

THE BOARD OF TRUSTEES OF THE  
VILLAGE OF LAKE NEBAGAMON

DOES HEREBY ORDAIN:

CHAPTER NINE, MUNICIPAL CODE  
ZONING ORDINANCE



## TABLE OF CONTENTS

<b>1</b>	<b><u>Introduction</u></b>	
1.1	Authority & Purpose	6
1.2	Interpretation	6
<b>2</b>	<b><u>Definitions</u></b>	6
<b>3</b>	<b><u>Zoning Districts</u></b>	
3.1	Establishment of Districts	12
3.2	Zoning map & District Boundaries	12
3.3	R-1: Residential District & R-1D Residential Downtown Area	13
3.4	R-2: Residential District	14
3.6	R-3: Multi-Family Residential District	15
3.7	A-1: Agricultural District	16
3.8	C-1: Commercial District	17
3.9	C-2: Downtown Commercial District	18
3.10	I-1: Industrial District	19
3.11	F-1: Forestry District	19
3.12	W-1: Resource Conservation District	20
3.13	SP: Shoreland Protections District (Overlay)	21
3.14	PUD: Planned Unit Development District	22
3.15	P-1: Public Use District	26
3.16	Townhouses	27
3.17	Zoning Schedule - Dimensional Requirement Chart	29
<b>4</b>	<b><u>Regulations</u></b>	
4.1	Application of Regulations	33
4.2	Standard District Regulations	33
4.3	Supplementary Regulations	44
4.4	Shoreland Regulations	45
4.5	Removal of Shore Cover	47
4.6	Filling, Grading, Lagooning, Dredging, Ditching & Excavating	49
4.7	Street & Sidewalk Grades	50
4.8	Sidewalk Construction & Repair	51
4.9	Driveways	53
4.10	Street & Sidewalk Excavations & Openings	54
4.11	Obstructions & Encroachments	56
4.12	Short Term Rentals & Tourist Homes	58
<b>5</b>	<b><u>Signs</u></b>	
5.1	General Provisions	59
5.2	Classification of Signs Requiring Permits	60
5.3	Class and Type of Signs Permitted, Various Zoning Districts	61
5.4	Nonconformance	62

<b>6</b>	<b><u>Regulation of Special Uses</u></b>	
6.1	General Provisions	62
6.2	Salvage Yards	61
6.3	Garbage & Refuse Disposal Sites	63
6.4	Mobile & Manufactured Home Parks	63
6.5	Trailer Camps	64
6.6	Major Recreational Equipment	64
6.7	On Premises Personal Storage (Sheds & Shipping Containers)	66
<b>7</b>	<b><u>Conditional Uses</u></b>	
7.1	General Provisions	67
7.2	Procedure	68
<b>8</b>	<b><u>Administration</u></b>	
8.1	Village Zoning Administration	70
8.2	Land Use Permits	71
8.3	Violations	71
<b>9</b>	<b><u>Nonconforming Uses</u></b>	
9.1	Requirements	72
9.2	Mitigation	73
<b>10</b>	<b><u>Planning &amp; Zoning Commission</u></b>	
10.1	Composition	76
10.2	Terms	76
10.3	Rules	76
<b>11</b>	<b><u>Board of Appeals</u></b>	
11.1	Composition	76
11.2	Rules	77
11.3	Appeals	78
<b>12</b>	<b><u>Amendments</u></b>	
12.1	Procedure	79
<b>13</b>	<b><u>Public Hearings</u></b>	
13.1	Notice	79
13.2	Procedure	79
<b>14</b>	<b><u>Validity</u></b>	
14.1	Conflict	80
14.2	Court invalidation	80
14.3	Force & Effect	80
<b>15</b>	<b><u>Forfeitures</u></b>	80

<b>16</b>	<b><u>Fence Code</u></b>	
16.1	Definitions	81
16.2	Permit	82
16.3	Fence Installation	83
16.4	Maintenance of Fences	84
16.5	Existing Fences	85
16.6	Prohibitions	85
16.7	Fence Allowed Without a Permit	85
16.8	Non-Boundary Related Fence Standards	85
16.9	Dog Enclosures	86
16.10	Visual Clearance Violations	86
16.11	Administration, Special Exceptions and Appeals	87
<b>17</b>	<b><u>Outdoor Wood Furnaces</u></b>	
17.1	Definitions	88
17.2	Registration & Existing OWF	88
17.3	Regulations for OWF	89
17.4	Specific REquirements	89
17.5	Enforcement and Penalties	89
17.6	Right of Entry	90
17.7	Separability	90
17.8	Effective Date March 10, 2009	90
<b>18</b>	<b><u>Shoreland Zoning Ordinance</u></b>	
18.1	Statutory Authorization, Finding of Fact, Statement of Purpose, & Title	91
18.2	General Provisions	92
18.3	Land Division Review and Sanitary Regulations	95
18.4	Dimensions of Building Sites	97
18.5	Setbacks From the Water	98
18.6	Removal of Shore Cover	100
18.7	Filling, Grading, Lagooning, Dredging, Ditching & Excavating	101
18.8	Shoreland Overlay Districts	103
18.9	Legal Pre-Existing Uses and Structures	108
18.10	Administrative Provisions	117
18.11	Changes and Amendments	123
18.12	Enforcement and Penalties	123
18.13	Definitions	124
	Adopted April 2, 2013	128

<b>19</b>	<b>Subdivision Ordinance</b>	
19.1	Introduction, Authority, Purpose & Interpretation	129
19.2	General Provisions	129
19.3	Definitions	130
19.4	Procedure for Submitting Subdivisions	131
19.5	Design Standards	132
19.6	Improvements	134
19.7	Easements	137
19.8	Public Reservations	137
19.9	Variances	138
19.10	Enforcement, Penalties & Remedies	138
19.11	Separability	138
19.12	Effective Date & Application - April 3, 1979	139
<b>20</b>	<b>Effective Date</b>	140

# Section 1

## Introduction

### 1.1 AUTHORITY & PURPOSE

For the purposes listed in Wis. Stats. § 61.35 & 62.23, the Board of Trustees of Lake Nebagamon in regular session this fourth day of April, 1979 do ordain and enact:

An Ordinance regulating and restricting location, construction and use of building, structures, and the use of land in the Village of Lake Nebagamon, Wisconsin.

Amended this third day of October, 1995.

### 1.2 INTERPRETATION (Amended 7/2/19)

The provisions of this Ordinance as well as State and County codes, shall be held to be minimum requirements, adopted for the promotion and protection of the public health, morals, safety, or the general welfare. The Shoreland provisions of this Ordinance shall require approval or be subject to disapproval of the Village Board, and all Shoreland development shall be according to the rules and regulations of the Wisconsin Department of Natural Resources.

## Section 2

### DEFINITIONS (amended 9/3/19, 2/4/20)

2.1 For the purpose of this Ordinance certain terms or words herein shall be interpreted or defined as:

- Words used in the present tense include the future tense.
- The singular includes the plural.
- The word “person” includes individual and, all partnerships, associations and bodies prudent and corporate.
- The word “lot” includes the word “plot” or “parcel”.
- The term “shall” is always mandatory.
- The word “used” or “occupies” as applied to any land or building shall be construed to include words “intended, arranged, or designed to be used or occupied”.

1. **ACCESSORY USE:** Use, that is customarily incidental and subordinate to the principal use or building located on the same lot with such principal use or building.

2. **ACCESSORY STRUCTURE / BUILDINGS**: A structure / building that is customarily incidental and subordinate to the principal structure or building located on the same lot with such principal building.
3. **BACKLOT**: A parcel or tract of land located within a Shoreland that does not front a navigable body of water, capable of being occupied by one residence and the accessory buildings or buildings customarily incidental to it.
4. **BED & BREAKFAST ESTABLISHMENT**: (Wis. Stats. § 254.61) Place of lodging that:
  - a. Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients;
  - b. Provides no meals other than breakfast and provides the breakfast only to the renters of the place;
  - c. Is the owner's personal residence;
  - d. Is occupied by the owner at the time of rental;
  - e. Was originally built and occupied as single-family;
  - f. Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure including renovations, except that a structural addition, including renovation, to the structure may, after May 11, 1990, be made within the dimensions of the original structure.
5. **BERTH**: A space at a pier, wharf, boat shelter, boathouse, or shoreline building suitable for mooring a single watercraft or a type commonly in use on the waterbody where the berth is located.
6. **BOATHOUSE**: Any structure located on the same lot as the principal building and used for protecting or storing boats used for noncommercial purposes in conjunction with a residence.
7. **BOAT SHELTER**: A structure in navigable waters designed and constructed for the purpose of providing a cover for a berth place for watercraft, which may include a roof but may not have walls or sides. Such a structure may include a boat hoist.
8. **BUILDING**: Any structure used, designed or intended for the protection, shelter, or roofed enclosure of persons, animals, or property.
9. **BUILDING, HEIGHT OF**: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.
10. **CAMPING GROUND**: A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents, or movable or temporary dwellings, rooms or sleeping quarters of any kind.
11. **CARPORT**: An open-sided automobile shelter usually formed by an extension of a roof from the side of a building.
12. **COMMERCIAL DOCKING FACILITIES**: Docking facilities, which are provided for rental by non-resident boat owners. These facilities are to accommodate boats when they are not in use and cannot be used for living quarters at any time.
13. **DRIPLINE**: outermost circumference of a structure where water drips from it and onto the ground.
14. **DWELLING**: A building designed or used exclusively as the living quarters for one or more families.

- 15. DWELLING, MULTI-FAMILY:** A dwelling or group of dwellings on one plot containing separate living units for two or more families, but which may have joint services or facilities or both.
- 16. ESSENTIAL SERVICES:** Services provided by public and private utilities necessary for the exercise of the principal use or serve of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewage, storm water drainage, and communication systems and accessories thereto, such as poles, tower, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, hydrants, solid waste compactor roll-offs, multi-compartment recycling units, and similar equipment used for solid waste collection and recycling, excluding buildings. All zoning district setback requirements shall apply, except that they must be at least 100 feet from any navigable body of water or well. Screening may be required where it is deemed by the Zoning Commission. All units or receptacles shall be leak proof and maintained in good working condition. They shall also be secured with covers and be lockable if kept outside of buildings to prevent use when attendants are not on duty. Lease parcels, without buildings, shall not be subject to minimum lot size requirements, but must be at least one acre in size and allow compliance with all setback requirements.
- 17. EXOTIC ANIMALS:** Non-indigenous animals, excluding birds, and specifically including animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos and water buffalo.
- 18. FAMILY:** One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.
- 19. FARMING, GENERAL:** The production of field or truck crops, or the raising of livestock and livestock products for commercial gain.
- 20. FENCES:** A structure accessory to and customarily incidental to the principal use, which is erected within a rear, side, or front yard as a barrier, divider or enclosure.
- 21. GARAGE:** See accessory structure.
- 22. GAZEBO:** An open porch-like structure, with or without a roof, for sitting, viewing, dining and usually located in a residential yard. Not for habitation.
- 23. GUEST QUARTERS:** The sleeping quarters provided for temporary guests in conjunction with a single-family residence, which may contain a bathroom , but shall not contain a kitchen or cooking facilities, and which shall not be used as a rental unit.
- 24. HIGH WATER MARK:** the point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristic.
- 25. HOBBY FARM:** The raising of animals, including domestic animals and livestock, for the entertainment and enrichment of the owner or the owner's family, but limited to no more than a dozen such animals or livestock at any time.
- 26. HOME OCCUPATION:** A gainful occupation conducted by a member of a family on his or her own property where the space used is incidental to residential use.
- 27. HOSPITAL:** Unless otherwise specified, the term "hospital" shall be deemed to include a sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home



and any other place for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to the places for the diagnosis, treatment or other care of human ailments.

- 28. IMPERVIOUS SURFACE:** Means man-made, constructed, or installed surface placed permanently on, above, or in the ground which is non-native, and significantly reduces infiltration of rain and surface water when compared to native uncompacted soil, including but not limited to asphalt, concrete, brick, stone, gravel, tile, wood, rubber, plastic and metal.
- 29. KENNEL:** The location where the owner is occupied in the breeding, raising, boarding or grooming of domestic animals only, with no more than 12 animals to be present at anytime.
- 30. LOT:** A parcel of land occupied or capable of being occupied by one building and the accessory buildings or used customarily incident to it, including such open spaces as required by this Ordinance. (See LN Subdivision Ordinance)
- 31. LOT, DEPTH OF:** A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.
- 32. LOT, WIDTH OF:** The mean width measured at right angles to its depth.
- 33. LOT LINES:** Any line dividing one lot from another.
- 34. MAJOR RECREATIONAL EQUIPMENT:** Includes travel trailers, pickup campers, or coaches, motorized dwellings, tent trailers and the like.
- 35. MANUFACTURED HOME:** Any factory built home constructed after June 15, 1976.
- 36. MITIGATION:** Compensatory action(s) to restore natural functions and values lost through development and human alterations and rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- 37. MOBILE HOME:** Any factory built home constructed before June 15, 1976.
- 38. MODULAR / PANELIZED HOMES:** Any factory built home with the appearance and features (roof overhang, width, roof pitch, etc.) of traditional “stick built” homes, that complies with the uniform dwelling code. Allowed in all zoning districts where single family dwellings are a permitted use.
- 39. MUNICIPAL SOLID WASTE:**
- a. Household waste, or
  - b. Solid waste from commercial or industrial sources that does not contain hazardous waste and does not contain any process waste which is the direct or indirect result of the manufacturing of a product or the performance of a service such as dry cleaners or paint shops. (Municipal Solid Waste does not include waste wood, paper-mill sludge, sewage sludge, tires, batteries, or industrial process waste.)
- 37. NAVIGABLE WATERS:** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state (NR 115.03(5)). Under §. 281.31(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under § 59.692, Wis. 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.

Navigable waters include public lakes, rivers, and streams that have a bottom (bed) and side (bank), and enough water to float any boat, skiff, or canoe of the shallowest draft on a reoccurring basis. A waterway does not need to be regularly used for recreational or other general purposes, but is a public waterway based on its capacity to be navigable and public.

- 38. NONCONFORMING USE:** A building, structure or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district or zone in which it is situated.
- 39. NUISANCE:** (Public Nuisance referenced in Chapter 13 of Municipal Code of Lake Nebagamon) Crimes that threaten the health, moral, safety, comfort, convenience, or welfare of a community. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
- Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
  - In any way render the public insecure in life or in the use of property;
  - Greatly offend the public morals or decency
  - Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street alley, highway, navigable body of water or other public way or the use of public property.
- 40. ORDINARY MAINTENANCE AND REPAIR:** Ordinary and routine actions necessary to continue to restore the safe and healthy use of a structure which has been damaged or has deteriorated through natural aging and wear and which does not result in a substantial structure improvement or a significant increase in value. Such actions may include, but are not limited to, painting and staining, and the repair of the following; exterior windows, skylights, doors, vents, siding, insulation, shutters, gutters, flooring, shingles, roofing materials, walls or the foundation, and internal improvements within the structural envelope without doing a structural alteration.
- 41. PIER:** Any structure extending into navigable waters from the shore with water on both sides built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Wis. Stats. § 30.01(5))
- 42. POLE BARN:** A structure with walls measuring not more than one pole unit of measure (16 ½ feet) in height and with or without a finished door.
- 43. RECYCLING (WASTE SEPARATION) FACILITY:** A facility where a system of containers, equipment, or other structures is used to collect source separated newsprint, aluminum, glass or plastic for recycling.
- 44. RESORTS:** The location of a group of residential units in one or more buildings, which are maintained for the purpose of rental and use by visitors.
- 45. SALVAGEABLE MATERIAL:** Junk cars, machinery or equipment, scrap metal or other junk or scrap or discarded materials which are of further usefulness mainly as a raw material for reprocessing, or as imperfect stock from which replacement or spare parts can be extracted.
- 46. SALVAGE YARD:** A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal, or any discarded material; or for the

collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

- 47. SALVAGE YARD, NON-COMMERCIAL:** Any place where four or more vehicles that are not currently licensed and are not in operable condition are stored, dismantled, scrapped or destroyed and are not contained entirely within enclosed building, whether or not parts are held for sale, whether or not property permits are obtained.
- 48. SEMI-TRAILER CONTAINER:** A freight container with permanently attached wheels, designed to be hauled by a semi-tractor trailer truck.
- 49. SHED:** A simple roofed structure used as a storage space, a shelter for animals, or a workshop.
- 50. SHIPPING CONTAINER:** An intermodal freight container, designed to be moved from one mode of transport to another without unloading and reloading.
- 51. SIGN:** A sign is any structure or natural object or part thereof or device attached thereto or printed or represented thereon which is intended to attract attention to any object, product, place, activity, person, institution, organization, or business, or which shall display or include any letter, word, model, banner, flag, pennant insignia, device, or representation used as or which is in the nature of an announcement, direction or advertisement.
- 52. STRUCTURAL ALTERATION:** Any activity not considered ordinary maintenance and repair that results in a change to the integral framework, or the exterior silhouette or footprint of a structure.
- 53. STRUCTURE:** Any construction or any work built artificially or composed of parts and which has form, shape, and utility.
- 54. TRAILER:** A portable vehicle designed and used for temporary sleeping purposes while its occupants are engaged in the pastime of camping.
- 55. USE:** The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.
- 56. VEGETATION:** Herbaceous grasses, sedges, forbs and other plants as well as woody shrubbery and trees of all sizes.
- 57. YARD, FRONT:** An open, unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.
- 58. YARD, REAR:** An open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.
- 59. YARD, SIDE:** An open, unoccupied space on the same lot with a building situated between the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or front line shall be deemed a side line.

## **Section 3** (Amended 3/9/21)

# **ZONING DISTRICTS & ZONING SCHEDULE**

### **3.1 ESTABLISHMENT OF DISTRICTS**

For the purposes of this Ordinance, the Village of Lake Nebagamon is hereby divided into these types of districts:

1. R-1 Residential District (12,500 to 30,000 square foot lots)
2. R-2 Residential District (5 acre lots)
3. R-3 Multiple Family Residential
4. A-1 Agricultural
5. C-1 Commercial
6. C-2 Downtown Commercial
7. I-1 Industrial
8. F-1 Forestry
9. W-1 Resource Conservation
10. SP-1 Shoreland Protection (Overlay)
11. PUD Planned Unit Development
12. P-1 Public Use District

### **3.2 ZONING MAP AND DISTRICT BOUNDARIES**

The locations and boundaries of these districts are shown in a single map officially designated “Official Zoning Map, Lake Nebagamon, Wisconsin”, located in the Village Office. These maps, together with all explanatory matter and regulations thereon, are an integral part of this ordinance. District boundaries are normally lot lines; sections and quarter section lines, centerlines of streets, highways, railroads, or alleys. Questions regarding exact location of district boundaries shall be decided by the Village Board. Decisions may be reviewed on appeal to the Board of Appeals as provided in Section 10 of this Ordinance.

The single official copy of the “Official Zoning Map, Lake Nebagamon, Wisconsin”, together with a copy of this Ordinance shall be kept at the Village Office, and shall be available for public inspection during office hours. This map shall be certified by the President of the Village and attested by the Village Clerk. Any changes affecting zoning district boundaries or explanatory matter and regulations shall be made in accordance with provisions of the Wis. Stats. § 61.35.

### 3.3 R-1: RESIDENTIAL DISTRICT

This district provides for one family year-round residential development protected from traffic hazards and the intrusion of incompatible land uses. It is intended to encourage such development around existing residential areas where soil conditions are suitable for such development and in those areas, which can be economically and readily served, by utilities and municipal facilities.

#### 1. PERMITTED USES (amended 10/13/20)

- A. One family year-round dwellings.
- B. Private garages and carports.
- C. Principal structure required prior to accessory structure construction.
- D. Essential services and utilities intended to serve the principal permitted use.
- E. Signs subject to the provisions of Section 5 of this Ordinance.
- F. Horticulture and gardening.
- G. Customary accessory uses provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.
- H. Tourist homes, rooming and boarding.
- I. Refer to the Zoning Schedule for minimum lot sizes and setback requirements.

#### 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Duplex dwelling units.
- B. Public and semi public uses including, but not limited to: public and private schools, churches, public parks and recreational areas, hospitals, rest homes and homes for the aged, fire and police stations, historic sites. Sewage disposal plants and garbage incinerators and/or their maintenance, repair, or storage buildings shall not be permitted.
- C. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- D. Home occupations or professional offices provided no such use occupies more than 25% of the total floor area of the structures on the property, not more than one non-resident person is employed on the premises, and such use will not include an operational activity that would create a nuisance or be otherwise incompatible with the surrounding residential area.
- E. Snowmobile trails.
- F. Pole barns, subject to the district's Dimensional Requirements.

- G. All applications for Conditional Use permits must be posted twice before consideration. Therefore, applications must be submitted by the first Monday of the month in order to be placed on the agenda for the month. Sign permits shall accompany Conditional Use permits.

#### R-1D: RESIDENTIAL DOWNTOWN AREA

This area is from Camp Nebagamon Property Line (west side), heading east on County Road B (south side of the road only) to Fitch Avenue (both sides Fitch Ave heading south) ending at Bankey Rd. intersection. This area includes all of Main Street, Camp Nebagamon Drive, Ravine Park Rd. and the northside of Waterfront Dr. No lakefront property is affected in this area. The following affects this area only.

- a. Keeping the existing commercial and multifamily zoning as is, and considering possible adjustments as new projects are proposed.
- b. Refer to the Zoning Schedule for minimum lot sizes and setback requirements.

#### 3.4 R-2 RESIDENTIAL DISTRICT

This district provides for one-family and two-family year-round residential development and for the continuation of forest programs. It is intended to encourage forest management programs and at the same time, allow large lot residential development.

##### 1. PERMITTED USES (amended 10/13/20)

- A. One and two-family year-round dwellings.
- B. Private garages and carports.
- C. Essential services and utilities intended to serve the principal permitted use.
- D. Signs subject to the provisions of Section 5 of this Ordinance.
- E. Horticulture and gardening.
- F. Customary accessory uses provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.
- G. Production of forest crops, including tree plantations.
- H. Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds.
- I. A single manufactured home provided lot area and setback requirements of this district are met and the owner provides an accessory building for storage purposes.
- J. Tourist homes, rooming and boarding.
- K. Refer to the Zoning Schedule for minimum lot sizes and setback requirements.

## 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- B. Pole barns, subject to the district's Dimensional Requirements.
- C. Home occupations or professional offices provided no such use occupies more than 25 percent of the total floor area of the structures on the property, not more than one non-resident person is employed on the premises, and such use will not include a operational activity that would create a nuisance or be otherwise incompatible with the surrounding residential area.
- D. Hobby farms on lots of 10 acres or more, may include the non-commercial housing of a limited number of animals, provided all structures housing such animals are 75 feet from all human habitation, 50 feet from lot lines, and 100 feet from any highway, and all meet the appropriate state regulations for animal habitats.

### 3.6 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

This district provides for multi-family residential development in areas suitable for such development where it will not cause inconvenience due to population density or need for additional services.

#### 1. PERMITTED USES

- A. Duplex and multi-family year round dwellings subject to the dimensional requirements listed in zoning schedule of this Ordinance.
- B. Private garages and carports, and all parking must be in the rear of buildings.
- C. Essential services and utilities intended to serve the principal permitted use.
- D. Signs subject to the provisions of Section 5 of this Ordinance.
- E. Horticulture and gardening.
- F. Customary accessory use provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.
- G. Refer to the Zoning Schedule for minimum lot sizes and setback requirements.

#### 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Public and semi public use including, but not limited to: public and private schools, churches, public parks and recreation areas, hospitals, rest homes and homes for the aged, fire and police stations, historic sites. Sewage disposal plants and garbage incinerators and/or their maintenance, repair, or storage buildings shall not be permitted.

- B. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- C. Home occupations or professional offices provided no such use occupies more than 25% of the total floor area of the structures on the property, not more than one non-resident person is employed on the premises, and such use will not include an operational activity that would create a nuisance or be otherwise incompatible with the surrounding residential area.
- D. Rental cabins and resorts.
- E. Pole barns, subject to the district's Dimensional Requirements.

### 3.7 A-1 AGRICULTURAL DISTRICT

This district is intended to provide for the continuation of general farming and related activities in those areas best suited for such development, and to prevent the untimely and economical scattering of residential, commercial, or industrial development in such an area.

