

**TOWN OF LA POINTE
TOWN PLAN COMMISSION
PUBLIC HEARING**

Wednesday, June 12, 2013

5:00 P.M.

At the La Pointe Town Hall

The Town Plan Commission will hold a Public Hearing to hear public comment regarding proposed amendments to the text of Zoning Ordinance.

AGENDA

- 1. CALL TO ORDER**
- 2. CONFIRM POSTING/PUBLICATION**
- 3. PUBLIC COMMENT**
 - A. Section 2 Definitions:**
 - Add definitions for Greenhouse, Hoophouse, Garage Shelter Canopy. Amend definition of Camping Unit.
 - B. Section 4 General Provisions**
 - Amend 4.2(G) Minor Accessory Structures
 - 4.2(I) Correct reference to Department of Commerce
 - 4.3(B)(3) Amend Boarding house parking requirement
 - 4.3(B)(11) Correct reference to Section 10 for consistency
 - 4.3(D)(2) Amend to allow a long term camping unit on a property with a principal dwelling
 - C. Section 5.7 Removal of Signs**
 - Add and “(s)” at the end of “sign”
 - D. Section 7 Conditional Uses**
 - Add reference to proposed Section 10 regarding conflict of interests & ex parte communication.
 - E. Section 8 Administration**
 - 8.3(B) Amend Land Use Permit Application requirements
 - 8.4 Amend Permit Process
 - F. Section 10 Zoning Board of Appeals:** Revise entire Section
 - G. Section 15.2 Complaints – Conditional Use Permits:** Amend reference to section 7
 - H. Section 16.3 Zoning District Use Matrix:** Correct “aircraft/airplane hangar” to a permitted use
- 4. ADJOURN**

Minor formatting corrections are also proposed throughout.

Proposed amendments may be viewed at www.townoflapointewi.gov with paper copies available at the La Pointe Town Hall. Anyone wishing to express their views or concerns regarding the changes is invited to attend this Public Hearing or submit their views in writing to the attention of the La Pointe Zoning Administrator at lapointeza@cheqnet.net, PO Box 270, La Pointe, WI 54850, or fax (715) 747-6654.

**Ted Pallas
Town Plan Commission Chair**

**Jen Croonborg-Murphy
Zoning Administrator**

The La Pointe Town Hall is a handicap accessible facility. However, if you require special needs or services pertaining to a disability please contact the Zoning Administrator at (715) 747-2707 with reasonable notice and every attempt will be made to accommodate.

ZONING ORDINANCE

TOWN OF LA POINTE

MADELINE ISLAND

ASHLAND COUNTY, WISCONSIN

PROPOSED LANGUAGE CHANGES PER RESOLUTION 2013-0515



(14) CAMPING UNIT:

Any portable device, no more than four hundred (400) square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent. Camping units shall not be considered a minor accessory structure.

(15) CERTIFIED SURVEY MAP:

A Certified Survey Map (CSM) is a map made according to Chapter 236 of Wisconsin State Statutes. Refer to Technical Memorandum # 3 Subdivision Ordinance.

(16) COMMERCIAL ENTERTAINMENT FACILITY:

A public entertainment facility including, but not limited to, theaters, bowling alleys, mini golf, arcades, etc.

(17) DORMITORY/STUDENT HOUSING:

A building or part of a building with sleeping accommodations for students enrolled in a commercial educational facility located in the Town of La Pointe.

(18) DWELLING:

A building or part thereof designed or used exclusively as a residence or sleeping place, but not used for transient occupancy, except when complying with Sections 6.2.B and 6.2.C of this Ordinance.

(19) DWELLING, MULTI-FAMILY:

A dwelling on one plot containing separate living units for two or more families, but no more than four (4), but which may have joint services or facilities or both.

(20) DWELLING, SINGLE FAMILY:

Single Family Dwelling shall mean a building or structure designed or constructed to be occupied by a single family for the purposes of human habitation.

(21) EDUCATIONAL FACILITY, COMMERCIAL:

A school limited to special instruction such as business, art, music, trades, handicraft, dancing, or riding.

(22) EDUCATIONAL FACILITY, PUBLIC:

A building where persons regularly assemble for the purpose of educational classes and instruction, together with the playgrounds, athletic fields, stadiums, and other structures or grounds used in conjunction therewith; provided, however, that the definition of “educational facility, public” is limited to public or private schools used for primary or secondary education in which classes for students in kindergarten and/or all or some of grades one through twelve (12) are regularly taught, or special education facilities in which students with physical or learning disabilities regularly receive specialized education in lieu of attending kindergarten or any of grades one through twelve (12).

(23) ESSENTIAL SERVICES:

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

(24) FAMILY:

A person living alone or two or more people living together as a single housekeeping unit as distinguished from a group occupying a boarding house or rooming house.

(25) FLOODPLAIN:

The land that has been or may be covered by flood water during the regional flood and includes the floodway and flood fringe and may include other areas as designated by Ashland County Zoning for regulatory purposes.

(26) FOREST CROPS AND PRODUCTS:

The growing and harvesting of trees. The processing of logs by sawing, kiln drying, shaping, planing and otherwise preparing lumber for re-sale. The sale of lumber processed on the property, as well as the sale of crops such as logs and firewood.

(27) GARAGE SHELTER CANOPY:

Any structure with a steel collapsible frame and fabric cover and sides, not to exceed two hundred fifty (250) square feet.

(28) GRADE:

When used as a reference point in measuring the height of a building, the grade shall be the average elevation of the finished ground at the exterior walls of the main building.

(29) GREENHOUSE:

A building with transparent walls and roof, usually of glass, for the cultivation and exhibition of plants under controlled conditions, not to exceed one hundred twenty (120) square feet.

(30) HEALTH CARE FACILITY:

Unless otherwise specified, the term "Health Care Facility" includes a sanitarium, prevention clinic, rest home, nursing home, convalescent home, assisted living facility, and any other place for the diagnosis, treatment or other care of ailments.

(31) HOME BUSINESS:

A business, profession, occupation, or trade conducted for gain or support in conjunction with a residence in a manner that meets the requirements of Section 6.4.C of this Ordinance.

(32) HOME OCCUPATION:

The secondary and incidental use of a dwelling or accessory structure by a person residing in the dwelling to produce goods and services with limited visits by customers and vehicles and limited activities outside of the dwelling or accessory structure in a manner that meets the requirements of Section 6.4.B (examples include woodworking, pottery, hair care, licensed day care or a tradesman using the home as a base of operations).

(33) HOME OFFICE/STUDIO:

The secondary and incidental use of a dwelling by a person residing therein conducting business activities that does not include visits from the public to the premises or activities outside of the dwelling in a manner that meets the requirements of Section 6.4.A (examples of activities are telemarketing, writing, drafting, electronic commerce via the internet, and arts and crafts not requiring machinery not normally used in a residential dwelling).

(34) HOOPHOUSE:

A flexible-plastic covered structure for the cultivation and exhibition of plants, not to exceed two hundred fifty (250) square feet.

(35) IMPERVIOUS SURFACE

An area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious.

