

CHAPTER 11

PROCEDURES

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11.01 Regular zoning permits.

(1) Applicability. Unless specifically exempted below or elsewhere in this Ordinance, regular zoning permits, certifying that any use, structure, or site complies with the provisions of this Ordinance, shall be required in the following instances:

(a) Construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof, except:

1. Signs.

Commentary: However, many types of signs require a sign permit. Refer to s. 8.05, Permits.

2. Structures which are less than six inches in height above preconstruction grade elevation.

3. Stoops which are 18 square feet or less in area.

4. Stairways which extend less than 6 feet away from a building and which do not exceed 4 feet in width.

(Amended: 25 June 1996, Ord. 16-96)

(b) Establishment or expansion of any accessory or principal use, except uses permitted as conditional uses.

(Amended: 9 March 1998, Ord. 3-98)

(c) Filling or grading of land if required by s. 3.14, filling and grading.

A regular zoning permit shall not be required for structures and activities waterward of the ordinary high water mark which have minimal land use impacts, such as the establishment of bulkhead lines; placement of sand blankets, fish cribs, shore protection(riprap), stream fords, and private boat landings for the personal use of the riparian owner; waterfowl management practices; weed cutting; construction of small private wharfs or private piers for the personal use of the riparian owner; dredging and waterway enlargements; stream straightening; and placement of individual mooring buoys.

(2) Applications.

(a) An application for a regular zoning permit shall be submitted to the Zoning Administrator on forms furnished by the Door County Planning Department and shall include the following information:

1. Name and address of the property owner.
2. Signature of the property owner or agent.
3. Tax parcel number, deed, legal description or other identifier of the subject property.
4. Statement concerning the proposed structure or use of the site.
5. An accurate site plan, drawn at a scale which produces a clearly legible drawing, showing the following:
 - a. Boundaries, dimensions, and area of the subject site.
 - b. The spatial relationship of the subject site to abutting public roads and rights-of-way, private roads, easements, and navigable waters.
 - c. The location and dimensions of any existing or proposed structures or additions and their relationship to abutting public roads and rights-of-way, private roads, property lines, existing and proposed wells and sanitary waste disposal systems, and the ordinary high water mark of navigable waters.
 - d. Location of proposed or existing road access points, parking and loading areas, and driveways.
6. Building plans including all floor plans and at least 2 elevation views.
7. Additional information as may be required by the Zoning Administrator in order to determine the full compliance with the requirements of this Ordinance.

8. Water supply and sewage disposal. Satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the Door County Sanitary Ordinance, shall be submitted.

9. A pre-construction grade elevation shall be submitted for all principal buildings and structures. The benchmark shall be established on each building site and its location and elevation indicated on the site plan submitted with the zoning permit application. In addition, cross-sections of the principal building or structure shall be submitted indicating the pre-construction grade elevation, and the highest and lowest finished grade elevations. (Added: 8 August 2000, Ord. 15-00)

(b) Fee. All permit applications shall be accompanied by a fee established by the Door County Board of Supervisors.

(c) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Door County have been paid in full.

(3) Permit issuance or denial. Upon the Zoning Administrator's determination that the proposed use or structure complies with the provisions of this Ordinance, a regular zoning permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the Ordinance and any conditions attached to the permit. An application for a use or structure not in conformity with the provisions of this Ordinance shall be denied a regular zoning permit and the reasons for denial shall be stated. No permit shall be issued for uses or structures involving human occupancy without documentation that provision has been made for safe and adequate water supply and disposal of sewage.

(4) Expiration.

(a) Regular zoning permits to establish a use shall expire 12 months from date of issuance if no action has commenced to establish the use. Any change of land use after the expiration of a zoning permit shall be considered a violation of this ordinance.

(b) Except as sub.(5) applies, regular zoning permits for construction of a structure shall expire 12 months from the date of issuance. Any exterior construction after the expiration of a zoning permit shall be considered a violation of this Ordinance.

