, fishing, trapping, hunting, swimming, and boating;

- 2) Harvesting 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;
 - 3) Pasturing livestock;
 - 4) Cultivation of agricultural crops;
 - 5) Silviculture, including the planting, thinning, and harvesting of timber consistent with generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), and described in WDNR publication *Wisconsin Forest Management Guidelines* (FR-226).; and
 - 6) Duck blind construction and maintenance.
- c. Uses which do not require the issuance of a permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
- 1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - 2) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
 - 3) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
 - 4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - 5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - 6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- d. Uses which require the issuance of a Land Use Permit under **§17.30 P.4.** and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided in 1) – 4) below.
- 1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - a) The road cannot as a practical matter be located outside the wetland;
 - b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in **§17.30 P.15.;**
 - c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
 - d) Road construction activities are carried out in the immediate area of the roadbed only.
 - 2) The construction or maintenance of nonresidential buildings, provided that:

- a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 - b) The building cannot, as a practical matter, be located outside the wetland;
 - c) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - d) Only limited filling or excavating necessary to provide structural support for the building is authorized.
- 3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
- a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, Wis. Stats., where applicable;
 - b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in **§17.30 N.1.**, Permitted Uses above; and
 - c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- 4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
- a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in **§17.30 P.15.**

2. PROHIBITED USES

- a. Any use not listed in **§17.30 N.1.** above is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment in accordance with **§17.30 P.15.** and §59.69(5)(e), Wis. Stats.

O. NONCONFORMING USES & STRUCTURES

1. GENERAL RULE FOR NONCONFORMING USES & STRUCTURES

- a. Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under §59.692(1s) Wis. Stats. may not prohibit the restoration of a nonconforming structure, if the structure will be restored to the size, 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:
 - 1) A Land Use Permit per **§17.30 P.4.** is required.
 - 2) The nonconforming structure was damaged or destroyed after October 14, 1997.
 - 3) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
 - 4) A land owner has demonstrated by a permit application and approval the scope, nature, extent of the damage done as well as the dimensions of the damaged structure and proposed restoration.
 - 5) Repair and reconstruction are limited to that part of a structure and its specific improvements which were actually damaged and similar building materials are employed.
 - 6) Repair and reconstruction are in compliance with applicable provisions of this and other ordinances.
- b. The size of a structure shall be allowed to be larger than the size it was immediately before the damage or destruction, if necessary for the structure to comply with applicable County, State or Federal requirements.
- c. If a nonconforming use is discontinued for a period of 12 months, any future use of the structure or property shall conform to Section 17.30.

2. VERTICAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES

- a. An existing principal structure that was lawfully placed when constructed, but does not comply with the required building setback per **§17.30 G.**, may be expanded vertically provided all of the following requirements are met:
 - 1) A Land Use Permit per **§17.30 P.4.**, is required.
 - 2) The use of the structure has not been discontinued for a period of 12 months or more.
 - 3) Vertical expansion is limited to the height allowed in **§17.30 F.4.** and can only occur when the nearest point of the principal structure is at least 35 feet from the OHWM.
 - 4) A Mitigation Plan that complies with **§17.30 M.**
 - 5) All other provisions of Section 17.30 shall be met.

3. EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES

- a. An existing principal structure that was lawfully placed when constructed, but does not comply with the 75-foot structure setback from the OHWM, may be expanded horizontally, landward (away from the OHWM) or vertically provided all of the following requirements are met:
 - 1) A Land Use Permit per **§17.30 P.4.** is required.
 - 2) The expansion meets the building setback requirements per **§17.30 G.2.**