G. Accessory Uses and Structures

An accessory use or structure is one that is clearly incidental to and customarily found in connection with the principal use or structure to which it is related. If attached to the principal building shall be considered part of the principal building. All accessory structures shall conform to the setback requirements required of the principal building of the district within which it is located. Accessory structures require a land use permit.

The following Minor Accessory Structures are allowed without a Land Use Permit unless there is land disturbing activities done in conjunction with placement of such structure include but isn't limited to the following:

1. Birdhouses and Birdfeeders
2. Brick BBQ's
3. Chicken Coops not to exceed one hundred (100) square feet**
4. Driveway pillars and gates*
5. Fences under ten (10) feet in height*
6. Garage shelter canopy**
7. Garbage and refuse bins
8. Greenhouses (one (1) only without permit)**
9. Hoophouses (one (1) only without permit)**
10. Hunting blinds
11. Ice fishing shacks
12. LP storage tanks and fuel oil tanks used for heating
13. Pet house not to exceed one hundred (100) square feet**
14. Picnic tables
15. Planters and flower boxes*
16. Play Equipment
17. Residential Compost Containers
18. Satellite Dishes
19. Solar Collectors
20. Tool/storage shed not to exceed one hundred (100) square feet (one (1) only without permit)**
21. Tree Houses for children
22. Warming sheds for school children*
23. Well house covers (small)
24. Wind Generator, Telecommunication and Radio Tower, Solar Collector under thirty five (35) feet high

*Note: Does not need to meet road frontage setback, however, shall not be located in the right of way of any public or private road.

**Note: Shall meet required setbacks. Reference Section 4.2.A.1.

Note: Other Permits may be required due to land disturbing activities.

Note: Moveable shall mean no slab, foundation, or sanitary connection.

I. Construction site maintenance and erosion control

It is the intent of this Section to require erosion control practices that will reduce the amount of sedimentation and other pollutants from leaving project sites during construction or land disturbing activities and entering wetlands, shoreland areas, floodplains, drainage ways, waters of the State, adjacent property, or any public or private roadway.

1. This Section applies to all construction sites and land disturbing activities such as, but not limited to, land disturbing activity prior to excavation for foundation work, installation of driveways, parking areas, earth work on sites not directly related to structural concerns (filling and grading), and development of ponds and channelized water courses. This Section does not apply to the following:
 - a. Construction or land disturbing activity regulated by the Wisconsin Department of Safety and Professional Services ~~Department of Commerce~~ Uniform Dwelling Code or Commercial Building Code.
 - b. Nonpoint discharge from agricultural or silviculture land uses including but not limited to the harvesting of crops, growing and tending of gardens, harvesting of trees, and landscaping.
 - c. Maintenance and repair of existing driveways.
2. Where land-disturbing activity is to occur, erosion and sediment control practices shall be employed as necessary and maintained to prevent or reduce the potential deposition of soil or sediment from leaving the site.
3. Land disturbing activities, except those activities necessary to implement erosion or sediment control practices, may not begin until the sediment control practices are in place for each area to be disturbed.
4. Erosion control devices shall be used where necessary to minimize erosion and sedimentation. Erosion control devices include sedimentation basins, filter fences, straw bales and mulch, tarps, temporary and permanent seeding, sodding and channeling surface water around disturbed areas.
5. Monitoring. The owner or owner's agent shall check the erosion and sediment control practices for maintenance needs at all the following intervals until the site is stabilized:
 - a. At least weekly.
 - b. Within twenty-four (24) hours after a rainfall event of point five (0.5) inches or greater. A rainfall event shall be considered to be the total amount of rainfall recorded in any continuous twenty-four (24) hour period.
6. Site de-watering. Water may not be discharged in a manner that causes erosion of the site, adjacent land, or receiving channels.

4.3 SUPPLEMENTARY REGULATIONS

A. Airport Safety Zones

Except for field crops and fences under five (5) feet high, the maximum height of any object located within five hundred (500) feet of either side of the centerline of a landing strip, and extended to a distance of two (2) miles from the end of the runway shall be no higher than one one-hundredth (1/100) of the distance of the object to the landing strip. Refer to the Height Limitation Zoning Map for Madeline Island Airport.

B. Off-Street Parking

Any building hereafter erected, or converted to commercial use, or placed on a lot, or added onto in such way as to increase the square footage of usable floor space, shall provide off-street parking spaces specific to its use and in the manner and number described below.

1. All dwelling units, whether a single family dwelling, condominium, multi-family dwelling, motel or other rental unit shall provide off street parking either on-premises or on adjacent premises in the number and manner described below:
 - a. Single Family dwellings shall each provide two (2) off-street parking spaces.
 - b. Each rental unit and each unit in a multi-family dwelling, motel, hotel, condominium, bed and breakfast, or similar use shall provide at least two (2) off-street parking spaces.
2. Loading and Unloading Requirements. Any use that requires deliveries or shipments shall provide sufficient off-street loading and unloading space so that no public street, alley, or access to any parking area is blocked by such activities.
3. The number of off street parking spaces required for non-residential uses is shown in the following table:

<u>USE</u>	<u>MINIMUM PARKING REQUIRED</u>
Auditorium, Theater, Religious Facility, Community Center, and Places of Public Assembly	One (1) space for every seven (7) seats
Boarding House	One (1) space per bedroom/ <u>sleeping unit</u>
Campground	Two (2) spaces per campsite

6. Handicap Parking Requirements.

In addition to any other requirements relating to parking spaces contained in this Ordinance, the provisions contained in State Statute Section 101.13, 346.503, and 346.56 and any Wisconsin Administrative Code Sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

7. Landscaping.

All public and private off-street parking areas which serve four (4) vehicles or more, are located within fifteen (15) feet of any lot line or right of way and are created or redesigned and rebuilt subsequent to the adoption of this Section shall be provided with accessory landscape areas totaling not less than ten percent (10%) of the parking area. The minimum size for each landscaped area shall not be less than one hundred (100) square feet.

8. Lighting.

Any lighting used to illuminate an off-street parking area shall be directed away from residential properties and public or private streets in such a way as not to create a nuisance.

9. Exceptions.

No off-street parking shall be required for buildings existing in the C-1 District as of the date of enactment of this section, except such off-street parking as is already in existence as of the date of enactment of this Section.

10. Abandonment.

No parking space, or driveway providing access thereto, shall be abandoned, closed, converted to another use, or in any way eliminated from use as a parking space or driveway, unless adequate off-street parking and access are provided to the property in full compliance with the provisions of this Ordinance.

11. The Board of Appeals

The Board of Appeals may, by granting of a variance, relax the regulations of this Section as provided in Section ~~10.4.C.2.N~~ of this Ordinance.

C. Non-Conforming Lots of Record

Any lot that does not meet current dimensional length, width, or area requirements of a District as specified in Section 3 of this Ordinance is considered to be "non-conforming." Any lot created and recorded prior to May 26, 1972, or that becomes non-conforming because of a subsequent revision of the dimensional requirements of the Town of La Pointe Zoning Ordinance after May 26, 1972, or because of the construction of a public roadway by the Town of La Pointe or Ashland County, is considered to be "a Lot of Record."

