

MINUTES (“REVISED” 9/15/11)
BAYFIELD COUNTY PLANNING AND ZONING COMMITTEE
PUBLIC HEARING AND PUBLIC MEETING
July 21, 2011

1. **Call to Order of Public Hearing:** Chairman Rondeau called the public hearing to order at 4:00 pm.
2. **Roll Call:** Jardine - present, Miller - present, and Rondeau – present. Maki and Rantala – Absent.

Others present were: Director-Karl Kastrosky, Doug Casina-AZA, Mike Furtak-AZA.

3. **Affidavit of Publication:** Kastrosky showed the audience the July 21, 2011 affidavit of publication and the certified mailing receipts; he also noted that there is no verification that Keystone did not pick up their mailing.
4. **Review of Meeting Format –** Chairman Rondeau explained the procedure of the meeting. He asked everyone who wished to speak to fill out a form; and stated they will be asked to come forward and speak into the microphone.
5. **Public Hearing:**

A. ~~Petition to Create Title 13-1-34~~ **Petition to Create Title 13-1-34 - AN ORDINANCE AMENDING SECTIONS 13-1-20, 13-1-22, 13-1-32, and 13-1-102 AND CREATING SECTION 13-1-34, CODE OF ORDINANCES, BAYFIELD COUNTY, WISCONSIN AND REGARDING LAKE SUPERIOR SHORELAND LOT DEVELOPMENT IN THE ZONING CODE**

Section 1. Subdivisions a. through s. of Paragraph (4) of Subsection (c) [Maps.] of Section 13-1-20 [General Zoning Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin are hereby repealed.

Section 2. Paragraph (5) of Subsection (c) [Maps.] of Section 13-1-20 [General Zoning Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as follows. The Official Bayfield County Lake Superior Shoreline Safe Setback Map is attached to this Ordinance as Exhibit A and is incorporated herein.

Sec. 13-1-20 General Zoning Requirements.

(c) **Maps.** The maps designated below are hereby adopted and made part of this Chapter. They are on file at the Bayfield County Zoning Department.

(5) Official Bayfield County Lake Superior Shoreline Safe Setback Map.

Section 3. Section 13-1-34 [Lake Superior Shoreland Lot Development Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as set forth in the attachment to this Ordinance, which is marked as Exhibit A and is incorporated herein.

Section 4. Paragraph (1) [Setbacks.] of Subsection (a) [Shoreline Setbacks] of Section 13-1-22 [Setbacks and Height Restrictions.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with

additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-22 Setbacks and Height Restrictions.

(a) Shoreline Setbacks.

- (1) ~~[Setbacks.]~~ Shoreline Setbacks. Except as otherwise provided in this subsection, setbacks for structures on Lake Superior shoreland lots shall be as provided in Sec. 13-1-34, and setbacks for structures on other shoreland lots shall be as provided in Sec. 13-1-32.

Section 5. Subsection (c) [Lake Superior Lot Requirements.] of Section 13-1-32 [Inland Lake Classification and Shoreland Lot Development Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-32 Inland Lake Classification and Shoreland Lot Development Requirements.

- (c) **Lake Superior Lot Requirements.** Lots having frontage on Lake Superior and any improvements thereon shall be subject to the requirements applicable to lots on Class 1 lakes, except that ~~if a lot has a bank or a bluff fronting the lake, the top of which is discernible due to evidence of erosion, (including but not limited to exposed rock), the required shoreline setback shall be 75 feet back from the top edge of the bank or bluff, and if a lot is located in an area of active or potential erosion designated on a map entitled Erosion Hazard Areas—Bayfield County, a greater setback may be required as determined by the Zoning Committee or its duly designated agent, based on projected shoreland recession rates.~~ with respect to setback requirements, the provisions of Sec. 13-1-34 shall apply instead, and the site planning requirements of Sec. 13-1-34(d) shall also apply.

Section 6. Paragraph (4) of Subsection (e) [Board Powers.] of Section 13-1-102 [Board of Adjustment.] of Article F [Administration and Enforcement.] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-102 Board of Adjustment.

- (e) **Board Powers.** The Board of Adjustment shall have the following powers and duties:

- (4) The Board may grant special ~~exemptions—exceptions~~ for the reduction of minimum side and rear yard setbacks (other than shoreline and public road setbacks)—and; for minimum private road setbacks as provided in Section 13122(j); and for reduced setbacks for certain lots with frontage on Lake Superior as provided in Sec. 13-1-34(c)(2). The provisions of Section 13141 shall govern such special exceptions in the same manner as they govern conditional uses, except that the granting authority shall be the Board of Adjustment rather than the Zoning Committee.

Sec. 13-1-34 is created to read as follows:

Sec. 13-1-34 Lake Superior Shoreland Lot Development Requirements.

Introduction. Much of Bayfield County's Lake Superior shoreline is bordered by steep bluffs with or without an adjacent beach, and is very susceptible to erosion. Rock slopes erode very slowly, but catastrophically when undercut by waves. Clay slopes may be stable for years then erode or slump very quickly. Stormwater is also a significant factor in shoreline recession and erosion. The Official Bayfield County Lake Superior Shoreline Segment Map—incorporated into this ordinance by Sec. 13-1-20(c)(5)—establishes numbered segments of the Lake Superior shoreline, which are subject to the setback

requirements set forth below. The setback requirements in subsection (a) are based on historical and scientific calculations specific to each shoreline segment. If the Department determines by on-site inspection of a lot that the applicable setback listed in subsection (a) is inconsistent with the pertinent characteristics of the lot's shoreline, the Department shall calculate the setback for the lot based on the observed characteristics, using the same formula and criteria used to calculate setback distances for the Lake Superior Safe Setback line.

- (a) **Lake Superior Shoreline Setback Table.** Except as otherwise provided in this section, the required setbacks from the ordinary high water mark for principal structures or any accessory structures greater than (>) 500 sq. ft. on lots with frontage on Lake Superior are shown for each point of the shoreline on the Bayfield County Lake Superior Shoreline Safe Setback Map. **Representative** setbacks for each shore segment are shown in the table below. Segments with an NA in the setback distance column shall be calculated by the Department on a lot-by-lot basis within the segment, using the same formula and criteria used to calculate setback distances for other segments in the table.