- 3) All other provisions of Section 17.30 shall be met.
4. **REPLACEMENT OR RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURES**
 - a. An existing principal structure that was lawfully placed when constructed, but does not comply with the required building setback per **§17.30 G.**, may be replaced or relocated on the property provided all of the following requirements are met:
 - 1) A Land Use Permit per **§17.30 P.4.** is required.
 - 2) The use of the structure has not been discontinued for a period of 12 months or more.
 - 3) The existing principal structure is at least 35 feet from the OHWM.
 - 4) No portion of the replaced or relocated structure is located any closer to the OHWM than the nearest point of the existing principal structure.
 - 5) The Zoning Administrator determines that no other location is available on the property that will result in compliance with the shoreland setback requirement per **§17.30 G.2.**
 - 6) The replacement principal structure shall be the same square footage, with the same footprint, as the original structure, except as provided in 9) below.
 - 7) A Mitigation Plan that complies with **§17.30 M.**
 - 8) All other structures on the lot or parcel that do not comply with the shoreland setback requirement in **§17.30 G.** and are not exempt under **§17.30 G.** are to be removed by the date specified in the permit.
 - 9) The size of a structure shall be allowed to be larger than the size it was, if necessary for the structure to comply with applicable County, State or Federal requirements.
 - 10) All other provisions of Section 17.30 shall be met.
5. **MAINTENANCE OF NONCONFORMING PRINCIPAL STRUCTURES**
 - a. An existing principal structure that was lawfully placed when constructed, but does not comply with the required building setback per **§17.30 G.**, may be maintained and repaired through ordinary maintenance and repair activities within its existing building envelope.
6. **MAINTENANCE OF NONCONFORMING ACCESSORY STRUCTURES**
 - a. Accessory structures that were legally constructed before the adoption of [Chapter 17](#) on January 1, 1968 may be maintained and repaired through ordinary maintenance and repair activities within its existing building envelope.
 - b. But they may not be expanded or rebuilt unless authorized by §59.692(1s), Wis. Stats or unless they are made to conform to all other provisions of this chapter.
 - c. If allowed to be expanded or rebuilt, the expansion shall meet the requirements of **§17.30 O.1.a.1) - 6).**
7. **MAINTENANCE OF NONCONFORMING WET BOATHOUSES**
 - a. The maintenance and repair of nonconforming boathouses which extend beyond the Ordinary High Water Mark (OHWM) of any navigable waters shall be required to comply with §30.121, Wis. Stats.

P. ADMINISTRATION

1. ZONING ADMINISTRATOR

- a. The St. Croix County Zoning Administrator shall be responsible for the administration and enforcement of Section 17.30.
- b. The powers and duties of the Zoning Administrator under Section 17.30 may be delegated by him/her to personnel employed by or assigned to the Community Development Department.

2. POWERS AND DUTIES

- a. The Zoning Administrator shall have the following powers and duties:
 - 1) Issue permits and inspect properties for compliance with Section 17.30 and related Wisconsin Statutes and the Wisconsin Administrative Code chapters.
 - 2) Advise applicants concerning the provisions of Section 17.30 and assist them in preparing permit applications.
 - 3) Keep records of all permits issued, inspections made, work approved, and other official actions.
 - 4) Have access to premises for the purpose of performing official duties as prescribed by law, subject to **§17.30 P.3.** below.
 - 5) Investigate violations and enforce Section 17.30.
 - 6) For purposes of inspection, obtain and execute special inspection warrants under Wisconsin Statutes §66.0119.
- b. Town deputy code administrators are not authorized to issue permits.

3. RIGHT OF ENTRY & INSPECTION

- a. The Community Development Department staff may inspect any existing or proposed site or structure subject to Section 17.30 for the purpose of ascertaining compliance with Section 17.30.
- b. Before engaging in any inspection, staff shall seek permission from the owner/operator, or authorized agent thereof, to inspect.
- c. Submitting an application for a Land Use Permit, Conditional Use Permit or Variance is considered the owner/operator's consent to enter and inspect the premises for purposes of the application process. In this situation, no applicant may refuse entry, subject to d. and e. below.
- d. Staff shall present to the owner/operator, or authorized agent, appropriate credentials, identifying them as a representative of St. Croix County.
- e. Staff will not inspect the property unless accompanied by the owner/operator, or authorized agent.
- f. If violations are identified, enforcement procedures shall be commenced.