1. Setback Relief for Non-Conforming Lots of Record

Non-Conforming Lots of Record shall be eligible for relief from the setback requirements specified in Section 3 of this Ordinance in accordance with the following provisions:

2. Long Term Camping Unit

A long-term camping unit shall be allowed subject to the following:

- a. A camping unit in use for more than thirty (30) days in any calendar year shall require a Town Land Use Permit, an Ashland County Building Permit (where applicable), and an Ashland County Sanitary Permit for such activity. Wheels and tires shall remain in the in-transit position.**
- b. No more than one long-term camping unit shall be allowed on any individual lot.**
- c. No porches, lean-tos, or additions shall be constructed onto or immediately adjacent to a camping unit. Canvas screens or awnings shall be allowed.**
- d. A wooden deck may be provided adjacent to a camping unit subject to the following:**
 - The deck shall not exceed two hundred fifty-six (256) square feet in area.**
 - The deck may be enclosed by open railings, but shall not have built-in benches or tables.**
 - The deck shall not have a permanent foundation in the ground.**
 - Appropriate permits have been obtained.**
- e. A camping unit and deck may only be skirted with lattice; however, solid skirting may be installed immediately adjacent to the tires.**
- f. No accessory ~~principal~~ dwelling currently exists on the property.**
- g. The Long-term camping unit shall not be let or rented.**

5.7 REMOVAL OF SIGNS

The Zoning Administrator may order the removal of any sign erected in violation of this Section. The Zoning Administrator shall give five (5) days' notice in writing to the owner of such sign, or of the building, structure, or premises on which the sign is located, to remove the sign or to bring it into compliance. If the sign owner does not comply with the orders of the Zoning Administrator, the Zoning Administrator is authorized to remove the sign or have the sign removed and the removal charged to the owner of the sign. The Zoning Administrator may remove a sign immediately and without notice, if, in his/her opinion, the condition and/or location of the sign are such as to present an immediate threat to the safety of the public and the cost of the removal of the sign(s) charged to the owner of the sign(s).

- D. The Town Plan Commission shall establish a date for a Public Hearing on the application to be held within thirty (30) days of receipt of the completed application and related documents. A Class 2 notice under Chapter 985 Wisconsin Statutes shall be published in the Ashland Daily Press once per week for two (2) consecutive weeks with the last insertion occurring at least seven (7) days prior to the Public Hearing. Notice of the Public Hearing shall be mailed by 1st class mail at least ten (10) days before the Public Hearing to all owners of record of lots or parcels within three hundred (300) feet of the property, except as may be extended or expanded otherwise at the discretion of the Zoning Administrator and/or the Town Plan Commission. If the property is within one thousand (1,000) feet from Lake Superior, the Wisconsin Department of Natural Resources and the Ashland County Zoning Administrator shall be mailed a notice. Notice shall also be posted at the posting locations designated by the Town Board at least ten (10) days prior to the Public Hearing. A copy of the application and relevant documents shall be kept by the Zoning Administrator in the Zoning Office for public inspection.
- E. The public hearing shall be a joint hearing of the Town Plan Commission and Town Board with a quorum of voting Members in attendance.
- F. All members of the Town Plan Commission and Town Board shall make every effort to personally inspect the proposed site before the Public Hearing on the matter.
- G. Unless the applicant waives the right to timely action in writing, within thirty (30) days of the Public Hearing, the Town Plan Commission shall meet to consider the application and make a recommendation to the Town Board. Section 10.2(A)(1 through 3) shall apply to Members of the Commission when making a recommendation. The recommendation shall be in the form of a motion approved by a majority of the Town Plan Commission members. No Commissioner may vote on the application without either attending the Public Hearing or having submitted a signed affidavit stating that they listened to the recording of the Public Hearing. If the recommendation is for approval, the motion shall include any terms or conditions recommended to be included in the Conditional Use Permit. These conditions may address the site plan, timetable of development, operation of the proposed use, surety requirements for performance of required activities, or other considerations relevant to applicable standards. The decision of the Town Plan Commission shall be recorded in the minutes and shall be specifically related to the standards of this chapter and/or of documents related to this chapter.
- H. Within five (5) days after the Town Plan Commission decides to recommend issuance of a Conditional Use Permit, the Commission shall provide notice by personal delivery or by first class mail to the applicant, all owners of record of lots or parcels within three hundred (300) feet of the property and each objector of record, and shall post the recommendation at the designated Town posting sites. The Zoning Administrator shall forward a copy of all records associated with the recommendation to the Town Board of Supervisors.

- I. Within twenty-one (21) days of its receipt of notice that the Town Plan Commission has made a recommendation, the Town Board of Supervisors shall act on the recommendation of the Town Plan Commission. No Town Board Supervisor may vote on the application without either attending the public hearing or having submitted a signed affidavit stating that they listened to a recording of the public hearing. Section 10.2(A)(1 through 3) shall apply to Members of the Board when deciding a conditional use permit. After review of the application, recommendation, and file, the Town Board will consider the recommendation under the standards established in this chapter and may approve, approve with modification, or deny the recommendation of the Town Plan Commission. The decision of the Town Board shall be recorded in the minutes and shall be specifically related to the standards of this chapter or of documents related to this chapter.
- J. Within five (5) days of the decision by the Town Board, the Town Clerk shall provide notice by personal service or by first class mail to the applicant, objectors of record, and owners of lots or parcels within three hundred (300) feet of the decision and conditions included therein and shall post the decision at the designated Town posting sites. If the Town Board approves the issuance of a Conditional Use Permit, the Town Clerk shall draft a conditional use permit which sets forth each of the conditions approved by the Town Board. The permit is to be signed by the Town Chair and Town Clerk, with acknowledgement of the conditions placed on the property signed by the applicant. After forty-five (45) days following the Town Board's decision to issue a conditional use permit, the Town Clerk shall issue the permit. All conditions set forth in the conditional use permit shall be binding upon the property.
- K. Where the Town Board has approved or conditionally approved an application for a conditional use, such approval shall automatically become null and void within twelve (12) months of the date of the issuance of the Conditional Use Permit unless the use is commenced, construction is underway, or the current owner possesses a valid Land Use Permit for each building and/or structure contemplated. Construction under such Land Use Permit(s) shall be commenced within six (6) months of issuance and shall be substantially complete upon permit expiration. If a timetable of developments is approved as a condition under paragraph (F) of this Section, only those uses, buildings, and/or structures contemplated within this twelve (12) month time period shall be required. Upon timely application and for justifiable cause, the Town Plan Commission may grant a specific extension of this twelve (12) month period.
- L. When a Conditional Use is discontinued for twelve (12) consecutive months, the Conditional Use Permit shall be rendered void and any future use shall conform to this Ordinance. Upon timely application prior to the expiration of this twelve (12) month period and for good cause, the Town Plan Commission may grant a specific extension of this twelve (12) month period.
- M. A Conditional Use Permit application that has been denied by The Town Board shall not be accepted for re-submittal unless there has been a significant change in the proposed use or relevant conditions as determined by the Town Plan Commission.
- N. The decision of the Town Board to approve or deny a Conditional Use Permit is reviewable only by certiorari by the circuit court.

