

CHAPTER 52
SHORELAND ZONING

ARTICLE I. – IN GENERAL

Sec. 52-1. Statutory Authority

Sec. 52-2. Title

Sec. 52-3. Finding of Fact

Sec. 52-4. Purpose and Intent

Sec. 52-5. Definitions

Sec. 52-6—52-10. Reserved

ARTICLE II. – GENERAL PROVISIONS

Sec. 52-11. Force and Effect

Sec. 52-12. Shoreland-Wetland Maps

Sec. 52-13. Compliance

Sec. 52-14. Municipal and State Agencies Regulated.

Sec. 52-15. Abrogation and Greater Restrictions

Sec. 52-16. Relation to County Comprehensive Zoning and Town Zoning

Sec. 52-17. Interpretation

Sec. 52-18. Severability

Sec. 52-19 – 52-22. Reserved

ARTICLE III. – SHORELAND-WETLAND DISTRICT

Sec. 52-23. Designation

Sec. 52-24. Purpose

Sec. 52-25. Permitted Uses

Sec. 52-26. Prohibited Uses

Sec. 52-27. Rezoning of Lands in the Shoreland-Wetland District

Sec. 52-28 – 52-32. Reserved

ARTICLE IV. – LAND DIVISION REVIEW AND SANITARY REGULATIONS

Sec. 52-33. Land Division Review

Sec. 52-34. Planned Unit Development

Sec. 52-35. Sanitary Regulations

Sec. 52-36 – 52-40. Reserved

ARTICLE V. – LOT REQUIREMENTS

Sec. 52-41. Minimum Lot Size

Sec. 52-42 – 52-46. Reserved

ARTICLE VI. –SETBACKS

Sec. 52-47. Shoreland Structure Setbacks

Sec. 52-48. Setback Averaging

Sec. 52-49. Floodplain Structures

Sec. 52-50 - 52-54. Reserved

ARTICLE VII. – VEGETATION

Sec. 52-55. Purpose

Sec. 52-56. Activities Allowed Within a Vegetative Buffer Zone

Sec. 52-57 – 52-61. Reserved

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

Sec. 52-62. Permit Required

Sec. 52-63 – 52-67. Reserved

ARTICLE IX. – IMPERVIOUS SURFACES Standards

Sec. 52-68. Purpose

Sec. 52-69. Calculation of Percentage of Impervious Surface

Sec. 52-70. General Impervious Surface Standards

Sec. 52-71. Standards for Highly developed Shorelines

Sec. 52-72. Maximum Impervious Surface Standards

Sec. 52-73. Treated Impervious Surfaces

Sec. 52-74. Existing Impervious Surfaces

Sec. 52-75 – 52-79. Reserved

ARTICLE X. – HEIGHT

Sec. 52-80. Height

Sec. 52-81 – 52-85. Reserved

ARTICLE XI. – NONCONFORMING USES AND STRUCTURES

Sec. 52-86. Discontinued Nonconforming Uses and Structures

Sec. 52-87. Maintenance, Repair, Replacement or Vertical Expansion

Sec. 52-88. Maintenance, Repair, Replacement or Vertical Expansion Authorized by Variance

Sec. 52-89. Lateral Expansion of Nonconforming Principle Structures within the Setback

Sec. 52-90. Lateral Expansion of Nonconforming Principle Structures beyond the Setback

Sec. 52-91. Relocation of Nonconforming Principle Structures

Sec. 52-92 – 52-96. Reserved

ARTICLE XII. – MITIGATION

Sec. 52-97. Mitigation Plan

Sec. 52-98 - 52-102. Reserved

ARTICLE XIII. – ADMINISTRATION

Sec. 52-103. Planning, Zoning and Farmland Preservation Committee

Sec. 52-104. Zoning Board of Adjustment

Sec. 52-105. Administrative Staff

Sec. 52-106. Permits

Sec. 52-107. Variances

Sec. 52-108 – 52-112. Reserved

ARTICLE XIV – ENFORCEMENT AND PENALTIES

Sec. 52-113. Enforcement and Penalties

Sec. 52-114. Effective Date

ARTICLE I IN GENERAL

Sec. 52-1. STATUTORY AUTHORIZATION.

This ordinance is adopted pursuant to the authorization in s. 59.692, Stats, to implement 59.692 and 281.31, Stats.

Sec. 52-2. TITLE.

This chapter shall be known as the "Calumet County Shoreland Zoning Ordinance", hereinafter referred to as "this chapter".

Sec. 52-3. FINDING OF FACT.

Uncontrolled use of the shorelands and pollution of the navigable waters of Calumet 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 Calumet County, Wisconsin.

Sec. 52-4. PURPOSE AND INTENT.

For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters, this ordinance has been established to:

- (a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - (1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - (2) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 - (3) Controlling filling and grading to prevent soil erosion problems.
 - (4) Limiting impervious surfaces to control runoff, which carries pollutants.

- (b) Protect spawning grounds, fish and aquatic life through:
 - (1) Preserving wetlands and other fish and aquatic habitat.
 - (2) Regulating pollution sources.
 - (3) Controlling shoreline alterations, dredging and lagooning.

- (c) Control building sites, placement of structures and land uses through:
 - (1) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - (2) Setting minimum lot sizes and widths.
 - (3) Setting minimum building setbacks from waterways.
 - (4) Setting the maximum height of near shore structures.

- (d) Preserve and restore shoreland vegetation and natural scenic beauty through:

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

Sec. 52-5. DEFINITIONS.