4. LAND USE PERMIT PROCEDURES

- a. An application for a Land Use Permit shall be made to the Zoning Administrator upon forms furnished by the County. The following information shall be provided:
 - 1) Owner contact information.
 - 2) Property information.
 - 3) Project information.
 - 4) A site development plan, drawn to scale, to include:

- a) Dimensions and area of lot.
 - b) Location of all existing and proposed structures and impervious coverage with distances measured from the lot lines and centerline of all abutting streets or highways.
 - c) Height of all existing and proposed structures.
 - d) Existing and proposed front, side, rear and shoreland setbacks.
 - e) Location of any existing or proposed on-site sewage systems or private water supply systems.
 - f) Location of the bluffline and Ordinary High Water Mark (OHWM) of any abutting navigable waterways.
 - g) Location and delineated boundary of all wetlands.
 - h) Existing and proposed topographic and drainage features and vegetative cover.
 - i) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas.
 - j) Location of existing or future access roads.
 - k) Specifications and dimensions for areas of proposed wetland alteration.
 - l) Viewing and access corridor
 - m) Existing trees, shrubs, and native ground cover
 - n) Areas to be planted with trees, shrubs, and groundcovers including species.
- 5) Mitigation Plan and options, if applicable.
 - 6) Draft of the Enforceable Obligation for Mitigation, if applicable.
 - 7) Draft Implementation and Inspection Schedule.
 - 8) Other relevant information that the Zoning Administrator requests, including but not limited to photos, topographic mapping, elevation drawings, cross-section drawings, specialized engineering plans, storm water management plans, erosion and sediment control plans, vegetation management plans, or mitigation plans.
 - 9) If additional information is requested, it shall be submitted by the applicant to the Zoning Administrator prior to the issuance of the Land Use Permit.
- b. The Zoning Administrator shall approve, approve conditionally, or deny the Land Use Permit within 60 days of submitting a properly completed application, unless additional information is required.

5. MITIGATION PLAN

- a. The final Mitigation Plan shall include a site plan that describes the proposed mitigation measures and shall only apply to the lot or parcel for which the Land Use Permit is issued.

6. IMPLEMENTATION & INSPECTION SCHEDULE

- a. Implementation shall be completed within one year from issuance of the Land Use Permit; however up to two six month extensions may be granted by the Zoning Administrator prior to the expiration of the Land Use Permit.
- b. Applicant shall schedule preconstruction, mid-construction and post-construction inspections with the Zoning Administrator.
- c. The property owners shall submit copies of the affidavit along with as-built drawings and photos of the stormwater management practices, erosion and sediment control measures, established or planted vegetation, mitigation practices or other practices approved by the Zoning Administrator.

7. COMPLIANCE DEPOSIT

- a. A Compliance Deposit is required for a Mitigation Plan, some vegetation management activities or as determined by the Zoning Administrator.
- b. The deposit shall be provided with submittal of a Land Use Permit application or in some instances prior to issuance of the permit.

8. ENFORCEABLE OBLIGATION

- a. The property owner shall execute and record an enforceable obligation, such as a Shoreline Mitigation agreement, affidavit or deed restriction describing the approved storm water management, erosion and sediment control, vegetation management and mitigation requirements with the County Register of Deeds within 14 days after construction is completed.

9. CONDITIONAL USE & VARIANCE PROCEDURES

- a. An application for a Conditional Use permit or variance shall be submitted to the Zoning Administrator upon forms furnished by the County and shall include the information as outlined in **§17.30 P.9.c.** below.
- b. Conditional uses and variances shall be reviewed and processed by the Board of Adjustment (BOA) per [§17.70](#) (5) – (7).
- c. Conditional use and variance applications shall supply information adequate for the Board of Adjustment to make a decision based on the type of project to be undertaken. The applicant shall submit to the Zoning Administrator sufficient copies of the following information for all applications:
 - 1) General information, including but not limited to:
 - a) Contact information for property owner, agent, and contractor as applicable.
 - b) Legal description of the property and a general description of the proposed use or development.
 - c) Information on whether or not a private water or sewage system is to be installed or upgraded.
 - 2) For Conditional Uses, a detailed written explanation of how the proposed use or development meets the requirements for a Conditional Use as outlined in [§17.70](#) (7)(a) and **§17.30 H.2.** as applicable, and the following standards:
 - a) The scenic and recreational qualities of the Shoreland Overlay District.
 - b) The maintenance of safe and healthful standards.
 - c) The prevention and control of water pollution, including storm water runoff and sedimentation.
 - d) The location of the site with respect to floodplains and floodways, steep slopes, wetlands, and shorelines.
 - e) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
 - f) Potential impact on terrestrial and aquatic habitat.
 - g) Location of site with respect to existing or future access roads.
 - h) Adequacy of proposed wastewater treatment.
 - i) The compatibility of the project with uses on adjacent land.
 - j) The use of common corridors for locating proposed facilities within or adjacent to public service facilities such as roads, bridges, and transmission services.