B. Land Use Application Requirements

Applications submitted for Land Use Permits to the Town of La Pointe shall be completed in their entirety in permanent ink, bearing signatures of all property owners on approved application forms. ~~Applicants are advised that applications shall not be considered without submitting to the Zoning Administrator four (4) complete sets (one set to be the original) of the following information:~~

- ~~1. Applications for Land Use Permit and Certificate of Compliance (shall be filled out in their entirety).~~
1. Approved Ashland County Sanitary Permit or approved Madeline Sanitary District Permit if on municipal sewer (if applicable).
2. Approved Ashland County Highway Permit (if applicable).
3. Approved Ashland County Building Permit (if applicable).
4. Elevations (for each side of structure, if addition/alteration existing shall be shown).
5. Site Plan. Accurately show the location, size, and shape of the lot(s) involved. Identify all existing structures and improvements. Identify all lakes, ponds, streams or wetlands. Identify relationship to streets, roads, alleys and/or easements being active, platted or reserved, wells and sanitary systems, both on or abutting property. Identify directly adjacent landowners and property use.
6. Applications for changes in land use shall identify changes in detail.
7. Floor plans showing exterior dimensions.
8. Fees.
- ~~9. Town Driveway application from Town Foreman (if applicable).~~
9. The actual building site shall be staked out prior to the Zoning Administrator's inspection.

NOTE: The Town of La Pointe does not require plans to be professionally drawn, however, they shall be of a legal and understandable quality that properly conveys all information necessary to complete project. Actual dimensions are preferred to scale maps. Failure to comply with the above instructions will result in delays in processing of applications.

The Applicant shall acknowledge by signature: "I (we) declare that this application (including any accompanying schedule) has been examined by me (us) and to the best of my (our) knowledge and belief it is true, correct and complete. I (we) acknowledge that I (we) am (are) responsible for the detail and accuracy of all information I (we) am (are) providing that will be relied upon by the Town Plan Commission and/or the Zoning Administrator in determining whether to issue a permit. I (we) further accept all liability that may be a result of the Town Plan Commission and/or the Zoning Administrator relying on the information provided in this application. I (we) agree to permit officials charged with administering the Zoning Ordinance or any other authorized person to have access to the above-described premises at any reasonable time for the purpose of inspection.

C. Expiration

Land Use Permits for construction, alteration, or removal of structures shall expire twenty-four (24) months from their date of issuance unless substantial completion has occurred within such time. Land Use Permits for land use changes shall expire twenty-four (24) months from their date of issuance where no action has been taken to accomplish such change and an extension has not been granted.

Substantial completion shall be defined, where applicable, as "foundation in" and, where applicable, "external walls up, windows in, roof on, doors installed."

8.4 PERMIT PROCESS

- A. Application by owner accompanied by necessary fees.
- B. Screening by the Zoning Administrator or designated official.
- C. If sanitary system is included, an approved sanitary permit must accompany Land Use Permit application.
- D. Inspection by Zoning Administrator or designated official.
- E. Decision by Town Plan Commission if applicable.
- F. Issuance of permit within ten (10) days after approval of Town Plan Commission, where applicable.
- ~~G. Property owner request for Certificate of Compliance inspection.~~
- ~~H. Certificate of Compliance inspection by Zoning Administrator or designated official.~~
- ~~I. Issuance of Certificate of Compliance.~~

SECTION 10.0 ZONING BOARD OF APPEALS

10.1 COMPOSITION

A Zoning Board of Appeals is hereby created. Such board shall be appointed and have such powers in accordance with the provisions of 62.23 §(7)(e) of the Wisconsin Statutes. The Zoning Board of Appeals will meet to consider certain appeals and variances. The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board and shall serve terms of three (3) years, except that of those first appointed, one (1) shall serve for one (1) year, two (2) for two (2) years, and two (2) for three (3) years. Two (2) alternates shall be selected by the Town Board to serve a three (3) year term non-concurrent to one another. Terms of alternates shall be staggered and be designated as first alternate and second alternate. Alternates to the Board of Appeals shall participate only if regular members are absent or recuse themselves from participation at a Board of Appeals meeting. The members of the Zoning Board of Appeals shall be given such compensation as to be fixed by the Town Board, and shall be removable by the Town Board for cause upon written charges and after a Public Hearing. The Town Board shall designate one of the members as chairperson. Vacancies shall be filled for the un-expired terms of members whose terms become vacant.

10.2 RULES AND PROCEDURES

A. Conflicts of Interest

- 1. Members of the Board shall avoid conflicts of interest. As used here, a conflict of interest shall include, but not necessarily be limited to, the following:**
 - a. Reviewing, deliberating upon, or voting on a case concerning oneself or work on land owned by oneself.**
 - b. Reviewing, deliberating upon, or voting on a case concerning a property located adjacent to or within three hundred (300) feet of one's property.**
 - c. Reviewing, deliberating upon, or voting on a case involving a corporation, company, partnership, or any other entity in which the person is a part owner, or has any other relationship where the person may stand to have a financial gain or loss.**
 - d. Reviewing, deliberating upon, or voting on a case, if such action results in a pecuniary benefit to oneself.**
 - e. Reviewing, deliberating upon, or voting on a case concerning one's spouse, child, stepchild, grandchild, brother, sister, parent, grandparent, or member of one's household.**

B. Officers and Duties

1. Officers. The Town Board shall designate a Chairperson and the Board of Appeals shall elect a Vice-Chairperson from among its members at the annual organization meeting. These officers shall hold office until their successors are elected. The Board may, at any meeting or hearing, elect from among the membership the replacement for an officer, who dies or for whatever reason is unable to perform the duties of the office. The officer, so elected as a replacement, shall serve until the next organizational meeting of the Board.
2. Duties of Officers. The Chairperson, if present, otherwise the Vice Chairperson, shall preside over and direct the conduct of all meetings and hearings of the Board and may administer oaths and compel the attendance of witnesses. In the absence of both the Chairperson and Vice-Chairperson, the members shall appoint a Chairperson. The Chairperson shall report on all pertinent matters that have not otherwise come to the attention of the Board. The Chairperson shall, subject to these rules and further instructions from the Board, direct the official business of the Board, supervise the work of the Board and request necessary help when required. The Chairperson or the presiding officer, subject to these rules, shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and approved. The Board may retain legal counsel.

C. Meetings

1. Time; How Called. Meetings and hearings of the Board shall be held, or may be cancelled, at the call of the Chairperson and at such other times as the Board may determine, provided that all Board members shall be notified by the Secretary at least five (5) business days prior to such meeting. All meetings shall be open to the public and in accordance with the Open Meeting Law, except that the Board may call a closed session on issues permissible under the Wisconsin Open Meeting law. Hearings shall be advertised as required by law and these rules.
2. Quorum. A quorum shall consist of a majority of all members of the Board (3 members) and no action may be taken except by a majority vote of such quorum, except a lesser number may meet and adjourn any meeting duly called and noticed to a time certain.