Representative Lake Superior Shoreline Setbacks

Segment Number	Total Setback in feet	Segment Number	Total Setback in feet	Segment Number	Total Setback in feet	Segment Number	Total Setback in feet
1	282	40	NA	79	129	118	162
2	184	41	163	80	151	119	164
3	NA	42	242	81	142	120	113
4	260	43	149	82	175	121	160
5	205	44	269	83	260	122	181
6	NA	45	282	84	298	123	86
7	195	46	226	85	331	124	156
8	NA	47	233	86	NA	125	132
9	228	48	174	87	217	126	189
10	200	49	148	88	250	127	202
11	NA	50	169	89	178	128	170
12	140	51	191	90	164	129	NA
13	150	52	175	91	NA	130	152
14	130	53	402	92	170	131	142
15	148	54	353	93	242	132	160
16	200	55	216	94	206	133	100
17	140	56	129	95	132	134	NA
18	133	57	132	96	160	135	138
19	130	58	125	97	125	136	153
20	171	59	142	98	193	137	85
21	80	60	121	99	337	138	NA
22	116	61	180	100	82	139	NA
23	240	62	210	101	125	140	133
24	NA	63	198	102	214	141	NA
25	210	64	79	103	209	142	145
26	NA	65	80	104	154	143	NA
27	286	66	80	105	183	144	82
28	NA	67	312	106	180	NA	174
29	253	68	203	107	160	NA	140
30	NA	69	212	108	194	147	160
31	340	70	161	109	161	148	151
32	NA	71	155	110	178	149	116

33	328	72	200	111	113	150	127
34	354	73	195	112	147	151	193
35	NA	74	79	113	184	152	85
36	420	75	80	114	193	153	100
37	NA	76	80	115	80	154	83
38	547	77	159	116	160		
39	341	78	200	117	170		

NA = Contact Planning & Zoning Department for on-site determination.

Note: These are representative numbers. Consult the Shoreline Safe Setback map for site specific setback distances.

(b) **Other Setbacks and Height Restrictions.** The provisions of Section 13-1-22, pertaining to setbacks and height restrictions, shall apply to lots with frontage on Lake Superior except for paragraphs (a)(1) and (2)a, b, and c thereof.

(c) **Alternative Setback Requirements**

(1) **Reduced Roadway, Rear Yard, and Shoreline Setbacks for Platted Lots.**

- a. **Shoreland Setback Adjustment.** If a platted lot is not deep enough to accommodate required roadway or rear yard and shoreline setbacks and a thirty-foot deep building site, the roadway or rear yard setback may be reduced until a thirty foot (30) deep building site is established, provided that the resulting setback is not less than one-half the distance of the required setback. If the road or rear yard setback reduction does not provide a thirty foot (30) deep building site, the shoreline setback may then be reduced until a thirty foot (30) deep building site is established, provided that the resulting shoreline setback is not less than two-thirds of the distance of the required setback under subsection (a) and is at least 60 feet back from the edge of any discernible bluff.
- b. **Mitigation.** A property owner shall comply with the mitigation requirements of Section 13-1-40(c)(5) in order to qualify for the setback reductions of this provision.
- c. **Shore Protection Practices.** Shore protection practices under paragraph (2)b of this subsection may also be required to qualify for the setback reductions of this provision.

(2) **Special Exceptions.** For lots that cannot meet the reduced setbacks provided above in paragraph (c)(1) but have at least ninety (90) feet from the top of the discernible bluff to the rear of the lot, the owner may apply to the Bayfield County Board of Adjustment for a special exception under Section 13-1-102(e)(4) authorizing a further reduced shoreline setback for a moveable structure meeting the requirements of subparagraph a. below. Shoreline protection practices subject to subparagraph b. below and/or shoreline protection structures subject to subparagraph c. below may also be required.

a. **Moveable Structure Requirements.**

- 1. The property owner shall submit a report from a professional building moving contractor certifying that the structure can be feasibly moved at a cost not to exceed thirty (30) percent of the equalized value of the structure.
- 2. The property owner must certify that the structure will be moved before any part of the structure is within fifty (50) feet of the receding edge of the bluff. The certification must be recorded with the Register of Deeds for

Bayfield County. The certification must also state that the last owner of record, as shown on the latest assessment roll, is responsible for removing the structure, its foundation, and all costs associated with the move.

- b. **Shore Protection Practices.** Shore protection practices include, but are not limited to natural coastline restoration by nourishing beaches; restoring and constructing dunes and beach ridges; creating or restoring coastal wetlands; shore armoring with riprap, seawalls, and groins. Any structures need to be designed and built by a trained professional familiar with the Great Lakes erosion processes.

Shore protection plans that include structures shall contain the following:

1. A site investigation of slope stability and coastal erosion.
2. A site investigation of near shore lakebed erosion.
3. Consideration for impact on neighboring or down current properties.
4. Access to site and structure for monitoring and maintenance.

- c. **Shore Protection Structures.** The following requirements apply to the construction, modification or restoration of shore protection structures:

1. All necessary permits must have been received and/or reviewed by the Wisconsin Department of Natural Resources, the U.S. Army Corps of Engineers and Bayfield County Land Conservation Department.
2. The structure must not be likely to cause a measurable increase in erosion, including lakebed erosion, at the development site or at other locations.
3. The structure must minimize and prevent adverse effects upon natural protective features, existing erosion-protection structures and natural resources, such as significant wildlife habitats. This includes the impact of the structure on the movement of sand along the shore.
4. All shore protection structures must be designed and constructed according to generally accepted engineering principles. The design and construction shall be certified by a professional engineer as having a reasonable probability of controlling erosion on the immediate site for at least thirty (30) years.
5. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions for a minimum of thirty (30) years. Individual component materials may have a working life of less than thirty (30) years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty (30) years of erosion protection.
6. A long-term maintenance program must be included. The maintenance programs must include specifications for normal maintenance of degradable materials including repairs necessary to maintain the integrity of the shore protection structure. To assure compliance with the

proposed maintenance programs, a bond or other financial security may be required.

7. There must be a minimum of seventy-five (75) feet from the shore protection structure to any permanent structure. If the bluff or dune is unstable due to height, slope, wind, erosion, or groundwater seepage, a greater setback may be required. There shall be sufficient access to permit the maintenance and repair of the shore protection structure.
8. Excavating, grading, mining, or dredging which diminishes the erosion protection afforded by near shore area is prohibited, except construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions and artificial beach nourishment in accordance with the permit requirements of the Wisconsin Department of Natural Resources.
9. Before approval by the Department of any shore protection structure, the applicant shall obtain a Class B special use permit from the county. Notice shall be sent to all riparian owners within three hundred (300) feet of the proposed shore protection structure.

- (3) **Variiances.** If none of the above setback requirements can be met, then development of the subject parcel may only be permitted by a variance granted by the Bayfield County Board of Adjustment.