(5) Renewal. If construction has commenced prior to the expiration of a regular zoning permit, but is not completed prior to such expiration, a 12 month renewal regular zoning permit shall be issued by the Zoning Administrator upon submittal of a renewal application and fee. Additional renewals shall be granted by the Zoning Administrator upon a finding that progress had been made during the previous year toward completion of the structure. If a 12 month period passes without evidence of progress towards completion, the Zoning Administrator shall advise the Resource Planning Committee of same and the Resource Planning Committee may call a public hearing on the matter and may impose a completion schedule. For purposes of this Ordinance, a structure shall be deemed completed when the roof, exterior walls, doors, windows, and subfloors are in place and finished and the sanitary waste disposal system has been installed.

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

11.02 Sign permits.

(1) Applicability. This section only applies to those signs requiring a sign permit as specified in s. 8.05, permit requirements, that are erected, moved, structurally altered, or reconstructed.

(2) Applications.

(a) All applications for sign permits shall be made to the Zoning Administrator on forms furnished by the Door County Planning Department and shall include the following:

1. Name, address, and signature of the applicant.
2. Name, address, and signature of the property owner of the site for the proposed sign, if different from the applicant.
3. Type, description, and dimensions of the proposed sign.
4. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
5. A plan, drawn at a scale which produces a clearly legible drawing, showing the following:

- a. The spatial relationship of the proposed sign to abutting public roads and rights-of-way, private roads, and navigable water.
- b. The spatial relationship of the proposed sign to existing structures and adjacent freestanding or projecting signs.

(b) Fee. All sign permit applications shall be accompanied by a fee established by the County Board of Supervisors.

(c) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Door County have been paid in full.

(3) Permit issuance or denial. Applications for sign permits shall be reviewed by the Zoning Administrator for compliance with the requirements of this Ordinance. If compliance is found, the sign permit shall be issued. If compliance is not found, the sign permit shall be denied and the reasons for denial stated.

(4) Expiration. All sign permits shall expire 12 months from the date of issuance. No sign shall be erected, moved, reconstructed, or altered after expiration of a sign permit, unless a new sign permit is obtained.

(5) Termination. If a sign does not comply with the issued sign permit or this Ordinance, the sign permit shall be terminated by the Zoning Administrator.

11.03 Site plan review.

(1) Applicability. This section applies to all uses which are subject to the site plan review procedure.

Commentary: The review procedure is intended to ensure that certain uses that might be expected to exert adverse impacts upon a neighborhood will be developed such that they will exert minimal impacts and will, therefore, be compatible with the surrounding area. The procedure is based on the premise that a development can achieve compatibility with the surrounding area via thoughtful site design, and that the neighbors, because they are directly affected, are in a good position to evaluate the compatibility issue.

(2) Applications. Applications to establish a use or to increase the scale or intensity of an existing use requiring a site plan review shall follow the application procedures for a regular zoning permit, as provided in s. 11.01(2), and shall be accompanied by a fee established by the County Board of Supervisors. If the application complies with the provisions of this Ordinance, the Zoning Administrator shall refer the application to the Planning Director to initiate the site plan review process. (Amended: 25 June 1996, Ord. 16-96)

Commentary: An applicant need not supply more information on the application than if the application pertained to a permitted use not subject to the site plan review process. However, since the proposed use might be subjected to severe scrutiny by neighbors, the applicant is advised to be very complete and thorough in submitting information on the application.

(3) Scheduling and Notification.

(a) Within 7 calendar days of compliance determination and at least 40 calendar days prior to the informal site plan review meeting, the Planning Director shall notify by mail the town clerk of the town in which the site of the application is located and all property owners within the specified distance of the exterior boundary of the site of the application as shown in the following chart:

For Sites Located In These Zoning Districts	Distance (Feet)
W, NA, EA, PA, GA, CS, HL3.5, HL5, HL10, ES	3,960
SF20, SF30, SE, RR, HD, LI	1,000
CC, MC, RC	500

(Amended: 23 March 2004, Ord. 2004-02; Effective 3 May 2004)

(b) The notice shall include the following information:

1. Name of applicant.
2. Location of the subject project.
3. General description of the proposed project.
4. Information apprising the notice recipients of the date, time, and place of the informal site plan review meeting.
5. A statement noting that written correspondence from invitees shall be accepted by the Planning Department until 4:00 p.m. of the day prior to the meeting. The notice shall state that concerns expressed in such correspondence will be summarized at the meeting by the presider, but that the applicant(s) will not be required to address said concerns unless similar concerns are expressed by persons in attendance at the meeting. (Added: 18 December 1997, Ord. 38-97)

(c) Identification of the property owners to receive a notice, as described in par. (a), shall be based upon parcels and property owners recorded in the Door County Real Property Listing Office. The failure of such notice to reach any of the property owners identified in par. (a) shall not invalidate any informal or formal site plan review meeting, nor any agreement or decision reached at such meetings.

(4) The informal site plan review meeting. The purpose of the meeting is to provide an opportunity for the neighboring property owners and the applicant to reach an agreement on an acceptable site plan. The question of whether or not the site should be used as proposed shall not be appropriate to the purpose of the meeting. The validity of the proposed use shall not be an issue in this process since the proposed use is permitted by this Ordinance. The design of the development shall be the issue that will be evaluated by the site plan review procedure. The question for the neighboring property owners to consider is: What site plan will achieve compatibility with the neighborhood? The question for the applicant to consider is: Will a project which is deemed compatible with the neighborhood still be a desirable project to pursue?

The meeting shall be adjourned and the application denied if the applicant fails to attend the meeting. (Amended: 23 March 2004; Ord. 2004-02; Effective 3 May 2004)

(a) Presider. The Planning Director, or the director's nominee, shall preside over the meeting. The duties of the presider shall be to ensure that all parties have adequate opportunity to participate in the proceedings, to summarize any written correspondence, to facilitate orderly conduct to ensure fulfillment of the purpose of the meeting, raise concerns held by the Planning Director that are not otherwise addressed at the meeting, and to assist the parties in arriving at an agreement by offering solution suggestions. (Amended: 18 December 1997, Ord. 38-97)

(b) Procedure. The meeting is to be conducted in an atmosphere of very orderly informality. Direct dialogue between the parties shall be allowed, provided fairness to all parties and orderliness do not suffer.

1. At the outset of the meeting, and at the invitation of the presider, the applicant shall present to the assemblage details of the proposed project.

2. Following this presentation, the neighboring property owners may question the applicant about details which remain unclear.

3. After the questioning period, the presider will summarize any written correspondence, and the neighboring property owners may give their views about the proposed site plan. The views shall center on whether the proposed site plan will achieve compatibility with the surrounding properties and uses. Only neighboring property owners, or their agents, within the notification distance specified in sub. (3), par. (a) shall be eligible to request site plan changes and be party to any subsequent agreement or disagreement with the applicant. Only the following shall be relevant topics for consideration: (Amended: 18 December 1997, Ord. 38-97)

- a. Will the proposed project manage vehicular traffic in the area in a safe manner?
- b. Will the proposed project manage pedestrian traffic in the area in a safe manner?
- c. Will the proposed project create an unsightly view?
- d. Will the proposed project create a noise nuisance for the neighboring properties?
- e. Will the proposed project create objectionable lighting glare or spillover onto the neighboring properties?
- f. Will the proposed project create water runoff problems?
- g. Will the proposed project create an odor nuisance for the neighboring properties?

- h. Will the proposed project obstruct views to historic, scenic, or cultural landmarks, or to features which define the neighborhood's character?
- i. Will the proposed project negatively impact the natural character of the area due to the removal of natural vegetation or by altering the topography?
- j. Will the proposed project contribute to visual harmony with buildings and structures in the neighborhood, particularly as related to scale and design?

Commentary: Neighboring property owners may request site plan changes based upon concerns that are not related to the above list of relevant topics. However, an agreement to make such changes would be purely voluntary on the part of the applicant since only concerns related to the list of relevant topics can be the basis for any disagreement during the informal site plan review meeting.