D. Procedure for Hearings

1. **Appearances. At the time of the hearing, the applicant or appellant may appear in his own behalf or be represented by his counsel or agent.**
2. **Witnesses. The Chairperson, or Acting Chairperson, may compel the attendance of witnesses and may require those wishing to testify to state their names and their interests in the matter before the Board. Testimony shall be taken under oath.**
3. **Order of Hearings. Hearings on cases shall normally follow this order:**
 - a. **Hearing call to order by the Chairperson**
 - b. **Roll Call**
 - c. **Notice of Public Hearing (Read by Secretary or Zoning Administrator)**
 - d. **Publication (Statement of publication of notice and distribution)**
 - e. **Filing (Filing of application, date and information)**
 - f. **Summary of the nature of the case (including uncontroverted facts) by the Zoning Administrator**
 - g. **Content of Hearing. Hearings shall be conducted with the applicant presenting his or her case first, including any witnesses the applicant wishes to call. After the applicant presents his or her case, anyone else in favor of the applicant's request shall also be allowed to speak. Then all those opposed to the application shall be allowed to speak. The applicant has the burden of proof to show that he or she is entitled to a variance or other relief being sought. In more controversial, contested cases, in which parties appear with attorneys, opening and closing statements shall be allowed. If witnesses testify regarding the facts of the case to support or rebut the claim of the applicant, cross-examination may be allowed. Usually cross-examination of witnesses does not occur. All supporting evidence for or against each case shall be presented to the Board. The applicant or appellant shall be responsible for the presentation of all information supporting the case. The Board may take administrative notice of the ordinances of the County and laws of Wisconsin to dispute, on its own motion or motion of a party.**
 - h. **Closing of testimony (statement and time).**
 - i. **Deliberation: Restricted to the Board. No public or staff participation. Board shall find the appropriate facts and conclusions of the law upon which a decision can be made. The Board may consult with legal counsel.**

j. Decision: The Board shall make an appropriate motion, including findings of fact, conclusions of law, approvals or denials, and conditions or statement of hardship for variances.

k. Adjournments. A recess or adjournment of a hearing, made at a properly noticed hearing, to a time and place certain, is adequate notice to the members and public of a new hearing date.

l. Adjournment.

4. Preliminary Matters. Following the reading of a notice of appeal or application, the Board may hear arguments on the question of jurisdiction or timeliness of the application to the Board and request that briefs be filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after the testimony is closed and render a decision on the merits as if it had jurisdiction. Generally, some testimony or other factual information will need to be presented to determine whether the board has jurisdiction.

The Board may make an immediate determination and close the hearing upon a finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request.

5. Parties Not to Interrupt. Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and factual presentations shall be addressed to the Board; and that there be no questioning or arguments between individuals, except as permitted by the Board.

6. Questions and Debate. During the hearing, Board members may ask questions and make appropriate comments pertinent to the case. However, no member shall debate or argue an issue with the applicant. The Chairperson and Board members may direct questions to the applicant or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the zoning staff.

7. Additional Evidence. The Board may take a case under advisement for later consideration and determination, or may defer action, whenever it concludes that additional evidence is needed or further study is required.

8. Postponement of Hearing. Cases may be postponed only by prior arrangement with the Chairperson.

9. Rules of Evidence. The Board shall not be bound by court rules of evidence, but it may exclude irrelevant, immaterial, incompetent, unduly argumentative or repetitious testimony or evidence.

10. Chairperson to Rule on Admissibility. The Chairperson shall rule on all questions relating to the admissibility of evidence, provided that he/she may be overruled by a majority of the Board present.
11. Interested Persons May Testify. Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves. All testimony shall be under oath.
12. Record of Hearing. All proceedings at a hearing shall be tape recorded or recorded by the Board of Appeals secretary. The Board of Appeals secretary shall prepare minutes of each meeting and hearing, which shall include discussions, witnesses, appearances, roll calls, votes and all other matters constituting the substance of the proceedings, and which shall be submitted to the Board for review and approval and shall become part of the written record filed in the office of the Board and open to the public. Any party or member of the public may make a record of the proceeding by any means which does not disturb the hearing or others present. The Board of Appeals secretary shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records of its official actions; shall summarize accurately the testimony of those appearing before the Board and keep a verbatim recording of all hearings; shall record the names and addresses of all persons appearing before the Board in person, or by attorney; and shall, subject to the direction of the Board and chairperson, conduct the correspondence of the Board and have published in a local newspaper, public notices of meetings or hearings as required by law and these rules of procedure; shall file said minutes and records in the office of the Board, which minutes and records shall be a public record.
13. Adjustments. When all appeals or applications cannot be disposed of on a day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board.
14. Withdrawal of Appeal. An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee.

E. Decision of the Board

1. All members of the Zoning Board of Appeals shall make every effort to personally inspect the site before voting on the application.
2. Majority Vote Required. If a quorum is present, the Board may take any action by a majority vote of the members present.

3. Decisions to be Written. All decisions shall be in writing and contain the findings of facts and conclusions of law upon which the decision is based. Legal counsel may assist the Board in drafting the written decision.
4. Decisions to be Mailed. Within 30 days after the close of the hearing to which a decision relates, written copies of such decision shall be mailed to the applicant and all interested parties and delivered to the Zoning Administrator, which shall constitute filing the decision in the office of the Board under Sec. 62.23(7)(h) Stats. The approval or granting of appeals by the Board is deemed to constitute an order to the Zoning Administrator to issue a zoning permit. A denial of the application or appeal by the Board is deemed to be an order to deny the permit. Copies of written decisions authorizing variances in Shoreland/wetland/non-metallic mining or floodplain cases shall be mailed to the Wisconsin Department of Natural Resources and Ashland County Zoning. A member may also disqualify himself/herself from voting whenever the applicant or the applicant's agent has sought to influence the vote of the member on his/her case outside the public hearing. All decisions of the Board shall be made at a public meeting, by motion made, seconded and passed. If conditions are imposed in the granting of a variance, such conditions shall be included in the motion.
5. Decision to Relate to Specific Property. The decision of the Board shall be deemed as applying to the property rather than to the individual and is valid only for the specific premises in the case and is not transferable to other properties
6. Informal Advice Not Binding. The Board need not respond to informal requests for advice or moot questions. Any advice, opinion or information given by any Board member, or any other official or other employee of the County shall not be binding on the Board.
7. Cases to be Determined Individually. No action of the Board shall set a binding precedent. Each case shall be decided upon its merits and upon the attendant particular facts and circumstances, provided the Board shall not act arbitrarily or capriciously.
8. Costs. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that the Board acted with gross negligence or in bad faith, or with malice, in making the decision brought up for review. The Town Board may establish reasonable fees for the filing of an appeal to the Zoning Board of Appeals.