#### 1. PERMITTED USES

- A. One-family and two family farm residences.
- B. A single manufactured home, but only when occupied by owners and/or persons engaged in farming activities on the premises.
- C. All agricultural land uses, buildings, and activities, except farms for disposal of garbage or offal.
- D. Roadside stand for the sale of products grown on the premises, if sufficient off-street parking space for customers is provided.
- E. Vacation farms and other farm-oriented recreational uses such as riding stables, winter sports activities and game and game farms.
- F. Cemeteries and mausoleums.
- G. Essential services and utilities to serve a permitted principal use.
- H. Woodlots and tree farms.
- I. Signs subject to the provisions of Section 5 of this Ordinance.
- J. Customary accessory uses provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.
- K. Refer to the Zoning Schedule for minimum lot size and setback requirements.

#### 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. One-family and two-family year-round dwellings
- B. Mobile home parks subject to the provisions of Section 6 of this Ordinance.



- C. A single mobile home, but only when occupied by owners and/or persons engaged in farming activities on the premises.
- D. Public and semi public uses including, but not limited to: public and private schools, churches, public parks and recreation areas, hospitals, rest homes and homes for the aged, fire and police stations, historic sites, sewage disposal plants and garbage incinerators and/or their maintenance, repair or storage buildings shall not be permitted.
- E. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- F. Airports, subject to the provisions of Section 4.3 of this Ordinance.
- G. Non-commercial salvage yards as defined in Section 6.2 of this Ordinance.

### 3.8 C-1: COMMERCIAL DISTRICT

This district is intended to provide for the orderly and attractive grouping, at appropriate locations, of retail stores, shops, office, and similar commercial establishments.

1. PERMITTED USES - Facilities such as, but not limited to:
  - A. Retail stores and shops offering convenience goods and service.
  - B. Business and professional offices and studios.
  - C. Banks and savings and loan offices.
  - D. Public and semi public buildings and institutions.
  - E. Commercial entertainment facilities.
  - F. Laundromats.
  - G. Restaurants.
  - H. Taverns.
  - I. Medical and dental clinics.
  - J. Auto service stations and maintenance facilities.
  - K. Public and private marinas.
  - L. Motels and tourist homes.
  - M. Rooming and boarding houses.
  - N. Golf courses.
  - O. Mini-storage buildings.
  - P. Craftsmen with no more than two employees. (Such as cabinet shops) No industrial type fabricating may be done.
  - Q. Essential services and utilities intended to serve the principal permitted use.
  - R. Customary accessory use provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.

## 2. USES AUTHORIZED BY A CONDITIONAL PERMIT

- A. Public and semi public conditional uses as stated in the R-1 district.
- B. New and used car sales establishments.
- C. Wholesaling establishments.
- D. Transportation terminals.
- E. Farm implement sales firms.
- F. Outdoor theaters.
- G. Miniature golf, go-karts, and amusement parks.
- H. Drive-in establishments offering in-car service to customers.
- I. Single family dwellings.
- J. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- K. Pole barns, subject to the district's Dimensional Requirements.
- L. Recycling facilities.

### 3.9 C-2 DOWNTOWN COMMERCIAL DISTRICT

This district is intended to provide for the development of the Downtown Business District within these boundaries: Northerly boundary - the south side of Broadway between Lake Avenue and 1st Avenue West; Southerly boundary - the south side of Waterfront Drive; Easterly boundary - Lake Avenue from County Highway B to 6896 S. Lake Avenue; Westerly boundary - East side of 1st Avenue West from Broadway to Waterfront Drive.

#### 1. PERMITTED USES

- A. Retail stores and shops offering convenience goods and services.
- B. Business and professional offices and studios.
- C. Banks and savings and loan offices.
- D. Public and semi public buildings and institutions.
- E. Commercial entertainment facilities.
- F. Restaurants.
- G. Taverns.
- H. Medical and dental clinics.
- I. Auto service stations and maintenance facilities.
- J. Motels and tourist homes.
- K. Rooming and boarding houses.

#### 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Public and semi public conditional uses as stated in the R-1 district.
- B. New and used car sales establishments.
- C. Single family dwellings.

### 3.10 I-1: INDUSTRIAL DISTRICT

#### 1. PERMITTED USES\*

- A. Manufacturing, assembly, fabrication, and processing plants and similar type industrial operations consistent with the purposes of this district.
- B. General warehousing.
- C. Essential services and utilities intended to serve the principal permitted use.
- D. Customary accessory uses provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.

#### 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Salvage yards, subject to the provisions of Section 6 of this Ordinance.
- B. Quarrying, mining, and processing of products from these activities, subject to the provisions of Section 6 of this Ordinance.
- C. Telephone, telegraph, radio, television and power transmission tower, poles and lines, including transformers, substation, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- D. Non-commercial salvage yards as defined in Section 6.2 of this Ordinance.

\*Any use determined to be objectionable by the Zoning Commission on the bases of pollution, noise, dust, smoke, vibrations, odor, flashing lights, or danger of explosion may be permitted only upon the issuance of a conditional use permit setting forth dimensional and site requirements, performance standards, aesthetic controls, and pollution standards for that particular use.

### 3.11 F-1: FORESTRY DISTRICT

This district provides for the continuation of forest programs and related uses in those areas best suited for such activities. It is intended to encourage forest management programs, and to recognize the value of the forest as a recreational resource by permitting as a conditional use certain recreational activities which when adequately developed are not incompatible to the forest.

#### 1. PERMITTED USES

- A. Production of forest crops, including tree plantations.
- B. Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds.

- C. Hiking trails, cross country ski trails, wildlife refuges, snowmobile trails, game management habitat areas.
- D. Signs, subject to the provisions of Section 5 of this Ordinance.
- E. Public and private parks, playgrounds, and seasonal sports area.
- F. Essential services and utilities to serve a permitted principal use.
- G. Customary accessory uses provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.
- H. Year-round residences for owners or caretakers.

## 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Hunting and fishing cabins.
- B. Seasonal dwellings and customary accessory buildings such as private garages, carports, and pole barns on the same lot as the dwelling.
- C. Dams, plants for production of electric power and flowage areas.
- D. Major Recreational Equipment camps subject to the provisions of Section 6.5 of this Ordinance.
- E. Forest -connected industries such as pulp and paper production plants, sawmills, debarking operations, chipping facilities and similar operations including temporary dwellings and mobile homes for persons engaged in these operations.
- F. Recreation and youth camps.
- G. Riding stables.
- H. Shooting ranges.
- I. Quarrying and mining operations subject to the provisions of Section 7 of this Ordinance.
- J. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures; radio and television stations and transmission towers, fire towers and microwave radio relay towers.
- K. Airports, subject to the provisions of Section 4.3 of this Ordinance.
- L. Non-commercial salvage yards as defined in Section 6.2 of this Ordinance.

### 3.12 W-1: RESOURCE CONSERVATION DISTRICT

This district is intended to be used to prevent destruction of natural or manmade resources and to protect water courses including the shoreland of navigable waters, swamp lands and areas which are not adequately drained or which are subject to periodic flooding, where developments would result in hazards to health or safety; would deplete or destroy resources; or be otherwise incompatible with the public welfare.

## 1. PERMITTED USES

- A. Public fish hatcheries.
- B. Soil and water conservation programs.
- C. Forest management programs.
- D. Wildlife preserves.

## 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Drainage where such activity will not be in conflict with the state purposes of this district.
- B. Public and private parks.
- C. Dams, plants for the production of electric power and flowage areas.
- D. Grazing where such activities will not be in conflict with the stated purposes of this district.
- E. Orchards and wild crop harvestings.
- F. Telephone, telegraph, radio, television and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures; radio and television stations and transmission towers, fire towers and microwave radio relay towers.
- G. Signs, subject to the provisions of section 5 of this Ordinance.

No use shall involve dumping or filling of mineral soil or peat removal that would disturb the natural fauna, flora, water courses, water regimen, or topography.

### 3.13 SP: SHORELAND PROTECTION DISTRICT (OVERLAY DISTRICT)

This district provides for the protection of waters and shoreland, and for safe and orderly shoreland development in the Village of Lake Nebagamon. The intent is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning ground, fish, and aquatic life; control building sites, placement of structures and uses, and to preserve shore cover and natural beauty.

This district includes all lands in the Village of lake Nebagamon within these boundaries from the normal high-water elevation of navigable water:

1,000 feet from a lake, pond, or flowage; 300 feet from a river or stream; or to the landward side of a floodplain whichever distance is greater.

## 1. PERMITTED USES

- A. Any use permitted in the underlying districts, subject to the shoreland provisions of Section 4.4 of this Ordinance.
- B. Any accessory use permitted in the underlying districts, subject to the shoreland provisions of Section 4.4 of this Ordinance.

## 2. USES AUTHORIZED BY CONDITIONAL PERMIT

- A. Any conditional use authorized in the underlying districts, subject to the shoreland provisions of Section 4.4 of this Ordinance.

### 3.14 PUD: PLANNED UNIT DEVELOPMENT DISTRICT (amended 10/7/08)

#### 1. SCOPE AND PURPOSE

- A. The provisions of this division apply to PUD - Planned Unit Development.
- B. The purpose of the PUD - Planned Unit Development District is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation and conservation in the Village by law and offer greater flexibility, better utilization of topographical and natural site characteristics, more economical and stable development with variations in setting, land use, and types of dwellings and commercial buildings, thereby promoting public health, safety, and welfare. The regulations contained herein are established to permit latitude in the development of a building site, if such development is found not to be harmful, offensive, or otherwise adverse to the environment, property values, or character of the neighborhood in which it is to be located, and is found to be in accordance with the purposes, spirit and intent of this Ordinance. It is the intent to permit and encourage diversification, variation, and imagination in the relationship of uses in structures and open space for developments conceived and implemented as comprehensive and unified projects. Economic considerations, amenities, and compatibility of a Planned Unit Development District are to be assured through adoption of a development plan.
- C. Application to existing uses. This section shall operate as a conditional use and as an alternative to permit uses and regulations applicable to existing districts, and shall be applicable to particular lands only when such lands are zoned under a Planned Unit Development District by action of the Village Board.

#### 2. USES PERMITTED

All uses which are presently permitted in this Ordinance and such other uses which, in the opinion of the Planning and Zoning Commission and the Village Board, are felt to be

compatible with permitted uses referred to herein, and which will effectuate the intended purpose of this Ordinance, shall be permitted.

### 3. REQUIREMENTS

A. A single area of at least 40 acres is involved. The Planning and Zoning Commission and Village Board may, at its discretion upon its own motion or upon petition approve a planned unit development, either by approving first an overlay district and then a plat, or by approving only a plat for the specified planned residential project upon finding, after public hearing, and findings made under 3.14(4)(d). The proposed plans may provide for a combination of single and multifamily development as well as related commercial uses, provided the plans indicate that:

1. Each residential building and lot in the district will conform to R-1 District requirements and each commercial building and lot will conform to C-1 District requirements.
2. Adequate streets and sidewalks as determined to serve the needs of the area involved will be provided.
3. Adequate access to public streets and proper traffic circulation will be provided.
4. Adequate sewer and water facilities will be provided.
5. The development will constitute a reasonable extension of the living areas in the Village and will be compatible with surrounding land uses.
6. Any restriction placed on platted land by covenant, grant of easement, or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall be recorded in the county Register of Deeds office and shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
7. Pollution Control: The location and nature of the septic systems which will serve the home sites individually or collectively will assure that effluent from the septic systems will not reach the ground or surface waters.
8. Preservation of Ground Cover. The location of home-sites and the dedication of part of the land for the use by the public or residents of the PUD will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion, and other pertinent factors. Land not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the county, town, or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to

owners of lots in the development, a homeowners association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject of the restriction.

9. Density: The number of platted home-sites shall not exceed 150% of those, which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of the Zoning Ordinance. (This figure shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot size required by Section 4.2(5) of this Ordinance.)
10. Lot Sizes, Widths, and Setbacks: A minimum lot size of 30,000 square feet and a minimum lot width of 150 feet are established for Planned Residential Unit Developments. The lot sizes, widths, and setbacks shall not be less than those provided for in current Wis. Stats., and shall not be so small as to cause pollution or erosion along streets or other public ways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood. Lake access provisions in Section 4.4 of this Ordinance shall apply.

#### 4. PROCEDURE FOR ESTABLISHING A PLANNED UNIT DEVELOPMENT DISTRICT

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

- A. Pre-petition Conference: Prior to official submittal of a petition for construction of a Planned Unit Development District, the petitioner (owner, agent or proponent) may meet with the Planning and Zoning Commission for a preliminary discussion as to the scope and nature of the proposed development and to consider alternate solutions to the development of a given area.
- B. Petition:
  1. Petition shall be made to the Village Administrator by the owners, their agents, or the proponents of the development plan for approval of a specific project plan under the provisions of these regulations and for a change in zoning to that Planned Unit Development District.
  2. Further, said petitioner shall include in the petition filed with the Village, evidence satisfactory to the Village Administrator that the petitioner is or has the power to become the owner of all lands in the proposed planned development area upon compliance with prescribed conditions at a date to be established by the Village Board.



- C. Referral: Prior to making a final determination, the proposed Village development plan shall be referred to the Planning and Zoning Commission for advice and recommendation. Unless extended by the Village Board, the recommendation of the Planning and Zoning Commission shall be made to the Village Board with 60 days of such referral.
- D. Findings and Action Required: The Planning and Zoning Commission may recommend rezoning of the area into a Planned Unit Development District. The Village Board, after receiving a recommendation of the Zoning and Planning Commission, and after public hearing may, by resolution, approve the development plan as presented or modified and, by ordinance, rezone the area included in said plan to a Planned Unit Development District, provided the Zoning and Planning Commission and the Village Board finds that the facts submitted within the petition and presented at the hearings establish that:
1. The development plan is in accord with the intent and purpose of this Ordinance and Wis. Stats. § 62.23(7)(b) and is in the public interest.
  2. The various stages, if any, by which the development is proposed to be constructed or undertaken as stated in the development plan, are practical and in the public interest.
  3. Public facilities and utilities existing or proposed, either in conjunction with the plat or separately, are, or will be, adequate by the time the development plan is completed.
  4. The proposed changes, if any, to the Village map with regard to street and alley locations, levels, closings or vacations are necessary, desirable, and in the public interest.
  5. That the development as proposed will create an environment of sustained desirability and stability, will not be significantly incompatible with present and potential surrounding uses, and will have a beneficial effect which could not be achieved under other zoning districts and which outweighs any adverse effect on neighboring property values and uses.
  6. Any exceptions from standard ordinance requirements are warranted by the design and amenities incorporated in the development plan.
  7. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
  8. The proposed method of financing the development is feasible and that it is probable that proponents of the plan will be able to finance or arrange to finance the development.
- E. If, from the facts presented, the Planning and Zoning Commission or the Village Board is unable to make the necessary findings, the application shall be denied.
- F. In taking action, the Planning and Zoning Commission may recommend a denial of the development plan and development schedule as submitted, or may recommend approval of said plan and schedule subject to specified amendments.

- G. The Planning and Zoning Commission or the Village Board may conditionally approve a plan subject to modification and/or subject to a showing that the method of financing the development plan is feasible and that it is probably that the proponents of the plan will be able to finance or arrange to finance the development plan, such showing to be made at the time thereafter to be determined by the Planning and Zoning Commission or the Village Board, but prior to the giving of final approval hereunder.
- H. The Village Board may rezone hereunder to take effect upon final approval of a plan filed pursuant to the provisions of this Ordinance and/or subject to the issuance of a building permit for the implementation of a plan approved by the Village Board in accordance with the provisions of this Ordinance.
- I. At the time of adopting any ordinance establishing a Planned Unit Development District, the Village Board shall make appropriate arrangements with the applicant as may be permitted under law which will assure the accomplishment and completion at scheduled times of the development plan, in accordance with approvals given.
- J. If no development has occurred to effectuate a planned development within a time limit, if any established by the Village Board, the Planning & Zoning Commission shall review the action and determine whether or not the continuation of a given planned development is in the public interest. Upon its determination, it shall make a recommendation to the Village board in accordance therewith. The Village Board shall then determine what action, if any, shall be taken including whether or not the area shall be rezoned to its former classification.
- K. Any changes or additions to the original approved development plan shall require re-submittal and approval by the Planning and Zoning Commission, and if such changes or additions are substantial in the opinion of the Planning and Zoning Commission, such plan as modified shall be considered as an original application, and the requirements for same shall govern prior to final approval of such modification.

### 3.15 P-1: PUBLIC USE DISTRICT

This district is intended to set aside certain lands within the Village of Lake Nebagamon for public use and to preserve open and public recreation and beautification areas; and to provide land for service oriented facilities.

#### 1. PERMITTED USES

- A. Parks and playgrounds.
- B. Public beaches and boat landings.
- C. Police and fire stations.
- D. Municipal offices and service buildings.

- E. Publicly owned cemeteries.
- F. Public schools.
- G. Such other public uses as many from time to time be deemed necessary by the Village Board.

### 3.16 TOWNHOUSES

Townhouses may be built in non-waterfront residential districts upon approval of the site plan by the Planning and Zoning Commission.

#### 1. LOT, BUILDING, AND YARD REQUIREMENTS FOR TOWNHOUSES

- A. Lot Frontage: Minimum of fifty (50) feet for each unit.
- B. Lot Area Minimum: 5,500 square feet for each unit. One unit per lot.
- C. Garages: One (1) private garage (attached or detached) per dwelling unit, not exceeding seven hundred twenty (720) square feet.
- D. Percent of Lot Coverage: Maximum of fifty (50) percent.
- E. Main Floor Living Area Per Dwelling Unit: Minimum of one thousand (1000) square feet of main floor living area for one (1) level unit and seven hundred (700) square feet for first level of a two (2) story unit.

#### 2. DIMENSIONAL REQUIREMENTS

- A. Refer to the Zoning Schedule for lot and setback requirements.

#### 3. OTHER REQUIREMENTS

- A. Building construction shall be of the row (common wall) dwelling type and shall consist of a row of attached dwelling units.
- B. Each dwelling unit shall have separate sewer laterals.
- C. All units must meet requirements of the Wisconsin Uniform Dwelling Code.
- D. Site Plan - the site plan component of the general development plan shall be drawn at a scale of not less than one inch equals fifty (50) feet and shall include the following information:
  - 1. Location and dimension of property boundaries.
  - 2. Location, size, and number of parking spaces.
  - 3. Location, size, use, entrances, and exits of all buildings.
- E. Elevations and contours sufficient to show topographic features and drainage patterns.
- F. Distances between buildings, between buildings and property lines, and between buildings and other improvements on the site, including walks, parking areas and site structures.
- G. Locations and width of all drives and roadways on the site.

H. Drainage of surface water within site, including parking lots and street grades, and the size, slope, depth, and location of drainage and erosion control pipes and structures.

**3.17 ZONING SCHEDULE - DIMENSIONAL REQUIREMENTS - Page 1 of 3**

	<b>R-1</b>	<b>R-1D</b>	<b>R-2</b>	<b>R-3</b>	<b>Town Houses</b>
<b>Building Height Limit</b>	35'		35'	35'	35'
<b>Required Lot Area (Acres or Feet) (2)</b>					5,500 each Unit One unit per lot
a) Within Shorelands	30,000		5 Acres 30,000	5 Acres 5,000 <sup>(2)</sup>	
b) Outside Shorelands	20,000		5 Acres 20,000	5 Acres 5,000 <sup>(2)</sup>	
c) Shoreline Lots	30,000		5 Acres 30,000	5 Acres 5,000 <sup>(2)</sup>	
<b>Minimum Lot Width (feet)</b>					50 each unit
a) Within Shorelands	100	50	150	150	
b) Outside Shorelands	100	50	150	150	
c) Shoreline Lots	100	50	150	150	
<b>Setbacks Required (feet)</b>					
From Road or Alley	10 from ROW line		10 from ROW line	10 from ROW line	10 from ROW line
From property line	10		10	10	10
Common Side	-		-	-	0
<b>Shoreline Lots see §18.5</b>		Aux Bldg 5			
<b>Building Floor Area (2)</b>					1st level 1000 2nd level 700 (per unit)
3 or more bedrooms	1000		900	700	
2 bedrooms	900		800	600	
1 bedroom	800		700	500	
<b>Manufactured Home Floor Area (2)</b>					Max 50% lot covered
3 or more bedrooms	Not allowed in this Zoning District		700	Not allowed in this Zoning District	
2 bedrooms			600		
1 bedroom			500		

**3.17 ZONING SCHEDULE - DIMENSIONAL REQUIREMENTS - Page 2 of 3**

	<b>A-1</b>	<b>I-1</b>	<b>F-1</b>	<b>C-1</b>		<b>C-2</b>	
<b>Building Height Limit</b>	35'	60'	35'	35'		35'	
<b>Required Lot Area (Acres or Feet) (2)</b>				No Sewer	Sewer	No Sewer	Sewer
a) Within Shorelands	-	-	10Acres	20,000	20,000		5800
b) Outside Shorelands	5	-	10Acres	20,000	10,000		5800
c) Shoreline Lots	acres	-	10Acres	20,000	10,000		5800
	-	-					
<b>Minimum Lot Width (feet)</b>							
a) Within Shorelands	-	-	300	100		50	
b) Outside Shorelands	-	-	300	100		50	
c) Shoreline Lots	-	-	300	150		50	
<b>Setbacks Required (feet)</b>							
From Road or Alley	10	5	10	5		5	
From property line	10	5	10	5		5	
<b>Shoreline Lots see §18.5</b>							
<b>Building Floor Area (2)</b>							
3 or more bedrooms	900	2000	700	700		700	
2 bedrooms	800	-	600	600		-	
1 bedroom	700	-	500	600		-	
<b>Manufactured Home Floor Area (2)</b>							
3 or more bedrooms	700	Not allowed in this Zoning District	Not allowed in this Zoning District	Not allowed in this Zoning District		Not allowed in this Zoning District	
2 bedrooms	600						
1 bedroom	500						

### **3.17 ZONING SCHEDULE - DIMENSIONAL REQUIREMENTS - Page 3 of 3**

1. Unless specified elsewhere in this Ordinance or on the official zoning map, the dimensional requirements of this schedule shall apply to the respective listed districts. Requirements for the W-1: Resource Conservation, SP-1: Shoreland Protection, and PUD: Planned Unit Development are contained in Section 3.0 of this Ordinance: Zoning Districts Code.
2. Minimum for one family dwellings; add 2,000 square feet for each additional unit over one.
3. Plus any additional area required by Wisconsin Administrative Code § 65.03.
4. No lot shall be created with a length to width ratio greater than three to one.
5. For C-2 building may be constructed on the property line if a firewall is included.
  - A. Building closer than 10 feet to the property line must have a firewall. (State Code)





# Section 4

## REGULATIONS

### 4.1 APPLICATION OF REGULATION

The use of any land or water; the size, shape, and placement of lots; the use, size, height, type and location of structures, roads, signs towers, etc., thereon; and the provisions for open spaces shall be in compliance with the regulations set forth on the “official Zoning Map, Village of Lake Nebagamon, Wisconsin”, and in the text of this Ordinance. Land Use permits are required for all structures, including decks, porches, storage sheds, fences and signs, and any remodeling which changes the original footprint of the structure, and must be obtained from the Village Administrator before any construction begins. Permits are also required for access driveways, and must be obtained from the agency having jurisdiction of the highway or road.

### 4.2 STANDARD DISTRICT REGULATIONS

#### 1. SETBACK REQUIREMENTS ON HIGHWAYS AND ROADS

All setback measurements shall be from the drip-line of a structure or the furthestmost protruding appurtenance, including decks, porches, eaves, or porch roofs.

#### 2. VISUAL CLEARANCE AT INTERSECTIONS

- A. There shall be vision clearance setback in Residential and Forest Districts. The setback shall be triangle area bound by the centerline of the street and line connecting them measuring 200 feet in each direction. Within this triangle, no object over two and one-half feet above these streets shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Tree trunks shall be exempt where they are unbranched to a height of ten feet and located a minimum of thirty (30) feet apart.
- B. Access driveways to highways from abutting properties require a permit from the agency having jurisdiction over the highway or road. Driveway must meet side yard setbacks.