4. During the expression of views by neighboring property owners, they may offer solutions to any objections they have to the proposed project. If no points of disagreement are presented by the neighboring property owners, the application shall be approved as submitted.

5. Following the expression of views by the neighboring property owners, an opportunity for an exchange of proposals and counter proposals by the applicant and the neighboring property owners shall be afforded. The purpose of this exchange is to attempt to reach agreement on a site plan which will be acceptable to all parties. Agreements must involve things that are within the capability of the applicant to control. (Amended: 23 March 2004; Ord. 2004-02; Effective 3 May 2004)

6. If agreement is reached, the presider shall record any changes to the proposed site plan that will be necessary to respect the agreement. The presider shall orally review the points of the agreement, and shall inquire of all parties whether they concur with the presider's understanding of the agreement. When all do, the presider shall direct the applicant to submit to the Zoning Administrator a revised site plan, if necessary, that respects all points of the agreement. The meeting shall then be concluded.

7. If agreement cannot be reached, the presider shall announce that a formal site plan review meeting will be scheduled. Then the meeting shall be concluded.

(5) The formal site plan review meeting. The purposes of the meeting are to provide a second opportunity to bring about an agreement between the neighboring property owners and the applicant, and to allow the Resource Planning Committee to determine the appropriate site plan in the event that agreement between the neighboring property owners and applicant is still not achieved.

(a) Notification. Within 7 calendar days of an informal site plan review meeting which ended in disagreement between the applicant and the neighboring property owners and at least 15 calendar days prior to the formal site plan review meeting, the Planning Director shall mail to the same parties as noted in sub. (3), par. (a) and the applicant a notice indicating the date, time, and place of the formal site plan review meeting.

(b) Presider. The Resource Planning Committee shall preside over the meeting. The duties of the Resource Planning Committee shall be to insure that all parties have adequate opportunity to participate in the proceedings and to decide, in the event that no agreement between the parties occurs, upon a specific site plan to approve, including any alterations to the originally submitted site plan that the Resource Planning Committee deems necessary.

(c) Procedure. The meeting shall be conducted in an atmosphere of formality. All testimony shall be directed to the Resource Planning Committee and in the order prescribed by the Resource Planning Committee. Direct dialogue between the applicant and the neighboring property owners shall not be allowed, except as expressly permitted by the chair of the Resource Planning Committee.

1. At the outset of the meeting, the applicant shall present to the Resource Planning Committee details of the proposed site plan of the project. Following this presentation, all parties shall be given the opportunity to present their views on details of the site plan. Again, the relevant topics for consideration shall be those shown in sub. (4), par. (b), subd. 3.

2. If, during the meeting, the parties reach an agreement, the Chairperson of the Resource Planning Committee shall proceed as in sub. (4), par. (b), subd. 6.

3. If, after all parties have had adequate opportunity to present their respective views, the parties cannot reach an agreement, the Chairperson of the Resource Planning Committee shall record the points of disagreement. The Chairperson shall orally review the points of disagreement, and shall inquire of all parties whether they concur with the Chairperson's understanding of the situation. When they do, the Chairperson shall announce that the Resource Planning Committee shall decide upon a specific site plan to approve at a future business meeting. Then the meeting shall be concluded.

4. Determination. At an appropriate business meeting, the Resource Planning Committee shall decide upon a specific site plan to approve. The decision of the Resource Planning Committee may impose greater or lesser restrictions than those sought by either the neighboring property owners or the applicant. The decision of the Resource Planning Committee shall be reported to the applicant, property owners, and the Zoning Administrator. The applicant shall be directed to submit to the Zoning Administrator a final site plan, revised if necessary, that reflects the Resource Planning Committee's decision.

(6) Permit issuance or denial. The Zoning Administrator shall review final site plans that are submitted in response to the Resource Planning Committee's decision for compliance with the decision.

(a) If compliance is determined, the Zoning Administrator shall grant approval to the site plan and issue the regular zoning permit.

(b) If the final site plan does not comply, the Zoning Administrator shall deny approval of the site plan and shall not issue the regular zoning permit. The Zoning Administrator shall inform the applicant of the denial decision and state the reasons for the denial.