F. Re-filings and Re-hearings

1. Re-filing Rule. No matter that has been previously acted upon by the Board shall be considered upon a new application unless one or more of the following applies:

- a. The case does not involve a request for an identical permit or does not allege the same misinterpretation or error.
 - b. The case does not contain the original request for specific variance.
 - c. Substantial change in the use of adjacent property has occurred since the previous case was heard.
 - d. The previous case was closed without a hearing because the applicant was not present at the time such case was scheduled for a hearing.
 - e. There is a claim that there should be a rehearing based upon newly discovered evidence. A rehearing will only be granted on this basis when all of the following apply:
 - The evidence has come to the moving party's notice after the initial hearing.
 - The moving party's failure to discover the evidence earlier did not arise from lack of diligence in seeking to discover it.
 - The evidence is material and not cumulative.
 - The new evidence would probably change the result.
2. Re-openings and Re-hearings Limited. The Board, on its own motion, may not reopen any case upon which a previous hearing has been held, except in the following circumstances:
- a. To correct a manifest error or when there is some ambiguity or missing element in the decision that makes it impossible for the Town Plan Commission or Zoning Department to apply the decision(s). In such a situation, the Board may reopen a case at its next scheduled meeting.
 - b. The Board, at the request of the Town Plan Commission, may also reopen a case without regard to time limits if an interpretation of a prior decision is necessary, or if interpretation, modification or enforcement of conditions of a board decision is necessary. Nothing in this section F. should be interpreted as allowing a complete reopening of the case, nor require or presume that the Board of Appeals should make any substantial change in their decision. There shall be a filing fee (reference fee schedule) assessed if the applicant is the party seeking a partial reopening under this section F. for purposes of deleting or substantially modifying a condition placed on a Board of Appeals decision. There shall be no filing fee if the request for reopening is solely at the request of the Town Plan Commission. In any rehearing or reopening of a Board of Appeals decision, the criteria for decision shall be the same legal criteria as for the original decision.

3. Closure of Case. A case will be considered as heard and closed at such time as the Board approves or rejects an application or appeal by motion. No request for reconsideration by the applicant shall be considered unless filed within 30 days after the written decision of the Board of Appeals is mailed to the applicant by the Board of Appeals secretary.
4. Procedures for Reconsideration. A simple majority vote shall be sufficient to reconsider a previous decision. If reconsideration is refused to an interested party who has requested reconsideration, the Board shall enter on the minutes the basis of the request, the reason why it was refused, and the vote of the Board members thereon. If reconsideration is approved, the case will be placed on the agenda for the next regular meeting/hearing and notice given as required for an original hearing upon payment of the re-hearing fee.

G. Staff.

The Board may utilize the assistance of the Town Hall staff and may delegate administrative tasks to such staff or to other county employees as authorized by the Town Board.

H. By-laws

The Zoning Board of Appeals may organize and adopt rules for its own governance in accordance with State statutes and Ordinance requirements.

I. Public Hearing Location

Any Public Hearing which the Zoning Board of Appeals is required to hold shall be held in the Town Hall or other place as convenient as may be to the location or locations to be considered at 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.

J. Notification of Public Hearing

Notice of any Public Hearing, which the Zoning 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 Zoning Board of Appeals at such hearing, and such notice shall be given in each of the following ways:

1. By publication in the official newspaper of the Town, at least twice, in two (2) separate weeks, not less than seven (7) days prior to the date of the hearing (Class 2 notice).
2. By posting, not less than seven (7) days prior to the date of such hearing, in each of the public places in which official notices are usually published.

K. Notice of Hearing For Interested Parties

By mailing notice thereof to the parties in interest, said publication and mailing to be made at least ten (10) days prior to the date of hearing (Class 2). The Board shall thereafter reach its decision within sixty (60) days from the filing of the completed application.

L. Certiorari

In the case of all appeals the Zoning Board of Appeals shall call upon the Town Plan Commission for all information pertinent to the decision appealed from. Decisions of the Board of Zoning Appeal shall be appealed to the circuit court by Certiorari review. Costs shall not be allowed against the Board of Zoning Appeals, unless the Board of Zoning appeals acts with malice or bad faith.

10.3 APPEALS

A. Application for Appeals

Any person aggrieved or any officer, department, board or commission of the Town affected by any decision of the Zoning Administrator or the Town Plan Commission under this Ordinance may appeal to the Zoning Board of Appeals by filing a notice of appeal with the Zoning Administrator, Town Clerk, Administrative Assistant or Clerical Assistant specifying the grounds of appeal within thirty (30) days after the decision or action complained of or the right to review will be lost. The thirty (30) day period will start to run on the day that the decision is mailed by first class mail to the applicant or permit holder. The applicant will be responsible for keeping the Town advised of a current mailing address. Mailing to the address where the property tax bills are sent for the property will be considered adequate notice.

The Zoning Board of Appeals, after a Public Hearing, may determine and vary the regulations of this Ordinance in harmony with their general purposes and intent, only in the specific instances hereinafter set forth, where the Zoning Board of Appeals makes findings of fact in accordance with the standards hereinafter prescribed, and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.

The decision of the Town Plan Commission regarding special exceptions and the interpretation of conditional use permits shall be appealable to the Board of Zoning Appeals. Nothing in this section is intended to replace the procedure in Section 7.2 of the ordinance whereby the Town Plan Commission makes a recommendation on a conditional use permit, but that the final decision is by the town board on a conditional use permit, and that the decision is reviewable only by Certiorari by the circuit court.

10.4 VARIANCES

A. Application for Variance

An application for a variance shall be filed in writing with the Zoning Administrator, Town Clerk, Administrative Assistant or Clerical Assistant. The application shall contain such information as the Zoning Board of Appeals may, by rule, require. Notice of hearing for a variance shall be sent to the Wisconsin Department of Natural Resources and the Ashland County Zoning Administrator if the property involved is within one thousand (1000) feet of the lake. The Chairperson of the Zoning Board of Appeals shall screen the application and, if supporting documentation is required, may request it from the proper custodian of the appropriate files.

B. Standards for Variances

A variance is a relaxation of a dimensional standard in land use regulations (e.g., area, height, setback, etc.). The variance procedure allows land use regulations to be adapted to unique properties. It preserves private property rights while still protecting the public interest.

There are two types of variances: use variances and area variances. A use variance regulates the way in which land in a zoning classification is used. A use variance may not be granted unless the landowner can show that without the variance they would have no reasonable use of their property.

An area variance involves an increment of relief (normally small) from a physical dimension restriction such as setbacks, frontage, height, bulk, or density regulations.

A landowner may not obtain an area variance unless they can demonstrate that an unnecessary hardship exists. "Unnecessary hardship" is best explained as whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, or density would unreasonably prevent the owner from using the property for a permitted purpose or render conformity with such restrictions unnecessarily burdensome.

In determining whether the unnecessary hardship burden is met in individual cases, the Zoning Board of Appeals should consider the facts of the case related to:

1. The purpose of the zoning restriction in question.
2. Its effect on the property.
3. The effect of the variance on the neighborhood.
4. The larger public interest.

Variations are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. They are not intended as an accommodation for a property owner's convenience. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

The above standards for variations are based upon Wisconsin case law standards at the time of this particular amendment to the Zoning Ordinance. In the event that the case law has some significant change at a later date, the Zoning Board of Appeals is authorized to apply the current appropriate legal standard if it differs from the above standards for variations.