#### 3. CULVERTS

Any access driveway, which would block natural drainage, shall require at least one culvert of no less than twelve (12) inches in diameter.

#### 4. EXCESSIVE HEIGHT PERMITTED

Heights of these structures may exceed ordinance limits for the district in which it is to be located with the approval of the approval of the Planning and Zoning Commission's recommendation to the Village Board: cooling towers, stacks, lookout towers, silos, windmills, water towers, spires, radio and television aerials, masts, antennae, and necessary mechanical appurtenances.

## 5. LOT SIZES

- A. After adoption of this ordinance, no lot area shall be so reduced that the dimensional and yard requirements required by this Ordinance cannot be met. Lots existing and of record prior of this Ordinance, but of substandard size, may be devoted to uses permitted in the district in which located, provided any newly constructed buildings or structures meet the dimensional requirements, including setbacks, set forth in this ordinance. Existing buildings or structures will be considered nonconforming uses and will be subject to Section 9.0 of this Ordinance.
- B. If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this Ordinance, the lots involved shall be considered to be an individual parcel for the purpose of this Ordinance.
- C. Lots created after the adoption of this Ordinance and which are not served by public sewer systems shall meet minimum area requirements of the Lake Nebagamon Sewer Commission and the Lake Nebagamon Subdivision Control Ordinance. Any shoreline lot must have a minimum area of 30,000 square feet and a minimum width of 150 feet.

## 6. ACCESSORY USES AND STRUCTURES

Any permanent, roofed structure serving as an accessory use, if attached to the principal building, shall be considered a part of the principal building. If such structure is a building and is not attached to the principal building. If such structure is a building and is not attached to the principal, it shall conform to the setback and other dimensional requirements of the district within which is located.

## 7. DRAINAGE, SANITATION, AND WATER SUPPLY (Amended 5/1/1997)

The intent of this amendment is to require erosion control practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbance activities. This amendment applies to all land disturbing construction activities.

A. **AUTHORITY** - This Ordinance is adopted under the authority granted by Wis. Stats. § 61.354 (for Villages) and is to be added to Chapter Nine of the Municipal Code of the Village of Lake Nebagamon, Zoning Ordinance, Section 4.2, Standard District Regulations, Subsection 7, Drainage, Sanitation and Water Supply.

B. **FINDINGS AND PURPOSE**

1. **FINDINGS:** The Village of Lake Nebagamon Board of Trustees finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the State and this Village.
2. **PURPOSE:** It is the purpose of this Ordinance to preserve the natural resources; to protect the quality of the waters of the State and the Village of Lake Nebagamon; and to protect and promote health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams and wetlands; or to adjoining property.

C. **APPLICABILITY OF ORDINANCE** - This Ordinance applies to land disturbing and land developing activities in lands within the boundaries and jurisdiction of the Village of Lake Nebagamon and optionally, the public and private lands subject to extraterritorial review under Wis. Stats. § 236. All state funded or conducted construction is exempt from this Ordinance. (Note: State funded or conducted construction activities must meet the requirements contained in the “State Plan for the Control of Construction, Erosion and Stormwater Runoff,” which contains similar requirements as contained in this Ordinance.)

D. **DEFINITIONS**

1. **AGRICULTURAL LAND USE:** Use of land for planning, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
2. **COMMERCIAL LAND USE:** Use of land for the retail or wholesale of goods or services.
3. **CONTROL SITE CONTROL MEASURE:** Control measure used to meet the requirements of Section 7.2 of this Ordinance.
4. **CONTROL MEASURE:** Practice of combination of practices to control erosion and attendant pollution.
5. **CONTROL PLAN:** A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this Ordinance submitted by the applicant for the review and approval by the Zoning Commission Chair or Village Administrator.

6. **EROSION**: The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
7. **LAND DEVELOPING ACTIVITY**: The construction of buildings, roads, parking lots, paved state areas and similar facilities.
8. **LAND DISTURBING CONSTRUCTION ACTIVITY**: Any man-made change of the land surface including removing vegetative cover, excavating, filling and grading but not including agricultural land uses such as plating, growing, cultivating and harvesting of crops; growing and tending gardens; harvesting of trees; and landscaping modifications.
9. **LAND OWNER**: Any person holding title to or having an interest in land.
10. **LAND USER**: Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
11. **RUNOFF**: Rainfall, snowmelt, or irrigation water flowing over the ground surface.
12. **SET OF ONE YEAR DESIGN STORMS**: The following rain intensities and rain volumes or corresponding values specific to the community for the storm duration of 0.5, 1, 2, 3, 6, 12 and 24 hours that occur approximately once per year. (Note: following are typical characteristics of these one-year storms for most of Wisconsin)

Storm Duration (Hours)	Average Rain Intensity (Inches/Hour)	Total Rain (Inches)
.05	1.8	.9
1	1.1	1.1
2	.7	1.3
3	.5	1.5
6	.3	1.7
12	.2	2.0
24	.1	2.3

13. **SITE**: The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

E. DESIGN CRITERIA, STANDARDS AND SPECIFICATION FOR CONTROL MEASURES - All control measures required to comply with this Ordinance shall meet the design criteria, standards and specification for the control measures

based on accepted design criteria, standards and specifications identified by the Zoning Commission.

F. MAINTENANCE OF CONTROL MEASURES - All sedimentation basins and other control measures necessary to meet the requirements of this Ordinance shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

G. CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT

1. APPLICABILITY: This section applies to the following sites of land development or land development or land disturbing activities.
  - A. Those requiring a subdivision plat approval of the construction of houses, accessory buildings, or commercial, industrial or institutional buildings on lots of approved subdivision plats.
  - B. Those requiring a certified survey approval or the construction of houses, accessory buildings, or commercial, industrial or institutional buildings on lots of approved certified surveys.
  - C. Those involving grading, removal of protective ground cover or vegetation, excavation, landfilling or other land use disturbing activity.
  - D. Those involving excavation or filling or a combination of excavation and filling affecting 100 cubic yards or more of dirt, sand, or other excavation or fill material.
  - E. Those involving street, highway, road, or bridge construction, enlargement, relocation or reconstruction.
  - F. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 100 feet or more.

(NOTE: Utility companies responsible for emergency repair work should enter into a “memorandum of agreement” with the administration authority clearly stating their responsibilities if their activities may be included under any of the above applicability criteria)

2. EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS: The following requirements shall be met on all sites described in subsection 1.
  - A. Site Dewatering: Water pumping from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators, or other appropriate controls designed and used to remove particles 100 microns or

greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during the dewatering operations, then no control is needed before discharge, except as determined by the Zoning Commission. Water may not be discharged in a manner that causes erosion of the site or receiving channels. (NOTE: There are many ways to meet this particle size performance objective, depending on the pumping rate. As an example, if the pumping rate is very low (1 gal/min), then an inclined or vertical enlarged pipe (about 8" in diameter for 1 gal/min) several feet long would be an adequate control device to restrict the discharge of particles 100 microns and larger in size. As the pumping rate increases, then the "device" must be enlarged. At a moderate (100 gal/min) pumping rate, a vertical section of corrugated steel pipe, or concrete pipe section, or other small "tank" (about 4 ½ feet across for a 100 gal/min pumping rate) several feet tall would be adequate. With these pipe sections or small tanks, inlet baffles would be needed to minimize turbulence. With very large pumping rates (10,000 gal/min) at least 3 feet in depth with a simple (but adequately sized) pipe outlet would be needed. More sophisticated control devices (such as spiral concentrators or hydro-cyclones) would be specially fabricated that would generally be smaller than the simple sedimentations devices described above, but they would be required.

The performance standard of 100 micron maximum particles in the dewatering water at the maximum pumping rate significantly reduces the liability of the contractor when compared to a standard of "no visible particulate matter". If a properly sized device is correctly used, based on the 100 micron particle size performance standard, then discharges of visible particulate matter would not constitute a violation. It is not possible to design a control device that would incur "no visible particulate matter" discharges. This 100 micron standard is intended to significantly reduce sedimentation problems in downstream drainage systems and in receiving waters that are caused by large particulates. "Visible particulate matter" will probably still occur in water meeting this standard, as more turbidity effects are caused by very small particles that usually do not cause as severe of a sedimentation problem as larger particles. This 100 micron particle size performance standard was therefore selected to be easily met and enforced, and to reduce sedimentation problems. A "no visible particulate matter" standard in contrast, could not be met easily or cheaply, violations would

frequently occur, and inspectors would have to make frequent site visits and require frequent control device changes. In addition, particle size measurements would not be required to prove compliance with the 100 micron performance size standard, only the proper use of a device designed to meet this particle size standard. Only the proper use of a device designed to meet this particle size criteria is needed. However, if a contractor or site engineer feels that the dewatering water does not contain any particle larger than 100 microns, no control device would be needed if optional frequent particle size analyses confirm that fact. In most cases, the use of the simple control devices described previously would be less expensive and less bothersome than performing frequent particle size analyses.

- B. Waste and Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed and not allowed to be carried off by runoff into a receiving channel, storm water system, or sanitary sewer system.
- C. Tracking: Each site shall have gravel roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private roadways or storm water drain inlets shall be removed by street cleaning (not flushing) before the end of each workday.
- D. Drain Inlet Protection: All storm water drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.
- E. Site Erosion Control: The following criteria (1 through 4) apply only to land development or land disturbing activities that result in runoff leaving the site.
  - 1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in Wis. Stats. § 7(2)(e)3c. Sheet-flow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than .5 ft/sec. across the disturbed area for the set of one year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. (NOTE: Soil Conservation Service guidelines for allowable velocities in different types of channels should be followed.)

2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
3. Runoff from the entire disturbed area on the site shall be controlled by meeting either subpar. (a) and (b) or (a) and (c).
  - a. All disturbed ground left inactive for 7 or more days shall be stabilized by seeding or sodding (only prior to September 15th) or by mulching or covering, or other equivalent control measure.
  - b. For sites with more than 10 acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least 3 feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of 3 feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of 1 year design storms having duration of .5 to 24 hours. The basin discharged rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
  - c. For sites with less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all side-slope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
  - d. Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. If remaining for more than 7 days, they shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles must be covered with tarps or suitable alternative control, if exposed for more than 7 days, and the storm drain inlets must be protected with straw bales or other appropriate filtering barriers.



H. MAINTENANCE OF CONTROL MEASURES - No landowner or land user may commence a land disturbance or land development activity subject to this Ordinance without receiving prior approval of a control plan for the site and a permit from the Zoning Commission. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this ordinance shall submit an application for a permit and a control plan and pay an application fee to the Village of Lake Nebagamon. By submitting an application, the applicant is authorizing the Zoning Chair and/or the Zoning Administrator to enter the site to obtain information required for the review of the control plan.

1. CONTENT OF THE CONTROL PLAN FOR LAND DISTURBING ACTIVITIES COVERING MORE THAN ONE ACRE.

- a. EXISTING SITE MAP: A map of existing site conditions on a scale of at least 1 inch equals 100 feet showing the site and immediately adjacent areas:
  1. Site boundaries and adjacent lands which accurately identify site location;
  2. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site;
  3. 100 year floodplains, flood fringes and floodways;
  4. Location of the predominant soil types;
  5. Vegetative cover;
  6. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;
  7. Location of sanitary sewer drainage systems on and immediately adjacent to the site;
  8. Location and dimensions of utilities, structures, roads, highways, and paving; and
  9. Site topography at a contour interval not to exceed 5 feet.
- b. PLAN OF THE FINAL SITE CONDITIONS: A plan of final site condition on the same scale as the existing site map showing site changes.
- c. SITE CONSTRUCTION PLAN: A site construction plan including:
  1. Locations and dimensions of all proposed land disturbing activities;

2. Locations and dimensions of all temporary soil or dirt stockpiles;
3. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Ordinance;
4. Schedule of anticipated starting and completion date of each land disturbing or land development activity including installation of construction site control measures needed to meet the requirements of this Ordinance; and
5. Provisions for maintenance of the construction site control measures during construction.

2. **CONTENT OF CONTROL PLAN STATEMENT FOR LAND DISTURBING ACTIVITIES COVERING LESS THAN ONE ACRE, BUT MEETING THE APPLICABILITY REQUIREMENTS STATED IN 7.7(1).** An erosion control plan statement (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule) that will be used to meet the requirements of this Ordinance.
3. **REVIEW CONTROL PLAN -** Within 45 days of receipt of the application, control plan, (or control plan statement) and fee, the Zoning Commission shall review the application and control plan to determine if the requirements of this Ordinance are met. The Zoning Commission may request comments from other departments or agencies. If the requirements of this Ordinance are met, the Zoning Commission shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the Zoning Commission shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 30 days of receipt of needed information, the Zoning Commission shall inform the applicant in writing of the reasons for disapproval.
4. **PERMITS -**
  - A. **DURATION:** Permits shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Zoning Commission may extend the period one or more times for up to an additional 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Zoning Commission may extend the period one or more times for up to an additional 180 days. The Zoning Commission may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Ordinance.

B. SURETY BOND: As a condition of approval and issuance of permit, the Zoning Commission may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.

C. PERMIT CONDITIONS: All permits shall require the permittee to:

1. Notify the Zoning Administrator within 48 hours of commencing any land disturbing activity;
2. Notify the Zoning Administrator of completion of any control measures within 14 days after their installation;
3. Obtain permission in writing from the Zoning Administrator prior to modifying the control plan;
4. Install all control measures as identified in the approved control plan;
5. Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the control plan;
6. Repair any situation or erosion damage to adjoining surfaces and drainage-ways resulting from land developing or disturbing activities.
7. Inspect the construction control measures after each rain of .5 inches or more and at least once a week and make needed repairs.
8. Allow the Zoning Chair or Zoning Administrator to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan; and
9. Keep a copy of the control plan on the site.

I. INSPECTION

1. The Zoning Chair or Zoning Administrator may post a stop-work order if;
  - a. Any land disturbing or land development activity regulated under this Ordinance is being undertaken without a permit.
  - b. The control plan is not being implemented in a good faith manner; or
  - c. The conditions of the permit are not being met.
2. If the permittee does not cease the activity or comply with the control plan or permit conditions within 10 days, the Zoning Chair or Zoning Administrator may revoke the permit.

3. If the landowner or land user where no permit has been issued does not cease the activity within 10 days, the Zoning Chair or Zoning Administrator may request the Village Attorney to obtain a cease and desist order.
4. The Zoning Chair or Zoning Administrator may retract the stop-work order or revocation.
5. 10 days after posting a stop-work order, the Zoning Chair or Zoning Administrator may issue a notice of intent to the permittee or landowner or land user of the Zoning Chair or Zoning Administrator's intent to perform work necessary to comply with this Ordinance. The Zoning Chair or Zoning Administrator may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed to bring the property up to code, plus interest at the rate authorized by the Village Board of Trustees, shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect a special assessment against the property pursuant to Wis. Stats. § 66.60.
6. Any person violating any of the provisions of this Ordinance shall be subject to a forfeiture according to § 15.2 of this Ordinance. Each day a violation exists shall constitute a separate offense.
7. Compliance with the provisions of this Ordinance may also be enforced by injunction.

#### J. PROHIBITED USES

The housing and keeping of exotic animals, as defined in the U.S. Department of Agriculture Animal Welfare Act, is prohibited within the confines of the Village of Lake Nebagamon. The exhibition of such non-indigenous animals by traveling circuses, carnivals, zoos, animal acts, and educational exhibits is not prohibited, providing all state and federal regulations for the housing and conduct of such animals and exhibitions is observed.

#### 4.3 SUPPLEMENTARY REGULATIONS

##### 1. OFF-STREET PARKING

Any building hereafter erected or placed on a lot shall be provided with off-street parking spaces for those using such building.

- A. Each parking space required shall be at least 200 square feet in area.
- B. Residential uses shall be provided with at least one (1) parking space for each bedroom.
- C. Commercial and industrial uses, as listed and permitted in the zoning districts, shall be provided, except as noted below, with one parking space for each 200 square feet of floor area. However, restaurants, taverns, and similar establishments shall be provided with at least one space for each three seats devoted to patron use; motels, tourist cabins, and similar establishments shall be provided with at least one space for each unit; drive-in eating stands offering in-car service shall be provided with at least five spaces for each person employed to serve customers.
- D. Public gathering uses shall be provided with at least one space for each five patrons to be accommodated on the premises.

#### 4.4 SHORELAND REGULATIONS (Amended & Adopted December 5, 2017) (amended 9/3/19)

##### 4.41 Setback of Structures

1. Lots that abut on navigable waters shall be subject to Section 3.12 of this code and these additional regulations shall apply:
  - A) All setback measurements will be made from the high water mark to the structure's dripline nearest the water.
  - B) The Zoning Commission, with the advice of the Wisconsin Department of Natural Resources, shall determine the normal high water line where not already established.
  - C) Except where exempt, see (D), a setback of 75 feet from the water to a building or fixed structure will be maintained. Where an existing development pattern exists, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot, but the shoreland setback may not be reduced to less than 35 feet from the ordinary high-water mark of any navigable waters.
  - D) Exempt structures include:
    - 1) Boathouses meeting the following criteria:
      - Structure used for the storage of boats and related equipment, not for habitation.
      - Structure not to exceed 180 square feet in total size, measured from the dripline, and be no more than 10 feet in height.

- Setback from the high water mark shall be a minimum of 2 feet and a maximum of 20 feet, measured from the dripline nearest the water.
  - Will not be permitted on a slope exceeding 20% incline.
  - One boathouse is allowed per parcel as an accessory to an existing principal structure.
  - A Land Use permit is required for construction.
- 2) Gazebos and unattached screen houses meeting the following criteria:
- Structure used for sitting, viewing and/or dining, not for habitation.
  - Structure not to exceed 180 square feet in total size, measured from the dripline, and be no more than 10 feet in height.
  - Setback from the high water mark shall be a minimum of 35 feet, measured from dripline nearest the water.
- E) Piers, wharves, and where permitted, removable boat shelters, may be placed by riparian owners in accordance with the Wisconsin Administrative Code NR 326, provided:
- 1) Placement is limited to no more than two berths for the first 50 feet of shoreline and one berth for each additional 50 feet of shoreline under common ownership.
  - 2) All berths on a lot shall be located at a single site.
  - 3) Placement of more than 10 berths on a lot shall require a conditional use permit.
  - 4) Piers wharves, and boat shelters for commercial marinas or other businesses may be located only adjacent to shorelines that are zoned C-1 Commercial.
- F) Private sewage disposal systems shall conform to the setback requirements of the Lake Nebagamon zoning ordinance and the applicable rules, regulations and laws as set forth in the Wisconsin Statutes, the Wisconsin Administrative Code as administered by the Douglas County Zoning Office and the Lake Nebagamon Sanitary Sewer Ordinance.
- G) Setback reductions may be permitted by the Board of Appeals pursuant to Section 10.5 of this Ordinance.

#### 4.42 LAKE ACCESS

1. All private lake accesses; lake access easements; or out-lots; deeded or contractual accesses for the purpose of lake access shall meet the following requirements:

- A) The access to a navigable waterway for back-lot or off-lake development shall meet the minimum lot and parcel size requirements of this Shoreland Zoning Ordinance. The lot width shall be measured at right angles at all points along its side lot lines and the minimum required lot area shall exclude any wetlands. A contiguous buffer area of the minimum required lot area shall exclude any wetlands. A contiguous buffer area of 25 feet along each side lot line running the full depth of the lot shall remain in its natural state or improvements made with native species.
- B) The number of single family lots, building sites, single family units or single family condominium units utilizing said access shall be limited to four (4) parcels with deeded access recorded with Douglas County Register of Deeds.
- C) No Structures will be allowed on the lake access parcel.
- D) The creation or use of land for a lake access shall be conditional use only. The Zoning Commission shall consider the size, shape, depth, present and potential use of the lake, and the effect of the private access on public rights in navigable waters.

#### 4.5 REMOVAL OF SHORE COVER (amended 9/3/19)

##### A. PERMIT REQUIRED

A land use permit will be required for:

- removal of shore cover (trees and shrubbery) from the high water mark to 35' inland.
- landscaping, filling, grading, lagooning, dredging, ditching and excavating within 300' of the ordinary high water mark of any navigable water. (See 18.7)

The permit is to include complete plans for all alterations, mitigation and restoration of the affected area(s). There shall be no fee for this permit.

##### B. PENALTY

Completion of work detailed in 6.1 without securing a permit, or that is in violation of an issued Land Use permit, will result in a \$1000.00 fine and required restoration of the affected area.

#### 4.51 Shoreline Cutting

(NR 115.05(1)(c)1.) To protect natural scenic beauty, fish and wildlife habitat, and water quality, the Village shall regulate removal of vegetation in shoreland areas, consistent with the following: The Village shall establish ordinance

standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

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

4.511 Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors is allowed. Per Wis. Stats. §59.692(1f)(b), the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridors may run contiguously for the entire maximum width of the shoreline frontage owned per parcel.

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

#### 4.52 Paths

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

#### 4.53 Cutting Plan

As an alternative to Section 6.11, a special cutting plan allowing greater cutting may be permitted by the Zoning Commission by issuance of a conditional-use permit, pursuant to Section 10.4. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The Commission may grant such a permit only if it finds that such special cutting plans:

4.531 Will not cause undue erosion or destruction of scenic beauty, and

4.532 Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement planting, the Commission may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.

#### 4.54 Cutting More Than 35 Feet Inland

From the inland edge of the 35 foot line parallel to the high water mark to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when



accomplished using accepted forest management and soil conservation practices which protect water quality.

#### 4.6 FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCAVATING

(amended 9/3/19)

##### A. PERMIT REQUIRED

A land use permit will be required for:

- removal of shore cover (trees and shrubbery) from the high water mark to 35' inland. (see 18.6)
- landscaping, filling, grading, lagooning, dredging, ditching and excavating within 300' of the ordinary high water mark of any navigable water.

The permit is to include complete plans for all alterations, mitigation and restoration of the affected area(s). There shall be no fee for this permit.

##### B. PENALTY

Completion of filling, grading, lagooning, dredging, ditching & excavating as described in 18.7(A) without securing a permit, or that is in violation of an issued Land Use permit, will result in a \$1000.00 fine and required restoration of the affected area.

#### 4.61 General Standards

Filling, grading, lagooning, dredging, ditching or excavating may be permitted in the shoreland area provided that:

- 4.611 It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- 4.612 Filling, grading, lagooning, dredging or excavating in a shoreland-wetland district meets the requirements of Sections 8.132 and 8.133 of this ordinance.
- 4.613 All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- 4.614 Any fill placed in the shoreland area is protected against erosion by the use of rip-rap, vegetative cover or a bulkhead.

#### 4.62 Artificial Waterways

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

#### 4.63 Permit Conditions

In granting a zoning permit for filling, grading, lagooning, dredging, ditching & excavating, the Village Zoning Administrator shall attach the following conditions, where appropriate:

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

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

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

4.634 Lagoons shall be constructed to avoid fish trap conditions.

4.635 Fill shall be stabilized according to accepted engineering standards.

4.636 Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

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

#### 4.7 STREET & SIDEWALK GRADES (transferred 9/3/19)

A. Establishment The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board and the same recorded by the Village Clerk in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established.

B. Alteration of Grade Prohibited No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Lake Nebagamon by any means whatsoever unless authorized or instructed to do so by the Village Board or the Administrator. All such alterations of grade shall be recorded in the office of the Village Clerk by the Clerk or the officer authorizing the alteration.

- C. Penalty The penalty for violation of any provision of this section shall be a penalty as provided in § 15.04 of this code.