- 3) For variances, a detailed written explanation of how the requested variance meets the requirements for variances as outlined in [§17.70](#) (5)(c)3. of this chapter.
- 4) A site plan prepared by a registered land surveyor showing the following information:
 - a) Property location, boundaries, and dimensions.
 - b) Location of all existing and proposed structures and impervious surfaces with distances measured from the lot lines and centerline of all abutting streets or highways.
 - c) Contours on an established datum at vertical intervals of not more than two feet.
 - d) Shoreline, Ordinary High Water Mark (OHWM), floodway and flood fringe boundaries, and all applicable setbacks.
 - e) Adjoining land and water-oriented uses.
 - f) The location and description of existing and proposed alterations of vegetation, topography, and drainage, including grading limits and vegetation removal and replacement.
- 5) A recent aerial photo with property lines drawn in, showing the location of existing and proposed structures, including height and setback dimensions.
- 6) A mitigation plan per **§17.30 M.**, if required by the Board of Adjustment.
- 7) Photos of the site taken from the water body directly offshore.
- 8) Other relevant information that the Zoning Administrator requests, including but not limited to elevation drawings, cross-section drawings, specialized engineering plans, storm water management plans, erosion and sediment control plans, vegetation management plans, or mitigation plans.
- 9) If additional information is requested, it shall be submitted by the applicant to the Zoning Administrator prior to the issuance of a permit or approval of the variance.
- d. Applications for a permit for land divisions, bed and breakfast operations, nature oriented educational, non-profit facilities, and variances shall also include:
 - 1) The location of any proposed private on-site wastewater treatment system.
 - 2) Water supply information, including the location of any proposed wells.
- e. Applications for a permit for filling and grading, structural erosion control measures, and road construction shall also include a plan showing the proposed construction, reconstruction, location and design of the filling or grading, structural erosion control measures, or road construction.

10. PUBLIC HEARING PROCEDURES

- a. A public hearing shall be held before a Conditional Use permit or a variance, is approved or denied.
- b. In addition to any other notice requirements, notice of all public hearings and a copy of all application materials shall be provided to the following for review and comment at least 30 days prior to the public hearing:
 - 1) Wisconsin Department of Natural Resources (WDNR)
 - 2) The town board of a town within which the affected parcel of land is located.
- c. Any plan submitted with an application that is approved, or modified and approved, shall be included as part of the permit, variance or amendment application. The Zoning Administrator shall submit a summary of all proceedings, including a copy of any written decision, to the WDNR within 10 working days after the date of the decision.

- d. Where additional information is introduced at any stage of the proceeding by the applicant or where the applicant may wish to review the WDNR's opposition or town's opposition if applicable, the proceeding may be postponed for a reasonable period of time to review the information.

11. DECISIONS

- a. All Land Use Permit decisions shall be in writing and shall include facts and reasons for the decisions.
- b. The final disposition of an application for a Conditional Use permit or variance to the Board of Adjustment (BOA) shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board of Adjustment chairperson.
 - 1) In granting a conditional use or a variance, the BOA may not impose conditions which are more restrictive than any of the specific standards in Section 17.30. Where 17.30 is silent as to the extent of restrictions, the BOA may impose any reasonable permit conditions to effect the purpose of Section 17.30.
 - 2) Such decision shall state the specific facts and reasons that are the basis of the Board of Adjustment's determination.
 - 3) A copy of such decision shall be mailed to the applicants and the appropriate district office of the WDNR within 10 working days after the decision.

12. EXPIRATION

- a. Activities authorized by a permit or variance issued under Section 17.30 shall commence within one year from the date of approval and be substantially completed or implemented within two years, after which time the permit or variance expires.
- b. Prior to expiration of a permit or variance, applicants can request extensions of up to six months from the Zoning Administrator.
- c. The total time granted for extensions shall not exceed one year.