(d) **Site Planning.**

- (1) **Site Plan Approval Standards.** Except as provided in paragraph (3) of this subsection, any lot on Lake Superior for which new development is proposed shall require a development site plan that meets the following standards, subject to the review by the County Planning & Zoning Department:

- a. The site plan must minimize disturbance natural habitat;
- b. The site plan must demonstrate that erosion and sedimentation shall be minimized,
- c. The site plan must demonstrate compliance with Section 13-1-23 (Shoreland-Upland Screening, Fencing, and Vegetative Management)

(2) **Site Plan Components and Site Plan Content.**

- a. Individual site plans must incorporate setbacks, bluff stability, past recession rates, and drainage patterns on a property.
- b. Plans must be prepared to scale or dimensions and include the following:
 1. All lake shorelines, streams, wetlands, groundwater seeps, springs, soil types, soil strata and groundwater table at the site; and all existing roads, driveways, structures, culverts, and other pertinent features on the site or within one hundred (100) feet of the area of site disturbance.
 2. Existing ground contour lines and proposed ground contour lines at five (5) foot intervals encompassing the area of site disturbance and in the immediate area of influence of the disturbed areas, e.g. within fifteen (15) feet.
 3. Structural dimensions and onsite materials used

4. Location of the ordinary high water mark
5. Bluff height and stability
6. Rates of erosion and recession
7. Shoreline erosion control plan or structures
8. A grading or fill plan
9. Potential building relocation plans
10. Location of nearby natural resources such as wetlands, bluffs, dunes
11. On-site wastewater treatment facilities
12. Stormwater management plan
13. Plans for lake access

- (3) **Expansion of Existing Structures.** The requirements of this subsection shall not apply if the only proposed development is the expansion of an existing structure, except for the requirement of a storm water management plan
- (e) **Substandard Lots.** Section 13-1-26, pertaining to substandard lots of record, applies to substandard lots with frontage on Lake Superior.
- (f) **Nonconforming Structures and Uses.**
- (1) Structures and/or uses on lots with frontage on Lake Superior that were nonconforming prior to the adoption of this section on July 26, 2011 are subject to the provisions of Article I pertaining to nonconforming uses and structures, provided that in addition to meeting the requirements of that article, an owner applying for a permitted expansion of a structure that is nonconforming with respect to shoreline setback must submit a shore protection plan to the Department, including shore protection practices and/or shore protection structures, that the Department determines to be adequate to protect the structure from damage due to shoreline erosion for a period of 30 years, based on the composition of the shoreline, its estimated rate of recession, and other relevant factors.
 - (2) Structures on lots with frontage on Lake Superior that were conforming prior to the adoption of this section but do not meet the shoreline setback requirements of this section are not subject to the provisions of Article I, but an owner applying for an expansion of such a structure shall be required to submit and implement a storm water management plan incorporating best management practices and may be required by the Department to submit a shore protection plan that the Department determines to be adequate to protect the structure from damage due to shoreline erosion for at least 30 years, if there is a reasonable probability that the structure would be damaged by shoreline erosion within such time period without the implementation of a shore protection plan.
- (g) **Revision of Lake Superior Shoreline Segments and Setbacks.** Lake Superior shoreline segments and setbacks may be revised by amendment of the Lake Superior Shoreline Setback Table in 13-1-34 (a) pursuant to this provision and in accordance with Section 59.69(5)(e) Wis. Stats., containing the statutory procedure for amending county zoning ordinances. The petitioner should be prepared to demonstrate to the Zoning Committee and County Board that an error does in fact exist with respect to the setback distances stated in the Lake Superior Shoreline Setback Table.
- (h) **Coastal Setback Calculator.** Calculator and explanatory materials used in determining Lake Superior shoreline setbacks are available at the County Planning & Zoning Department office.

Kastrosky explained setback requirement can be found on the Bayfield County website and that this information is available to anyone. The reason for this amendment was to identify highly erodible zones and in those areas there is the ability to require greater setbacks based on subjective decision. This is problematic. The ordinance says that setbacks need to be 75 feet from class 1 lakes except on lots that have a bank or bluff and then structures need to be 75 feet from the top of the bluff. This approach was tried in practical applications but the top of the bluff is really hard to determine it's erratic, all over, there are gullies, and ordinary case law in Wisconsin says from the ordinary high water mark. We proposed the language in front of you to clean that up and to be able to allow safe setbacks on Lake Superior based on science and based on past history. We measured the erosion, etc. on annual basis and formulated that into a table. The table is a 154 segments, the proposed setback in each segment is only representative of that segment. Due to Scott we can take any point on Lake Superior and prescribe a formula and determine setbacks. It is not on individual lot basis it is based on any portion of that lot. Douglas County has a 100 foot setback based on an arbitrary line. We are willing to share this information with any coastal community. The proposed language is very flexible and even has the ability that if we arrive at the property and there are problems we can reduce the setback. Some of the lines look excessive but they are from the high water mark not the top of the bluff and in some instances that is 100 feet. This map is on the website.

Scott Galetka showed the Committee a computer generated map that is interactive. This map showed a 75 foot line that is the setback from the high water mark on Lake Superior. **Galetka** explained that he took all of **Kastrosky's** information including, soil type, setbacks, elevation, high water line, etc. and incorporated it into a stable setback line done with GIS and LIDAR. He explained that this is found on the web under the zoning tab and is available to the public through map viewer. **Kastrosky** explained that later on, his wish is to have a tab to make it easier to find map on the web.

Rantala entered at 4:06 pm.

Galetka explained that the map shows a green line which is the setback. This line varies depending on where you are located on the map. **Jardine** questioned where the first segment started and **Kastrosky** explained the county line. **Miller** asked how the green lines work with the island, there is the green line with an island inside of it. **Galetka** explained that those are gullies so it has less of a setback. Potentially you could build there. **Kastrosky** said that these lines are based on accurate LIDAR two foot contour lines, the little red dots are existing houses. **Miller** asked what will happen with the non conforming structures if owners wanted to do construction on the buildings. **Kastrosky** explained they are like any other non conforming structure; you would have to do a storm water management plan, and/or some shoreland protection. The approximate setback in segment one is 282 but you can see how detailed that line is and in some places the setback is going to be less than 282 because that line is drawn very accurately from high water mark and slope so that line is not 282 consistently. Anybody past the green line is going to be non conforming. **Miller** asked what will happen when someone would like to do an addition, will they be able to. **Kastrosky** explained yes, they will need to do a storm water plan, and make sure their coast line is not eroding to the point where the house is going to fall over the edge. **Casina** and **Kastrosky** stated that is not the same as a regular non conforming structure and can still expand unlimited but have to do a storm water management plan. **Miller** stated that was his question, that it is not like an inland lake where they are non conforming. **Casina** and **Kastrosky** stated no. **Furtak** asked **Kastrosky** if this acts as a mechanism to put people on notice that if there is