C. Authorized Variations

Variations from the regulation of this Ordinance shall be granted by the Zoning Board of Appeals only in accordance with the standards established in this Section and may be granted only in the following instances and in no others:

1. To permit the same off-street parking facility to qualify as required facilities for two (2) or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week
2. To reduce the applicable off-street parking required by not more than one parking space; or loading facilities required by not more than or loading space, or twenty (20) percent of the applicable regulations, whichever number is greater.
3. To increase by not more than twenty five (25) percent the maximum distance that required parking spaces are permitted to be located from the use served
4. Variations may also be granted in accordance with the standards set forth in Section 10.4.B "Standards for Variations" above.

SECTION 10.0 ZONING BOARD OF APPEALS

10.1 COMPOSITION

~~A Zoning Board of Appeals is hereby created. Such board shall be appointed and have such powers in accordance with the provisions of 62.23 §(7)(e) of the Wisconsin Statutes. The Zoning Board of Appeals will meet to consider certain appeals and variances. The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board and shall serve terms of three (3) years, except that of these first appointed, one shall serve for one year, two for two (2) years, and two for three (3) years. The members of the Zoning Board of Appeals shall serve at the pleasure of the Town Board, shall be given such compensation as to be fixed by the Town Board, and shall be removable by the Town Board for cause upon written charges and after a Public Hearing. The Town Board shall designate one of the members as chairperson. Vacancies shall be filled for the un-expired terms of members whose terms become vacant.~~

10.2 RULES

A. Call for Meetings

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

B. Meetings

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

C. By-laws

~~The Zoning Board of Appeals shall organize and adopt rules for its own governance in accordance with State statutes and Ordinance requirements.~~

D. Public Hearing Location

~~Any Public Hearing which the Zoning Board of Appeals is required to hold shall be held in the Town Hall or other place as convenient as may be to the location or locations to be considered at 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.~~

E. Notification of Public Hearing

~~Notice of any Public Hearing, which the Zoning 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 Zoning Board of Appeals at such hearing, and such notice shall be given in each of the following ways:~~

- ~~1. By publication in the official newspaper of the Town, at least twice, in two (2) separate weeks, not less than seven days prior to the date of the hearing (Class 2 notice).~~

~~2. By posting, not less than seven (7) days prior to the date of such hearing, in each of the public places in which official notices are usually published.~~

~~**F. Notice of Hearing**~~

~~Notice of the time and place of such Public Hearing shall be published at least twice in a newspaper of general circulation in the Town and also by mailing notice thereof to the parties in interest, said publication and mailing to be made at least ten (10) days prior to the date of hearing (Class 2). The Board shall thereafter reach its decision within sixty (60) days from the filing of the completed application.~~

~~**G. Minutes**~~

~~The Zoning 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. Finding of fact shall be included on the record for each decision. The Zoning Board of Appeals shall keep records of its examinations and other official actions, all of which shall be public record.~~

~~**H. Performance of Duties**~~

~~The Chairperson, or, in his/her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.~~

~~**I. Effectuation**~~

~~The Zoning Board of Appeals may adopt such rules as are necessary to carry into effect the regulations of the Town Board, the Town Zoning Ordinance, and applicable Wisconsin Statutes.~~

~~**J. Certiorari**~~

~~In the case of all appeals the Zoning Board of Appeals shall call upon the Town Plan Commission for all information pertinent to the decision appealed from.~~

~~**K. Application for Appeals**~~

~~Any person aggrieved or any officer, department, board or commission of the Town affected by any decision of the Zoning Administrator or the Town Plan Commission under this Ordinance may appeal to the Zoning Board of Appeals by filing a notice of appeal with the Zoning Administrator, Town Clerk, Administrative Assistant or Clerical Assistant and with the Zoning Board of Appeals specifying the grounds of appeal within thirty (30) days after the decision or action complained of or the right to review will be lost. The thirty (30) day period will start to run on the day that the decision is mailed by certified mail to the applicant or permit holder. The applicant will be responsible for keeping the Town advised of a current mailing address. Mailing to the address where the property tax bills are sent for the property will be considered adequate notice.~~

~~The Zoning Board of Appeals, after a Public Hearing, may determine and vary the~~

~~regulations of this Ordinance in harmony with their general purposes and intent, only in the specific instances hereinafter set forth, where the Zoning Board of Appeals makes findings of fact in accordance with the standards hereinafter prescribed, and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.~~

~~The decision of the Town Plan Commission regarding Special Exceptions and Conditional Use Permits shall be appealable to the Board of Zoning Appeals.~~

~~**L. Application for Variance**~~

~~An application for a variance shall be filed in writing with the Zoning Administrator, Town Clerk, Administrative Assistant or Clerical Assistant. The application shall contain such information as the Zoning Board of Appeals may, by rule, require. Notice of hearing for a variance shall be sent to the Wisconsin Department of Natural Resources and the Ashland County Zoning Administrator if the property involved is within one thousand (1000) feet of the lake. The Chairperson of the Zoning Board of Appeals shall screen the application and, if supporting documentation is required, may request it from the proper custodian of the appropriate files.~~

~~**M. Standards for Variances**~~

~~A variance is a relaxation of a dimensional standard in land use regulations (e.g., area, height, setback, etc.). The variance procedure allows land use regulations to be adapted to unique properties. It preserves private property rights while still protecting the public interest.~~

~~There are two types of variances: use variances and area variances. A use variance regulates the way in which land in a zoning classification is used. A use variance may not be granted unless the landowner can show that without the variance they would have no reasonable use of their property.~~

~~An area variance involves an increment of relief (normally small) from a physical dimension restriction such as setbacks, frontage, height, bulk, or density regulations.~~

~~A landowner may not obtain an area variance unless they can demonstrate that an unnecessary hardship exists. "Unnecessary hardship" is best explained as whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, or density would unreasonably prevent the owner from using the property for a permitted purpose or render conformity with such restrictions unnecessarily burdensome.~~

~~In determining whether the unnecessary hardship burden is met in individual cases, the Zoning Board of Appeals should consider the facts of the case related to:~~

- ~~1. The purpose of the zoning restriction in question.~~
- ~~2. Its effect on the property.~~
- ~~3. The effect of the variance on the neighborhood.~~
- ~~4. The larger public interest.~~

~~Variations are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. They are not intended as an accommodation for a property owner's convenience. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.~~

~~The above standards for variances are based upon Wisconsin case law standards at the time of this particular amendment to the Zoning Ordinance. In the event that the case law has some significant change at a later date, the Zoning Board of Appeals is authorized to apply the current appropriate legal standard if it differs from the above standards for variances.~~

~~N. Authorized Variances~~

~~Variations from the regulation of this Ordinance shall be granted by the Zoning Board of Appeals only in accordance with the standards established in this Section and may be granted only in the following instances and in no others:~~

- ~~5. To permit the same off-street parking facility to qualify as required facilities for two (2) or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week~~
- ~~6. To reduce the applicable off-street parking required by not more than one parking space; or loading facilities required by not more than one loading space, or 20 percent of the applicable regulations, whichever number is greater.~~
- ~~7. To increase by not more than twenty five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served~~
- ~~8. Variations may also be granted in accordance with the standards set forth in Section 10.2.M "Standards for Variations" above.~~