#### 4.8 SIDEWALK CONSTRUCTION AND REPAIR (transferred 9/3/19)

- A. Owner to Construct It shall be the duty of the abutting owner to build, repair, construct and perpetually maintain sidewalks along or upon any street, alley or highway in the Village of Lake Nebagamon and to pay the entire cost thereof. Whenever the Village Board shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the Village of Lake Nebagamon, it shall proceed according to Wis. Stat. §66.615.
- B. Permit Required No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village of Lake Nebagamon unless he is under contract with the Village to do such work or has obtained a permit therefore from the Zoning Administrator at least seven days before work is proposed to be undertaken. No fee shall be charged for such permits. Wis. Stat. § 66.0901, 66.0903, 66.0905, 66.0907, 66.0909, and 66.0911.
- C. Specifications (Optional) All sidewalks within the Village of Lake Nebagamon hereafter shall be repaired, rebuilt and constructed in accordance with the following specifications.
1. Sub-grade The subgrade shall be prepared by excavating to the line, grade, and cross section as established by the Village Board. Soft and unsuitable material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. When so specified by the Zoning Administrator a subbase of sand, sand and gravel, or other approved porous material shall be placed under the sidewalk. On embankments, the subgrade shall extend at least one foot beyond each edge of the sidewalk.
  2. Material All sidewalks shall be of air-entrained concrete composed of six bags per cubic yard of one course construction, and built to the established line and grade. Gravel shall be of good quality and washed. Concrete shall be mixed thoroughly for a minimum of one minute after all materials have been placed in the mixer.
  3. Forms Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping, or other displacement during the process of depositing and consolidating the concrete. Wood forms shall be surfaced plank of at least two inches thickness except for sharply curved sections. Metal forms shall be of approved section. The forms shall be of full depth of the required walk and shall be of such design as to permit secure fastening. Forms shall be thoroughly cleaned and oiled before the concrete moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats.

To provide adequate drainage the sidewalk shall slope toward the curb at a minimum rate of ¼ inch per foot of width of sidewalk. All joints and edges shall be finished with a ¼ inch radius-edging tool.

4. Width and Thickness Residential walks shall be five feet in width and not less than four inches thick except within driveway approaches where the minimum thickness shall be six inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this section. Sidewalks in front of commercial or industrial establishments shall be not less than eight feet in width and five inches in thickness except within driveway approaches where the minimum thickness shall be seven inches.
5. Finishing Before the last finish has set, the sidewalk shall be steel troweled and brushed in transverse direction. Before final finishing, the surface shall be checked with a ten foot straight edge and any areas departing more than 1/8 inch from the testing edge shall be corrected by adding or removing concrete while the concrete in the walk is still plastic.
6. Jointing Transverse, full depth, ½ inch thick expansion joints of pre-molded expansion material shall be located every 40 feet and at the property line, and where the walk intersects another walk, curb line, building or driveway approach, and at buildings, walls, poles and stop boxes. The expansion joint material shall be placed in a neat and workmanlike manner with its upper edge slightly below the finished sidewalk surface. Dummy groove joints for controlled cracking, at least one inch in thickness and 5/16 inch in depth, shall be placed at intervals of approximately five feet. Steel division plates shall be placed at right angles to the centerline of the sidewalk at interval of not less than 15 feet. All joints shall be at right angles to the direction and grade of the walk. Diagonal joints may be used only when approved by the Public Works Department.
7. Curing and Drying As soon as any of the concrete work hereinbefore mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating", "Wet Fabric", or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Specs. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete" shall be used. Said specifications are hereby adopted by reference as is fully set forth herein. Walks shall be kept free from all traffic at normal temperatures for 48 hours and in cold weather (below 50 degrees F), for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35 degrees F. in any 72 hour period or upon frozen sub-grade.

D. Penalty The penalty for violation of any provision of this section shall be a penalty as provided in § 15.04 of this code.

4.9 DRIVEWAYS (transferred 9/3/19) (amended 7/7/20)

- A. Approval Required No person shall construct or maintain any driveway across any sidewalk or curbing without first obtaining a driveway permit from the Zoning Administrator in cooperation with the Public Works Department.
- B. Specifications for Driveway Construction (amended 7/7/20)
1. Width No driveway shall exceed 24 feet in width at the outer or street edge of the sidewalk unless special permission is obtained from the Village Board.
  2. Interference with Intersections Prohibited At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village Board for effective traffic control or for highway signs or signals.
  3. Interference with Street No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right of way. When required by the Public Works Department to provide for adequate surface water drainage along the street, the property owner shall provide any necessary culvert pipe at his own expense.
  4. Number of Approaches Limited No more than one driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and/or feasible without undue impairment of safety, convenience and utility of the street by the Zoning Administrator. Horseshoe style driveways will be evaluated for visibility and setback on a case by case basis by the Zoning Administrator. Any two approaches shall be at least ten feet apart and a minimum of ten feet from side property lines.
  5. Workmanship and Materials All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in § 6.02(C) of this code insofar as such requirements are applicable, including thickness requirements in § 6.02(C)(4).
  6. Permittee Liable for Damage of Injury The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When curb or gutter is removed, the new connection shall be of equivalent, acceptable material and curb returns provided or restored in a neat, workmanlike manner. Any sidewalk areas, which are damaged or are inadequate by reason of vehicle travel across the sidewalk, shall be replaced in accordance with the requirements of § 6.02(C) of this code.
- C. Penalty The penalty for violation of any provision of this section shall be a penalty as provided in § 15.04 of this code.

4.10 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS (transferred 9/3/19)

- A. Permit Required No person shall make or cause to be made any excavation or opening in any street, alley, highway, sidewalk, or other public way within the Village of Lake Nebagamon without first obtaining a permit therefore from the Zoning Administrator.
- B. Bond Before a permit for excavation or opening any street or public way may be issued; the applicant must execute and deposit with the Village Clerk an indemnity bond, approved by the Village President, in the sum of \$5000. Conditioned that he will indemnify and save harmless the Village of Lake Nebagamon and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit. And that he/she will fill up and place in good and safe condition all excavations and openings make in the street and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Zoning Administrator for a period of one year, and that he/she will pay all fines imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Village Board, and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Village. Such bond shall also guarantee that if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year.

Recovery on such bond for any accident, injury violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries, or violations during the period of excavation for which it is given.

An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the Village.

- C. Insurance Prior to commencement of excavation work, a permittee must furnish the Village Office satisfactory written evidence that he/she has in force and will maintain during the life of the permit and the period of excavation , public liability insurance of not less than \$100,000 for one person, \$300,000 for one accident and property damage insurance of not less than \$50,000.
- D. Regulations Governing Street and Sidewalk Openings
1. Frozen Ground No opening in the streets or sidewalks for any purpose shall be permitted when the ground is frozen, except where necessary as determined by the Public Works Department and filed in the Village Office.
  2. Removal of Paving In opening any street or other public way, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing material and together with the excavated material from trenches shall be placed so as to cause the least practical inconvenience to the public and permit free flow of water along gutters.

3. Protection of Public Every person shall enclose with sufficient barriers each opening, which he may make in the streets of public ways of the Village. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his/her agents, or employees. Red lights or torch lamps shall be kept burning from sunset to sunrise, in the street or way and other lights sufficient in number and properly spaced to give adequate warning. Except by special permission from the Village Administrator, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectually from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
4. Replacing Street Surface In opening any street or sidewalk, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which in the opinion of the Public Works Department is not suitable for refilling, shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in perfect repair, the same to be so maintained for a period of one year. In refilling the opening, the earth must be laid in layers not more than six inches in depth and each layer rammed, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Village may elect to have the Village make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening.

E. Excavation in New Streets Limited Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Office shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street for a period of five years after the date of improvement or repaving unless the opinion of the Public Works Department an emergency exists which makes it absolutely essential that the permit be issued.

F. Emergency Excavations Authorized In the event of an emergency any person owning or controlling any sewer, water main, conduit or utility in or under any street and his

agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit; provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit hereunder.

- G. Village Work Excluded The provisions of this section shall not apply to excavation work under the direction of the Public Works Department by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.
- H. Penalty The penalty for violation of any provision of this section shall be a penalty as provided in § 15.04 of this code.

#### 4.11 OBSTRUCTIONS AND ENCROACHMENTS (transferred 9/3/19)

- A. Obstructions and Encroachments Prohibited No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use or any part thereof or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant except as provided in sub. (B).
- B. Exceptions The prohibition of sub. (A) shall not apply to the following:
1. Signs or clocks attached to the buildings which project not more than six feet from the face of such building and which do not extend below any point ten feet above the sidewalk, street, or alley.
  2. Awnings, which do not extend below any point seven feet above the sidewalk, street, or alley.
  3. Public utility encroachments duly authorized by state law or the Village Board.
  4. Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two hours.
  5. Temporary encroachments or obstructions authorized by permit under sub. (C).
  6. Excavations and openings permitted under § 6.04 of this code.
- C. Street Privilege Permit
1. When Required Permit for the use of the streets, alleys, sidewalks or other public ways or places of the Village may be granted to applicants by the Zoning Administrator for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure. Provided such applicant has complied with the other requirements of this subsection and has obtained a building permit if required by Zoning Ordinance represented in § 8.01 of this Ordinance.
  2. Bond No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk a bond in an amount determined by the Village Board. Conditioned that the applicant will indemnify and save harmless the Village of Lake Nebagamon from all liability for accidents or damage caused by reason of operations



under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations.

3. Conditions of Occupancy The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erections, alteration, repair, removal, or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Zoning Administrator for violation thereof:

- a) Such temporary obstruction shall cover not more than 1/3 of any street or alley.
- b) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
- c) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width, guarded by a closed fence at least four feet high on both sides may be maintained during the period of occupancy.
- d) The process of moving any buildings or structure shall be as continuous as practicable until completed, and shall continue during all hours of the day and night.
- e) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
- f) Buildings shall be moved only in accordance with the route prescribed by the Village Office.
- g) Upon termination of the work necessitating such obstructions, all parts of the streets, alleys, sidewalks, or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions, and placed in a safe condition for public travel at the expense of the permittee.

4. Termination All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Zoning Administrator.

D. Removal by Village In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within 24 hours after notice from the Village Office to do so, it shall be the duty of the Public Works Department to remove such obstruction and make return of the cost and expense thereof to the Village Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

E. Penalty The penalty for violation of any provision of this section shall be a penalty as provided in § 15.04 of this code.

§ 4.12 SHORT TERM RENTALS & TOURIST HOMES (Created 3/9/21)

- A. License Required It shall be unlawful for any person in the Village of Lake Nebagamon to operate a Short term rental/tourist home without first obtaining licenses under the requirements of the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) and Douglas County. A copy of this license must be kept on file with the Village Clerk, and updated annually on or before July 1st of each year. A separate license is required for each short term rental/tourist home, licenses are not transferable with change of ownership.
- B. Definitions
  - a. Short term rental private homes and cabins, cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients.
  - b. Tourist Home (boarding) lodging place containing several similarly furnished and fully equipped apartments with at least one off street parking space for each apartment on site, often rented for longer periods of time.
- C. Septic Compliance The maximum occupancy of the short term rental / tourist home shall directly correspond to the septic capacity of the structure according to the State of Wisconsin guidelines.
- D. Local Contact The owner shall provide a local contact (if other than themselves) located within 50 miles of driving distance of the rental parcel. Full name, address and phone number will be included, and kept on file and up to date in the Village Office.
- E. Penalty The penalty for violation of any provision of this section shall be a penalty as provided in §15.04 of this code.

# Section 5

## **SIGNS** (Amended 3/9/21)

### 5.1 GENERAL PROVISIONS

#### 1. PERMIT REQUIRED

Except as otherwise specifically authorized, no sign shall be located, erected, moved, reconstructed, extended, enlarged or structurally altered within the Village of Lake Nebagamon without a permit from the Zoning Chair or Zoning Administrator. No permit shall be issued for a sign not in conformity to size, type, number, location and use regulations affecting each zoning district. No permit for signs will be granted on public lands until written authorization for such use is issued by the governing body in control of the public land. That written authorization shall be presented to the Zoning Chair or Zoning Administrator. (See Schedule of fees for sign permits.)

#### 2. EXCEPTIONS (non permit required.)

- A. CLASS A SIGNS: Official traffic control signs and informational or directional notices erected by federal, state, or local units of government.
- B. CLASS B SIGNS: On-premise real estate signs, residential identification, warning, and similar signs not greater than four square feet in area.
- C. HOME SALES: (such as rummage, garage sales, puppies, kittens, etc.)
- D. PUBLIC UTILITY SIGNS.
- E. PUBLIC SERVICE SIGNS: including service club and religious notices.

#### 3. PROHIBITED CHARACTERISTICS OF SIGNS

- A. No sign shall resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices.
- B. No sign shall be so located as to interfere with the visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- C. No sign shall be erected relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape.
- D. No sign shall contain any rotating or moving parts, or be illuminated by flashing light.
- E. No sign shall exceed the maximum height limitation of the district in which it is located.

- F. No sign shall be located on a lot so as to reduce the required dimensional setback and side yard requirements of the district in which it is located.
- G. No sign shall be attached to a tree in any manner.

## 5.2 CLASSIFICATION OF SIGNS REQUIRING PERMITS

### 1. CLASS C SIGNS (Amended 11/3/09)

On-premise signs, which advertise a business activity or service, performed on the property.

- A. TYPE 1: Signs advertising a permitted home occupation or professional office. If there's an intent to erect such a sign, all requests must accompany conditional use application when first presented to Zoning Commission. Size and illumination will be under the discretion of the Zoning Commission after considering its placement within the zoning district. Such signs shall not exceed six square feet in area and if illuminated shall be indirectly lighted. No more than one such sign for each use located on the premises shall be permitted.
- B. TYPE 2: Signs or bulletin boards for public, charitable or religious institutions. Such signs shall not exceed 12 square feet in area, and no more than one such sign for each highway upon which the property faces shall be permitted. Such signs may be placed at the right-of-way line of the highway.
- C. TYPE 3: Signs advertising a business activity or a service available in a commercial or industrial area. Such signs shall not exceed 80 square feet in area when non-lighted and if illuminated shall not exceed 50 square feet in area. Not more than one such sign may project more than six feet beyond a building when attached thereto, or be lower than 10 feet from ground level, or be higher than four feet above the top roof line. Free standing signs shall not exceed 20 feet in height from the ground. No more than one such sign for each use located on the premises shall be permitted.

### 2. CLASS D SIGNS

Signs or billboards which advertise a general brand of product, an area of interest, a business activity or a service available which is not in direct relation to the use of the premises on which it is located. Such signs shall not exceed 300 square feet in area. Free standing signs shall be erected outside a line parallel to, and 50 feet from the highway right-of-way, shall not exceed 20 feet in height above the ground or be located within 300 feet of an existing residence.

### 3. CLASS E SIGNS

Off-premise directory signs in the specific interest of the traveling public, which advertise a business activity, and area of interest or a service available at a specific location within 12 air miles of the premises on which it is located.

- A. TYPE 1: Recreational director signs indicating the direction of a cottage, resort, residence or similar use. Such signs shall not exceed four square feet in area. When a common posting is provided, all such signs shall be attached thereto. Recreational directory signs may be placed at the right-of-way line of the highway provided they are not within 300 feet on an existing residence. Information on such signs may be reflective material.
- B. TYPE 2: Such signs advertising a business or activity conducted, area of interest, or service available. Such signs shall not exceed 12 square feet in area, and no more than two such signs relating to any one use shall be permitted in the approaching direction along any one highway. A larger number of signs and a greater distance from the premises may be permitted by the Zoning Administrator, finding it necessary for directing the traveling public. This shall also apply to snowmobile trails.

### 5.3 CLASS AND TYPE OF SIGNS PERMITTED IN ZONING DISTRICTS

<b>CLASS &amp; TYPE OF SIGN</b>	<b>ZONING DISTRICT</b>
Class A Signs	All
Class B Signs	All
Class C Signs	
Type 1	R-1, RR-1, I-1, A-1
Type 2	All
Type 3	C-1, I-1
Type 4	A-1, F-1, W-1, SP-1
Type 5	RR-1, C-1, I-1, A-1, F-1
Class D Signs	C-1, I-1, SP-1
Class E Signs	
Type 1	RR-1, C-1, I-1, A-1, F-1, W-1, SP-1
Type 2	F-1, W-1, SP-1

## 5.4 NONCONFORMANCE

Signs lawfully existing before the date of enactment of this Ordinance may be continued although the use, size or location does not conform with the provisions of this Ordinance. However, permits shall be obtained for all signs erected before such date, and such signs shall be deemed a nonconforming use or structure; and the provisions of Section 9.0 of this Ordinance shall apply.

# Section 6

## REGULATIONS OF SPECIAL USES

(amended 2/4/20)

### 6.1 GENERAL PROVISIONS

Except as added or altered hereafter in the section, the procedures and requirements of Section 7.0 of this Ordinance governing Conditional Uses shall apply.

### 6.2 SALVAGE YARDS

No commercial or non-commercial salvage yard shall be permitted in the Village of Lake Nebagamon, Wisconsin, except in conformance with the standards, rules and regulations of the Wisconsin Administrative Code and requirements herein specified. Wisconsin Department of Natural Resources permits are required where applicable.

1. All salvage yards shall have a minimum front, side and rear yards of 100 feet.
2. Salvage yards shall be screened so that the salvage materials are not visible from other property in the vicinity, nor from a public right-of-way such as roads, streets and highways, and waterways.
3. All salvage yards shall be at least 100 feet from a navigable body of water or well. The three vehicles allowed under section 2.1 of this Ordinance must also meet this setback requirement and be screened from view from any public road by non-transparent material. Non-commercial salvage yards are subject to these conditions:
  - A. Applicants must reside on the property or the adjoining property; the parcel can be divided by a road.
  - B. Only six (6) vehicles are allowed per site.

- C. All sites must be kept clean and all automotive fluids must be removed and disposed of properly according to regulations set by the Wisconsin Department of Natural Resources.
  - D. The area the vehicles may be stored on its limited to one-half acre in size.
  - E. The permit approval is good for a five year period and may be extended for a three year period. The current conditional use permit fee will be charged for both.
  - F. An annual affidavit on the number of vehicles must be submitted to the Zoning Commission. False information will be grounds for revocation.
4. All salvage yards, commercial or noncommercial, existing in the Village of Lake Nebagamon on the effective date of this Ordinance shall have one year in which to comply with this section.

### 6.3 GARBAGE AND REFUSE DISPOSAL SITES

No garbage or refuse disposal sites shall be permitted in the Village of Lake Nebagamon except in conformance with the rules and regulations of the Wisconsin Administrative Code. Permits required from the Wisconsin Department of Natural Resources.

### 6.4 MOBILE / MANUFACTURED HOME PARKS

Except as otherwise specifically authorized in the zoning schedule, no mobile or manufactured home intended for occupancy shall be located within the Village of Lake Nebagamon except in a mobile / manufactured home park, the mobile / manufactured home park plan having been approved by the Planning & Zoning Commission and recommended to the Village Board. Such mobile / manufactured home parks shall meet the following requirements:

1. Minimum size: five (5) acres.
2. Maximum number of mobile/manufactured home sites: five (5) per acre.
3. Minimum width of mobile/manufactured home site: 60 feet.
4. Maximum height of a mobile/manufactured home: 25 feet.
5. Minimum distance between mobile/manufactured home trailers: 30 feet.
6. Minimum distance between mobile/manufactured home and service road: 10 feet.
7. Each mobile/manufactured home site shall be connected to a public or common water supply system and a public or common sewage disposal system, subject to the Wisconsin Administrative Code regulations.
8. All drives, parking areas and walkways shall be crushed gravel surfaced, four inches deep, or asphalt or concrete surface. There shall be an off-street parking space for each mobile/manufactured home and additional parking spaces for automotive vehicles

within the park, totaling not less than one and one-quarter parking spaces for each mobile/manufactured home space.

9. No mobile/manufactured home sales office or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage and one office are permitted.
10. Minimum yard setback: 40 feet at all front, side and rear lot lines of the mobile/manufactured home park.
11. Each mobile/manufactured home park shall be completely enclosed, except for permitted entrances and exits by:
  - A. A temporary planting of fast-growing material, capable of reaching a height of 15 feet or more and;
  - B. A permanent evergreen planting, the individual trees to be of such a number and so arranged that within ten years they will have formed a dense screen. Such permanent planting shall be grown or maintained at a height of not less than 15 feet.
12. All mobile/manufactured homes shall meet the construction standards of the Federal Manufactured Home Construction Safety Act of 1974.
13. Mobile/Manufactured Home Parks shall comply with the sanitation regulations of the Lake Nebagamon Sewer Commission and the appropriate requirements of the Wisconsin Administrative Code regulations.

## 6.5 TRAILER CAMPS

Except that a trailer, as defined in Section 2.1 of this Ordinance, and tents may be located on a residential lot for not more than one month in any calendar year, no trailer shall be located within the Village of Lake Nebagamon except in a federal, state, village or county camp or in a private campsite, the site of which has been approved by the Village Board and the plan and operation shall follow the regulations provided by the Wisconsin Administrative Code and approved by the Wisconsin Department of Health and Social Services. The Village Board will approve the site only, and the Wisconsin Department of Health and Social services will approve and enforce all provisions of the Wisconsin Administrative Code.

## 6.6 MAJOR RECREATIONAL EQUIPMENT (amended 2/1/05, 9/3/19)

1. Parking and Storage
  - A. Must meet the zoning setback requirements except in the downtown commercial district where the minimum setback shall be at least 10 feet.
  - B. Such equipment may be parked anywhere on a premise for a period not to exceed 24 hours during loading and unloading.
2. Used as Guest Quarters



- A. Major recreational equipment may be used as temporary guest sleeping quarters. In order to do so, the property owner must:
- Have a single family residence located on the property.
  - Guests are to be intermittent, temporary and for a duration of no more than 30 days per calendar year.
  - The equipment shall not be used as a rental unit.
3. Used for Light Housekeeping
- A. With no residence:
- Requires a Major Recreational Equipment permit.
  - 30 day maximum in one calendar year.
  - Disposal of gray / black water must be done at a licensed sanitary disposal site or be pumped by a septic service.
3. Used for a Temporary Residence
- A. Major recreational equipment may be used as temporary living quarters while a principal residence is being built. In order to do so, the owner must:
- Obtain a Major Recreational Equipment permit.
  - Have been issued a land use permit from the Village of Lake Nebagamon for the construction of a principal residence.
  - Have been issued a building permit from the Village Building Inspector for the construction of a principal residence.
  - Dispose of gray / black water at a licensed sanitary disposal site or have it pumped by a septic service. Dumping into the Lake Nebagamon Sanitary Sewer system is strictly prohibited.
  - Meet all setbacks required for the zoning district.
  - The use of major recreational equipment for a temporary residence is allowed only for the duration of the Land Use permit.
- B. Major recreational equipment may be used as temporary living quarters if a natural disaster renders the principal residence uninhabitable until timely repairs can be made. The criteria set forth in 6.6(3)(A) will apply at the discretion of the Zoning Commission.
4. Used for Special Events
- A. For a special event like a family reunion, up to five recreational vehicles will be allowed on any parcel for a period of up to 14 days per calendar year. All recreational vehicles must meet property line setback requirements for the zoning district. A Major Recreational Equipment permit will be required. This permit will be in addition to any special event permit required by the Douglas County Health Department. Only one such permit will be allowed per parcel per calendar year.
- B. To allow a special event like an Airstream convention, a Conditional Use permit will be required. This permit will be in addition to any special event permit

required by the Douglas County Health Department. Only one such permit will be allowed per parcel per calendar year.

6.7 On Premises Personal Storage: Sheds & Shipping Containers (adopted 2/4/20)

A. A land use permit will be required for all sheds and shipping containers over 100 square feet whether on a permanent or temporary foundation.

B. PENALTY

Any person who violates this Ordinance shall be subject to a forfeiture according to §15.2 of this Ordinance, plus costs of prosecution, for each day of violation.

Sheds & Shipping Containers

The use of sheds for storage of personal property is allowed in all Zoning Districts provided that:

6.71 If the structure is less than 100 square feet, a permit will not be required.

6.72 Structure meets the district setbacks set forth in the Zoning Schedule. Non-conforming lots with setback difficulty will be issued at the discretion of the Zoning Commission.

6.73 Sheds will be limited in the R-1 & R-2 districts, to 2 in number and a total area of 800 square feet.

The use of shipping containers for storage of personal property is allowed in every Zoning District EXCEPT R-1 provided that:

6.74 Shipping containers will be limited to 2 in number and/or a total area of 800 square feet. Shipping containers must be placed in accordance with setbacks as stated in the Zoning Schedule.

6.75 The use of semi-trailer containers for storage is prohibited in all Zoning Districts. Special permission may be given for temporary use during construction.

6.76 Storage sheds & shipping containers in Commercial Districts will require a permit and will be evaluated on a case by case basis.