potential for peoples' property to erode they could come back and say they were not aware, this information is out there so people become aware that eventually the land is going to erode past where their house is. **Kastrosky** explained that is true and there was a house that we the County let them put a substantial addition on, we should not have allowed it but it was legal at the time. **Miller** asked could they add on today, and **Kastrosky** answered yes they could, and they could do shoreland stabilization to the bank as well. **Rondeau** stated that basically the county is giving people a notice that they are at a risk and you cannot hold Bayfield County reliable. **Kastrosky** said this is going to really impact the vacant lots. **Miller** asked what the forecast is on this; you are not going to go out a thousand years. **Kastrosky** stated that they met six years ago and started this project and came up with that in 50 years the structure will still be 75 feet from the high water mark. 50 years is not long for the life of a home. If there is 2 feet of recession a year in 50 years that is 100 feet. Plus you need to be 75 feet that's why some of these setbacks are 175 feet, that's the way the formula works out. The formula is different based on soil type. **Rondeau** stated that it is a good precaution and it is protecting the county. **Kastrosky** stated that this is the purpose, is that any land owner can pull this map up and you can actually see the safe setback line you can detail that with bushes or shrubs and it is safe for us because we can measure this electronically and accurately. **Rondeau** again stated that this is a good idea and it is just forewarning people. **Casina** stated that it takes or the arbitrary component when figuring out how far to set people back, now we have some science. **Jardine** asked if **Dave Mickelson** is still involved in this project. **Kastrosky** stated he is and figures were just applied to this map.

Rondeau asked if anyone would like to speak in favor of this petition.

Carol Labreck spoke in support and had a few comments. First of all she did communicate with **Mickelson** in an effort to understand the language. She is excited to see the use of some wonderful technology and put to good use founded in science. **Mickelson** stated in a letter, that his only concern is that it be stressed that the table of setbacks and segments and the number that is not the number that will be used and that, that be made very clear when someone looked at the table and found a segment know that's the law and that's my setback for that piece of property and the final calculation is not that number. One of **Labreck's** concerns is the issue with setback as they relate to other buildings, on page one of the amendments it talks about setbacks for principal structure or accessory structure greater than 500 square feet and that number is a potential loop hole because, that is a big building, and it reads that someone could put a building that is 500 square feet as close to the bluff as you want. When **Labreck** asked **Mickelson** about this he explained in a note that he agrees that this is a big building to not have a setback and someone could have summer living quarters and our limit on bunkhouses is 500 sq ft so basically someone could put a bunk house at the edge of the bluff. He also states that the 75 foot distance should be a minimum for anything except for a small tool shed in other words not a 500 sq ft building. In existing title it states that the maximum is 200 sq ft and it is hoped that the 500 sq ft be eliminated and go back to the standard that exists and that any structure needs to be a minimum of 75 feet back.

Rondeau asked if anyone else would like to speak in favor. No one spoke in favor or opposition.

Kastrosky stated he would like to answer some of the questions that were asked. At The bottom of the table of segments lines note, these are representative numbers consulting with the shoreland safe setback map for site specific setbacks. This should address some of the concerns that were stated earlier. The 500 square foot building was

created by the Zoning Department because the initial draft talked about principal buildings, whether it is a house or a building, instead of arguing the fact, it was just written up as 500 square feet. It could be written clear, that all buildings and structures on Lake Superior under 500 sq ft would have to meet the setbacks of 75 feet. It needs to be clear and concise on what is allowed and not allowed in front of or behind that line.

Discussion ended.

B. Petition to Amend Title 13 & 15 - AN ORDINANCE AMENDING SECTIONS 13-1-61 AND 13-1-60, CODE OF ORDINANCES, BAYFIELD COUNTY, WISCONSIN AND REGARDING ZONING DISTRICTS IN THE ZONING CODE

Section 1. Subsection (km) of Section 13-1-61 [Zoning Districts.] of Article D [Zoning Districts] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as follows:

Sec. 13-1-61 Zoning Districts.

(km) **M Municipal and Institutional.** This district is designed to encompass lands for libraries, ballparks, housing authorities, buildings housing municipal units of government, schools, or other uses that are principally of an institutional, educational, or governmental nature and that serve a public need.

Section 2. Subsection (a) of Section 13-1-60 [Zoning District Dimensional Requirements.] of Article D [Zoning Districts] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-60 Zoning District Dimensional Requirements.

(a) Subject to subsections (b) through (h), Zoning District Dimensional Requirements for lots shall be as follows (provided that for lots with lake frontage or adjoining or including river or streams, any more restrictive applicable requirements in Sec. 13-1-32 shall apply instead):

Zoning District	Minimum Area	Minimum Average Width for Non-Shoreland Lots Only	Principal Building	Minimum Side & Rear Yards	Accessory Building
R-RB, R-1	30,000 sq. ft.	150'	10'		10'
F-1, R-2, A-1	4 ½ acres	300'	75'		30'
R-3	2 acres	200'	20'		20'
F-2, A-2	35 acres	1,200'	75'		30'
I, C*	20,000 sq. ft.	100'	5'		5'
<u>M</u>	<u>20,000 sq. ft.</u>	<u>100'</u>	<u>10'</u>		<u>10'</u>
R-4					
(a) Sewer/water	10,000 sq. ft.	75'	10'		10'
(b) Sewer only	15,000 sq. ft.	75'	10'		10'
(c) Water only	20,000 sq. ft.	100'	10'		10'

For Setback Requirements see Section 13-1-22. Lots must have legal access from public roads and comply with Article C, Section 14-1-40 Survey and Recording Requirements.

Casina explained after being approached by a service provider, we have considered implementing in our sanitary code the use of portable restrooms in conjunction with RV's or dwellings like hunting shacks etc., if they meet certain conditions, such as a portable restrooms that have 200 gallons that can be used as a means of sanitation. Also clarifying the need for a sanitary permit under certain conditions, those being temporary use, campgrounds, parks, beaches etc., a servicing contract in that case would not be required. We are allowing portable restrooms in conjunction with an RV, not included in this; there was provision that allowed the use of a portable restroom on short term basis without a permit. We are also proposing the use of camper containers, small little holding tank units, to be used if they are a minimum 200 gallons, and if a sanitary permit is issued by the county. They are approved by the state. We are essentially incorporating camper transfer containers, and portable restroom in this revision.

Rondeau asked if anyone would like to speak in favor of this petition. No one spoke. He opened the floor for opposition. No one spoke.

Discussion ended.

6. Petition to Amend Title 13 - AN ORDINANCE AMENDING SECTIONS 13-1-61 AND 13-1-60, CODE OF ORDINANCES, BAYFIELD COUNTY, WISCONSIN AND REGARDING ZONING DISTRICTS IN THE ZONING CODE

Section 1. Subsection (km) of Section 13-1-61 [Zoning Districts.] of Article D [Zoning Districts] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as follows:

Sec. 13-1-61 Zoning Districts.

(km) **M Municipal and Institutional.** This district is designed to encompass lands for libraries, ballparks, housing authorities, buildings housing municipal units of government, schools, or other uses that are principally of an institutional, educational, or governmental nature and that serve a public need.

Section 2. Subsection (a) of Section 13-1-60 [Zoning District Dimensional Requirements.] of Article D [Zoning Districts] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-60 Zoning District Dimensional Requirements.