1. If within 30 calendar days of the denial notification date, the applicant submits to the Zoning Administrator a revised final site plan that corrects the deficiency or deficiencies that caused the denial, the Zoning Administrator shall review the revised final site plan for compliance. If compliance is determined, the Zoning Administrator shall proceed as in par.(a).

2. The applicant shall be afforded only one opportunity to submit a revised final site plan. If the revised final site plan fails to comply, or if a revised final site plan is not submitted within 30 calendar days of the denial notification date, the regular zoning permit application shall be denied.

11.04 Conditional use permits.

(1) Applicability. A conditional use permit shall be required for the establishment of each use permitted as a conditional use and for an addition to, or the expansion or intensification of, a nonconforming use. Expansion of a use permitted as a conditional use shall also require a conditional use permit, except that the minor expansion of a building housing a use permitted as a conditional use which would not increase the scale or intensity of that use shall only require a regular zoning permit.

(2) Application.

(a) An application for a conditional use permit shall be submitted to the Zoning Administrator upon forms furnished by the Door County Planning Department. The application shall contain the following information:

1. All the information required for a regular zoning permit listed in s. 11.01(2)(a), and a completed conditional use permit form addendum. (Amended: 30 September 1997, Ord. 29-97)

2. Upon written request by the Zoning Administrator, such additional information as may be required by the Zoning Administrator so that the Resource Planning Committee can determine whether or not the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to public health, public safety, or the character of the surrounding area. The written request shall contain an explanation of why the additional information is needed.

3. Water supply and sewage disposal. Where the proposed use involves human occupancy, satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the Door County Sanitary Ordinance, shall be submitted.

(b) Fee. All conditional use permit applications shall be accompanied by a fee established by the County Board of Supervisors.

(c) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Door County have been paid in full.

(3) Public hearing. A public hearing shall be held by the Resource Planning Committee after a public notice has been given as provided in s. 11.09(1), notice for public hearings. At the public hearing, any party may appear in person or by agent or attorney.

(4) Determination. Following review, investigation, and public hearing, the Resource Planning Commission shall render a decision in writing.

(a) If the application is approved, such decision shall include an accurate and complete description of the use as permitted, including all the conditions attached thereto.

(b) If the application is denied, the reasons for denial shall be stated.

(5) Basis of approval.

(a) The Resource Planning Committee shall review each conditional use permit application for compliance with all requirements applicable to that specific use and to all other relevant provisions of this Ordinance. In approving conditional uses, the Resource Planning Committee also shall determine that the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to the public health, public safety, or character of the surrounding area.

(b) To aid in the review of the proposed project against the above criteria, the Resource Planning Committee shall evaluate the following specific criteria as applicable, but shall not be limited thereto: (Amended: 30 September 1997, Ord. 29-97)

1. Whether the proposed project will adversely affect property values in the area.

2. Whether the proposed use is similar to other uses in the area.

3. Whether the proposed project is consistent with the Door County Development Plan or any officially adopted

town plan.

4. Provision of an approved sanitary waste disposal system.
5. Provision for a potable water supply.
6. Provisions for solid waste disposal.
7. Whether the proposed use creates noise, odor, or dust.
8. Provision of safe vehicular and pedestrian access.
9. Whether the proposed project adversely impacts neighborhood traffic flow and congestion.
10. Adequacy of emergency services and their ability to service the site.
11. Provision for proper surface water drainage.
12. Whether proposed buildings contribute to visual harmony with existing buildings in the neighborhood, particularly as related to scale and design.
13. Whether the proposed project creates excessive exterior lighting glare or spillover onto neighboring properties.
14. Whether the proposed project leads to a major change in the natural character of the area through the removal of natural vegetation or altering of the topography.

(c) The applicant's failure to satisfy the criteria listed in par. (b) or any other applicable requirement in this Ordinance may be deemed grounds to deny the conditional use permit. At all times the burden of proof to demonstrate satisfaction of these criteria remains with the applicant.