# Section 7

## CONDITIONAL USES

### 7.1 GENERAL PROVISIONS (7.1 (3)(4) & 7.2 (5)(6) Amended 4/15/13)

One of the purposes of this Ordinance is to divide the incorporated portions of the Village into districts within which the use of land and buildings, and the bulk and locations of buildings in relation to the land are mutually compatible, and substantially uniform. There are certain uses that may be entirely appropriate and not necessarily incompatible with the basic uses permitted in any district, but not at every or any location therein or without restrictions or conditions being imposed by reason of unique problems the use of its particular location presents from a zoning standpoint, including the impact of those uses upon neighboring land or public need for the particular use at a particular location. Such uses may be necessary or desirable to be allowed in a particular district provided that due consideration is given to their location, development, and operation. Such uses are hereby classified as conditional uses and are subject to the provisions specified herein.

#### 1. APPROVAL REQUIRED

Any conditional uses listed in this Ordinance shall be permitted only when authorized by the Planning and Zoning commission. Upon such approval, issuance of a Conditional Use permit will be granted by the Zoning Chair or Zoning Administrator.

#### 2. BASIS OF APPROVAL

The Planning and Zoning Commission shall consider the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and of the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, existing topography, drainage features, erosion potential, vegetative cover, the prevention and control of water pollution, the location with respect to floodplains and floodways, the movements of traffic and the relationship to existing or proposed roads, the demand for related services, the possible hazardous harmful, noxious, offensive or nuisance effects resulting from noise, dust, smoke, odor or other factors.

#### 3. USE CONDITIONS

Upon consideration of the factors listed above, the Village Planning & Zoning Commission shall attach such conditions, in addition to those required elsewhere in this Ordinance, as are necessary to further the purposes of this Ordinance. Violations of

any of the conditions shall be deemed a violation of this Ordinance. Violations of any of these conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and plating screens; period of operation; operational control; sureties; deed restrictions location of piers, docks, parking and signs; and type of construction, to secure information upon which to base its determination, the Village Planning & Zoning Commission may require the applicant to furnish the following information:

- A. A plan of the area showing surface contours, soil types, ordinary high-water marks, groundwater conditions, subsurface geology and vegetative cover.
- B. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- C. Plans of building, sewage disposal facilities, water supply systems and arrangement operations.
- D. Specifications for areas of proposed filling, grading, lagooning or dredging.
- E. Other pertinent information necessary to determine if the proposed use meets the requirements of this Ordinance.

#### 4. NOTICE, PUBLIC HEARING AND DECISION

Before passing upon an application for a Conditional Use permit, the Village Planning & Zoning Commission shall hold a public hearing. Notice of such public hearing, specifying time, place and matters to come before the Commission, shall be given a Class 2 notice under Wis. Stats. § 985. Such notice shall be mailed to the appropriate DNR Office at least 10 days prior to the hearing. The Planning & Zoning Commission shall state in writing the grounds for granting or refusing a Conditional Use permit.

## 7.2 PROCEDURE

### 1. APPLICATION

Application for a Conditional Use permit shall be made to the Zoning Administrator who shall promptly refer the application to the Planning and Zoning Commission. In addition to the information required under Section 8.0 of this Ordinance for a Land Use permit, the Planning and Zoning Commission may require the applicant to submit other pertinent data and information necessary to properly evaluate the request.

## 2. FEES

The fee for filing of applications for Conditional Use permits shall be established by the Village Board. A copy of the current fee schedule shall be kept on file in the office of the Village Clerk. (see fee schedule)

## 3. HEARING

The Planning and Zoning Commission shall schedule a public hearing on the application within 30 days after it is filed and whenever shorelands are involved, a copy of the notice for public hearing shall be sent to the Wisconsin Department of Natural Resources.

## 4. DETERMINATION

The Planning and Zoning Commission shall report its decision within 90 days after the filing of the application. Its decision shall include an accurate description of the use permitted, of the property on which it is permitted, and all conditions made applicable thereto. In those cases where shoreland are involved, a copy of the Planning and Zoning Commission's determination shall be sent to the Wisconsin Department of Natural Resources.

## 5. RECORDING

When a Conditional Use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decisions on a Conditional Use permit shall be mailed to the appropriate DNR Office within 10 days after it is granted or denied.

## 6. REVOCATION

Where the conditions of a Conditional Use permit are violated, the Conditional Use permit shall be revoked by the Village Planning & Zoning Commission.

# Section 8

## ADMINISTRATION

### 8.1 VILLAGE ZONING ADMINISTRATION

#### 1. DESIGNATION

The Village President shall appoint a Village Planning and Zoning Commission Chair for the administration and enforcement of the provisions of this Ordinance. The Village Board has authorized a designated Zoning Administrator to assist in the enforcement and administration of this Ordinance.

#### 2. DUTIES

In administering and enforcing this Ordinance, the Zoning Commission Chair and the Zoning Administrator shall perform these duties:

- A. Provide necessary forms and applications for use permits.
- B. Issue Land Use permits where the provisions of this Ordinance have been complied with.
- C. Issue Conditional Use Permits when authorized by the Planning and Zoning Commission.
- D. Upon adoption of this Ordinance and when necessary upon the passage of amendments, identify and record information relative to nonconforming uses and structures.
- E. Maintain files of applications, permits, and other relevant information.
- F. Make an annual report of activities to the Planning and Zoning Commission and whenever requested to the Village Board.

#### 3. POWERS

The Village Zoning Commission Chair and Zoning Administrator shall have powers and authority including but not limited to:

- A. Access to any structures or premises for the purpose of performing the duties of the office between 8am and 8pm by the permission of the owner or upon issuance of a special inspection warrant.
- B. Upon reasonable cause or question as to proper compliance, to revoke any Land Use permit, issue cease-desist orders requiring the immediate or specifically dated cessation of any building, moving, alteration or use, which is in violation of the provisions of this Ordinance.

## 8.2 LAND USE PERMITS

### 1. PERMIT REQUIRED

No structure shall be built, moved, or structurally altered, and no land use shall be substantially altered until a Land Use permit has been issued by the Zoning Administrator. They shall not issue a permit for a structure or a use not in conformity with the requirement of this Ordinance. The fee for filing of applications for Land Use permits shall be established by the Village Board. A copy of the current fee schedule shall be kept on file in the office of the Village Clerk.

### 2. APPLICATION PROCEDURE

Applications for Land Use permits shall be accompanied by scale maps or drawings showing accurately the location, size and shape of the lot(s) involved, and of any proposed structures, including the relations to abutting streets and any abutting lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated.

### 3. EXPIRATION

Land Use permits for construction, alteration, or removal of structures shall expire 12 months from their date of issuance where no action has been taken to accomplish such changes.

## 8.3 VIOLATIONS

Any person who violates this Ordinance shall be subject to a forfeiture according to § 15.2 of this Ordinance, plus costs of prosecution, for each day of violation.

## Section 9

# NONCONFORMING STRUCTURES AND USES - OUTSIDE SHORELAND

### 9.1 REQUIREMENTS (Amended 10/07/08), (9.1 (1)(2)(4) & (6) Amended 3/5/13)

Present uses of principal or accessory buildings, signs and premises may be continued even though they do not conform to the restrictions of this Ordinance at the time of its passage. However, any structural repairs or alterations of such buildings, signs or premises shall meet these requirements.

1. However, any structural repairs of such buildings, signs or premises, requiring the issuance of a land use permit, shall not exceed 33% of the structural members of existing roof, walls and foundation.
2. Expansion of a nonconforming structure may not exceed 50% of the enclosed building area and may not increase the nonconformity without the approval of a variance by the Board of Appeals unless a building, sign or premises conforming to the development regulations of this Ordinance results. Nonconforming minor accessory structures (such as decks and porches) may not be expanded or replaced without a variance.
3. Any nonconforming use that is abandoned for one year shall be discontinued permanently unless this restriction is waived by the Planning and Zoning Commission.
4. Any expansion of any existing nonconforming use must not change the use. Any change of an existing nonconforming use must not change the use. Any change of an existing nonconforming use to another use requires compliance with the development regulations within that zoning district.
5. Any property not in compliance with the code now in effect shall also require a variance in order to exaggerate a variation from the presently established code. This requirement shall pertain to all additions to any nonconforming structure or lot.
6. Should any structure on a substandard lot or any nonconforming structure be determined to have been 60 percent or more destroyed by fire or other catastrophe, reconstruction shall be permitted by the current owner within the previous footprint only. Any variation from the original footprint will necessitate that the structure meet the code requirements for a new lot development, including lot size and setback from the lake, road and adjoining properties.
7. If a structure is demolished with the intent of building a new structure, that structure shall be subject to the building code now in effect regarding setbacks from the lake, creeks, rivers, road and adjoining properties.
8. Variances for nonconforming structures may require, by order of the Planning & Zoning Commission, the removal from the property of any or all existing nonconforming accessory structures. Mitigation will be required whenever a variance is given.



## 9.2 MITIGATION (Amended 10/07/08)

### 1. REQUIRED MITIGATION

Mitigation is required when a property owner requests a variance for a nonconforming use or a nonconforming use is given, or for other purposes as set forth in Chapter 4.4 of this Ordinance. A site plan and implementation schedule describing any required mitigation shall be submitted by the property owner or their authorized agent and approved by the Planning and Zoning Commission prior to issuing the related Land Use permits. Mandatory practice for mitigation shall include:

- A. Proof of conforming sanitary system by state approved methods of testing and, if needed, upgrading of any existing sanitary system on the subject property to meet current Douglas County and Department of Commerce regulations.
- B. Implementation of standard erosion and stormwater runoff control measures described in applicable sections of this Ordinance.

### 2. MITIGATION POINTS REQUIRED

The number of mitigation points required is (2).

### 3. MITIGATION PRACTICES

Property owners may choose among the following mitigation practices to achieve the number of mitigation points required:

#### A. Buffer Zones

1. Points may be obtained for maintaining existing buffer zones or for creating and maintaining new buffer zones as set for below.
2. Buffer Zone Options:
  - a. **Primary Active Buffer Zone:** Shore buffer zone within 35 feet of the ordinary high water mark, including trees, shrubbery, underbrush and other natural vegetation. (2) points.
  - b. **Secondary Active Buffer Zone:** An additional 15 feet of buffer zone depth in land from the ordinary high water mark beyond the 35 feet of buffer zone already established, providing for a total of 50 feet of buffer zone depth. (2) points.
  - c. **Recreational Area Buffer Zones:** Shore buffer zone along the entire shoreline including with the space that may otherwise have been occupied by the recreational area, except that a foot path of no more than 6 feet in width may be maintained . (2) points.

- d. **Passive Buffer Zone:** Shoreland vegetation buffer area within 35 feet of the ordinary high water mark, including unmowed, grass or other understory vegetation, but without the tree and shrub layers required to meet the two point mitigation standard. (2) points.
- e. **Side-lot Buffer Zones:** A 10 feet wide side lot buffer zone including trees, shrubbery, underbrush and other natural vegetation extending along a side lot line for a depth of at least 100 feet from the ordinary high water mark. (1) point.

### 3. Conditions

- a. No mowing is permitted in the buffer zone.
- b. The establishment of buffer zones are subject to a density of at least 2 tree stems and 4 shrub stems per 100 square feet of buffer zone area is required. This density must be maintained through the maturity of the species.

## B. Removal of Structures

Points may be obtained for the removal of structures as set forth below:

1. Removal of a principal structure located within 75 feet from the ordinary high water mark to a site that meets the ordinary high water mark set back requirements for new development on Lake Nebagamon. (2) points.
2. Removal of all non-principal, accessory structures located within 75 feet from the ordinary high water mark, with the result that all such structures, including boathouses, are set back at least 35 feet from the ordinary high water mark. (1) point.
3. Removal of all non-principal, accessory structures located within 75 feet from the ordinary high water mark, with the result that all such structures, are set back at least 75 feet from the ordinary high water mark. (2) points.
4. No non-principal, accessory structures are located less than 75 feet from the ordinary high water mark. This point is not additive to points awarded for removal of structures. (1) point.

## C. Other Practices

1. The Planning and Zoning Commission may approve up to 2 additional mitigation points for restoration or protection activities that are likely to provide significant benefits to meet the objectives of this Ordinance. Examples may include construction of a stormwater detention basin or implementation of other stormwater management plan activities, replacement of seawalls with bioengineered structures, or removal of

artificial sand beaches. Factors to be considered in making the determination of number of points and approval of alternative mitigation practices include, but are not limited to:

- a. Cost of implementation;
- b. Runoff diversion and/or retention;
- c. Lot configuration;
- d. Parcel size;
- e. Location of impervious areas;
- f. Sensitivity and level of development of the water body; and
- g. Significance toward meeting Ordinance objectives.

#### D. Mitigation Plan

##### 1. Development and Implementation of Mitigation Plan

- a. A mitigation plan shall be submitted on forms provided by the Zoning Administrator for review and approval. The plan shall indicate the elected mitigation strategies and shall be signed by the property owner and file with the Zoning Office prior to issuance of the Land Use permits.
- b. The mitigation measures shall be maintained in perpetuity, unless the property owner receives approval of a new, approved mitigation plan meeting the same point requirements.
- c. Notwithstanding any other provisions of this Ordinance, the current owner is solely responsible for compliance with the terms of this Ordinance.

##### 3. OPTIONS

A Shoreland Mitigation/preservation affidavit shall be signed and recorded with the Zoning Administrator prior to the issuance of zoning permit for the expansion or improvement of a legal pre-existing principal building which requires mitigation under Section 9.2 of this Ordinance.

## Section 10

### PLANNING AND ZONING COMMISSION

10.1 The President of the Village Board is hereby authorized to appoint a Planning and Zoning Commission consisting of five members who will be confirmed by the Village Board. This commission will consist of a Chair and four members representing as many geographical, economic, cultural and issues of interest in the Village as possible. One of these members may be a member of the Village Board. (Amended 11/7/17)

#### 10.2 TERMS

Appointments shall be for terms of three years except that of those first appointed, two shall serve for one year, two for two years, and one for three years. Members shall be removable for cause only after approval by the Village Board. The terms of those first appointed shall end on the dates set by the Village President, but members shall serve until a successor is duly appointed and confirmed.

#### 10.3 RULES

The President may designate one of the members Chair. The Chair and said Commission shall have such powers and duties as provided in this Ordinance and shall conduct its business in accordance with the provisions of § 11 of this Ordinance, applicable to the Board of Appeals.

## Section 11

### BOARD OF APPEALS

#### 11.1 COMPOSITION (Amended Village Municipal Ordinance 2.07, 11/13/2012)

The Zoning Board of Appeals of the Village of Lake Nebagamon shall consist of 5 members, 1 Village Board Member, 1 Zoning Board member and 3 appointed citizens, and 2 alternate members, all shall be appointed by the Village President and confirmed by a majority vote of the Village Board. All will have mandated training yearly. Members first appointed shall serve 1 for one year, 2 for two years and 2 for three years. The Board shall have the powers and duties prescribed by Wis. Stats. § 62.23.

## 11.2 RULES

### 1. CALL FOR MEETINGS

The Board of Appeals shall meet at the call of the Chair, and at such other times as the Board of Appeals may determine, at fixed time and place.

### 2. OPEN MEETINGS

All meetings of the Board of Appeals shall be open to the public.

### 3. PUBLIC HEARING LOCATION

Any public hearing which the Board of Appeals is required to hold under paragraph 4 “Powers and Duties” of the board of Appeals shall be held in the Village Hall or other place as convenient to the location or locations to be considered as such public hearing, and a full description of the location of such place of hearing by name, address, or other commonly known means of identification, shall be included in the notice given of such hearing.

### 4. NOTIFICATION OF PUBLIC HEARING

Notice of any public hearing, which the Board of Appeals is required to hold under the terms of this Ordinance, shall specify the date, time, and place of hearing and the matter to come before the Board of Appeals at such hearing, and such notice shall be given as provided in Section 13.2 of this Ordinance.

### 5. MINUTES

The Board of Appeals 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 examinations and other official actions, all of which shall be public record. In those cases where Shorelands are involved, a copy of the Board’s determination shall be sent to the Wisconsin Department of Natural Resources.

### 6. PERFORMANCE OF DUTIES

The Board of Appeals shall have power to call on any Village Department for assistance in the performance of its duties and it shall be the duty of such other Departments to render all such assistance that may be reasonably required.

### 7. EFFECTUATION

The Board of Appeals may adopt such rules as are necessary to carry into effect the regulations of the Village Board.

## 8. CERTIORARI

In the case of all appeals, the Board of Appeals shall call upon the Planning and Zoning Commission for all information pertinent to the decision for which an appeal is made.

## 11.3 APPEALS

1. BOARD OF APPEALS      The Board of Appeals created pursuant to section 11.0 of the Village's Zoning Ordinance pursuant to Wis. Stats. § 62.23(7)(e) and 68.11.
  - A. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Zoning Commission in administering this Ordinance;
  - B. Upon appeal, may authorize variances from the provisions of this Ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
  - C. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
  
2. WHO MAY APPEAL      Any applicant, permittee, landowner or land user may appeal any order, decision or determination made by the Zoning Commission in administering this Ordinance.

## **Section 12**

### **AMENDMENTS**

#### 12.1 PROCEDURE

The Village Board of Trustees may amend this Ordinance in accordance with the procedures prescribed by Wis. Stats. § 61.35 & 62.23.

## **Section 13**

### **PUBLIC HEARINGS**

#### 13.1 NOTICE

Adequate notice shall be given of any public hearing required by the provisions of this Ordinance, stating the time and place of such hearing and the purpose for which it is being held.

#### 13.2 PROCEDURE

##### 1. POSTING & PUBLISHING

- A. Notice of the public hearing shall be given as per Wis. Stats. § 19.84.
- B. The failure of such notice to reach any property owner shall not invalidate any amending ordinance or grant of a conditional use.

## Section 14

### VALIDITY

#### 14.1 CONFLICT

All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

#### 14.2 COURT INVALIDATION

Invalidation by a court of any part of this Ordinance shall not invalidate the rest of the Ordinance.

#### 14.3 FORCE AND EFFECT

All text and map regulations and districts relating to Village Shorelands as defined by Wis. Stats. § 59.971 shall become effective immediately upon adoption and publication by the Village Trustees. These shoreland text and map regulations and districts shall not require Village Board action.

## Section 15 (Amended 9/4/18)

### FORFEITURES

#### GENERAL PENALTY

Any person, upon conviction of default, who is found to be in violation of any provision of this Ordinance where specific penalty is not specified shall forfeit not less than \$100 nor more than \$300.

1. First offense- forfeiture amount of \$100.
2. Subsequent offense - violation within one year, forfeiture amount of \$250.



# Section 16

## FENCE CODE

### 16.1 DEFINITIONS (Amended 2/07/06)

The following words and terms, for purposes of this Ordinance, shall have the meanings herein provided:

1. **ARBOR**: A decorative solid or latticework structure or trellis, which is used as an entrance focal point along a barrier, which serves the purpose of a fence.
2. **BERM**: A mound of earth higher than the final elevation of the lot.
3. **DEPARTMENT**: The Village of Lake Nebagamon.
4. **DOG ENCLOSURE**: Any outdoor structure or enclosure used to restrict dogs to a contained yard area.
5. **FENCE(S)**: "Fence" means a vertical screen device used to provide privacy, visual or otherwise, for containment. "Fence" includes but is not limited to trellises, railings and walls.
6. **FENCE, AGRICULTURAL/FARM**: A fence consisting of chicken wire, deer-fence, hog wire, high tensile, wire strands, used in the agricultural, farming, and livestock business, specifically for livestock, animal and bird control.
7. **FENCE, PATIO**: A privacy fence, which fully or partially encloses a patio.
8. **FENCE, GOOD NEIGHBOR**: A fence constructed of solid or spaced boards, where the face boards are installed at the center of the posts so the fence looks the same from both sides.
9. **INSTALL, INSTALLATION, INSTALLED\*\***: To construct, erect, install, place, or replace.
10. **LOT-DOUBLE FRONTAGE**: An interior lot having street frontage on the front and the rear of the lot.
11. **PERSON**: Any person, firm, corporation, association or other legal entity.
12. **PROPERTY OWNER**: A person who owns or controls real property situated in the Village.
13. **TRELLIS**: A frame or structure of open latticework.
14. **VISION CLEARANCE AREA**: A triangular area on a lot at the intersection of two streets or a street and an alley, driveway, at the intersection of a driveway/alley and sidewalk, or other point of vehicular access or railroad, two sides of which are lot lines measured from the corner intersection of the property lines to a minimum distance of 15 feet from their intersection.

## 16.2 PERMIT (Amended 2/07/06) (Amended 10/3/18)

1. PERMIT REQUIRED\*\*: No person shall install a fence in the Village without first obtaining a Fence Permit and complying in all respects with the terms and conditions of this Ordinance. No person shall install or create a boundary fence in aggregate greater than 16 lineal feet in the Village without first obtaining a fence permit. A fence permit shall be valid only for the terms of issuance, unless sooner suspended or revoked. A fence permit is not required for painting, maintenance, or repair or replacement of fencing, which does not exceed the existing height code.
2. PERMIT APPLICATION: A fence permit application shall be filed with the Department, consisting of the following:
  - A. A fully completed Fence Permit Application Form and payment of full permit fee.
  - B. A drawing, site plan or plat map displaying property boundaries, the location of the buildings and structure on the property, the proposed location of the fence and its distances from the existing structures on the property.
  - C. If the fence is proposed to be installed on rented or leased property, the written consent of the owner(s) of the property is required.
  - D. Other information as may be required by the Village to assist in the review of application.
3. APPLICATION REVIEW AND APPROVAL REQUIRED, PERMIT ISSUANCE: The Village shall review, approve and issue the Fence Permit provided that the application is in compliance with this Ordinance and the standards of this Ordinance for the fence to be installed have been met. The Fence Permit may contain reasonable conditions stated in the permit.
4. COMPLETION AND INSTALLATION: A fence authorized by a Fence Permit shall be fully installed in accordance with this Ordinance and permit conditions, within one year after the date of the permit issuance. A Fence Permit shall expire one year after the date of issuance. After a Fence Permit expires, no work requiring such a permit shall be commenced, resumed or undertaken until a new permit is issued or the original permit is extended. The permit applicant may file a written request for an extension of the Fence Permit stating the reason for the request, for up to 6 months additional time to complete the fence installation. The Village, in administering this Code, shall grant the request if good cause is shown.
5. RESPONSIBILITY OF VILLAGE: The Village, through the Zoning Administrator shall:
  - A. Review and issue Fence Permits where the application is in compliance with this Ordinance.
  - B. May issue reasonable site specific conditions.
  - C. May waive or reduce vision clearance requirement where:
    1. Traffic can safely approach and enter an intersection, alley, driveway or street given existing traffic control devices or other physical conditions of the area: or
    2. Topographic conditions are so extreme or building structures exist such that is not practical to provide required vision clearance.

- D. May inspect the fence for compliance with this Ordinance and the permit.
  - E. Shall enforce this Ordinance.
7. RESPONSIBILITY OF APPLICANT: The applicant is solely responsible for installing the fence:
- A. Within the boundaries of their property determined by survey, in compliance with this Ordinance and the permit, including, but not limited to, proper materials, height, setback and vision clearance.
  - B. In compliance with any subdivision covenants or restrictions, deed restrictions, utility easement restrictions, land use restrictions of record including applicable plan review and approval, or waiver requirements. In a manner as will not obstruct storm water drainage, violate the Village approved stormwater plan or unreasonably divert stormwater onto the property of another.

### 16.3 FENCE INSTALLATION

1. GENERAL REQUIREMENTS: No fence shall be installed, except in strict compliance with this Ordinance, site specific permit conditions, and the following requirements:
- A. Structural and support components of a fence shall face away from adjacent properties.
  - B. Fences shall be installed with the finished side facing the adjacent property or public right-of-way, and the fence posts must be located on the inside of the fence facing the property on which the fence is located, except when the style of fence commonly described as a "Good Neighbor Fence" is installed.
  - C. Fences shall be installed plumb and the top finish of the fences shall be uniform in design. Fences shall follow the contour of the ground to the extent practical.
  - D. The height of the fence shall be controlled by the applicable provisions of the Village Zoning Ordinance for the area in which the fence will be located. Fence height shall be measured from the surface of the ground immediately below the fence. Berms, retaining walls or other methods to raise the elevation of the site shall require approval by the Village prior to installation.
  - E. The project site shall be marked by *Diggers Hotline* before digging holes for fence installation.
  - F. No fence in the vision clearance area shall exceed 3 feet in height above the mean street grade.
  - G. The height of the walls and fences shall be measured vertically from the finished grade on the exterior side of the fence. Raising the finished grade by placing fill solely for the purpose of adding additional height shall be measured vertically from the base of the berm, unless said fence is approved in conjunction with a Conditional Use Permit Site Plan Review, or an exception is granted by the Zoning Board of Appeals.
  - H. All fences shall be no closer than 6 inches to the public sidewalk.