(b) Subject to subsections (b) through (h), Zoning District Dimensional Requirements for lots shall be as follows (provided that for lots with lake frontage or adjoining or including river or streams, any more restrictive applicable requirements in Sec. 13-1-32 shall apply instead).

Zoning District	Minimum Area	Minimum Average Width for Non-Shoreland Lots Only	Minimum Side & Rear Yards	
			Principal Building	Accessory Building
R-RB, R-1	30,000 sq. ft.	150'	10'	10'
F-1, R-2, A-1	4 ½ acres	300'	75'	30'
R-3	2 acres	200'	20'	20'
F-2, A-2	35 acres	1,200'	75'	30'
I, C*	20,000 sq. ft.	100'	5'	5'
<u>M</u>	<u>20,000 sq. ft.</u>	<u>100'</u>	<u>10'</u>	<u>10'</u>
R-4				
(a) Sewer/water	10,000 sq. ft.	75'	10'	10'
(b) Sewer only	15,000 sq. ft.	75'	10'	10'
(c) Water only	20,000 sq. ft.	100'	10'	10'

For Setback Requirements see Section 13-1-22.

Lots must have legal access from public roads and comply with Article C, Section 14-1-40 Survey and Recording Requirements

Kastrosky explained this is a municipal zoning district addition, the committee talked about this once before but at that time there were no setbacks. The proposed setback for tonight's hearing is 10 feet in municipal zone with a 20,000 square foot area. The classification list was also amended to allow schools, libraries, etc., either by permitted use or by special use or conditional use in municipal zone. There are no municipal zones that exist today and they would not be imposed that all municipal zones will need to rezone their existing land. **Rondeau** thinks this is a great idea to have town garages, county garages etc. it's a good idea to have them designated and separated. **Kastrosky** stated that the power does come from our comprehensive plan; many of the participating municipalities should have their town land rezoned to municipal. There is a letter stating that the Town of Russell supports this as proposed and so does the Town of Bayfield.

Rondeau asked if anyone would like to speak in favor of petition. No one spoke in favor or opposition.

Discussion ended.

6. Adjournment of Public Hearing:

Jardine made a motion to adjourn, **Rantala** seconded. **Motion carried.** Adjourned at 4:34pm.

7. **Call to Order of Planning and Zoning Committee Meeting:** **Kastrosky** called the meeting to order at 4:34pm.

8. **Roll Call:** **Jardine** - present, **Maki** - absent, **Miller** - present, **Rantala** - present, and **Rondeau** - present.

Others present were: Director Karl **Kastrosky**, Doug Casina, AZA, Mike **Furtak**, AZA.

9. **Minutes of Previous Meeting(s):** **Rondeau** stated there are 2 sets of minutes and a revision to the January 20, 2011 meeting. **Kastrosky** asked if there could be a discussion, **Rondeau** approved, **Kastrosky** stated he was trying to draft the **Wayne Nelson** letter, we listened to the tape and they didn't coincide with what was written and if the highlighted looks good I would like a motion to approve. **Rondeau** explained that **Jardine** and **Miller** need to look at them, then they need to approve the minutes since it is a revision on what

they said. **Miller** stated it looks pretty accurate, basically work it out or we will work it out for you. **Kastrofsky** states that the permit that was on the table was originally denied and had 90 days to figure it out, and he reapplied within a 90 day period, he is in compliance.

Rondeau asked to entertain a motion to amend the minutes from the January 20, 2011 meeting. **Miller** motioned to approve and **Jardine** seconded. No further discussion. **Motion carried.**

Minutes from the May 19, 2011 meeting. **Jardine** motioned to approve and **Miller** seconded. No further discussion. **Motion approved.**

Minutes from June 16, 2011 meeting. **Miller** motioned to approve. **Rantala** seconded. No further discussion. **Motion approved.**

Kastrofsky stated that item F was withdrawn.

10. Business:

D- **A. Petition to Create Title 13-1-34 - AN ORDINANCE AMENDING SECTIONS 13-1-20, 13-1-22, 13-1-32, and 13-1-102 AND CREATING SECTION 13-1-34, CODE OF ORDINANCES, BAYFIELD COUNTY, WISCONSIN AND REGARDING LAKE SUPERIOR SHORELAND LOT DEVELOPMENT IN THE ZONING CODE**

Section 1. Subdivisions a. through s. of Paragraph (4) of Subsection (c) [Maps.] of Section 13-1-20 [General Zoning Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin are hereby repealed.

Section 2. Paragraph (5) of Subsection (c) [Maps.] of Section 13-1-20 [General Zoning Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as follows. The Official Bayfield County Lake Superior Shoreline Safe Setback Map is attached to this Ordinance as Exhibit A and is incorporated herein.

Sec. 13-1-20 General Zoning Requirements.

(c) **Maps.** The maps designated below are hereby adopted and made part of this Chapter. They are on file at the Bayfield County Zoning Department.

(5) Official Bayfield County Lake Superior Shoreline Safe Setback Map.

Section 3. Section 13-1-34 [Lake Superior Shoreland Lot Development Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as set forth in the attachment to this Ordinance, which is marked as Exhibit A and is incorporated herein.

Section 4. Paragraph (1) [Setbacks.] of Subsection (a) [Shoreline Setbacks] of Section 13-1-22 [Setbacks and Height Restrictions.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-22 Setbacks and Height Restrictions.

(b) **Shoreline Setbacks.**

- (2) ~~[Setbacks.] Shoreline Setbacks.~~ Except as otherwise provided in this subsection, setbacks for structures on Lake Superior shoreland lots shall be as provided in Sec. 13-1-34, and setbacks for structures on other shoreland lots shall be as provided in Sec. 13-1-32.

Section 5. Subsection (c) [Lake Superior Lot Requirements.] of Section 13-1-32 [Inland Lake Classification and Shoreland Lot Development Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-32 Inland Lake Classification and Shoreland Lot Development Requirements.

- (c) **Lake Superior Lot Requirements.** Lots having frontage on Lake Superior and any improvements thereon shall be subject to the requirements applicable to lots on Class 1 lakes, except that ~~if a lot has a bank or a bluff fronting the lake, the top of which is discernible due to evidence of erosion, (including but not limited to exposed rock), the required shoreline setback shall be 75 feet back from the top edge of the bank or bluff, and if a lot is located in an area of active or potential erosion designated on a map entitled Erosion Hazard Areas—Bayfield County, a greater setback may be required as determined by the Zoning Committee or its duly designated agent, based on projected shoreland recession rates.~~ with respect to setback requirements, the provisions of Sec. 13-1-34 shall apply instead, and the site planning requirements of Sec. 13-1-34(d) shall also apply.