(d) In the Exclusive Agricultural district, no conditional use permit shall be granted unless the proposed use is consistent with agricultural use and is found to be necessary in light of the alternative locations available for such use. (Added: 28 March 2000, Ord. No. 05-00)

(6) Conditions and restrictions. The Resource Planning Committee may, in approving an application for a conditional use permit, impose such restrictions and conditions that it determines are required to prevent or minimize adverse effects from the proposed use or development on other properties in the neighborhood and on the general health, safety, and welfare of the county. Such conditions may include financial sureties.

(7) Expiration. All conditional use permits shall expire 12 months from the date of authorization by the Resource Planning Committee where the Resource Planning Committee determines that no action has commenced to establish the authorized use. (Amended: 01 November 1999; Ord. 22-99)

(8) Project Completion. All conditional uses authorized by the Resource Planning Committee shall be given a specific amount of time within which the project must be completed. The time limit may be negotiated between the project applicant and the Resource Planning Committee. If the applicant fails to complete the approved project within the designated time period, the Resource Planning Committee may either extend the time limit or require the applicant to seek a new conditional use permit authorizing the remainder of the project. (Added: 01 November 1999; Ord. 22-99)

(9) Notification.

(a) Pursuant to s. 91.75(5), Wis. Stats., the Door County Planning Department shall notify the Wisconsin Department of Agriculture, Trade and Consumer Protection of all conditional uses approved in the Exclusive Agricultural district.

(b) Pursuant to NR 115.05(6)(h), Wis. Admin. Code, a copy of any conditional use decision which affects shorelands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

(10) Termination. If an established conditional use does not continue in conformity with the permit or this Ordinance, the conditional use permit shall be terminated by action of the Resource Planning Committee. If an established use listed as a conditional use in 2.05(3) ceases for a period of more than 18 months, any future activity shall require a new permit. If requested by the Zoning Administrator, the Resource Planning Committee shall make a determination as to whether or not the use is to be considered ceased. (Amended: 01 November 1999; Ord. 22-99)

(11) Resubmission. A conditional use permit application that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Resource Planning Committee, provided that the applicant submits a written report identifying how the new application differs materially from the previous application or identifying substantial new evidence that will be offered, and provided that the Resource Planning Committee votes, by simple majority, that the changes or new evidence would be of such significance that the Committee might consider changing the previous decision.

11.05 Certificate of compliance. No land shall be occupied or used and no building or structure hereafter erected, altered or moved shall be occupied until a certificate of compliance is issued by the Zoning Administrator documenting that the use, building or structure conforms with the provisions of this Ordinance.

11.06 Variance from the requirements of this Ordinance.

(1) Petition. A petition for a variance shall be filed by the property owner, or the owner's agent, using forms furnished by the Door County Planning Department. Such petition shall include the following:

(a) Name and address of the property owner and petitioner (if different).

(b) Signature of petitioner.

(c) Location of property involved in the petition.

(d) Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.

(e) Sections(s) of this Ordinance from which a variance is requested.

(f) Details as to the narrowness, shallowness, shape, topography, or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use which make it not merely inconvenient but extremely difficult, if not impossible, to comply with the provisions of the Ordinance.

(g) A statement that the conditions detailed above are unique to this property and are not generally existing on other properties in the same zoning district.

(h) A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.

(i) Fee. A petition for a variance shall be accompanied by a fee established by the County Board of Supervisors.

(2) Processing.

(a) Public hearing. The Board of Adjustment shall hold a public hearing in accordance with s. 59.694, Wis. Stats., and after a public notice has been given as provided in s. 11.09(1), notice for public hearings. At the hearing, any party may appear in person or by agent or by attorney.

(b) Decision. The Board of Adjustment decision on the variance shall be rendered in writing within 30 days after the public hearing. (Amended: 30 Sept. 2003; Ord. No. 17-03)

1. A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Board of Adjustment.

2. A variance denied shall be accompanied by the reasons for denial.

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

(a) Unnecessary hardship. That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that parcel which are creating the unnecessary hardship in the application of this Ordinance, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.