~~O. Decision~~

~~All members of the Zoning Board of Appeals shall personally inspect the proposed site before voting on the application.~~

~~The written decision of the Zoning Board of Appeals should state the questions~~

~~before the Zoning Board of Appeals and cite the applicable standards for deciding such questions such as local ordinances, state Administrative Rules, Statutes or Judicial decisions. The decision should recount the facts that establish that applicable standards were or were not met. The Zoning Board of Appeals should direct the authority requested to issue or withhold the permit. The decision document often contains this information under subheadings titled "Findings of Fact, Conclusions of Law, Determination and Order." A notice of appeal rights and effective date of the Order must also be contained to implement the decision.~~

~~P. Quorum~~

~~A quorum of the Board of Appeals shall be three (3) members. If a quorum is present, a majority of those present shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated.~~

~~Q. Costs~~

~~Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that the Board acted with gross negligence or in bad faith, or with malice, in making the decision brought up for review. The Town Board may establish reasonable fees for the filing of an appeal to the Zoning Board of Appeals.~~

- E.** The Town Plan Commission shall meet to consider the complaint and make a recommendation to the Town Board. The recommendation shall be in the form of a motion approved by a majority of the voting Town Plan Commission Members. No Commissioner may vote without either attending the public hearing or having submitted a signed affidavit stating they listened to the recording of the public hearing. The recommendation may be to dismiss the complaint or may be to amend, suspend, or revoke the conditional use permit after consideration of the same criteria used to grant a conditional use permit in Section 7.1.C. The Town Plan Commission may also consider the subject matter of the complaint against the holder of the conditional use permit and whether the holder of the conditional use permit has complied with the conditions of the conditional use permit and applicable zoning and other regulations in the past
- F.** Within five (5) days of the recommendation the Commission shall provide notice of their recommendation by personal delivery or by first class mail to the complainant and owner(s) of the property governed by the conditional use permit.
- G.** Within twenty-one (21) days of its receipt of notice that the Town Plan Commission has made a recommendation, the Town Board shall act on the recommendation of the Town Plan Commission. No Town Board Supervisor may vote on the complaint without either attending the public hearing or having submitted a signed affidavit stating that they have listened to a recording of the public hearing. After review of the recommendation and file the Town Board may accept, accept with modification, or deny the recommendation of the Town Plan Commission after consideration of the same criteria used in deciding to grant a Conditional Use Permit in Section 7.1.(D) (~~C~~). The Town Board may also consider the subject matter of the complaint against the holder of the Conditional Use Permit and whether the holder of the Conditional Use Permit has complied with the conditions of the Conditional Use Permit and applicable zoning and other regulations in the past.
- H.** Within five (5) days of the decision by the Town Board, the Town Clerk shall provide notice of their decision by personal service or by first class mail to the complainant and owner(s) of the property governed by the conditional use permit. Notice is complete upon mailing to the property owner's address where property tax bills are sent. The decision shall also be posted at designated posting sites. If the Town Board decides to amend the conditional use permit the Town Clerk shall draft the amended conditional use permit which sets forth each of the conditions approved by the Town Board. The permit is to be signed by the Town Chair and Town Clerk, with acknowledgement of the conditions placed on the property signed by the property owner(s). All conditions set forth in the amended conditional use permit shall be binding upon the property.
- I.** The decision of the Town Board is reviewable only by certiorari by the circuit court.

16.3 ZONING DISTRICT USE MATRIX

USE	ZONING DISTRICT														
	W-P	W-1	W-2	R-1	R-2	R-3	S-1	S-2	C-1	LI-12	LI -	P-	C-V	T-P	M-1
Accessory Dwelling (1 only)		P	P	P	P	P	P	P	P						
Accessory Dwelling, rental of		P	P	P	P	P	P	P	P						
Accessory Structure		P	P	P	P	P	P	P	P	P	P	P	C	P	P
Agricultural Crop Farming	C	P	P	P			*								
Agricultural Crops & Products												P	P	P	
Aircraft/Airplane Hangar										P	C				
Airport		C	C							P					
Automobile Sales Establishment									P	P	P				
Automobile Service & Supply Facility									P	P	P				
Bank									P						
Bed & Breakfast			C	C		C			C						
Boarding House and Rooming House			C	C		C			C						
Building, Municipal			C		C				P		P	P		C	
Campground		C	C						C				C		
Cemetery		C	C	C	C	C	C					C			
Commercial Entertainment Facility									P						
Contracting & Building Storage & Service										P	P				
Dormitory/Student Housing			C	C					C						
Dwelling, Multiple Family				C		P			P						
Dwelling, Multiple Family, Rental of				C	P	P			P						
Dwelling, Single Family (1 only)		P	P	P	P	P	P	P	P						
Dwelling, Single Family, rental of		P	P	P	P	P	P	P	P						
Educational Facility, Public									P			P			
Educational Facility, Commercial			C	C					P				C		C
Fish Hatchery	C	C	C				C								
Forest Crops & Products		P	P	P			*			P	P		P	P	P
Fuel Storage Facility		C	C							P	P				
Fuel Storage Retail Facility									C						C
Game Preserve	C	C	C				C						C	C	C
Health Care Facility					C	C			P			P			
Home Business		C	P				*		P						
Home Occupation		P	P	P	P	P	*	C	P						

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**Town of La Pointe Town Plan Commission
Resolution #2013-0515**

Resolution to amend the text of the La Pointe Zoning Ordinance

WHEREAS, The Town Plan Commission recognizes that changed or changing conditions requires amendments to the Zoning Ordinance;

WHEREAS, Section 11 of the La Pointe Zoning Ordinance describes the process of an amendment to the Zoning Ordinance Text;

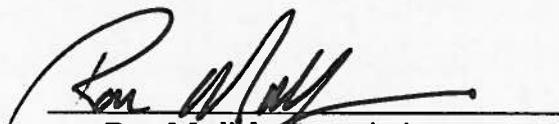
WHEREAS, Wisconsin State Statute 62.23(7)(d)(2) require the Plan Commission to review and make report and recommendation on tentative Zoning Ordinance amendments;

NOW THEREFORE BE IT RESOLVED the Town Plan Commission initiates consideration of the attached amendments.

Approved this 15th day of May, 2013.



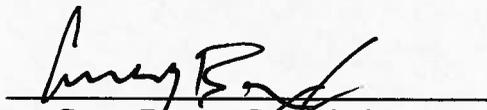
Ted Pallas; Chairman



Ron Madich; Commissioner



Charles Brummer; Vice Chair



Carey Baxter; Commissioner



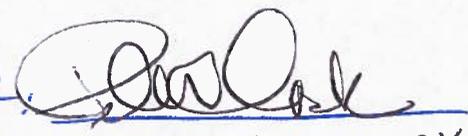
Joan Martin; Commissioner



Suellen Soucek; Commissioner



Greg Thury; Commissioner

Attest: 

DEPUTY CLERK

date 5/15/2013

posted: _____