Section 6. Paragraph (4) of Subsection (e) [Board Powers.] of Section 13-1-102 [Board of Adjustment.] of Article F [Administration and Enforcement.] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-102 Board of Adjustment.

- (e) **Board Powers.** The Board of Adjustment shall have the following powers and duties:
- (4) The Board may grant special ~~exemptions~~ exceptions for the reduction of minimum side and rear yard setbacks (other than shoreline and public road setbacks) ~~and for minimum private road setbacks as provided in Section 13122(j); and for reduced setbacks for certain lots with frontage on Lake Superior as provided in Sec. 13-1-34(c)(2).~~ The provisions of Section 13141 shall govern such special exceptions in the same manner as they govern conditional uses, except that the granting authority shall be the Board of Adjustment rather than the Zoning Committee.

Sec. 13-1-34 is created to read as follows:

Sec. 13-1-34 Lake Superior Shoreland Lot Development Requirements.

Introduction. Much of Bayfield County's Lake Superior shoreline is bordered by steep bluffs with or without an adjacent beach, and is very susceptible to erosion. Rock slopes erode very slowly, but catastrophically when undercut by waves. Clay slopes may be stable for years then erode or slump very quickly. Stormwater is also a significant factor in shoreline recession and erosion. The Official Bayfield County Lake Superior Shoreline Segment Map—incorporated into this ordinance by Sec. 13-1-20(c)(5)—establishes numbered segments of the Lake Superior shoreline, which are subject to the setback requirements set forth below. The setback requirements in subsection (a) are based on historical and scientific calculations specific to each shoreline segment. If the Department determines by on-site inspection of a lot that the applicable setback listed in subsection (a) is inconsistent with the pertinent characteristics of the lot's shoreline, the Department shall calculate the setback for the lot based on the observed characteristics, using the same formula and criteria used to calculate setback distances for the Lake Superior Safe Setback line.

- (b) **Lake Superior Shoreline Setback Table.** Except as otherwise provided in this section, the required setbacks from the ordinary high water mark for principal structures or any accessory structures greater than (>) 500 sq. ft. on lots with frontage on Lake Superior are shown for each point of the shoreline on the Bayfield County Lake Superior Shoreline Safe Setback Map. **Representative** setbacks for each shore segment are shown in the table below. Segments with an NA in the setback distance column shall be calculated by the Department on a lot-by-lot basis within the segment, using the same formula and criteria used to calculate setback distances for other segments in the table.

(c) **Representative Lake Superior Shoreline Setbacks**

Segment Number	Total Setback in feet	Segment Number	Total Setback in feet	Segment Number	Total Setback in feet	Segment Number	Total Setback in feet
1	282	40	NA	79	129	118	162
2	184	41	163	80	151	119	164
3	NA	42	242	81	142	120	113
4	260	43	149	82	175	121	160
5	205	44	269	83	260	122	181
6	NA	45	282	84	298	123	86
7	195	46	226	85	331	124	156
8	NA	47	233	86	NA	125	132
9	228	48	174	87	217	126	189
10	200	49	148	88	250	127	202
11	NA	50	169	89	178	128	170
12	140	51	191	90	164	129	NA
13	150	52	175	91	NA	130	152
14	130	53	402	92	170	131	142
15	148	54	353	93	242	132	160
16	200	55	216	94	206	133	100
17	140	56	129	95	132	134	NA
18	133	57	132	96	160	135	138
19	130	58	125	97	125	136	153
20	171	59	142	98	193	137	85
21	80	60	121	99	337	138	NA
22	116	61	180	100	82	139	NA
23	240	62	210	101	125	140	133
24	NA	63	198	102	214	141	NA
25	210	64	79	103	209	142	145
26	NA	65	80	104	154	143	NA
27	286	66	80	105	183	144	82
28	NA	67	312	106	180	NA	174
29	253	68	203	107	160	NA	140
30	NA	69	212	108	194	147	160
31	340	70	161	109	161	148	151
32	NA	71	155	110	178	149	116
33	328	72	200	111	113	150	127
34	354	73	195	112	147	151	193
35	NA	74	79	113	184	152	85
36	420	75	80	114	193	153	100
37	NA	76	80	115	80	154	83
38	547	77	159	116	160		
39	341	78	200	117	170		

NA = Contact Planning & Zoning Department for on-site determination.

Note: These are representative numbers. Consult the Shoreline Safe Setback map for site specific setback distances.

(b) **Other Setbacks and Height Restrictions.** The provisions of Section 13-1-22, pertaining to setbacks and height restrictions, shall apply to lots with frontage on Lake Superior except for paragraphs (a)(1) and (2)a, b, and c thereof.

(c) **Alternative Setback Requirements**

(1) **Reduced Roadway, Rear Yard, and Shoreline Setbacks for Platted Lots.**

a. **Shoreland Setback Adjustment.** If a platted lot is not deep enough to accommodate required roadway or rear yard and shoreline setbacks and a thirty-foot deep building site, the roadway or rear yard setback may be reduced until a thirty foot (30) deep building site is established, provided that the resulting setback is not less than one-half the distance of the required setback. If the road or rear yard setback reduction does not provide a thirty foot (30) deep building site, the shoreline setback may then be reduced until a thirty foot (30) deep building site is established, provided that the resulting shoreline setback is not less than two-thirds of the distance of the required setback under subsection (a) and is at least 60 feet back from the edge of any discernible bluff.

b. **Mitigation.** A property owner shall comply with the mitigation requirements of Section 13-1-40(c)(5) in order to qualify for the setback reductions of this provision.

c. **Shore Protection Practices.** Shore protection practices under paragraph (2)b of this subsection may also be required to qualify for the setback reductions of this provision.

(2) **Special Exceptions.** For lots that cannot meet the reduced setbacks provided above in paragraph (c)(1) but have at least ninety (90) feet from the top of the discernible bluff to the rear of the lot, the owner may apply to the Bayfield County Board of Adjustment for a special exception under Section 13-1-102(e)(4) authorizing a further reduced shoreline setback for a moveable structure meeting the requirements of subparagraph a. below. Shoreline protection practices subject to subparagraph b. below and/or shoreline protection structures subject to subparagraph c. below may also be required.

a. **Moveable Structure Requirements.**

1. The property owner shall submit a report from a professional building moving contractor certifying that the structure can be feasibly moved at a cost not to exceed thirty (30) percent of the equalized value of the structure.

2. The property owner must certify that the structure will be moved before any part of the structure is within fifty (50) feet of the receding edge of the bluff. The certification must be recorded with the Register of Deeds for Bayfield County. The certification must also state that the last owner of record, as shown on the latest assessment roll, is responsible for removing the structure, its foundation, and all costs associated with the move.

b. **Shore Protection Practices.** Shore protection practices include, but are not limited to natural coastline restoration by nourishing beaches; restoring and constructing dunes and beach ridges; creating or restoring coastal wetlands; shore armoring with riprap, seawalls, and groins. Any structures need to be

designed and built by a trained professional familiar with the Great Lakes erosion processes.