(b) Unique condition. That the conditions described in par. (a) are unique, exceptional, extraordinary, or unusual circumstances applying only or primarily to the property under consideration and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for Ordinance changes or amendments, or of having that effect if relied upon as the basis for granting a variance.

(c) Conditions not self-created. That the condition creating the hardship or difficulty was not caused by the petitioner nor by any person still having an interest in the property.

(d) Public interest. That in granting the variance there will not be a substantial detriment to neighboring property and the grant of variance will not be contrary to the purpose of this Ordinance and the public interest.

(e) Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.

(4) Department of Natural Resources notification. Pursuant to NR 115.05(6)(h), Wis. Admin. Code, a copy of any variance decision of the Board of Adjustment which affects shorelands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

(5) Resubmission. A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered and provided that the Board of Adjustment votes by simple majority that the changes or new evidence would be of such significance that the Board might consider changing the previous decision.

(6) Road projects. When a structure becomes a nonconforming structure as to setback from a road, because the road was widened or relocated by the county, a town, or the Wisconsin Department of Transportation, such structure shall not require a variance and shall not be considered a nonconforming structure in regards to setback from a road or highway. However, no such structure shall thereafter be enlarged or rebuilt in such a manner that it will be closer to the right-of-way of the road.

(7) Repairs and restoration. A structure that was authorized by a variance that is damaged or destroyed by fire, explosion, flooding, storm damage, or similar calamity may be repaired or restored provided either 1) the repair or restoration would bring the structure into compliance with this Ordinance; or 2) the repair or restoration of the structure conforms fully to the structure authorized by the variance. (Added: 25 June 1996, Ord. 16-96)

11.07 Appeals.

(1) General provisions.

(a) Where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator, Planning Director, or Resource Planning Committee, an appeal may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau of the municipality affected.

(b) Such appeals shall be filed with the Planning Department within 30 days after the date of written notice of the decision or order of the Zoning Administrator, Planning Director, or Resource Planning Committee.

(c) Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board of Adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(2) Processing an appeal.

(a) Petitions for appeals shall include:

1. Name, address, and signature of the appellant.
2. Location of property affected by the appeal.
3. The decision being appealed and the grounds claimed for the appeal. The burden of proof at all times remains with the appellant.
4. Such additional information as may be required by the Board of Adjustment.

(b) Fee. An appeal shall be accompanied by a fee established by the County Board of Supervisors.

(c) The Door County Planning Department shall forthwith transmit to the Board of Adjustment the appeal and all the documents constituting the record upon which the action appealed from was taken.

(d) Public hearing. The Board of Adjustment shall hold a public hearing in accordance with s. 59.694, Wis. Stats., and after a public notice has been given as provided in s. 11.09(1), notice for public hearings. At the hearing any party may appear in person or by agent or attorney.

(e) Decision. The Board of Adjustment decision of the appeal shall be rendered in writing within 30 days after the public hearing. Such decision shall:

1. State the specific facts which are the basis for the Board's decision.

2. Either affirm, reverse, vary, or modify the order, requirement, decision or determination appealed from. The Board may also dismiss the appeal for lack of jurisdiction.

Commentary: An appeal decision made by the Board of Adjustment may be further appealed to a court of law.

(3) Department of Natural Resources notification. Pursuant to NR 115.05(6)(h), Wis. Admin. Code, a copy of any appeal decision of the Board of Adjustment which affects shorelands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

11.08 Amendments.

(1) The County Board of Supervisors may amend this Ordinance in accordance with 59.69(5), Wis. Stats., and NR 115, Wis. Admin. Code, and after a public notice has been given as provided in s. 11.09(1), notice for public hearings. At the hearing any party may appear in person or by agent or attorney.

(2) Petition. A petition for an amendment to this Ordinance shall be submitted to the Door County Planning Department using forms furnished by the Planning Department. Such petition shall include the following:

(a) Name and address of the petitioner.

(b) Signature of the petitioner.

(c) If the petition is for a zoning text amendment, the proposed text changes including reference(s) to the affected section(s) of this Ordinance.