13. COMPLIANCE & REVOCATION

- a. At the time of application or prior to the issuance of any permit or a variance with conditions, the property owner shall submit to the Zoning Administrator a compliance deposit.
 - 1) This deposit shall be paid in cash, check, or money order.
 - 2) This deposit shall be held by the Zoning Administrator until all conditions of approval have been met, at which time the deposit shall be refunded in full to the property owner along with a Certificate of Compliance.
- b. Where the terms or conditions on any permit or variance are violated, the permit or variance may be revoked. The Zoning Administrator may revoke a Land Use Permit. The Board of Adjustment may revoke a Conditional Use permit or a variance.

14. AMENDMENT PROCEDURES

- a. Except as set out below, the procedures in [§17.72](#) of this chapter shall apply to any amendment of a provision of Section 17.30:
 - 1) An amendment to Section 17.30 shall not be subject to approval or disapproval or action by any town board.
- b. Upon enactment of an amendment to Section 17.30, the Zoning Administrator shall submit two copies to the WDNR.

15. REZONING OF LANDS IN THE SHORELAND-WETLAND & INLAND-WETLAND DISTRICTS

- a. Every petition for a shoreland-wetland map amendment filed with the County Clerk shall be referred to the Zoning Administrator.
- b. For all proposed text and map amendments to the shoreland-wetland and inland-wetland provisions of Section 17.30, the appropriate office with the WDNR shall be provided with the following:
 - 1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of Section 17.30, 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 Section 17.30 describing any proposed rezoning of a shoreland-wetland;
 - 2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
 - 3) A copy of the County Community Development Committee's findings and recommendations on each proposed amendment within 10 days after 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.
- c. 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) Wetlands 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>.
- d. If the WDNR notifies the Zoning Administrator that a proposed text or map amendment to the shoreland-wetland provisions of Section 17.30 may have a significant adverse impact upon any of the criteria listed in **§17.30 P.15.** of Section 17.30, that amendment, if approved by the County Board, shall contain the following provision:
 - 1) "This amendment shall not take effect until more than 30 days have elapsed after written notice of the County Board's approval of this amendment is mailed to the WDNR. During that 30-day period the WDNR may notify the County Board that it will adopt a superseding shoreland ordinance for the County under §59.692(6), Wis. Stats. If the WDNR does so notify the County Board, the effect of this amendment shall be stayed until the §59.692(6) adoption procedure is completed or otherwise terminated.

Q. ENFORCEMENT & APPEALS

1. PROCEDURES

- a. The Zoning Administrator may institute any action or proceeding against violators of this chapter as provided by law or this chapter, including issuing citations pursuant to St. Croix County Code of Ordinances Chapter 1 Citation Ordinance or commencing a lawsuit seeking forfeitures and/or injunctive relief.
- b. In general, the Zoning Administrator shall use the following, in the order listed, to address violations of this chapter:
 - 1) Issue a notice of violation and request that specified corrective action be taken.
 - 2) Issue a citation.
 - 3) Request the Corporation Counsel Department to commence a lawsuit seeking appropriate relief.
- c. The Zoning Administrator is not required to follow this order of possible action if, in the Zoning Administrator's judgment, a situation requires different action.

2. PENALTIES

- a. Any person, firm or corporation who is adjudicated for violating this chapter shall pay a forfeiture of not less than \$10 per violation no more than \$1,000 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation.
- b. Additionally, the person, firm or corporation adjudicated for violation of this chapter shall pay court costs and reasonable attorney's fees.

3. APPEALS

- a. Decisions made by the Zoning Administrator are administrative decisions. All administrative decisions shall be in writing.
- b. Any person, company, partnership, corporation or government unit aggrieved by an administrative decision (aggrieved person) made by the Zoning Administrator, or his/her designee, may appeal the decision to the Board of Adjustment per [§17.70](#) (5) – (7).

4. PROCEDURE FOR APPEAL

- a. An aggrieved person who wishes to appeal an administrative decision to the Board of Adjustment shall commence the appeal within 30 days of the date of the administrative decision.
- b. An appeal of an administrative decision shall be commenced on a form provided by the Community Development Department and shall be filed with the Community Development Department.
- c. The Community Development Department will prepare notices and schedule the appeal with the Board of Adjustment.