- (a) The following terms used in this ordinance mean:
- (1) "Access and viewing corridor" means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
 - (2) "Boathouse" means a permanent structure, which is accessible by boats from navigable water, and is designed, constructed, and used solely for the purpose of storing or protecting boats and other water related recreational materials, and is used in conjunction with a principal use on a property.
 - (3) "Building" means an enclosed structure, maintained, or intended to be used for the protection, shelter, or enclosure of persons, animals, or property and, which is affixed to the ground.
 - (4) "Building envelope" means the three dimensional space within which a structure is built.
 - (5) "County zoning agency" means that committee or commission created or designated by the county board under s. 59.69(2)(a), Stats, to act in all matters pertaining to county planning and zoning.
 - (6) "Department" means the Wisconsin Department of Natural Resources.
 - (7) "Existing development pattern" means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
 - (8) "Floodplain" means the land, which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.
 - (9) "Generally accepted forestry management practices" means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

- (10) "Impervious surface" means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not considered impervious surfaces.
- (11) "Maintenance and Repair" means such activities as interior remodeling, exterior remodeling, and the replacement or enhancement of plumbing or electrical systems, insulation, windows, doors, siding, or roof within the existing building envelope.
- (12) "Mitigation" means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
- (13) "Navigable waters" means Lake Winnebago and all other natural lakes in the county, all streams, ponds, sloughs, flowages and other waters within the territorial limits of the county, which are navigable under the laws of the state. Under s. 281.31(2)(d), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:
- A. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - B. Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- (14) "Nonconforming lot" means a lot, which, in its most recent configuration, does not contain sufficient area and/or width to meet the criteria of section 52.49.
- (15) "Nonconforming structure" means any building or structure, other than a sign, legally established prior to the effective date of this chapter or subsequent amendments thereto, which does not fully comply with the requirements imposed by the individual sections of this chapter that pertain to the size, height, location, setback, lot coverage and similar characteristics of structures.
- (16) "Nonconforming use" means any use of structures, land, or water, which was lawfully established at the time of the effective date of this chapter or subsequent amendments thereto, which does not fully comply with the use requirements imposed by this chapter.

- (17) "Ordinary high-water mark" means the point on the bank or shore up to, which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (18) "Regional flood" means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and, which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
- (19) "Routine maintenance of vegetation" means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (20) "Shoreland" means lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (21) "Shoreland setback" also known as the "Shoreland setback area" in Wis. Stats. 59.692(1)(bn), Stats, means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted Wis. Stats. 59.69.
- (22) "Shoreland-wetland district" means a zoning district, created as a part of this county zoning ordinance, comprised of shorelands that are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.
- (23) "Special exception (conditional use)" means a use, which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Zoning Board of Adjustment or, where appropriate, the planning and zoning committee or county board.
- (24) "Structure" means a principal structure or any accessory structure constructed, erected, manufactured, or moved, the use of which requires a more or less permanent location on or in the ground, including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.
- (25) "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

- (26) "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (27) "Zoning Administrator" an employee of Calumet County under the direction of the Director of the Planning, Zoning and Land Information Department responsible for the administration of this ordinance. Also referred to as Code Administrator.
- (b) For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

Sec. 52-6 - 52-10. RESERVED.

**ARTICLE II
GENERAL PROVISIONS**

Sec. 52-11. FORCE AND EFFECT.

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

- (a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Calumet County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 "Wisconsin Lakes" book or are shown on United States Geological Survey quadrangle maps (1:24,000 scale).
- (b) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Calumet County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000 scale).
- (c) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas within Calumet County. Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stats. 61.353 and 62.233.
- (d) Determinations of navigability and ordinary high-water mark determination shall initially be made by the code administrator. When questions arise, the code

administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark. The county may work with surveyors to identify ordinary high-water mark locations in accordance with Wis. Stats. 59.692(1h).

(e) Notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:

(1) Lands adjacent to farm drainage ditches if:

A. Such lands are not adjacent to a natural navigable stream or river.

B. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.

(2) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

Sec. 52.12. SHORELAND-WETLAND MAPS.

The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>

Sec. 52-13. COMPLIANCE.

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, and dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a zoning permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

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

Sec. 52.14. MUNICIPALITIES AND STATE AGENCIES REGULATED.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when Wis. Stats. 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. 30.2022(1) applies.

Sec. 52-15. ABROGATION AND GREATER RESTRICTIONS.

The provisions of this ordinance supersede any provisions in the Calumet County General Zoning Ordinance that solely relate to shorelands. If a zoning standard only applies to lands within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute, other than Wis. Stats. 59.692, does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- (a) This ordinance shall not require approval or be subject to disapproval by any town or town board.
- (b) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions.
- (c) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (d) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 52.4 of this ordinance.
- (e) This Shoreland Zoning Ordinance shall not be construed to require any of the following:
 - (1) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
 - (2) Requires an inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (f) The construction and maintenance of a facility as defined in Wis. Stat. 196.01 (5), or a cooperative association organized under Ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power, is considered to satisfy the requirements of this ordinance if the department has issued all required permits or approvals authorizing the construction or maintenance of the facility under ch. 30, 31, 281, or 283 of the Wisconsin Administrative Code.

Sec. 52-16. RELATION TO COUNTY COMPREHENSIVE ZONING AND TOWN ZONING

- (a) In a town where the Calumet County Comprehensive Zoning is in effect:

- (1) The provisions of the Calumet County Zoning Ordinance are hereby incorporated by reference as if set forth in full.
 - (2) The provisions of the Calumet County Zoning Ordinance apply and may be enforced in shorelands to the extent that its provisions do not regulate a shoreland zoning standard consistent with Wis. Stat. 59.692(1)(c) and (1d).
- (b) In any town where the Calumet County Comprehensive Zoning Ordinance is not in effect, the regulation of matters that are not shoreland zoning standards consistent with 59.692(1)(c) and (1d) but which serve to control building sites are as follows:

- (1) Setback Requirements and Related Restrictions

- A. Road.

1. Public Road. No structure shall be placed within 25 feet of the road right of way.
2. Private Road. No structure shall be placed within 25 feet of the traveled edge of a private road.
3. A reduced road setback shall be permitted for a proposed accessory structure and shall be determined as follows.

- (A) Where there are existing accessory structures in both directions, the setback shall equal the average of the distances that the two existing accessory structures are set back from the road, provided that both structures are located on adjacent lots and are located within 250' of the proposed accessory structure.

- (B) Where there is an existing accessory structure in only one direction on an adjacent lot, and that structure is within 250' of the proposed accessory structure, the setback shall equal the average of the setback of the existing accessory structure and the required setback listed in 52.16 A.1. or 52.16 A.2.

- B. Property / Parcel Boundaries.

1. Principal Structure Setback. Principal structures shall be placed a minimum of 10 feet from a side yard.
2. Accessory Structure Setback. Accessory structures shall be placed a minimum of 5 feet from a side yard. Fences less than 8 feet in height are exempt from property line setbacks.