2. OBSTRUCTION OF INGRESS/EGRESS AREA OF DWELLING: A minimum distance of 3 feet shall be maintained between any solid fence and any window or opening in a dwelling.
3. MODIFICATIONS: All modifications to an existing fence shall not exceed existing height or comply with this Ordinance.
4. FENCES IN FRONT YARDS: Fences installed in a front yard shall comply with the following requirements:
  - A. Fences not exceeding 6 feet in height, shall be allowed within residentially required front yard setback area.
  - B. Shall not exceed 3 feet in height within vision clearance areas.
  - C. Fences on residentially zoned lots, including interior and corner double-frontage lots, fronting a street, shall be installed in accordance with front yard setback requirements.
5. FENCES IN REAR/SIDE YARDS: Fences in rear and side yards shall meet the following requirements:
  - A. No fence or wall shall exceed 8 feet in height in any side or rear yard.
  - B. Fences, which exceed 3 feet in height, in side or rear yards shall not encroach with vision clearance areas.
6. FENCES ON CORNER LOTS: No fence over 3 feet in height shall be permitted within a vision clearance area of any portion of the lot.
7. FENCES ON A LOT-DOUBLE FRONTAGE: Fences shall be installed in accordance with the required front yard setback on both streets, except where otherwise approved in conjunction with a Conditional Use Permit, Site Plan Review, or variance from the Zoning board of Appeals.
8. APPROVED FENCE MATERIALS: All fences shall meet the following material requirements:
  - A. Fences shall be constructed using materials suitable for residential style fencing, including, but not limited to, brick, field stone, wrought iron, solid vinyl, chain link stockade or board-on-board wood.
  - B. No fence shall be constructed of snow fencing/barrier fencing or used or discarded materials in disrepair, including, but not limited to, pallets, tree trunks, trash, ores, junk, or other similar items.

#### 16.4 MAINTENANCE OF FENCES

Fences shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or public. Fences shall not create an appearance of patchwork, which is indicative of a state of disrepair. Every fence installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.

## 16.5 EXISTING FENCES

Any fence existing upon the effective date of this Ordinance shall not be enlarged or extended, except in strict compliance with all of the requirements of this Ordinance.

## 16.6 PROHIBITIONS

1. PROHIBITED FENCES - No person shall install:
  - A. Razor wire fence.
  - B. Any wire or chain-link type fence with the cut or salvage end of the fence exposed at the top.
  - C. A fence which creates a hazard to users of the street, sidewalk, or to nearby property.
  - D. A fence composed solely of fence posts.
2. BARBED WIRE FENCES RESTRICTED: No person shall construct, use or maintain any barbed wire fence on residential, business or institutionally zoned property.

## 16.7 FENCES ALLOWED WITHOUT A PERMIT

The following types of fences are permitted, as specified, without a permit, subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility, or block, redirect or cause a drainage problem for the adjacent or downstream properties.

1. Snow fencing shall be permitted in all areas not exceeding 4 feet in height provided it is removed between May 1 and October 1 of each year. No snow fence shall extend into the street right-of-way line unless installed by the Village or a contractor having a permit from the Village.
2. Agricultural/Farm fences limited to Hobby Farms or agricultural use areas.
3. Decorative fences not exceeding 2 feet in height shall be permitted in all districts. Such fences shall not be placed in any manner, which presents a hazard to pedestrians on any public sidewalk.
4. Underground electrical fences are permitted in all areas.
5. Arbors and/or trellises shall not be used as a fence.
6. An electric fence may be installed around a garden to keep animals out. All such fences must be at least 10 feet from all property lines unless it is inside another fence.
7. Dog enclosures.
8. Temporary construction on or within property boundaries.

## 16.8 NON-BOUNDARY RELATED FENCE STANDARDS

Fences surrounding tennis courts, and baseball and/or softball field backstops may be erected in conformance with accepted industry standards. A fence permit shall be required for such installations.

## 16.9 DOG ENCLOSURES

1. Dog enclosures must be located in the buildable area directly behind and adjacent to the principal building. In no event shall a dog enclosure encroach into a required setback or be located closer to a corner or interior side property line than the principal building.
2. Dog enclosures may be constructed of any material permitted for a residential fence.
3. No dog enclosure shall be constructed contrary to required vision clearance area requirements.

## 16.10 VISUAL CLEARANCE VIOLATIONS

1. ADMINISTRATION OF VISUAL CLEARANCE VIOLATIONS: The Zoning Administrator shall have the duty of establishing, restoring and maintaining visual clearance. When the Zoning Administrator has determined that visual clearance has not be established , restored or maintained, as required within this Ordinance, the Zoning Administrator shall, in writing, notify the owner, operator or other party responsible for managing and/or maintaining the offending property that visual clearance must be established or restored within 15 days from the date of notice. The notice shall further provide that the notified party or agency shall have the opportunity to be personally heard by the Zoning Administrator within said period, and failure to request a hearing shall waive the opportunity to be heard. The 15 day compliance period may be extended upon written request, for good and sufficient reason. The failure of the owner, operator or other responsible party for the actual costs of the service rendered, and demand payment be made within 30 days of the billing date. The failure of the owner, operator or other responsible party to promptly pay said bill shall authorize the Zoning Administrator to charge the cost against the property in noncompliance as a special assessment, pursuant to the authority of Wis. Stats. § 66.60. The special assessment shall be a lien upon the real estate until paid in full, with interest accruing on the unpaid balance at the rate of 7% per annum. There shall also be a 100 dollar administrative charge add to the charge and a special assessment to cover administrative costs, of charging and specially assessing property. The order of the Zoning Administrator may be appealed to the Zoning Commission upon written notice of said appeal being served upon or sent by registered mail to the Zoning Administrator within 10 days after the date of the order.
2. PUBLIC NUISANCE: Obstruction to visual clearance, as regulated by this section, shall be deemed to be a public nuisance and the Village Attorney is authorized to abate said nuisance.

## 16.11 ADMINISTRATION, SPECIAL EXCEPTIONS AND APPEALS

1. ADMINISTRATION: It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance.
2. SPECIAL EXCEPTIONS: Upon application for a Special Exception, the Zoning Board of Appeals may, after investigation and public hearing, grant a Special Exception from terms of Section 16.3 of this Ordinance where such Special Exception will not be contrary to the spirit and purpose of this Ordinance, and where a Special Exception will do substantial justice.
3. APPEALS: An aggrieved person adversely affected by the denial of a permit or decision, determination or interpretation under this Ordinance and the Zoning Administrator, may appeal such denial, decision, determination or interpretation to the Zoning Board of Appeals.

## Section 17

# OUTDOOR WOOD FURNACES

### 17.0 OUTDOOR WOOD FURNACES (hereafter referred to as OWF)

LEGISLATIVE INTENT - Although OWF's may provide an economic alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices. This local law is intended to ensure that OWF's are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety, and general welfare of the residents of the Village of Lake Nebagamon.

### 17.1 DEFINITIONS

1. **OWF**: Any equipment, device or apparatus or any part thereof which is installed, affixed or situated outdoors for the primary purpose of fuel combustion to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. All OWF are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.
2. **Stacks & Chimneys** - Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from an OWF; especially that part of such structures extending above a roof.
3. **Public Nuisance Ordinance 13.01** - For enforcement of this Ordinance: it is defined as any dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities as declared by a properly designated Village Zoning Administrator.
4. **Abate** - Law to put a stop to (suit or action), end (nuisance), etc; terminate.
5. **Correct** - To conform to a standard.
6. **Improve** - To raise to a better quality or condition; make better.

### 17.2 REGISTRATION & EXISTING OWF

1. The Village of Lake Nebagamon shall require a permit filed with the Zoning Administrator for any OWF installed after the effective date of this section.
2. Any OWF in existence on the effective date of this Ordinance shall be permitted to remain provided that the owner applies for and receives a permit from the Village Clerk or Zoning Administrator within one year of such effective date and does not create a public nuisance.
3. Upon complaint by a Village resident and declared so by a follow-up inspection by the Village Zoning Administrator, the owner must correct the problem within 30 days of notice. Compliance may include provisions required within this Ordinance.



### 17.3 REGULATIONS FOR OWF

In addition to the provisions of Section 17.4 of this Ordinance, any OWF permitted under this Ordinance which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding properties due to unforeseen conditions such as prevailing winds or make up of the terrain, etc. are subject to the following.

The owner or occupant shall be required to correct, improve or abate such conditions within 30 days of notice by the Village Police, Village Fire Chief, or their designees.

### 17.4 SPECIFIC REQUIREMENTS

1. OWF's will be restricted to properties zoned R-2 and A-1.
2. The OWF shall be located at least 25 feet from adjoining property lines and at least 100 feet from any residence that is not served by the OWF.
3. Chimney heights for new and existing OWF's are as follows:
  - A. The chimney of any new OWF shall extend at least two (2) feet above the peak of any residence not served by the OWF located within 300 feet of such OWF.
  - B. If there is an existing OWF and there is new construction of a residence not served by the OWF within 300 feet of such OWF, the owner of such OWF shall conform to the chimney height requirements of this regulation within 30 days of the date such construction is complete.
  - C. All chimneys within 300 feet of a residence not served must be insulated to reduce smoke condensation and so constructed to withstand high winds or other related elements.
  - D. Any existing stack height or irregularly installed stack shall be replaced with 6 months from date of notice.
4. Permitted Fuel - Only seasoned/dry non-processed untreated wood is permitted to be burned in any OWF. Burning of any and other materials is prohibited except use of corn or wood pellets for fuel in high efficiency furnaces may be permitted.
5. The OWF shall be located according to manufacturer's safety recommendations.

### 17.5 ENFORCEMENT AND PENALTIES

1. The Village Zoning Administrator and Police Officer are authorized to enforce the provisions of this Ordinance.
2. Failure to comply with any provision of this Ordinance shall be a violation and upon conviction, is subject to the provisions in § 15.2 of this Ordinance plus costs of prosecution. Each day a violation occurs shall constitute a separate offense. The owner of the premises where violations occur shall be jointly and severally liable for the violation. In addition, any permit issued pursuant to this Ordinance shall be revoked upon conviction of a second offense and the subject OWF shall not be eligible for another permit. A violation of this Ordinance is hereby declared to be a public nuisance

which may be enforced through injunctive or abatement proceedings or other applicable remedies as allowed by law, which shall be in addition to such other penalties and remedies as referenced above.

3. In the event the Village finds that burning has been conducted in violation of this Ordinance, removal of the OWF may be required.

#### 17.6 RIGHT OF ENTRY

The Village Zoning Administrator and/or Police Officer or authorized agent of the Village may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

#### 17.7 SEVERABILITY

The invalidity of any word, clause, sentence, paragraph or provision of this Ordinance shall not invalidate any other clause, sentence, paragraph or part thereof.

#### 17.8 EFFECTIVE DATED

This Ordinance shall take effect and be in force after passage and publication, as provided by law. In the event the Federal EPA or the State of Wisconsin sets more restrictive emission standards for OWF and the new standards result in stoves which are compatible within residential communities this Ordinance can be amended. Passed and adopted this 10th day of March, 2009.

# Section 18

## SHORELAND ZONING ORDINANCE

### 18.1 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, AND TITLE

#### 1.1 Statutory Authorization

This ordinance is adopted pursuant to the authorization in Wis. Stats. § 59.69, 59.692, and 59.693, 59.694, 87.30, 236.45 and 281.31.

#### 1.2 Finding of Fact

Uncontrolled use of the shorelands and pollution of the navigable waters of Village of Lake Nebagamon would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the villages 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 the Village of Lake Nebagamon, Wisconsin.

#### 1.3 Purpose

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

##### 1.31 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 areas for private on-site waste treatment systems; and
- (3) Controlling filling and grading to prevent soil erosion problems; and
- (4) Limiting impervious surfaces to control runoff which carries pollutants.

##### 1.32 Protect spawning grounds, fish and aquatic life through:

- (1) Preserving wetlands and other fish and aquatic habitat;
- (2) Regulating pollution sources; and

- (3) Controlling shoreline alterations, dredging and lagooning.

1.33 Control building sites, placement of structures, and land uses through:

- (1) Prohibiting certain uses detrimental to the shoreland - wetlands
- (2) Setting the maximum height of near-shore structures
- (3) Setting minimum lot sizes and widths; and
- (4) Setting minimum building setbacks from waterways.

1.34 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; and
- (4) Regulating the use and placement of boathouses and other structures.

1.4 Title

Shoreland Zoning Ordinance for the Village of Lake Nebagamon, Wisconsin.

## 18.2 GENERAL PROVISIONS

### 2.1 Areas to be Regulated

Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the incorporated areas of Village of Lake Nebagamon which are:

- 2.11 Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. If the navigable water is a glacial pothole lake, this distance shall be measured from the high-water mark of the lake. Lakes, ponds or flowages in the Village of Lake Nebagamon shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800, 2009 "Wisconsin Lakes" book available at the following website: <http://dnr.wi.gov/org/water/fhp/lakes/lakemap> or are shown on United States Geological Survey quadrangle maps or other zoning base maps.
- 2.12 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 Village of Lake Nebagamon shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

- 2.13 The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when § 13.48(13), Wis. Stats., applies, state agencies are required to comply with and obtain all necessary permits under local shoreland ordinances. 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 local shoreland zoning ordinances if § 30.2022(1), Wis. Stats., applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are provided in § 61.353 Wis. Stats.
- 2.14 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 Zoning Chair for a final determination of navigability or ordinary high water mark. The Village may work with surveyors with regard to § 59.692 (1h) Wis. Stats.
- 2.15 Under § 281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to any of the following lands adjacent to farm drainage ditches if all of the following apply:
1. Such lands are not adjacent to a natural navigable stream or river;
  2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  3. Lands adjacent to artificially constructed drainage ditches, ponds, or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

## 2.2 Shoreland-Wetland Maps

The map designated below are hereby adopted and made part of this ordinance. They are on file in the office of the Zoning Administrator for Village of Lake Nebagamon.

1. The most recent version of the Wisconsin Wetland Inventory, as depicted on the Department of Natural Resources Water Data Viewer is made part of this ordinance. The maps can be viewed at: <http://dnr.wi.gov/SL/viewer.html>.
2. Wisconsin Wetland Inventory maps stamped "FINAL" on February 12, 1985.
3. Floodplain zoning maps identified as FIRM, FBFW, and dated January 24, 2012.
4. Douglas County Official Zoning Map dated December 10, 1970 and amendments.

## 2.3 Compliance

The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see Section 9.0 for standards applicable to nonconforming uses.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

## 2.4 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 § 13.48(13), Wis. Stats. applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022(1), Wis. Stats., applies.

## 2.5 Abrogation and Greater Restrictions

The provisions of this ordinance supersede all the provisions of any village zoning ordinance adopted under § 59.69 and 59.692, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than § 59.69 and 59.692, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- 2.51 This ordinance shall not require approval or be subject to disapproval by any town or town board. (Only applies to county)
- 2.52 If an existing Village ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the village ordinance continues in all respects to the extent of greater restrictions, but not otherwise.
- 2.53 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.
- 2.54 The more restrictive provisions of the Village of Lake Nebagamon General Zoning Ordinance are hereby incorporated and made part of this ordinance and shall have the same force and effect as if fully enumerated herein.

## 2.6 Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the village and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in Wisconsin Administrative Code NR 115, and where the ordinance provision is unclear, the provision shall be interpreted in light of the 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.

## 2.7 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.

## 18.3 LAND DIVISION REVIEW AND SANITARY REGULATIONS

### 3.1 Land Division Review

The Zoning Commission shall review, pursuant to § 236.45, Wis. Stats., all land division in shoreland areas which create one or more parcels or building sites of less than 10 acres each within a 5-year period. In such review the following factors shall be considered:

1. Hazards to the health, safety or welfare of future residents;
2. Proper relationship to adjoining areas;
3. Public access to navigable waters, as required by law;
4. Adequate stormwater drainage facilities; and
5. Conformity to state law and administrative code provisions.

### 3.2 Limited Rezoning to Achieve Reduced Lot Sizes and Setbacks

#### 3.21 Purpose

In some instances where an individual lot or small tract of land has unique characteristics, such as unique terrain, which would result in unnecessary hardship if the owner were required to comply with one of more of the requirements for minimum lot sizes, width and setback, the Board of Appeals may grant a variance. In other instances where larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by rezoning to establish a Planned Residential Unit Development overlay. The Planned Residential Unit Development is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and

without special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

### 3.22 Requirements for Planned Residential Unit Development

The Village Board may at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development, either by approving first an overlay district and then a plat or by approving only a plat for the specific planned residential project upon finding, after a public hearing, that all of the following facts exist:

1. Area. The area proposed for the Planned Residential Unit Development is at least 40 acres in size.
2. Pollution Control. The location and nature of the septic systems which will serve the home sites individually or collectively will assure that effluent from the septic systems will not reach the ground or surface waters in a condition which would contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of navigable waters.
3. Preservation of Ground Cover. The location of home sites and the dedication of part of the land for the use by the public or residents of the Planned Residential Unit Development will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion, and other pertinent factors. Land not used for lots and streets shall be dedicated in perpetuity to remain in open space.

This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the county, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

4. Density. The number of platted home sites shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of



the zoning ordinance. This figure shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot size required by Section 4.0 of this ordinance.

5. Lot Sizes, Widths, Setbacks, and Tree-cutting. The lot sizes, widths, and setbacks shall not be less than those provided for in current statutes Wisconsin Administrative Code, and shall not be so small as to cause pollution or erosion along streets or other public ways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood.

3.23 Procedure for Establishing a Planned Residential Unit Development District.  
See section 3.14 of Zoning Ordinances.

## **18.4 DIMENSIONS OF BUILDING SITES**

### **4.1 Shoreland Lots**

Minimum Area and Width - The minimum lot area shall be 30,000 square feet and the minimum average lot width shall be 150 feet.

### **4.2 Shoreline Lots**

Minimum Area and Width - The minimum lot area for shoreline lots shall be 30,000 square feet and the minimum average lot width shall be 150 feet with at least 150 feet of frontage at the ordinary high-water mark.

### **4.3 Substandard Lots**

4.31 After adoption of this ordinance, no lot areas shall be so reduced that the dimensional and yard requirements required by this ordinance cannot be met. Lots existing and of record prior to adoption of this ordinance, but of substandard size, may be devoted to uses permitted in the district in which located if such use can be accomplished in compliance with the lot and building dimensional schedule of this ordinance.

4.32 If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this ordinance, the lots involved shall be considered to be an individual parcel for the purposes of this ordinance.

4.33 Lots created after adoption of this ordinance and which are not served by public sewer systems shall meet the minimum area requirements of the Village of Lake Nebagamon Sanitary Code and the Village of Lake Nebagamon Subdivision

Control Ordinance. Any shoreline lot must have a minimum area of 30,000 square feet and minimum width of 150 feet.

- 4.34 Other substandard lots. Except for lots which meet the requirements of Sections 4.31, 4.32, or 4.33, a building permit for the improvement of a lot having lesser dimensions than those stated in Sections 4.1 and 4.2 shall be issued only after granting of a variance by the Board of Appeals.

#### 4.4 Lots in Cluster Subdivisions

Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the county private sewage system ordinance pursuant to the procedures set forth in Section 3.2 of this ordinance.

### 18.5 SETBACKS FROM THE WATER- (Also Section 4.4 of Chapter 4) (amended 9/5/06, 9/11/07, 7/2/14, 9/3/19)

#### 5.1 Setback of Structures

1. Lots that abut on navigable waters shall be subject to Section 3.12 of this code and these additional regulations shall apply:
  - A) All setback measurements will be made from the high water mark to the structure's dripline nearest the water.
  - B) The Zoning Commission, with the advice of the Wisconsin Department of Natural Resources, shall determine the normal high water line where not already established.
  - C) Except where exempt, see (D), a setback of 75 feet from the water to a building or fixed structure will be maintained. Where an existing development pattern exists, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot, but the shoreland setback may not be reduced to less than 35 feet from the ordinary high-water mark of any navigable waters.
  - D) Exempt structures include:
    - 1) Boathouses meeting the following criteria:
      - Structure used for the storage of boats and related equipment, not for habitation.
      - Structure not to exceed 180 square feet in total size, measured from the dripline, and be no more than 10 feet in height.
      - Setback from the high water mark shall be a minimum of 2 feet and a maximum of 20 feet, measured from the dripline nearest the water.
      - Will not be permitted on a slope exceeding 20% incline.
      - One boathouse is allowed per parcel as an accessory to an existing principal structure.
      - A Land Use permit is required for construction.

- 2) Gazebos and unattached screen houses meeting the following criteria:
  - Structure used for sitting, viewing and/or dining, not for habitation.
  - Structure not to exceed 180 square feet in total size, measured from the dripline, and be no more than 10 feet in height.
  - Setback from the high water mark shall be a minimum of 35 feet, measured from dripline nearest the water.
- E) Piers, wharves, and where permitted, removable boat shelters, may be placed by riparian owners in accordance with the Wisconsin Administrative Code NR 326, provided:
  - 1) Placement is limited to no more than two berths for the first 50 feet of shoreline and one berth for each additional 50 feet of shoreline under common ownership.
  - 2) All berths on a lot shall be located at a single site.
  - 3) Placement of more than 10 berths on a lot shall require a conditional use permit.
  - 4) Piers wharves, and boat shelters for commercial marinas or other businesses may be located only adjacent to shorelines that are zoned C-1 Commercial.
- F) Private sewage disposal systems shall conform to the setback requirements of the Lake Nebagamon zoning ordinance and the applicable rules, regulations and laws as set forth in the Wisconsin Statutes, the Wisconsin Administrative Code as administered by the Douglas County Zoning Office and the Lake Nebagamon Sanitary Sewer Ordinance.
- G) Setback reductions may be permitted by the Board of Appeals pursuant to Section 10.5 of this Ordinance.

#### 5.14 LAKE ACCESS

1. All private lake accesses; lake access easements; or out-lots; deeded or contractual accesses for the purpose of lake access shall meet the following requirements:
  - A) The access to a navigable waterway for back-lot or off-lake development shall meet the minimum lot and parcel size requirements of this Shoreland Zoning Ordinance. The lot width shall be measured at right angles at all points along its side lot lines and the minimum required lot area shall exclude any wetlands. A contiguous buffer area of the minimum required lot area shall exclude any wetlands. A contiguous buffer area of 25 feet along each side lot line running the full depth of the lot shall remain in its natural state or improvements made with native species.
  - B) The number of single family lots, building sites, single family units or single family condominium units utilizing said access shall be limited to four (4)

parcels with deeded access recorded with Douglas County Register of Deeds.

- C) No Structures will be allowed on the lake access parcel.
- D) The creation or use of land for a lake access shall be conditional use only. The Zoning Commission shall consider the size, shape, depth, present and potential use of the lake, and the effect of the private access on public rights in navigable waters.

## **18.6 REMOVAL OF SHORE COVER** (Also Section 4.5 of Chapter 4) (amended 9/3/19)

### **A. PERMIT REQUIRED**

A land use permit will be required for:

- removal of shore cover (trees and shrubbery) from the high water mark to 35' inland.
- landscaping, filling, grading, lagooning, dredging, ditching and excavating within 300' of the ordinary high water mark of any navigable water. (See 18.7)

The permit is to include complete plans for all alterations, mitigation and restoration of the affected area(s). There shall be no fee for this permit.

### **B. PENALTY**

Completion of work detailed in 6.1 without securing a permit, or that is in violation of an issued Land Use permit, will result in a \$1000.00 fine and required restoration of the affected area.

#### **6.1 Shoreline Cutting**

(NR 115.05(1)(c)1.) To protect natural scenic beauty, fish and wildlife habitat, and water quality, the Village shall regulate removal of vegetation in shoreland areas, consistent with the following: The Village shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

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

- 6.11 Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors is allowed. Per Wis. Stats. §59.692(1f)(b), the viewing corridor

may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridors may run contiguously for the entire maximum width of the shoreline frontage owned per parcel.