Shore protection plans that include structures shall contain the following:

1. A site investigation of slope stability and coastal erosion.
2. A site investigation of near shore lakebed erosion.
3. Consideration for impact on neighboring or down current properties.
4. Access to site and structure for monitoring and maintenance.

c. **Shore Protection Structures.** The following requirements apply to the construction, modification or restoration of shore protection structures:

1. All necessary permits must have been received and/or reviewed by the Wisconsin Department of Natural Resources, the U.S. Army Corps of Engineers and Bayfield County Land Conservation Department.
2. The structure must not be likely to cause a measurable increase in erosion, including lakebed erosion, at the development site or at other locations.
3. The structure must minimize and prevent adverse effects upon natural protective features, existing erosion-protection structures and natural resources, such as significant wildlife habitats. This includes the impact of the structure on the movement of sand along the shore.
4. All shore protection structures must be designed and constructed according to generally accepted engineering principles. The design and construction shall be certified by a professional engineer as having a reasonable probability of controlling erosion on the immediate site for at least thirty (30) years.
5. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions for a minimum of thirty (30) years. Individual component materials may have a working life of less than thirty (30) years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty (30) years of erosion protection.
6. A long-term maintenance program must be included. The maintenance programs must include specifications for normal maintenance of degradable materials including repairs necessary to maintain the integrity of the shore protection structure. To assure compliance with the proposed maintenance programs, a bond or other financial security may be required.
7. There must be a minimum of seventy-five (75) feet from the shore protection structure to any permanent structure. If the bluff or dune is unstable due to height, slope, wind, erosion, or groundwater seepage, a greater setback may be required. There shall be sufficient access to permit the maintenance and repair of the shore protection structure.

8. Excavating, grading, mining, or dredging which diminishes the erosion protection afforded by near shore area is prohibited, except construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions and artificial beach nourishment in accordance with the permit requirements of the Wisconsin Department of Natural Resources.
 9. Before approval by the Department of any shore protection structure, the applicant shall obtain a Class B special use permit from the county. Notice shall be sent to all riparian owners within three hundred (300) feet of the proposed shore protection structure.
- (3) **Variances.** If none of the above setback requirements can be met, then development of the subject parcel may only be permitted by a variance granted by the Bayfield County Board of Adjustment.

(d) **Site Planning.**

- (1) **Site Plan Approval Standards.** Except as provided in paragraph (3) of this subsection, any lot on Lake Superior for which new development is proposed shall require a development site plan that meets the following standards, subject to the review by the County Planning & Zoning Department:
 - a. The site plan must minimize disturbance natural habitat;
 - b. The site plan must demonstrate that erosion and sedimentation shall be minimized,
 - c. The site plan must demonstrate compliance with Section 13-1-23 (Shoreland-Upland Screening, Fencing, and Vegetative Management)
- (2) **Site Plan Components and Site Plan Content.**
 - a. Individual site plans must incorporate setbacks, bluff stability, past recession rates, and drainage patterns on a property.
 - b. Plans must be prepared to scale or dimensions and include the following:
 14. All lake shorelines, streams, wetlands, groundwater seeps, springs, soil types, soil strata and groundwater table at the site; and all existing roads, driveways, structures, culverts, and other pertinent features on the site or within one hundred (100) feet of the area of site disturbance.
 15. Existing ground contour lines and proposed ground contour lines at five (5) foot intervals encompassing the area of site disturbance and in the immediate area of influence of the disturbed areas, e.g. within fifteen (15) feet.
 16. Structural dimensions and onsite materials used
 17. Location of the ordinary high water mark
 18. Bluff height and stability
 19. Rates of erosion and recession
 20. Shoreline erosion control plan or structures
 21. A grading or fill plan
 22. Potential building relocation plans

- 23. Location of nearby natural resources such as wetlands, bluffs, dunes
 - 24. On-site wastewater treatment facilities
 - 25. Stormwater management plan
 - 26. Plans for lake access
- (3) **Expansion of Existing Structures.** The requirements of this subsection shall not apply if the only proposed development is the expansion of an existing structure, except for the requirement of a storm water management plan
- (e) **Substandard Lots.** Section 13-1-26, pertaining to substandard lots of record, applies to substandard lots with frontage on Lake Superior.
- (f) **Nonconforming Structures and Uses.**
- (1) Structures and/or uses on lots with frontage on Lake Superior that were nonconforming prior to the adoption of this section on July 26, 2011 are subject to the provisions of Article I pertaining to nonconforming uses and structures, provided that in addition to meeting the requirements of that article, an owner applying for a permitted expansion of a structure that is nonconforming with respect to shoreline setback must submit a shore protection plan to the Department, including shore protection practices and/or shore protection structures, that the Department determines to be adequate to protect the structure from damage due to shoreline erosion for a period of 30 years, based on the composition of the shoreline, its estimated rate of recession, and other relevant factors.
 - (2) Structures on lots with frontage on Lake Superior that were conforming prior to the adoption of this section but do not meet the shoreline setback requirements of this section are not subject to the provisions of Article I, but an owner applying for an expansion of such a structure shall be required to submit and implement a storm water management plan incorporating best management practices and may be required by the Department to submit a shore protection plan that the Department determines to be adequate to protect the structure from damage due to shoreline erosion for at least 30 years, if there is a reasonable probability that the structure would be damaged by shoreline erosion within such time period without the implementation of a shore protection plan.
- (g) **Revision of Lake Superior Shoreline Segments and Setbacks.** Lake Superior shoreline segments and setbacks may be revised by amendment of the Lake Superior Shoreline Setback Table in 13-1-34 (a) pursuant to this provision and in accordance with Section 59.69(5)(e) Wis. Stats., containing the statutory procedure for amending county zoning ordinances. The petitioner should be prepared to demonstrate to the Zoning Committee and County Board that an error does in fact exist with respect to the setback distances stated in the Lake Superior Shoreline Setback Table.
- (h) **Coastal Setback Calculator.** Calculator and explanatory materials used in determining Lake Superior shoreline setbacks are available at the County Planning & Zoning Department office.

*Miller stated he had a question directed towards **Kastrovsky**, is the 500 square foot building considered a non occupancy building. **Kastrovsky** stated that there was no difference it was just 500 square feet or greater that has to meet the safe setback line. Again that was an arbitrary number. **Jardine** asked no matter what the building is, it has to meet the setback and **Kastrovsky** stated that is correct. **Furtak** stated that structures with 200 square feet or less maybe our gazebo law might allow them in that setback. **Kastrovsky** stated that there is another issue if we say 75 feet from the high water mark and the bluff is 65 feet from the high water mark then there is a structure 10 feet from the bluff. **Rondeau** states then you need to incorporate in there that from the green line you*

still need to meet the setbacks. **Miller** explained that there is a setback for a reason why allow something with in that setback at all. **Kastrosky** stated he would like the 200 square foot idea. **Furtak** stated to say in the language, less than 200 square feet because that does not require a permit. **Jardine** asked about the opposition by the town of Bayfield and **Kastrosky** stated that Bayfield wanted to table or postpone this and notify every shoreland owner in the town of Bayfield about this amendment. **Jardine** stated this has been going on for 6 years. **Kasrtosky** explains that he understands but there is so much flexibility in this plan that it will allow people to do what they would like.