(d) If the petition is for a zoning map amendment, a description of the affected property, the current zoning district classification(s), and the proposed zoning district classification(s).

(e) Fee. A petition for an amendment shall be accompanied by a fee established by the County Board of Supervisors.

(Amended: 25 June 1996, Ord. 16-96)

(3) Rezoning of wetland. A wetland, or a portion of a wetland, in a Wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

- (a) Storm or flood water storage capacity.
 - (b) Maintenance of dry season stream flow, discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
 - (c) Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters.
 - (d) Shoreline protection against soil erosion.
 - (e) Fish spawning, breeding, nursery, or feeding grounds.
 - (f) Wildlife habitat.
 - (g) Areas of special recreational, scenic, or scientific interest, including scarce wetland types.
- (4) Zoning amendments in the Exclusive Agricultural district.
- (a) Door County may approve petitions for rezoning areas zoned for exclusive agricultural use only after findings are made based upon consideration of the following:
 - 1. Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
 - 2. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them.
 - 3. The land proposed for rezoning is suitable for development, and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.
 - (b) Pursuant to s. 91.77(3), Wis. Stats., the Wisconsin Department of Agriculture, Trade, and Consumer Protection shall be notified of all rezonings pertaining to the Exclusive Agricultural district.

(5) Previous zoning amendments involving wetlands. If, under the 1968 Door County Zoning Ordinance, property was rezoned by action of the County Board of Supervisors from a Shoreland-Wetland or Conservancy zoning district to another zoning district, that rezoning shall remain intact. Due to limitations created by zoning map scales, the property might not be identified on the zoning map. This provision shall not preclude such property from being placed in any other zoning district, except Wetland district, unless the physical conditions of such properties subsequently change to truly wetland characteristics.

Commentary: The intent of this provision is to not force property owners to apply a second time for a rezoning of property from a wetland zoning district into another zoning district. This provision is not intended to guarantee that the zoning district classification of affected properties will remain the same indefinitely.

(6) Department of Natural Resources notification. Pursuant to NR 115.05(6)(h), Wis. Admin. Code, a copy of any amendment decision which affects shorelands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

(7) Resubmission. A petition for zoning amendment that has been heard and decided shall not be eligible to be resubmitted during the 6 months following final action by the Door County Board of Supervisors. The 6 month period may be waived by the Resource Planning Committee provided that the petitioner submits a written report identifying how the new zoning amendment petition differs substantially from the previous petition or identifying substantial new evidence that will be offered and provided that the Resource Planning Committee votes by simple majority that the changes or new evidence would be of such significance that the Door County Board of Supervisors might consider changing the previous decision.

11.09 Public hearings. When public hearings are required by this Ordinance or by Wisconsin Statutes, the following shall apply:

(1) Notice for public hearings.

(a) Notice of any public hearing which the Resource Planning Committee or Board of Adjustment is required to hold shall be given by publishing in the county a Class 2 notice in accordance with Ch. 985, Wis. Stats. The notice shall specify the time and place of such hearing.

(b) If the public hearing involves a petition for a zoning amendment, a copy of the hearing notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing.

(c) If the public hearing involves a variance or an appeal before the Board of Adjustment, the Board of Adjustment shall give due notice to the parties in interest.

(d) For any public hearing involving shorelands, written notice shall be mailed to the Department of Natural Resources in sufficient time for the DNR to receive the notice at least 10 days prior to the date of such hearing.
(Amended: 25 June 1996, Ord. 16-96)

Commentary: As a matter of practice, in addition to the parties identified in pars. (b), (c), and (d), an earnest effort will be made to send by regular mail a copy of the notice for public hearing to the town board chair of each affected town, to the applicant or petitioner, or their agent, and to the property owners (as recorded in the Door County Real Property Listing Office) of all lands located within 300 feet of any part of the parcel or parcels included in the conditional use permit application, zoning amendment petition, variance petition, or appeal. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing nor any decision of the Resource Planning Committee or Board of Adjustment.

(2) Public hearing procedures. The Resource Planning Committee or Board of Adjustment may adopt any formal or informal public hearing procedures.