- C. Height. No structure located 75 feet or further from the ordinary high water mark shall be taller than 35 feet.
 - D. Public utilities, satellite dishes or antennas, or other utility structures that have no feasible alternative location outside the minimum setbacks are exempt from property line and road setbacks identified in this section.
 - E. Lateral expansions and vertical expansions up to 35 feet in height of a nonconforming structure under this section are permitted if the expansion does not further infringe into the side yard or road setback and all shoreland zoning standards in this chapter are satisfied. All shoreland zoning standards in this Ordinance take precedent over non shoreland zoning standards identified in this section.
 - F. Minor structures such as birdhouses, birdbaths, clothesline poles, flagpoles, doghouses, play apparatus, pumps, lawn ornaments, mailboxes, garbage containers, and school bus waiting shelters are exempt from road and side yard setback requirements listed in 52.16 (b) (1) as long as all shoreland zoning standards in this Ordinance are satisfied.
- (2) The standards set forth in section 52.16 (b) shall be construed to be the minimum standards. Non-shoreland zoning standards contained in a Town Zoning Ordinance shall be applied if more restrictive.

Sec. 52-17. INTERPRETATION.

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

Sec. 52-18. SEVERABILITY.

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

Sec. 52-19 - 52-22. RESERVED.

**ARTICLE III.
SHORELAND-WETLAND DISTRICT**

Sec. 52.23. DESIGNATION.

This district includes all shorelands within the jurisdiction of this ordinance, which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory, as depicted on the Department of Natural Resources Surface Water Data Viewer. Where a discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

Sec. 52.24. PURPOSE.

This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

Sec. 52.25. PERMITTED USES.

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31, and 281.36, Stats, and the provisions of other applicable local, state and federal laws:

- (a) Activities and uses, which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
 - (1) Hiking, fishing, trapping, hunting, swimming, and boating.
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 - (3) The pasturing of livestock.
 - (4) The cultivation of agricultural crops.
 - (5) The practice of silviculture, including the planting, thinning, and harvesting of timber.
 - (6) The construction and maintenance of duck blinds.
- (b) Uses, which do not require the issuance of a shoreland zoning permit and, which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:

- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 - (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.
 - (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.
- (c) Uses, which require the issuance of a zoning permit and, which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (1) 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 section 52.27 (b).
 - C. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
 - D. Road construction activities are carried out in the immediate area of the roadbed only.
 - (2) The construction or maintenance of nonresidential buildings, 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.
 - 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, Stats, where applicable.
 - B. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 55.25 (c) (1).
 - 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 section 52.27 (b).

Sec. 52-26. PROHIBITED USES.

Any use not listed in sections 52.25 is prohibited, unless the wetland or portion of the wetland

has been rezoned by amendment of this ordinance in accordance with section 52.27 of this ordinance and s. 59.69(5)(e), Stats.

Sec. 52-27. REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

- (a) For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:
 - (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within five (5) days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland.
 - (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.
 - (3) A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board.
 - (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.
 - (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, Wis.

Adm. Code, which can be accessed at the following web site:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

- (c) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 52-27 (b) of this ordinance, 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 Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6), Stats, adoption procedure is completed or otherwise terminated."

Sec. 52-28 - 52-32. RESERVED.

**ARTICLE IV
LAND DIVISION REVIEW AND SANITARY REGULATIONS.**

Sec. 52-33. LAND DIVISION REVIEW.

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

- (a) Hazards to the health, safety or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters, as required by law.
- (d) Adequate stormwater drainage facilities.
- (e) Conformity to state law and administrative code provisions.

Sec. 52.34. PLANNED UNIT DEVELOPMENT (PUD).

- (a) The Calumet County Planning, Zoning and Farmland Preservation Committee may approve a Planned Unit Development upon petition and after a public hearing, if all of the following exist:
 - (1) The area proposed for the Planned Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.

- (2) Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of section 52-41 shall be a non-riparian lot.
- (3) The proposed PUD provides lot sizes, widths, and setbacks that are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways.
- (4) The proposed PUD provides increased shoreland setbacks as a way of minimizing adverse impacts of development. Shore cover provisions in section 52.53 shall apply, except that maximum width of a lake frontage opening shall be 100 feet, and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.
- (5) The proposed PUD provides for smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover, than would be expected if the lots were developed with the normal lot sizes and setbacks, and without special conditions placed upon the Planned Unit Development.
- (6) The proposed PUD provides for the preservation of certain open space, preferably on the shoreland, in perpetuity.

Sec. 52.35. SANITARY REGULATIONS.

The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (a) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
- (b) Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall be required to comply with ch. SPS Comm. 383, Wis. Adm. Code and Chapter 72 – Utilities of the Calumet County Code.

Sec. 52-36 - 52-40. RESERVED.

ARTICLE V LOT REQUIREMENTS.

Sec. 52.41. MINIMUM LOT SIZE

Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

- (a) The minimum lot dimensions for all sewered lots shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.
- (b) The minimum lot dimensions for all unsewered lots shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet.
- (c) The width for both sewered and unsewered lots shall be calculated by averaging the measurements at the following locations:
 - (1) The ordinary high water mark.
 - (2) The building setback line.
 - (3) The rear lot line.
- (d) Substandard lots legally created that meet minimum area and minimum average width requirements when created, but do not meet current lot size requirements, may be used as a building site if all of the following apply:
 - (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - (2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - (3) The substandard lot or parcel is developed to comply with all other ordinance requirements.
- (e) Other Substandard Lots. Except for lots, which meet the requirements of section 52.41(d) a building permit for the improvement of a lot having lesser dimensions than those stated in sections 52.41(a) and (b) shall be issued only if a variance is granted by the board of adjustment.

Sec. 52-42 - 52-46. RESERVED.

**ARTICLE VI
SETBACKS.**

Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

Sec. 52.47. SHORELAND STRUCTURE SETBACKS.