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

## 6.2 Paths

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

## 6.3 Cutting Plan

As an alternative to Section 6.11, a special cutting plan allowing greater cutting may be permitted by the Zoning Commission by issuance of a conditional-use permit, pursuant to Section 10.4. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The Commission may grant such a permit only if it finds that such special cutting plans:

6.31 Will not cause undue erosion or destruction of scenic beauty, and

6.32 Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement planting, the Commission may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.

## 6.4 Cutting More Than 35 Feet Inland

From the inland edge of the 35 foot line parallel to the high water mark to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

## **18.7 FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCAVATING**

(also Section 4.6 of Chapter 4) (amended 9/3/19)

### A. PERMIT REQUIRED

A land use permit will be required for:

- removal of shore cover (trees and shrubbery) from the high water mark to 35' inland. (see 18.6)

- landscaping, filling, grading, lagooning, dredging, ditching and excavating within 300' of the ordinary high water mark of any navigable water.

The permit is to include complete plans for all alterations, mitigation and restoration of the affected area(s). There shall be no fee for this permit.

## B. PENALTY

Completion of filling, grading, lagooning, dredging, ditching & excavating as described in 18.7(A) without securing a permit, or that is in violation of an issued Land Use permit, will result in a \$1000.00 fine and required restoration of the affected area.

### 7.1 General Standards

Filling, grading, lagooning, dredging, ditching or excavating may be permitted in the shoreland area provided that:

- 7.11 It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- 7.12 Filling, grading, lagooning, dredging or excavating in a shoreland-wetland district meets the requirements of Sections 8.132 and 8.133 of this ordinance.
- 7.13 All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- 7.14 Any fill placed in the shoreland area is protected against erosion by the use of rip-rap, vegetative cover or a bulkhead.

### 7.2 Artificial Waterways

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

### 7.3 Permit Conditions

In granting a zoning permit for filling, grading, lagooning, dredging, ditching & excavating, the Village Zoning Administrator shall attach the following conditions, where appropriate:

- 7.31 The smallest amount of bare ground shall be exposed for as short a time as feasible.
- 7.32 Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

- 7.33 Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- 7.34 Lagoons shall be constructed to avoid fish trap conditions.
- 7.35 Fill shall be stabilized according to accepted engineering standards.
- 7.36 Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- 7.37 Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or rip-rap are provided.

## **18.8 SHORELAND OVERLAY DISTRICTS**

### **8.1 Shoreland-Wetland Overlay Districts**

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

#### **8.11 Locating Shoreland-Wetland Boundaries**

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the Douglas County Zoning. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The Zoning Administrator shall initiate a map amendment to correct any mapping errors.

#### **8.12 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.

### 8.13 Permitted Uses

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

8.131 Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, dredging, ditching, tiling or excavating as allowed under Section 8.132 or 8.133:

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 agriculture crops;
5. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
6. The construction or maintenance of duck blinds.

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

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growth and harvesting of cranberries;
3. The maintenance and repair of existing agricultural drainage systems where permissible by § 30.20, Wis. Stats., including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing



agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that the filling is permissible by Ch. 30 Wis. Stats, and that dredged spoil is placed on existing spoil banks where possible;

4. The construction or maintenance of fences for the pasturing of livestock, including 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.

8.133 Uses which require the issuance of a zoning permit under Section 10.2 and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specially provided below:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agriculture 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 8.152;
  - 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 Chapter 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 criteria in Section 8.133(1), (a)-(d);  
and
  - c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation 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; and
  - 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 8.152(2).

#### 8.14 Prohibited Uses

Any use not listed in Sections 8.13(1), 8.13(2), or 8.13(3) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 8.15 of this ordinance and § 59.69(5)(e), Wis. Stats.

## 8.15 Rezoning of Lands in the Shoreland-Wetland District

8.151 For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate district office of 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 5 days of the filing of such petition with the Village 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 Zoning Commission's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the Village Board; and
4. Written notice of the Village Board's decision on the proposed amendment within 10 days after it is issued.

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

1. Storm and flood water storage capacity;
2. Maintenance of dry season streamflow, 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>.

8.153 If the Department notifies the Zoning Commission that 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 8.152 of this ordinance, that amendment, if approved by the Village Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the Village 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 Village Board that it will adopt a superseding shoreland ordinance for the county under § 59.69 and 59.692(6), Wis. Stats. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the § 59.69 and 59.692(6), Wis. Stats., adoption procedure is completed or otherwise terminated."

## **18.9 LEGAL PRE-EXISTING USES AND STRUCTURES**

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

### **9.2 Shoreland Nonconforming Uses**

1. Compliance with legal pre-existing principal building provisions. Any shoreland building, structure, premises or fixture that constitutes a nonconforming use and is also a legal pre-existing principal building must adhere to the provisions set forth in subsection for nonconforming shoreland structures.
2. Prohibited Expansion. The alteration of, or addition to, or repair in excess of fifty percent (50%) of the assessed value of any existing building, premises, structure or fixture for the purpose of carrying on a nonconforming use is prohibited. (§ 59.69 (10) (am) Wis. Stats.)
3. Exceptions to Prohibited Expansion. If the alteration, addition or repair of a legal pre-existing building or structure in the shoreland district with a nonconforming use is prohibited because it is for the purpose of carrying on a nonconforming use and is in excess of fifty percent (50%) of the assessed value of the existing building, premises, structure or fixture, the property owner may still make the proposed alteration, addition or repair if the property owner meets all provisions set forth in subsection 9.4 for legal pre-existing structures and:

- a) The alteration, addition or repair is not for the purpose of carrying on a nonconforming use.
  - b) A nonconforming use is permanently changed to a conforming use.
  - c) The property owner appeals the determination of the Zoning Administrator and Village Board of Appeals or the Circuit Court finds in favor of the property under § 59.694(4) or 59.597(10), Wis. Stats.
  - d) The property owner successfully petitions to have the property rezoned by amendment of this Chapter and § 59.69(5)(e), Wis. Stats.
4. Discontinuance. If a shoreland nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this Chapter.
  5. Temporary Structures. If the shoreland nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.
  6. Nuisances. Uses that are nuisances shall not be permitted to continue as nonconforming uses.

#### 9.21 Legal Pre-Existing Principal Structures and Buildings

1. Shoreland Setback. The minimum setback applied based on the classification of the water body to the ordinary high water mark of any navigable water body to the nearest part of a building or structure shall apply.
2. Legal Pre-existing Principal Structure Located Less than Thirty-five (35) Feet from the Ordinary High Water Mark. With respect to such structures located less than thirty-five (35) feet from the ordinary high water mark:
  - a) An existing structure that was lawfully placed when constructed, but that is located within the shoreland setback, may be maintained and repaired within its existing building envelope. Such internal improvements may be constructed without a land use permit.
  - b) Maintenance and repair includes such activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, siding or roof. A flat roof may be replaced with a pitched roof subsequent to obtaining a land use permit and compliance with mitigation required under Subsection 9.4.
  - c) Repair or replacement of a foundation is considered maintenance and repair if:
    1. The foundation is repaired or replaced to the size, including the footprint and total square footage and location that it had before the repair or replacement; and

2. If there is repair or replacement of 33% or more of the lineal perimeter of the foundation, the owner obtains a permit and complies with mitigation requirements under Subsection 9.4.
    - d) Repair or replacement of a foundation or wall(s) which requires any land disturbance in the vegetation protection area shall require obtaining a land use permit and compliance with the mitigation requirements of Subsection 9.4 are complied with.
3. Legal Pre-existing Principal Structure Located Thirty-five (35) Feet or More but less than Seventy-five (75) Feet from the Ordinary High Water Mark. A legal pre-existing principal structure located thirty-five (35) or more feet, but less than seventy-five (75) feet from the ordinary high water mark may be expanded vertically, provided that:
  - a) The resulting structure shall not exceed thirty-five (35) feet in height, as defined in ch. NR 115.05(1)(f), Wisconsin Administrative Code.
  - b) The property owner obtains a land use permit and complies with the mitigation requirements of Subsection 9.4.
  - c) All other provisions of the Village of Lake Nebagamon Shoreland Zoning Ordinance shall be met.
  - d) If use of the principal structure has been discontinued for a period of twelve (12) months or more, any further use of the structure shall conform to this chapter.
4. Legal Pre-existing Principal Structure Located Seventy-five (75) Feet or More from the Ordinary High Water Mark. An existing structure that was lawfully placed when constructed, but that does not comply with the required building setback, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements, and all other provisions of the Village of Lake Nebagamon Shoreland Zoning Ordinance are met.
5. Additional Requirements for Certain Nonresidential Buildings on Shoreland Lots. A legal pre-existing building, or portion thereof, which is not used for human habitation, or a use ancillary thereto, is subject to the provisions of (2) through (4).
6. Replacement or Relocation of Legal Pre-Existing Principal Building. An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback, may be replaced or relocated on the property provided all of the following requirements are met (per 2011 WI Act 170 & NR 115 Wisconsin Administrative Code):

- a) The use of the structure has not been discontinued for a period of twelve (12) months or more.
- b) The existing structure is at least thirty-five (35) feet from the ordinary high-water mark.
- c) No portion of the replaced or relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure.
- d) The Village determines that no other location is available on the property to build a structure of comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement.
- e) Mitigation requirements are complied with.
- f) The Village issues a permit that requires all other structures on the lot or parcel that do not comply with the shoreland setback requirement, and are not exempt under NR 115.05(1)(b)1m, Wisconsin Administrative Code, to be removed by the date specified in the permit.

- 7. Compliance with Most Restrictive Zone Standards. Legal pre-existing principal structures, and buildings which are located in more than one setback zone, shall comply with the standards of the more restrictive zone.

### 9.3 Impervious Surface Standards

The construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high water mark of any navigable waterway must meet the following requirements:

- 1. Lots or Parcels with 15% or Less Impervious Surface. Up to 15% of the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark may consist of impervious surface without the need for mitigation.
- 2. Lots or Parcels with More than 15% but no more than 30% Impervious Surface. Between 15% and 30% of the portion of a lot or parcel that is within 300 feet of the ordinary high water mark may consist of impervious surface provided that the landowner obtains a permit and provided that the mitigation measures of Subsection 9.4 are complied with.
- 3. Lots or Parcels with More than 30% Impervious Surface. No more than 30% of the portion of a lot or parcel that is within 300 feet of the ordinary high water mark may consist of impervious surface.

4. Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the current standards, the property owner may do any of the following:
  - a) Maintenance and repair of all impervious surfaces;
  - b) Replacement of existing impervious surfaces with similar surfaces within the existing building envelope;
  - c) Relocation or modification of existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed at the effective date of the Village of Lake Nebagamon Shoreland Zoning Ordinance, and meets the applicable setback requirements in s. NR 115.05(1)(b), Wisconsin Administrative Code.

#### 9.4 Mitigation Measures

1. Actions that trigger mitigation

---

- a) Exceeding the maximum impervious surface area allowed (9.3(2))
- b) Lateral expansion of a nonconforming principal structure (9.2(3))
- c) Relocation of a nonconforming principal structure (9.21(6), 9.3(2))
- d) Vegetative buffer required as mitigation under open-sided structure provision 9.43.

2. Required mitigation. A site plan and implementation schedule describing any required mitigation shall be submitted by the property owner or their authorized agent and approved by the Zoning Commission prior to issuing the related land use permit(s). Mandatory practices for mitigation shall include:

- a) Evaluation and if needed upgrading of any existing sanitary system on the subject property to meet current Village of Lake Nebagamon and Department of Commerce Regulations.
- b) Implementation of standard erosion and stormwater runoff control measures described in applicable sections of this ordinance.

3. Additional requirements

- a) Shall accumulate at least two (2) points from among the following proposed or current practice:



1. Maintenance of an existing shoreland buffer area within 35 feet of the Ordinary High Water Mark of lakes and rivers and streams (2 points) .
  2. Restoration of the shoreland buffer area within 35 feet of the Ordinary High Water Mark of lakes, rivers and streams (2 points).
  3. Restoration of native vegetation along both side yards, minimum of 5 feet wide measured perpendicular to the lot line for the entire length of the lot. (1/2 point).
  4. Removal of legal pre-existing accessory buildings from within the shoreland setback area (1 point per building).
  5. Use of exterior building materials or treatments that are inconspicuous and blend with the natural setting of the site (1/2 point).
  6. Removal of waterward improvements (seawalls, dockage, artificial sand beach etc. and / or restoration of emergent aquatic vegetation (1 point for each distinct removal /restoration effort).
  7. Any other mitigation that is deemed appropriate by the Zoning Administrator may be used to meet the mitigation requirement of Section 9.4(2)(a).
4. It shall be required to file with the Zoning Commission a Mitigation Plan signed by the property owner, Zoning Chairman and Zoning Administrator. A deposit of five hundred dollars (\$500) will be required for mitigation, which will be returned when mitigation is completed.

#### 9.41 Type of Shoreland Buffer

The type of shoreland buffer restoration required under Section 9.4(3) will be determined by the Zoning Department and/or the Land Conservation Department. The buffer type shall be either woodland, prairie, or wetland. The woodland and prairie buffers shall comply with the standards set forth in Section 9.42 Table 1. Wetland buffers will also be permitted where deemed appropriate by the Zoning Department and/or the Land Conservation Department.

9.42 Table 1. Shoreland Buffer Planting Standards

Layer	Woodland Buffer		Prairie Buffer		Area Credits
	Minimum number of species	Density per 100 square feet	Minimum number of species	Density per 100 square feet	
Tree Canopy	3	1	2	0.02	Existing tree canopy edge viewing corridor
Shrub Understory	4	1.5	2	0.5	Existing shrub understudy wet edge viewing corridor
Ground cover Plant Plugs	1	70	5	70	Existing well vegetated native ground cover
Ground cover seeding	1	Varies	5	Varies	Existing well vegetated native ground cover

**WI Biology Technical Note 1: Shoreland Habitat; Interim Standard # 643A Shoreland Habitat** provides specific criteria for Shoreland Habitat establishment and for determining the dimensions of the practice (Section V). It identifies the necessary components of a Shoreland Habitat establishment plan (Section VII), and lists criteria for operation and maintenance of the practice (Section VIII).

9.43 Type of Vegetation Recovery

1. Natural Recovery Shoreland buffer areas that are suited for natural recovery will be allowed only after Zoning Commission approval consultation with DNR as necessary.
2. Accelerated (planted) Recovery Areas not suited to natural recovery will require plantings to establish native vegetation and must be planted. Areas such as lawns or eroded sites with no seed source will require plantings. Dense turf grass growths that have been maintained for several

years will need to be removed and native plantings installed. Planted buffers must meet the required plant densities based on square footage of buffer area and the type of buffer (Table 1). Planting credits will be allowed for the viewing corridor, areas of existing native vegetation, and areas suited for natural recovery.

- 9.44 Village of Lake Nebagamon Native Plant List Species of plants must be selected from the Village of Lake Nebagamon Native Plant List, and approved for shoreline buffers by the Zoning Commission. Substitutions must be approved by the Zoning Commission. Substitutions to the list will be allowed in the event of lack of plant stock or seed availability on a case-by-case basis. All plants may be transplanted from areas outside of the buffer zone.
- 9.45 Planting Densities Planting densities are based on the total area of the required buffer. Area credits calculated are subtracted from the total required density on an equal square footage of coverage basis. Trees must be at least 2 years old and greater than 1 foot tall to qualify as a credit or planting.
- 9.46 Shoreland Buffer Plan Requirements - A shoreland restoration plan shall be completed for all required shoreland mitigation or preservation. Plans must be approved by the Zoning Commission.

1. Shoreland Buffer Restoration Site Plans must include:

- a) Name and Address of property owner
- b) Property address and legal description
- c) Extent of the shoreland buffer
- d) Scale (e.g. 1 inch = 10 feet)
- e) North arrow
- f) Ordinary high water mark (OHWM) location
- g) Location of all structures in the shoreland buffer zone
- h) Viewing and access corridor
- i) Boundary of the shoreland buffer zone
- j) Existing trees, shrubs, and native ground cover
- k) Areas to be planted with trees, shrubs, and groundcovers
- l) Implementation schedule
- m) A plant species list; indicate if you are requesting substitutions from the prepared list
- n) Erosion control practices ( to be installed prior to and during buffer establishment)
- o) Water diversions and channelized flow areas
- p) Buffer Maintenance (weeding, replanting)

2. Implementation schedule. - The approved Shoreland Buffer Restoration Site Plan must be started within one year from the issue date of applicable permit. All plantings and any other required activities in the Shoreland Buffer Restoration Site Plan must be completed within two years of the permit issue date.

## 9.5 Replacement Of Existing Structures

1. Voluntarily Demolished - Unless paragraph 2. applies, a structure may not be rebuilt or replaced closer than the applicable OHWM setback if it has been voluntarily demolished such that any of the following apply:
  - a) Replacement of 50% or more of the building.
  - b) The existing use of the structure has been discontinued for twelve consecutive months as a result of the demolition.
2. Damaged or Destroyed by Violent Wind, Fire, Flood, Vandalism, Ice, Snow, Mold and Infestation - As required by § 59.692(1s), Wis. Stats., if an existing structure has been destroyed or damaged after October 14, 1997 by violent wind, fire, flood, vandalism, ice, snow, mold and infestation, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:
  - a) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this ordinance.
  - b) Except as provided in § 87.30 (1d), Wis. Stats., a building located closer than seventy-five (75) feet from the ordinary high water mark that is subject to regulation under a floodplain zoning ordinance may not be reconstructed or repaired except in compliance with the floodplain zoning ordinance.
  - c) The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged structure had immediately before the destruction or damage occurred.
  - d) Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire or flood, and only that portion of the structure that has been destroyed may be reconstructed.

- e) The private onsite wastewater treatment (septic) system serving the principle structure shall meet current standards for new construction.

## 9.6 Legal Pre-Existing Uses

1. Burden of Proof. - A property owner claiming a legal pre-existing use and exemption from applicable regulations shall prove by a preponderance of the evidence that:
  - a) The use was legally established;
  - b) The use predated zoning provisions with which it does not comply;
  - c) The use was active and actual prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property, in which case no vested right to continue the use shall have been acquired.
2. No Expansion. A legal pre-existing use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a structure which, on the date the use became legal pre-existing, was only partially devoted to such use.
3. Discontinuance. If a legal pre-existing use is discontinued for twelve (12) consecutive months, any future use of the building, structure, or property shall conform to this ordinance. If the legal pre-existing use of a temporary structure is discontinued, such legal pre-existing use may not be recommenced.
4. Nuisance. Legal pre-existing uses, which are nuisances, shall not be permitted to continue.

## 18.10 ADMINISTRATIVE PROVISIONS

- 10.1 Zoning Administrator - The Zoning Administrator shall have the following duties and powers:
  - 10.11 Develop and administer a system of permits for new construction, development, reconstruction, structural alteration or moving of buildings and structures. A permit application shall be required to be submitted to the Zoning Administrator.
  - 10.12 The regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.

- 10.13 To develop and administer a variance procedure which authorizes the Board of Appeals to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
  - 10.14 To implement a special exception (conditional use) procedure under Section 10.3 herein.
  - 10.15 To maintain a complete record of all proceedings before the Board of Appeals and Planning and Zoning Commission
  - 10.16 To supply written notice to the appropriate DNR office 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 Village for review under Ordinance 8.2.
  - 10.17 To submit to the appropriate DNR office, within 10 days after grant or denial any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.
  - 10.18 To map zoning districts on an official copy of such map, of all district boundary amendments.
  - 10.19 The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in § 59.69(11) Wis. Stats.
  - 10.20 The prosecution of violations of the shoreland ordinance.
- 10.2 Zoning Permits.
- 10.21 When Required. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in Sections 8.131, 8.132 and 8.133 Zoning Ordinance), a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 8.2 Zoning Ordinance, or any change in the use of an existing building or structure, is initiated.

10.22 Application. An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the Village and shall include for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of applicant and property owner;
2. Legal description of the property and type of proposed use;
3. A sketch of the dimensions of the lot and location of buildings relative to the lot lines, centerline of abutting highways and the ordinary high-water mark of any abutting watercourse and the water level on a date specified;
4. Location and description of any existing private water supply or sewage system or notification of plans for any such installation;
5. Plans for appropriate mitigation (when required);
6. Payment of the appropriate fee and
7. Any other additional information required by the Zoning Administrator.

10.23 Expiration of Permit. Zoning permits shall expire 12 months from date issued if no substantial work has commenced.

### 10.3 Conditional-Use Permits

10.31 Application for a Conditional-Use Permit. Any use listed as a conditional-use in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional-use permit has been granted by the Village Zoning Commission.

10.32 Standards Applicable to All Conditional-Uses. In passing upon a conditional-use permit, the Zoning Commission shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions;
2. The prevention and control of water pollution including sedimentation;
3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage;
4. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover;
5. The location of the site with respect to existing or future access roads;
6. The need of the proposed use for a shoreland location;
7. Its compatibility with uses on adjacent land;
8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems; and
9. Location factors under which:
  - a) Domestic uses shall be generally preferred;

- b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source; and
- c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

10.33 Use Conditions. Upon consideration of the factors listed above, the Zoning Commission shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Violations of any of these conditions may include, but are not limited to, specifications for, without limitation because of specific enumeration herein: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Zoning Commission may require the applicant to furnish, among other things, the following information:

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

10.34 Notice, Public Hearing and Decision. Before passing upon an application for a conditional-use permit, the Zoning Commission shall hold a public hearing. Notice of such public hearing, specifying time, place and matters to come before the Commission, shall be given a Class 2 notice under Chapter 985, Wis. Stats. Such notice shall be mailed to all applicable agencies at least 10 days prior to the hearing. The Zoning Commission shall state in writing the grounds for granting or refusing a conditional-use permit.



10.35 Recording. When a conditional-use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decisions on a conditional-use permit shall be mailed to the appropriate Department within 10 days after it is granted or denied.

10.36 Revocation. Where the conditions of a conditional-use permit are violated, the conditional-use permit may be revoked by the Zoning Commission.

10.4 Variances - The Board of Appeals may grant upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that literal enforcement of the provisions of the ordinance will:

1. Result in unnecessary hardship on the applicant,
2. Due to special conditions unique to the property, and
3. That such variance is not contrary to the public interest.

10.41 Notice, Hearing and Decision. Before passing on an application for a variance, the Board of Appeals shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be mailed to the appropriate Department at least 10 days prior to the hearing. The Board shall state in writing the reasons for granting or refusing a variance and shall mail a copy of such decision to the appropriate Department within 10 days of the decision.

10.5 Board of Appeals (2.07 ZONING BOARD OF APPEALS (amended 11/13/12) )

The President of the Village Board shall appoint a Zoning Board of Appeals for the Village of Lake Nebagamon that shall consist of five (5) members, one (1) Village Board Member, one (1) Zoning Board Member and three (3) appointed citizens, and two (2) alternate members, all shall be appointed by the Village President and confirmed by a majority vote of the Village Board. All will have mandated training yearly. Members first appointed shall serve 1 for one year, 2 for two years and 2 for three years and the alternate member shall serve 3 years. Thereafter, all members shall be appointed for 3 years. The board shall have the powers and duties prescribed by § 62.23 of the Wis. Stats.

10.51 Powers and Duties.

1. The Board of Appeals shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by § 59.694, Wis. Stats.

2. It shall hear and decide appeals where it is alleged there is error in any order, requirements, decisions or determination made by an administrative official in the enforcement or administration of this ordinance.
3. It may grant a variance from the dimensional standards of this ordinance pursuant to Zoning Ordinance Section 11.
4. In granting a variance, the Board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the Board may impose any reasonable permit conditions to affect the purpose of this ordinance.

10.52 Appeals to the Board. Appeals to the Zoning Board of Appeals may be made by any person aggrieved or by an officer, department, board or bureau of the village affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be made within a reasonable time, as provided by the rules of the Board, by filing with the officer whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other officer whose decision is in question shall promptly transmit to the Board all the papers constituting the record concerning the matter appealed.