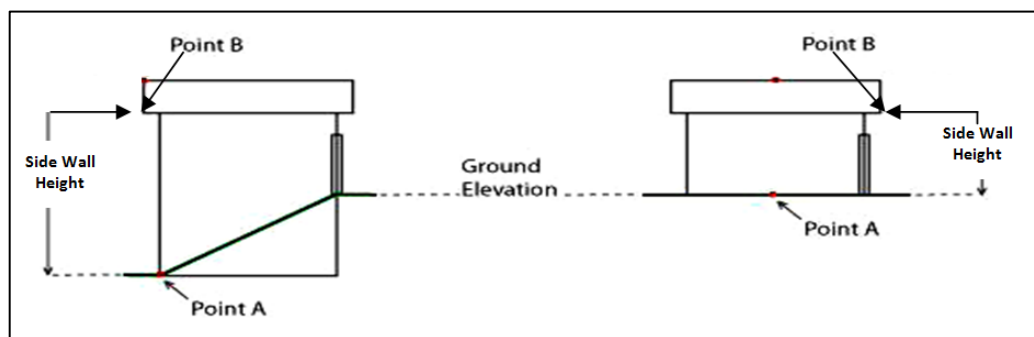
Unless exempt under section 52.47 (a), or reduced under section 52.48, a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a building wall or

structure shall be required for all buildings and structures.

(a) EXEMPT STRUCTURES. All of the following structures are exempt from the shoreland setback standards:

(1) Boathouses located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation under the following conditions:

A. The boathouse side wall height shall be at least 8 feet in height but shall not exceed 10 feet height. In special circumstances a boathouse side wall may exceed 10 feet but shall not exceed 15 feet if the code administrator determines the side wall of the proposed boathouse in excess of 10 feet will not exceed the existing grade at the wall opposite of the high water mark. Height measurements shall be taken as follow:



B. The footprint of the boathouse shall not exceed 600 square feet in area.

C. Boathouses shall have a roof pitch of 2% or 2.5 inches per 10 feet or less.

D. Boathouses shall not exceed one story. Multiple level boathouses shall be prohibited.

E. The roof, as a structural component of a boathouse, may be used as a deck, provided it has a flat roof with no side walls or screens. The roof may have a railing that meets the Department of Safety and Professional Services standards.

F. Impervious surface standards identified in Article IX apply.

G. The land altered or disturbed to erect the boathouse shall be disturbed in the least invasive manner, and, after construction, shall be restored to its pre-construction state.

H. Only one (1) boathouse is permitted per lot.

- (2) Open-sided and screened structures such as gazebos, decks, patios and screen houses, in the shoreland setback area that satisfy the requirements in Wis. Stats. 59.692(1v):
 - A. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
 - B. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 - C. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - D. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. The plan shall be evidenced by an instrument recorded in the Register of Deeds office.
 - E. The statutory requirement under this section, which requires the establishment of a vegetative buffer for the construction of open sided structures, is not superseded by s. 59.692(1f)(a).
 - (3) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
 - (4) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS Comm. 383, Wis. Adm. Code, 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.
 - (5) One (1) open walkway, stairway or rail system that is necessary to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
 - A. The walkway, stairway or rail system shall be located within the access and viewing corridor.
 - B. Landings are permitted and shall not exceed 32 square feet in total area.
 - (6) Devices or systems used to treat runoff from impervious surfaces.
- (b) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled, provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. The County

may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

- (c) Setback as identified in Section 52.16 shall apply.

Sec. 52.48. SETBACK AVERAGING.

A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

- (a) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark, provided all of the following are met:
 - (1) Both of the existing principal structures are located on adjacent lots to the proposed principal structure.
 - (2) Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
 - (3) Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - (4) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.

- (b) Where this is an existing principal structure in only one direction, the setback shall equal the average of the distance the existing principal structure is set back from the ordinary high water mark, and the required setback of 75' from the ordinary high water mark, provided all of the following are met:
 - (1) The existing principal structure is located on adjacent lot to the proposed principal structure.
 - (2) The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.
 - (3) The existing principal structure is located less than 75' from the ordinary high water mark.
 - (4) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.

Sec. 52.49. FLOODPLAIN STRUCTURES.

Buildings and structures to be constructed or placed in a floodplain shall be required to comply with Chapter 51 – Floodplain of the Calumet County Code of Ordinances.

Sec. 52-50 - 52-54. RESERVED.

**ARTICLE VII
VEGETATION.**

Sec. 52.55. PURPOSE.

To protect natural scenic beauty, fish and wildlife habitat, and water quality, Calumet County shall regulate removal of vegetation in shoreland areas that establish standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

Sec. 52.56. ACTIVITIES ALLOWED WITHIN A VEGETATIVE BUFFER ZONE.

To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, Calumet County designates land that extends from the ordinary high water mark, to a minimum of 35 feet inland, as a vegetative buffer zone, and prohibits removal of vegetation in the vegetative buffer zone except as follows:

- (a) Routine maintenance of vegetation.
- (b) Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per Wis. Stats. 59.692(1f)(b), the viewing corridor may be up to 35 feet wide for every 100 feet of shoreline frontage. Viewing corridors may run contiguously for the entire maximum width allowed.
- (c) Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
- (d) Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices,” as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
- (e) The shoreland zoning permit issued under this section shall require that all management activities comply with detailed plans approved by the county, and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
- (f) The county may authorize, by conditional use permit, additional vegetation management activities in the vegetative buffer zone. All efforts should be used to maintain the existing native vegetation and topography in the buffer zone.

Sec. 52-57 - 52-61. RESERVED.

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

Sec. 52.62. PERMIT REQUIRED

- (a) A shoreland zoning permit shall be required for any filling, grading, lagooning, dredging, ditching, or excavating of any area within 300 feet horizontal distance of navigable water if:
 - (1) The filling, grading, lagooning, dredging, ditching, or excavating exceeds 2,000 square feet on slopes of less than 12 percent.
 - (2) The filling, grading, lagooning, dredging, ditching, or excavating exceeds 1,000 square feet on slopes of 12 to 20 percent.
 - (3) The filling, grading, lagooning, dredging, ditching, or excavating is on slopes of more than 20 percent.
 - (4) Proper surface water drainage is identified and maintained and the resultant excavation causes no hardship to adjoining property owners.
- (b) A shoreland zoning permit is required under 52.62 (a) for the filling, grading, lagooning, dredging, ditching, excavating, or land disturbance shall be granted only upon finding that the proposed activity would not result in detriment to navigable water by reason of erosion, sedimentation, or impairment of fish and aquatic life, nor alter any wetland, and would be designed and constructed in accordance with standards contained in the United States Department of Agriculture/Soil Conservation Service/Wisconsin [Section 4](#) Technical Guide
- (c) This section shall not apply to planting, growing, cultivating and harvesting agricultural crops, installation of public utilities or sanitary waste disposal systems, or construction of public roads and walkways, nor projects authorized by state or federal agencies under Wis. Stats. § 30.19. No shoreland zoning permit shall be required if an erosion control permit has been issued under [chapter 10](#) by the Calumet County Land and Water Conservation Department.
- (d) Excavation as part of, and incidental to, a project authorized by a separate permit issued by the Code Administrator is exempt from permit requirements listed in 52.62.
- (e) Filling and grading of a 35 foot vegetative buffer that is currently vegetated in natural vegetation, shrubs, and trees is prohibited.

Sec. 52-63 - 52-67. RESERVED.

**ARTICLE IX
IMPERVIOUS SURFACE STANDARDS.**

Sec. 52.68. PURPOSE.

To establish impervious surface standards that protect water quality, fish and wildlife habitat, and, to protect against pollution of navigable waters in Calumet County. Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation, of any impervious surface on a riparian lot or parcel, and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

Sec. 52.69. CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE.

The percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark, by the total surface area of that lot or parcel, and multiplied by 100. Treated Impervious Surfaces described in section 52.73 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel, and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

- (a) For condominium or multiunit properties, the impervious surface calculations apply to the entire property if said property is described under one legal description.

Sec. 52.70. GENERAL IMPERVIOUS SURFACE STANDARD.

Except as otherwise allowed in sections 52.71 through 52.73, the county shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

- (a) The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

Sec. 52.71. IMPERVIOUS SURFACE STANDARD FOR HIGHLY DEVELOPED SHORELINES.

Highly Developed Shorelines may be developed allowing up to 30% for residential land use and up to 40% for commercial, industrial, or business land uses where the majority of the existing lots, as of the effective date of this ordinance, contain less than 20,000 square feet in area. Highly Developed Shorelines are identified on the Highly Developed Shorelines Map included in this Ordinance.

Sec. 52.72. MAXIMUM IMPERVIOUS SURFACE STANDARD.

A property may exceed the impervious surface standard under section 52.70 or 52.71, provided a mitigation plan is approved per 52.105 and the following standards are met:

- (a) For properties where the general impervious surface standard applies under section 52.70, a property owner may have more than 15% impervious surface, but not more than 30% impervious surface, on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark with the accumulation of six (6) mitigation points as identified in 52.97 (e)
- (b) For properties where the impervious surface standard for highly developed shorelines applies under 52.71, a property owner may have more than 30% impervious surface, but not more than 40% impervious surface for residential land uses; or for commercial, industrial or business land uses, a property owner may have more than 40% impervious surface, but not more than 60% impervious surface with the accumulation of six (6) mitigation points as identified in 52.97 (e).

Sec. 52.73. TREATED IMPERVIOUS SURFACES.

Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under section 52.70:

- (a) The impervious surface is treated by devices, such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems.
- (b) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff, on or off the parcel, and allows infiltration into the soil.
- (c) The property owner must demonstrate that the runoff from an impervious surface is being treated with an appropriately designed system. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt.

Sec. 52.74. EXISTING IMPERVIOUS SURFACES.

For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the impervious surface standard in this section, the property owner may do any of the following:

- (a) Maintain and repair the existing impervious surfaces.
- (b) Replace existing impervious surfaces with similar surfaces within the existing footprint or building envelope.
- (c) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in sections 52.47 or 52.48.

- (d) The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

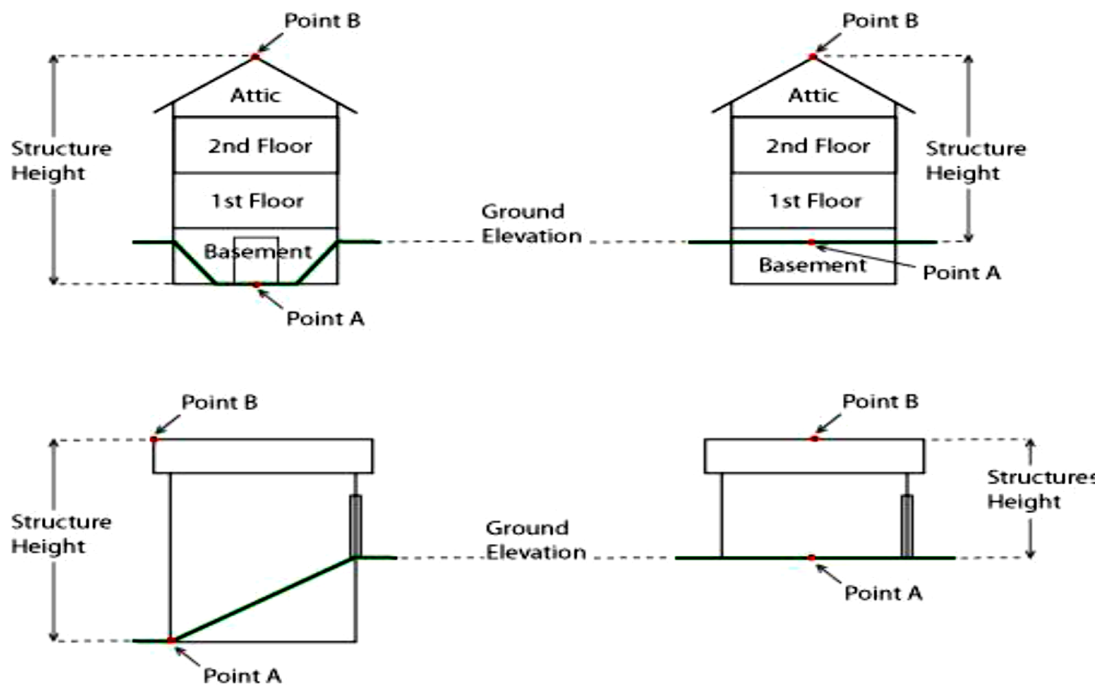
Sec. 52-75 - 52-79. RESERVED.

**ARTICLE X
HEIGHT.**

Sec. 52-80. HEIGHT

To protect and preserve wildlife habitat and natural scenic beauty, no permitted or exempt structure may be taller than 35 feet, within 75 feet of the ordinary high-water mark of any navigable waters, unless specifically exempted by this ordinance. Structure height shall be measured in the following manner:

- (a) Height measurement shall be taken from the lowest exposed ground elevation of the proposed structure as illustrated below as "Point A".



Sec. 52-81 - 52-85. RESERVED.