#### 10.53 Hearing Appeals and Applications for Variances

1. The Board of Appeals shall fix a reasonable time for hearing on the appeal or application. The Board shall give public notice thereof by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances and appeals for map or text interpretations.
2. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 10 days after they are granted or denied.
3. The final disposition of an appeal or application to the Board of Appeals shall be in the form of written resolution or order signed by the chairman and secretary of the Board. Such resolution shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

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

## 10.6 Fees

General. The Village Board, may by resolution, adopt fees including, but not limited to the following:

1. Land use permits;
2. Conditional-use permits;
3. Planned Residential Unit Development reviews;
4. Public hearings;
5. Legal notice publications; and
6. Variances and administrative appeals.

## 18.11 CHANGES AND AMENDMENTS

The Village may from time to time, alter, supplement or change the boundaries of Use Districts and the regulations contained in this ordinance in accordance with the requirements of § 59.69 and 59.692, Wis. Stats., Wisconsin Administrative Code Ch NR 115, Zoning Ordinance section 12 and this ordinance where applicable.

- 11.1 Amendments to this ordinance may be made on petition of any interested party as provided in § 59.69, Wis. Stats.
- 11.2 Every petition for a text or map amendment filed with the Village Clerk shall be referred to the Zoning Commission. A copy of each petition shall be mailed to the appropriate district office of the Department within 5 days of the filing of the petition with the Village Clerk. Written notice of the public hearing to be held on a proposed amendment shall be mailed to the appropriate district office of the Department at least 10 days prior to the hearing.
- 11.3 A copy of the Village Board's decision on each proposed amendment shall be forwarded to the DNR district office within 10 days after the decision is issued.

## 18.12 ENFORCEMENT AND PENALTIES

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator or the zoning agency shall refer

violations to the Village Attorney who shall expeditiously prosecute violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to § 59.69 and 66.0113, Wis. Stats.

## 18.13 DEFINITIONS

13.1 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.

13.2 The following terms used in this ordinance mean:

1. **Accessory Construction** - means construction, replacement, placement, or modification of but not limited to decks, porches (open or screened), and walkways.
2. **Access & Viewing Corridor**- a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone (NR 115.03(1d))
3. **Accessory structure or use** - means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use. Accessory structures include, but are not limited to: detached garages, barns, gazebos, patios, decks, swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways and lifts.
4. **Boathouse** - means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.
5. **Building Envelope** - means the three dimensional space within, which a structure is built.
6. **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 Planning and Zoning Commission.
7. **Department** - means the Department of Natural Resources.
8. **Development** - means any man made change to improve real estate, including but not limited to the construction of buildings, structures or accessory structures; the construction or additions or substantial alterations to buildings, structures or

accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

9. **Drainage System** - means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
10. **Enclosed Dwelling Area** - means the enclosed floor space within a principal structure including but not limited to attached garages, three season porches, lofts and breezeways. (Existing basements and decks are excluded when calculating existing enclosed dwelling area.)
11. **Expansion** - means any structural modification, which increases the existing structure envelope or footprint.
12. **Exterior improvement** - means upgrades in aesthetics, function, or worth of the outside surface(s) or components of a structure. Such improvements may include, but are not limited to, structural alteration for the expansion or addition of doors, windows, replacement of basement/foundation walls and footings.
13. **Floodplain** - means the land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and flood fringe as those terms are defined in Wis. Adm. Code NR 116.03(16).
14. **Footprint** - the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a dwelling or building includes the horizontal plane bounded by the furthest exterior wall and eave (if present), projected to natural grade. For structures without walls (decks, stairways, patios, carports, etc.) a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves or deck projected to natural grade. This would constitute lateral expansion under NR 115 and would need to follow NR 115.05(1)(g)5.
15. **Impervious Surface** - An area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes, among other things, frozen soil and decks that have at least a ¼ inch space between deck boards with a pervious surface below. "Impervious surface" includes, among other things, rooftops, sidewalks, driveways, parking lots, streets, shingles, concrete and asphalt. Roadways as defined in §. 340.01(54) Wis. Stats. or sidewalks as defined in § 340.01(58) Wis. Stats. are not considered impervious surfaces.
16. **Interior improvement** - means upgrades in aesthetics, function, or worth of the interior surface(s) or components of a structure. Such improvements may include, but are not limited to, replacement or the addition of interior doors, cabinets, drywall, insulation, or plumbing, heating, and electrical system components. No land use permit is required.
17. **Legal Pre-Existing Structure** - a dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was

- enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.
18. **Lot** - a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.
  19. **Lot Area** - the area of a horizontal plane bounded by the front, side and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.
  20. **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 (NR 115.03(4r))
  21. **Navigable waters** - Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state (NR 115.03(5)). Under §. 281.31(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under § 59.692, Wis. 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.
  22. **Nonconforming Structure** - means a dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.
  23. **Nonconforming Use** - means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.
  24. **Ordinary high-water mark** - means the point on the bank or shore up to which the present action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, or other easily recognized characteristics.
  25. **Ordinary Maintenance and Repair** - means ordinary and routine actions necessary to continue or restore the safe and healthy use of a structure which has been damaged or has deteriorated through natural aging and wear and which does not result in a substantial structure improvement or a significant increase in value. Such actions may include, but are not limited to, painting and staining, and the repair of the following; exterior windows, skylights, doors, vents, siding, insulation, shutters, gutters, flooring, shingles, roofing materials, walls or

the foundation, and internal improvements within the structural envelope without doing a structural alteration.

26. **Principal Building or Principal Structure** - means a structure that is designed for independent human habitation and includes sanitary and/or food preparation facilities whether such structure is attached to another structure(s) or stands alone.
27. **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.
28. **Renovation and remodeling** - (see "Ordinary Maintenance & Repair").
29. **Shorelands** - 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.
30. **Shoreland Setback (Area)** - 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 under section § 59.692 Wis. Stats.
31. **Shoreland-wetland district** - means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made part of this ordinance.
32. **Structural Alteration** - means any activity not considered ordinary maintenance and repair that results in a change to the integral framework, or the exterior silhouette or footprint of a structure.
33. **Structure** - a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit (§ 59.692(1)(e) Wis. Stats.)
34. **Substandard Lot** - a legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements for a new lot.
35. **Unnecessary hardship** - means that circumstances where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
36. **Variance** - means an authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.
37. **Village zoning agency** - means that committee or commission created or designated by the Village Board under § 59.69(2), Wis. Stats., to act in all matters pertaining to village planning and zoning.

38. **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.

**ADOPTION:**

Passed and adopted this 5<sup>th</sup> day of December, 2017.

---

Sonda Strom Larson, Village President

---

Amy K. Huber, Village Clerk



## Section 19

### SUBDIVISION ORDINANCE

#### 19.1 AUTHORITY, PURPOSE AND INTERPRETATION

In accordance with the authority granted by Wis. Stats. § 236.45 and for the purposes listed in Wis. Stats. § 236.01 and 236.45 (1963), the Village Board ordains:

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village.

This Ordinance shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter controls on land use.

#### 19.2 GENERAL PROVISIONS (amended 7/13/21)

1. Subdivision includes any division of a parcel of land by the owner or the owner's agent for purpose of sale or building development where:
  - A. The act of division creates two or more parcels of any size.
  - B. Two or more parcels of any size are created by successive divisions within a five year period.
  - C. No lots having less than 100 feet of shoreland frontage shall be subdivided and sold as independent parcels. For example, if a property owner has 250 feet of shoreland frontage on which a cabin or house and a guest cabin are located or where a cabin or house is located on one side of the parcel and the other side is vacant, the owner shall not be permitted to divide the lot so that any newly created parcels are less than 100 feet in width.
2. Every division of land within the Village or within its extraterritorial jurisdiction shall be subject to the provisions of this Ordinance and Wis. Stats. § 236. A certified survey map is required for land divisions of four parcels or less; a subdivision plat is required for land divisions of five parcels or more.
3. In addition to the provisions of this Ordinance and Wis. Stats. § 236, all subdivisions shall conform to the Zoning Ordinance and Official Zoning map and the General Development or Comprehensive Plan for the Village of Lake Nebagamon and its extraterritorial planning area.
4. For all subdivision improvements required to be installed by the subdivider, the subdivider shall provide satisfactory proof that he has contracted to install such improvements or shall file a performance bond ensuring installation of such

improvements within the time required by the Planning & Zoning Commission and Village Board.

5. The specifications for all improvements shall be improved by the Village Engineer or other person designated by the Village Board. Prior to either acceptance of the improvement by the Village Board or release of the subdivider's bond, all improvements shall be inspected and found to have been installed according to the specifications.
6. Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Wis. Stats. § 236.13(5) and 62.23(7)(e)(10-15), within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting is arbitrary, unreasonable or discriminatory.

### 19.3 DEFINITIONS

1. **ALLEY** - A special public way affording only secondary access to abutting properties.
2. **ARTERIAL STREET** - A street used, or intended to be used, primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways and parkways.
3. **BUILDING LINE** - A line parallel to a lot line and at a distance from the lot line to comply with the Village Zoning Ordinance yard requirement.
4. **COLLECTOR STREET** - A street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.
5. **COMMUNITY** - A town, municipality, or a group of adjacent towns and/or municipalities having common social, economic or physical interests.
6. **COMPREHENSIVE PLAN** - The extensively developed plan, also called a master plan, adopted by the Village Planning & Zoning Commission and certified by the Village Board pursuant to Wis. Stats. § 62.23, including proposals for future land use. Transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as zoning, official map, land division, and building line ordinances and capital improvement programs shall also be considered a part of the comprehensive plan.
7. **CUL-DE-SAC STREET** - Minor street closed at one end with a turnaround provided for passenger vehicles.
8. **EXTRATERRITORIAL PLAT APPROVAL JURISDICTION** - the unincorporated area within one and one-half (1 ½ ) miles of a fourth class city or a village and within three (3) miles of all other cities.
9. **FRONTAGE STREET** - A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

- 10. MINOR STREET** - A street used, or intended to be used, primarily for access to abutting properties.
- 11. MUNICIPALITY** - An incorporated village.
- 12. PLANNING AGENCY** - Any agency created by a city council, county board or village board and authorized by statute to plan land use such as a rural planning committee, a park commission, a zoning committee or a planning commission.
- 13. PUBLIC WAY** - Any public road, street, highway, walkway, drainage way, or part thereof.
- 14. REPLAT** - The changing of the boundaries of a recorded subdivision plat or part thereof.
- 15. SUBDIVIDER** - Any person, firm or corporation, or any agent thereof, dividing, or proposing to divide land resulting in a subdivision, minor subdivision or replat.
- 16. SUBDIVISION** - See Section 19.2 (1).

## 19.4 PROCEDURE FOR SUBMITTING SUBDIVISIONS

### 1. PRELIMINARY MEETING

Before filing a preliminary plat, the subdivider shall consult with the Planning & Zoning Commission and/or its staff for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on a topographic survey map shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities.

### 2. PRELIMINARY PLAT

The subdivider must submit to the Planning & Zoning Commission and to those agencies having the authority to object to plats under provisions in Wis. Stats. § 236, a preliminary plat based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale not more than one inch per 100 feet having two foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities, and dedications of land) easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvement will be provided. Any proposed restrictive covenants for land involved shall be submitted.

After review of the preliminary plat and negotiations with the subdivider on changes being advisable and the kind and extent of public improvement which will be required, the planning Commission shall reject or approve conditionally the preliminary plat within 40 days as provided by statute.

Approval of a preliminary plat shall entitle the subdivider to final approval of the layout shown by such plat, provided the final plat conforms substantially to such layout and other conditions of approval have been met.

### 3. FINAL PLAT

Final plats shall be submitted to the Planning & Zoning Commission within six months of the preliminary plat acceptance unless this requirement is waived in writing by the Planning & Zoning Commission. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Wis. Stats. § 236.12 (2).

The final plat shall be accompanied by detailed construction plans of all improvement. The final plat shall be presented to the Planning & Zoning Commission at least ten work days prior to the meeting at which it is to be considered and shall be accepted or rejected by the Planning & Zoning Commission and the Village Board within 60 days of its submission, unless the time is extended by an agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Village Board meeting and a copy thereof or a written statement of such reasons shall be given to the subdivider. Approved final plats shall be recorded in accordance with the statutory requirements prior to the time that lots are offered for sale, reference is made to the map for sale purposes, or use is made of lot and block numbers shown on the plat.

If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval of the Planning & Zoning Commissions and Village Board will be inscribed on the original of the final plat, the surveyor or subdivider shall certify the respects in which the original of the final plat differs from the true copy, and all modifications must first be approved. All approval must be in writing and a copy attached to the final plat.

## 19.5 DESIGN STANDARDS

### 1. STREET AND LOTS

- A. The subdivider shall dedicate land and improved streets as provided herein. Streets shall conform to the official Map Ordinance of Streets and shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities, land uses and public convenience and safety.
- B. All lots shall have sufficient frontage on a public street to allow vehicular access.

- C. Street locations shall be consistent with any street plans officially adopted by the Village. All street right-of-way widths, radius of curvature and grades shall conform to the following requirements:

<b>STREET TYPE</b>	<b>RIGHT-OF-WAY MINIMUM WIDTH</b>	<b>MINIMUM RADIUS OF CURVATURE</b>	<b>MAXIMUM GRADE</b>
Arterial or Highway	120 feet	300 feet	6.00%
Collector (carries traffic from minor streets to arterials or highways)	80 feet	200 feet	7.00%
Minor (provides access to individual lots)	66 feet	100 feet	10.00%

- D. Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit.
- E. Minor streets shall be so laid out so as to discourage their use by through traffic.
- F. The number of intersection sof minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements.
- G. Where a subdivision abuts or contains an existing or proposed arterial road, non-access reservation along the rear of the property contiguous to such highway, or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- H. Reserve strips controlling access to streets shall be prohibited.
- I. A tangent at least 100 feet long shall be required between reserve curves on arterial and collector streets.
- J. Streets shall afford maximum visibility and safety and shall intersect at right angles, where practical.
- K. Dedication of half-width streets shall be prohibited unless approved by the Planning & Zoning Commission and the Village Board.
- L. Permanent dead end streets or cul-de-sacs shall not be longer than 600 feet, shall have a minimum width of 50 feet and terminate with a turn around having a roadway diameter of at least 90 feet, and an outside right-of-way diameter of at least 120 feet.
- M. Where possible, lot lines shall be perpendicular to the street line, and to the tangent at the lot corner or curved streets.
- N. Lots shall follow, rather than cross, municipal boundary lines whenever practical.

- O. No street names shall be used which will duplicate or may be confused with the name of existing streets. Street names shall be subject to the approval of the Planning & Zoning Commission.

## 2. BLOCK DESIGN

- A. The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated.
- B. To provide adequate access and circulation to community facilities, the Planning & Zoning Commission may require that sidewalks be provided, either along streets or through the center of blocks. Center crosswalks shall not be less than ten feet wide.
- C. The Planning & Zoning Commission may require that certain species of trees be planted on both sides of all streets.
- D. Subdivision lots in the Village shall be in conformance with the area and width requirements of the Village Zoning Ordinance. Area and width requirements of subdivision lots in the extraterritorial planning area shall conform to the Village Ordinances and Administrative Code H65 of the Division of Health.

## 19.6 IMPROVEMENTS

### 1. GENERAL PROVISIONS

The following provisions shall apply to the subdivisions platted with the Village and may be applied to subdivisions platted within the extraterritorial plat approval jurisdiction of the Village. The Village Board may waive any of these provisions if it is found that they are not necessary for the orderly development of the subdivision, but due deliberation must be made to ensure proper services and amenities for subsequent development.

- A. The improvements required under these regulations shall be constructed by the subdivider and at the subdivider's expense prior to the filing with the Planning & Zoning Commission and the Village Board of the final plat for final approval, in accordance with the specifications and under the supervision of the officials having jurisdiction; or
- B. In lieu of constructing the improvements as required in paragraph (1) above, the subdivider shall furnish the Village Board with a surety performance bond or other form of surety running to the Village of Lake Nebagamon sufficient to cover the subdivided cost of such required improvements, as estimated by the Village Engineer, thereby to secure the actual constructions and installation of such improvements immediately after final approval of the plat or at a time in accordance with the requirements of the Village Board.
- C. In the event the procedure under Paragraph (2) is followed, the construction of all improvements required by these rules and regulations must be completed within

two years from the date of approval of the final plat by the Village Board unless good cause can be shown for the granting of an extension of time by authority of the Village Board. If no extension is granted, the Village, at its options, may cause all uncompleted required work to be constructed, and the parties executing the bond shall be firmly bound for the payment of all necessary costs thereof.

- D. The approval of the final plat by the Village Board shall constitute acceptance of the dedication of any public street, road, or highway dedicated in such plat.
- E. Where unusual or exceptional factors or conditions exist, the Village Board may modify the provisions of this Ordinance. A written statement of the reasons for such modifications shall be attached to all copies of the construction plans.

## 2. IMPROVEMENTS THAT SHALL BE REQUIRED AT THE EXPENSE OF THE SUBDIVIDER

- A. Streets rough graded from property line to property line, and terraces top soil to conform to specifications established by the Village Board and on the file in the Village Clerk's office.
- B. A public sanitary sewer system adequate to provide a subdivision with a complete sanitary system, including a lateral connection for each lot, and connected in a satisfactory manner to the Village Sanitary Sewer System. Where no connection to the Village Sanitary Sewer System is possible, sewage treatment facilities shall be installed in compliance with the requirements set forth in Chapter 83 of the Wisconsin Administrative Code and permits obtained from the Douglas County Zoning Department.
- C. A complete water distribution system adequate to serve the area platted including connections for each lot. The entire system shall be designed to meet the approval of the Village Board and the Village Engineer. The Village shall pay for and install all necessary fire hydrants, providing the developer appropriately advises the Village from time to time when the system is ready for the installation of said hydrants.
- D. A stormwater sewer or drainage system adequate to serve the area being platted and otherwise meeting the approval of the Village Board and the Village engineer.
- E. If a pumping station is required to pump either sanitary wastes or storm water into the existing public sewer mains, the subdivider shall install, at no expense to the Village, a pumping station and forcemain approved by the Village engineer and adequate to service a substation, and shall deed said pumping station, force main, equipment, and site to the Village of Lake Nebagamon prior to acceptance of the final plat. If a greater capacity system is desired by the Village, the subdivider shall be required to pay only that portion of the total cost attributable to the (his) subdivision.
- F. All bridges and culverts.

3. IMPROVEMENTS THAT MAY BE REQUIRED AT THE EXPENSE OF THE SUBDIVIDER

- A. Concrete curb and gutter constructed to conform with specifications established by the Village Board.
- B. Concrete sidewalks of such width and type of construction as required by the Village Board.

4. CONSTRUCTION PLAN AND INSPECTION REQUIRED

- A. Whenever any improvements are required by the Village, construction plans for improvements to be installed shall be furnished in accordance with the specifications of the officials having jurisdiction and shall receive approval of these officials before improvements are installed. The following plans shall be required:
  - 1. The profile of each proposed street with tentative grades indicated.
  - 2. The cross section of each proposed street showing the width of pavement, curb and gutter; the location and width of sidewalks and terraces; and the location and size of utility mains.
  - 3. The plans and profiles of proposed sanitary sewers and storm water sewers, with grades and sizes indicated; or method of sewage or stormwater disposal in lieu of sewers.
  - 4. Any such other related plans or information whether enumerated herein or not that may be required by the officials having jurisdiction.
- B. Prior to starting any of the work covered by the plans approved as above, arrangements shall be made to provide for inspection by the Village Engineer of the work sufficient, in the opinion of the Village Engineer and the Village Board, to ensure compliance with the plans and specifications as approved and written approval obtained from the Village Engineer and the Village Board to start the work. All cost of such inspection by its Engineer shall be borne by the Village.
- C. The subdivider is to engage his own contractors on his own responsibility for all required work; he may, however, contract with the Village of Lake Nebagamon to do part or all of the work for him at the subdivider's expense. Nothing contained herein, however, shall obligate the Village to perform such work unless it so voluntarily contracts with the subdivider to perform part of all of the work.



D. It shall be the policy of the Village of Lake Nebagmaon to absorb any extraordinary costs for major utility and street improvements (including right-of-way acquisition) which benefit a much broader area than the subdivision under consideration. Such improvements shall include:

1. Sanitary sewers where mains larger than eight inches in diameter are required.
2. Water lines where mains larger than six inches in diameter are required.
3. Storm sewers where pipes larger than 12 inches in diameter are required.
4. Street improvements (including right-of-way acquisition) where more than 66 feet of right-of-way and 32 feet of pavement width are required.

## 5. STAGE DEVELOPMENT

In all instances where it shall appear to the satisfaction of the Village Board that the whole of the plat and its subdivision cannot immediately be fully improved with respect to the installation of all storm and sanitary sewers and related facilities, water mains and related facilities, and street improvements, or by reason of unavoidable delay in the acquisition of land necessary for such improvements, or by reason of unavoidable delay in obtaining necessary engineering data and information, or for any other good reason for cause, the Village Board may in its sole discretion authorize the subdivider to proceed with the installation of improvement required under this Ordinance on a portion of a part of said subdivision and in such event the requirements of this Ordinance shall apply to that portion or part thereof authorized for immediate improvement.

## 19.7 EASEMENTS

1. The Planning & Zoning Commission shall require easements for poles, wires, conduits, storm and sanitary sewers, gas, water, and head mains or other utility lines. Easements shall be at least ten feet wide and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines.
2. The Planning & Zoning Commission shall require that easements or drainage ways be provided where a subdivision includes a segment or segments of watercourses, drainage ways, channels or streams.

## 19.8 PUBLIC RESERVATION

The Planning & Zoning Commission may require that suitable sites of adequate area be dedicated or reserved for future public uses such as parks, playgrounds, and open spaces. In locating such sites, consideration shall be given to preserving scenic and historic sites, stands

of fine trees, marshes and shorelines. Reservation of land for public acquisition shall be for a period to be agreed upon by the Village Board and the subdivider.

## 19.9 VARIANCES

1. The Village Board and Planning & Zoning Commission may grant variances from the provisions of this Ordinance, but only after determining that:
  - A. Because of the unique conditions of the subdivision involved, literal application of the Ordinance would impose hardship.
  - B. The variance by not violate the purpose of the Ordinance or the provisions of Wis. Stats. § 236.
2. The requirement of filing and recording a plat for subdivision shall not be waived.

## 19.10 ENFORCEMENT, PENALTIES AND REMEDIES

The Village Planning & Zoning Commission shall have primary responsibility for enforcing this Ordinance. No Land Use permit shall be issued for construction on any lot until the final plat for the subdivision has been duly recorded, or a certified survey map is recorded.

Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$25 nor more than \$200 and the costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payments thereof, but not exceeding 30 days.

Each day a violation exists or continues shall constitute a separate offense. In addition, the remedies provided in Wis. Stats. § 236.30 and 236.31 shall be available to the Village.

## 19.11 SEPARABILITY

Invalidation of any part of this Ordinance by a court shall not invalidate the rest of this Ordinance.

## 19.12 EFFECTIVE DATE AND APPLICATION

This Ordinance shall be in force from and after its passage, publication and recording according to law.

This Ordinance shall apply not only to the subdivisions and additions herein above set forth in the body of this Ordinance, but shall also apply, insofar as payment of costs for improvement or subdivisions is concerned, to those subdivisions and additions o, or parts thereof, already platted and approved, which are undeveloped, wholly or partially, as of the effective date of this Ordinance.

Nothing in this Ordinance shall be construed as creating for or an assumption by the Village of Lake Nebagamon of any liability for injuries loss or damage caused by a compliance or failure to comply of any subdivider or developer to maintain all improvements in a safe condition until relieved of such responsibility.

All ordinance, parts of ordinances, resolutions or parts of resolutions inconsistent with this ordinance are hereby repealed.

Adopted by the Village Board of Lake Nebagamon this third day of April, 1979.

Attest:

\_\_\_\_\_  
Ernest Vennerstrom, Village President

\_\_\_\_\_  
Marilyn Parish, Village Clerk

Subdivision Ordinance number system (Section 19) applied April 15, 2013.

## Section 20

### EFFECTIVE DATE

This Ordinance shall take effect the day after the proof of posting has been filed and recorded as provided in Wis. Stats. §19.84.

Amended and adopted by the Board of Trustees of the Village of Lake Nebagamon, this June 7th of 2016.

---

Sonda Strom Larson, Village President

Attest:

---

Amy K. Huber, Village Clerk