**ARTICLE XI
NONCONFORMING USES AND STRUCTURES.**

Sec. 52.86. DISCONTINUED NONCONFORMING USE.

If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to all provisions of this ordinance.

Sec. 52.87. MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES.

An existing structure that was lawfully placed when constructed, but that does not comply with the required shoreland setback, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed, but that does not comply with the required shoreland setback, may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Although no mitigation plan or shoreland zoning permit is required for the maintenance, repair, replacement or vertical expansion of a nonconforming structure, a general floodplain or general zoning permit may still be required. Exempt structures and structures granted variances are not considered nonconforming structures.

Sec. 52.88. MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES AUTHORIZED BY VARIANCE.

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled, if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded, unless the vertical expansion would extend more than 35 feet above grade level. Although no mitigation plan or shoreland zoning permit is required for the maintenance, repair, replacement or vertical expansion of a nonconforming structure authorized by variance, a general floodplain or general zoning permit still may be required.

Sec. 52.89. LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES WITHIN THE SETBACK.

An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback per section 52.47, may be expanded laterally, provided that all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more, if a nonconforming use.
- (b) The existing principal structure is at least 35 feet from the ordinary high water mark.
- (c) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high water mark, than the closest point of the existing principal structure.
- (d) The county shall issue a shoreland zoning permit that requires a mitigation plan, approved by the county and implemented by the property owner, by the date specified in the permit. The mitigation plan shall meet the standards found in section 52.97.
- (e) Lateral expansions of nonconforming principal structures 200 square feet, or less, shall require 6 mitigation points as identified in 52.97 (e).

- (f) All other provisions of the shoreland ordinance shall be met.

Sec. 52.90. EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES BEYOND SETBACK.

An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback under section 52.47, may be expanded horizontally, landward, or vertically, provided that the expanded area meets the building setback requirements, per section 52.47, and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 52.72.

Sec. 52.91. RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURES.

An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback per section 52.47, may be relocated on the property provided all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more, if a nonconforming use.
- (b) The existing principal structure is at least 35 feet from the ordinary high water mark.
- (c) No portion of the relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure.
- (d) The county determines that no other location is available on the property to build a principal structure of a comparable size, to the structure proposed, for relocation that will result in compliance with the shoreland setback requirement, per section 52.47.
- (e) The county shall issue a shoreland permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner, by the date specified in the permit. The mitigation plan shall meet the standards found in section 52.97.
- (f) Relocation shall require 6 mitigation points as identified in 52.97 (e)
- (g) All other provisions of the shoreland ordinance shall be met.

Sec. 52-92 - 52-96. RESERVED.

**ARTICLE XII
MITIGATION.**

Sec. 52.97. MITIGATION PLAN.

Per section 52.69, a mitigation plan shall be required to increase the amount of allowable impervious surface on a parcel or lot, and for the lateral expansion, to a maximum of 200 square feet of a non-conforming principal structure, identified in 52.89, or the relocation of a nonconforming principal structure identified in 52.91. Where a mitigation plan is required by this chapter, the following shall apply:

- (a) Mitigation plans must be approved by the County and implemented by the property owner.
- (b) Mitigation plans shall include enforceable obligations of the property owner to establish and/or maintain measures that the County determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat, natural scenic beauty, and the view from the water.
- (c) The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted.
- (d) The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the Register of Deeds office.
- (e) Mitigation points are assigned as follows:
 - (1) Code compliant POWTS: 1 pt.
 - (2) Properly abandon old, unused well: 1 pt.
 - (3) Fifteen (15) foot code compliant shoreline vegetation buffer: 2 pts.
 - (4) Additional ten feet of shoreline buffer: 1 pt. per. ten (10) feet of buffer depth.
 - (5) Voluntary reduction in 35 foot shoreland vegetation viewing corridor: 1 pt. per five feet reduced.
 - (6) No increase in impervious surface or stormwater runoff: 1 pt.
 - (7) Reduction in impervious surface: 2 pts. per five percent reduced.
 - (8) Removal of regulated nonconforming structures: 2 pts. per structure, which violates the water setback; 1 pt. per structure, which violates other code provisions.
 - (9) Relocation of principal structure, or replacement, to most code compliant location relative to water setback: 1 pt. for every ten (10) feet further from the water.
 - (10) Reduction of height of principal structure: 1 pt. per five feet reduced.

(11) No new outdoor flood lighting: 1 pt.

Sec. 52-98 - 52-102. RESERVED.

**ARTICLE XIII
ADMINISTRATIVE PROVISIONS.**

Sec. 52-103. PLANNING, ZONING AND FARMLAND PRESERVATION COMMITTEE. The Planning, Zoning and Farmland Preservation Committee, created by the County Board of Supervisors, shall be the designated County Zoning Agency pursuant to Wis. Stats. § 59.69, 59.692(3) and 236.02(3).

- (a) The Planning, Zoning and Farmland Preservation Committee shall adopt and follow any governing rules of procedure as specified in Wis. Stats. § 59.69(2), and shall comply with the Wisconsin Open Meeting Law as specified in Wis. Stats. §§ 19.81 through 19.98.
- (b) Duties and powers. In administering this chapter, the duties and powers of the Planning, Zoning and Farmland Preservation Committee shall be as follows:
 - (1) Supervise the administration of this chapter.
 - (2) Exercise those duties and powers specified in Wis. Stats. § 59.69.
 - (3) Hold public hearings as required by this chapter, by the state statutes, or by its own motions.
 - (4) Submit recommendations to the County Board of Supervisors for or against proposed zoning text and map amendments.
 - (5) Issue or deny conditional use permits, and establish any conditions for such permits.
 - (6) Any other duties determined by the County Board of Supervisors.
- (c) Financial sureties.
 - (1) The Planning, Zoning and Farmland Preservation Committee may require that a performance bond or letter of credit be provided for the benefit of the County and filed with the County so as to ensure compliance with the terms of this chapter or required permit.
 - (2) Failure to provide or maintain such bond or letter of credit shall invalidate any permit.

Sec. 52-104. ZONING BOARD OF ADJUSTMENT. Therefore, a Zoning Board of Adjustment is established as authorized by Wis. Stats. § 59.694

(a) Membership.

- (1) Size and appointment. The Zoning Board of Adjustment shall consist of five members and two alternate members, all appointed by the county administrator, and affirmed by the County Board of Supervisors.
- (2) Eligibility. Members of the Zoning Board of Adjustment shall reside in the unincorporated areas of the county. No two members of the Zoning Board of Adjustment shall reside in the same town. Preference shall be given to members who reside in a town, which has adopted County zoning.
- (3) Terms of office. The term of office shall be three years. However, these terms of office shall be staggered such that no more than two member's terms of office are expired in any one year. Each term shall begin July 1.
- (4) Officers. The Zoning Board of Adjustment shall choose its own chairperson, vice-chairperson and recording secretary.
- (5) Removal. Members may be removed by the chairperson of the County Board of Supervisors, for cause, upon written charges. Cause may include excessive absenteeism.

(b) Operation and rules.

- (1) Adoption. The Zoning Board of Adjustment shall adopt rules for the conduct of its business, which shall be in accordance with the provisions of this chapter and Wis. Stats. § 59.69.
- (2) Call to meetings. The Zoning Board of Adjustment shall meet at the call of the chair, and at such other time as the Zoning Board of Adjustment may determine, at a fixed time and place.
- (3) Open meetings. All meetings of the Zoning Board of Adjustment shall be open to the public, unless authorized by state law.
- (4) Minutes. The Zoning Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be public record.
- (5) Assistance. In the case of all appeals, the Zoning Board of Adjustment may call upon the Planning, Zoning and Farmland Preservation Committee for all information pertinent to the decision appealed from.

- (6) Quorum. The quorum for any meeting shall consist of three members.
- (7) Oaths. The chair may administer oaths and compel the attendance of witnesses.
- (c) Powers. The Zoning Board of Adjustment shall have the following powers:
 - (1) Appeals. Unless restricted elsewhere in this Code, to hear and decide appeals, pursuant to Wis. Stats. § 59.69, where it is alleged there is error in any order, requirement, decision or determination made by the Code Administrator or the Planning, Zoning and Farmland Preservation Committee. In exercising the above mentioned powers, the Zoning Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, which is the subject of the appeal and to that end, shall have all the powers of the committee or officer from whom the appeal is taken.
 - (2) Variances. To hear and authorize, upon appeal, in specific cases such variance from the terms of this chapter, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. Such variance shall not have the effect of permitting in any district a use that is prohibited in that district.
 - (3) To grant variances for renewable energy facilities as provided in Wis. Stats. § 59.69(7)(d).

Sec. 52-105. ADMINISTRATIVE STAFF

- (a) Planning, Zoning and Land Information Department Director. In administering this chapter, the Planning, Zoning and Land Information Director shall possess the following duties and powers:
 - (1) Oversee the Code Administrator in carrying out the assigned responsibilities of this chapter.
 - (2) Make necessary studies relevant to deliberations regarding conditional use permits, as directed by the Planning, Zoning and Farmland Preservation Committee.
 - (3) Recommend to the Planning, Zoning and Farmland Preservation Committee amendments necessary to make this chapter more effective.
 - (4) Aid in the granting of waivers where this chapter gives specific authority for such waivers.
 - (5) Any other duties assigned by the Planning, Zoning and Farmland Preservation Committee.

- (b) Code Administrator. The Code Administrator shall possess the following duties and powers:
- (1) Administer and enforce this chapter as the authorized representative of the Planning, Zoning and Farmland Preservation Committee.
 - (2) Provide to the public the necessary permit application and other forms relevant to this chapter. Assist the public in preparing applications and forms as necessary.
 - (3) Conduct all necessary on-site inspections and investigations of structures, lands, waters and uses to certify compliance with this chapter.
 - (4) Issue or deny shoreland zoning permits.
 - (5) Suspend or revoke shoreland zoning permits and/or issue cease and desist orders upon non-compliance with the terms of the permit and/or this chapter.
 - (6) Issue, deny, or revoke certificates of compliance.
 - (7) Investigate alleged zoning violations and give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises.
 - (8) Report uncorrected violations to the County Corporation Counsel and assist the Corporation Counsel in initiating enforcement proceedings. Issue citations as necessary.
 - (9) Gain entry to premises, buildings and structures during reasonable hours for the purpose of investigating applications for permit and for the purpose of determining compliance with this chapter or with any issued permit. If entry is refused after presentation of proper identification, a special inspection warrant may be procured in accordance with Wis. Stats. § 66.0119(1) and (2).
 - (10) Record all shoreland zoning permits issued, inspections made, work approved, and all other official actions.
 - (11) Provide technical and clerical assistance during hearings conducted by the Zoning Board of Adjustment or the Planning, Zoning and Farmland Preservation Committee, as needed.
 - (12) Grant waivers where this chapter gives specific authority for such waivers.
 - (13) Any other duties assigned by the Planning, Zoning and Farmland Preservation Committee or the Planning, Zoning and Land Information Director.

Sec. 52-106. PERMITS

Shoreland Zoning Permits.

- (a) Shoreland Zoning Permits issued under this chapter shall also include a review of the floodplain and general zoning provisions of the Calumet County Code, where

applicable. Shoreland Zoning permits shall certify that any such use, structure, or site complies with the provision of this chapter, and shall be required in the following instances, unless specifically exempted by this chapter:

- (1) Construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof.
 - (2) Establishment of any accessory or principal use, except uses permitted as conditional uses.
 - (3) Filling or grading of land if required by section 52.62.
 - (4) A shoreland zoning permit shall not be required for structures and activities waterward of the ordinary high watermark, which have minimal land use impacts, such as the establishment of bulkhead lines; placement of sand blankets, fish cribs, shore protection (rip rap), stream fords, and private boat landings for the personal use of the riparian owner; waterfowl management practices; weed cutting; construction of small private wharfs or private piers for the personal use of the riparian owner; dredging and waterway enlargements; stream straightening; and placement of individual mooring buoys.
 - (5) Emergency permitting. Any structure destroyed by a natural disaster during a disaster declared a disaster by the Governor of Wisconsin, need not secure a permit for replacement or repair, provided the Code Administrator inspects the structure to document the condition of the structure and verify it was destroyed by the natural disaster. In no case shall an illegal structure be allowed to be reconstructed under this provision.
- (b) Application requirements. An application for a shoreland zoning permit shall be submitted to the Code Administrator on forms furnished by the Planning, Zoning and Land Information Department and shall include the following information:
- (1) Name and address of the property owner.
 - (2) Signature of the property owner or agent.
 - (3) Location ID number, deed, legal description or other identifier of the subject property.
 - (4) An accurate site plan, drawn at a scale, which produces a clearly legible drawing, showing the following:
 - A. Boundaries, dimensions, and areas of the subject site.
 - B. The spatial relationship of the subject site to abutting public roads and right-of-ways, private roads, easements, and navigable waters.

- C. The location and dimensions of any existing or proposed structures, or additions, and their relationship to abutting public roads and right-of-ways, private roads, property lines, proposed and existing wells (whether in use or abandoned) and sanitary waste disposal systems, ordinary high watermark of navigable waters, and any known sinkholes or depressions on the land.
 - D. Location of proposed or existing road access points, parking and loading areas, and driveways.
 - E. Building plans including all floor plans and at least two elevation views. The plan shall include any proposed decks or other structures necessary to exit doors or fire escapes, and, any other appurtenances, structures or buildings to be located on the property during construction for which a permit is required.
 - F. Additional information as may be required on the application or by the Code Administrator in order to determine the full compliance with the requirements of this chapter.
- (5) Satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided in accordance with the requirements of the County sanitary ordinance.
 - (6) Complete application. No application shall be accepted by the Code Administrator, until deemed complete as judged by the Code Administrator, and until the application is signed and all fees established have been paid in full.
 - (7) Permit issuance or denial. Upon the Code Administrator's determination that the proposed use or structure complies with the provisions of this chapter, a shoreland zoning permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the chapter and any conditions to the permit. An application for a use or structure not in conformity with the provisions of this chapter shall be denied a shoreland zoning permit, and the reasons for denial shall be stated. In the event the permit is denied, the application fee will not be refunded.
 - (8) The County reserves the right to withhold issuing a permit until compliance has been determined with other applicable chapters of this Code.
 - (9) Expiration. Except as subsection (e), applies, shoreland zoning permits shall expire 24 months from the date of issuance.
 - (10) Renewal. If construction has commenced prior to the expiration of a shoreland zoning permit, but is not completed prior to such expiration, a 12-month renewal

of the permit shall be issued by the Code Administrator upon submittal of a renewal application, required application items and fee.

- (11) Termination. If a use or structure does not comply with the issued shoreland zoning permit or this chapter, the permit shall be terminated by the Code Administrator. If a use permitted by a shoreland zoning permit ceases for a period of more than 18 months, the permit shall terminate, and all future activity shall require a new shoreland zoning permit.

Sec. 52-107. VARIANCES

A landowner, or their agent, may petition for a variance from the requirements of this chapter. However, a variance from the terms of this chapter shall not be given unless the items identified in subsection (3), have been proven. The burden of proof shall be the responsibility of the petitioner.

- (a) A petition for a variance shall be filed by the property owner, or the owner's agent, on forms furnished by the Planning, Zoning and Land Information Department. Such petition shall include the following:
 - (1) Name and address of the property owner and petitioner, if different.
 - (2) Signature of petitioner.
 - (3) Location of property involved in the petition.
 - (4) Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.
 - (5) Section(s) of this chapter from which a variance is requested.
 - (6) Details as to the narrowness, shallowness, shape, topography or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use, which make it not merely inconvenient, but extremely difficult if not impossible, to comply with the provisions of this chapter.
 - (7) A statement that the conditions detailed above are unique to this property and do not generally exist on other properties in the same zoning district.
 - (8) A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.
 - (9) A petition for a variance shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.
 - (10) Other information as requested by the Code Administrator.

(b) Processing Variance Applications.

- (1) Public hearing. The Zoning Board of Adjustment shall hold a public hearing in accordance with Wis. Stats. § 59.69. At the hearing, any party may appear in person or by agent or by attorney.
- (2) Written notice shall be provided to the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under section 52.41.
- (3) Decision. Within a reasonable time, the Zoning Board of Adjustment shall render a decision to either grant or deny the request for variance.
- (4) A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Zoning Board of Adjustment. Unless a permit has been issued, such variance shall expire within one year of the written date of the decision to grant the variance.
- (5) A variance denied shall be accompanied by the reasons for denial.

(c) Standards for variance. The Zoning Board of Adjustment shall consider the following standards for granting a variance. The burden of proof at all times remains with the applicant to establish that the requested variance meets the following standards:

- (1) Unnecessary hardship. That there are present actual physical conditions applying to the parcel, building, structure, use or intended use on that parcel, which are creating the unnecessary hardship in the application of this chapter, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.
- (2) Unique Property Limitation. That the conditions described are unique or unusual circumstances applying only to the property under consideration and are not of general or recurrent nature elsewhere in the same zoning district.
- (3) *Conditions not self-created.* That the condition creating the hardship or difficulty was not self-created.
- (4) Public interest. That in granting the variance there will not be contrary to the spirit and intent of this ordinance as identified in section 52-4.
- (5) Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.

- (d) Pursuant to Wis. Admin. Code § NR 115.05(6)(h), a copy of any variance decision of the Zoning Board of Adjustment, which affects shorelands, shall be provided to the district office of the Department of Natural Resources within ten days of the date such decision is rendered.
- (e) Resubmission. A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 12 months following the decision. The 12 month period may be waived by the Zoning Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered.
- (f) The county shall keep a complete record of all proceedings before the Zoning Board of Adjustment, zoning agency and planning agency.

Sec. 52-108 - 52-112. RESERVED.

**ARTICLE XIV
ENFORCEMENT AND PENALTIES**

Sec. 52-113. – ENFORCEMENT AND PENALTIES.

Any person, firm, association or corporation or representative agent who fails to comply with the provisions of this chapter or any order of the Code Administrator or the Planning, Zoning and Farmland Preservation Committee or the Zoning Board of Adjustment, issued in accordance with this chapter shall, upon conviction thereof, forfeit, not less than \$10.00 nor more than \$500.00 and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and cost shall be imprisoned until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate violation.

Sec. 52-114. – EFFECTIVE DATE.

This ordinance, upon passage and publication by the County Board of Supervisors of Calumet County, Wisconsin, shall be effective in all of the unincorporated areas within Calumet County and shall not require approval or be subject to disapproval by any town or town board as provided by Wis. Stat. §§ 59.692 and 87.30.