Miller motioned to approve the petition to create the title with the change of the building size from 500 square feet to 200 square feet or greater. **Rantala** seconded. No further discussion. **Motion carried.**

E. B. Petition to Amend Title 15 - AN ORDINANCE AMENDING SECTIONS 13-1-21, 15-1-6, AND 15-1-14, CODE OF ORDINANCES, BAYFIELD COUNTY, WISCONSIN AND REGARDING COUNTY SANITARY PERMIT FEES IN THE ZONING CODE AND THE REGULATION OF PRIVIES, PORTABLE RESTROOMS, AND CAMPING UNIT TRANSFER CONTAINERS BY THE SANITARY AND PRIVATE SEWAGE CODE

Section 1. Section 15-1-14 [Privies and Portable Restrooms.] of Article C [Permits and Applications] of Chapter 1 [Sanitary and Private Sewage Code] of Title 15 [Sanitary and Private Sewage Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 15-1-14 Privies ~~and~~ Portable Restrooms, and Camping Unit Transfer Containers.

(a) Privies and portable restrooms shall be constructed and maintained in a clean condition so that insects and rodents cannot enter the vault.

(b) Privies * ~~and~~ portable restrooms, and camping unit transfer containers shall be located at a minimum horizontal distance of:

- 15 feet from a dwelling(s) (where applicable)
- 5 feet from lot lines, except that where jurisdiction of the Bayfield County Zoning Ordinance is in effect, the setback shall be according to that of an accessory building as expressed in Section **13-1-60** of that Ordinance
- 50 feet from the water supply wells
- 75 ** feet from a stream, lake or other water course
- 20 feet from the edge of a 20% slope

* ~~Composting composting~~ and incinerating toilets located within the dwelling served are not required to meet these setbacks.

** ~~Setback setback~~ shall be 100 feet from Class 3 lakes, rivers, and navigable streams. Class I, II, or III Trout Streams as indicated in the Department of Natural Resources publication "Wisconsin Trout Streams."

(c) Applicants wishing to construct a privy shall submit an affidavit stating that their building will be served by a privy. Indoor plumbing; including water closets, sinks, bathtubs or showers, facilities, or any other fixture or receptacle receiving domestic waste; shall not be installed until a sanitary permit for a private sewage system is issued.

(d) Privies shall be kept clean and sanitary.

(e) Portable Restrooms

- (1) A County Sanitary Permit pursuant to Section 15-1-11 and fee will be required to place portable restrooms.
- (2) Portable restrooms may not be used for habitable buildings unless they have a 200 gallon capacity holding tank.
- (3) Portable restrooms may be used at construction sites but must be removed upon completion of construction. A County Sanitary Permit is not required for portable restrooms located at construction sites.
- (4) Portable restrooms located on property intended to be used by the public in locations to which the public has access (i.e. boat landings, parks, campgrounds, beaches, resorts, golf courses, road waysides, scenic overlooks, etc.) may be placed on said property for an unlimited period with no affidavit required.
- (5) Portable restrooms may be used as a means of sanitation for a Recreational Vehicle (RV) used as a temporary dwelling where no pressurized water is available to the RV. For any such portable restroom, a servicing contract indicating that the service provider will report maintenance activities to the Bayfield County Planning and Zoning Department shall be submitted with an application for each County Sanitary Permit.
- (6) Portable restrooms should meet all required setbacks. The Bayfield County Planning and Zoning Department will make the final setback location determinations based upon the site limitations.
- (7) Portable restrooms must be pumped or inspected annually and such pumping or inspection is to be reported to the Bayfield County Planning and Zoning Department within 30 calendar days of the pumping or inspection.

(f) Camping Unit Transfer Containers (CUTCs)

- (1) A County Sanitary Permit pursuant to Section 15-1-11 and fee will be required to place CUTCs.
- (2) Except in an approved campground or camping resort, CUTCs may be used as a means for sanitation for a Recreational Vehicle (RV) used as a temporary dwelling where no pressurized water is available to the RV. For any such CUTC, a servicing contract indicating that the service provider will report maintenance activities to the Bayfield County Planning and Zoning Department shall be submitted with an application for each County Sanitary Permit.
- (3) CUTCs must be state approved, installed pursuant to product specifications, and shall have a minimum 200 gallon capacity. Only one (1) CUTC shall be allowed with each RV and the CUTC shall only serve one (1) RV.
- (4) CUTCs must be installed under the RV and meet all required setbacks as described in Section 15-1-14 (b) CUTCs shall be placed no more than twelve (12) inches horizontally from the RV body and shall be recessed no more than four (4) inches into the finished grade. Adequate anchoring to prevent floatation and adequate protection to prevent physical damage to the CUTC is required. The Bayfield County Planning and Zoning Department will make the final setback location determinations based upon the site limitations.

Section 2. Subsection (i) [Nonplumbing Sanitation System.] of Section 15-1-6 [Definitions.] of Article A [Introduction] of Chapter 1 [Sanitary and Private Sewage Code] of Title 15 [Sanitary and Private Sewage Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with

additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 15-1-6 Definitions.

The following terms shall have the meanings indicated:

- (i) **Nonplumbing Sanitation System.** Sanitation systems and devices within the scope of Comm 91, Wis. Adm. Code, which are alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets, ~~and privies,~~ and camping unit transfer containers.

Section 3. Subsections (bm) [Camping Unit Transfer Container.] and (jm) [Portable Restroom.] of Section 15-1-6 [Definitions.] of Article A [Introduction] of Chapter 1 [Sanitary and Private Sewage Code] of Title 15 [Sanitary and Private Sewage Code] of the Code of Ordinances, Bayfield County, Wisconsin are hereby created to read as follows:

Sec. 15-1-6 Definitions.

The following terms shall have the meanings indicated:

- (bm) **Camping Unit Transfer Container.** A type of stationary holding tank used to collect and hold wastewater discharges generated by an individual camping trailer or recreational vehicle that is not served by water under pressure except in an approved campground or camping resort.
- (jm) **Portable Restroom.** Self-contained portable unit that includes fixtures, incorporating holding tank facilities, designed to receive human wastes.

Section 4. Subdivision s. [County Sanitary Permit] of Paragraph (1) [Fee Schedule.] of Subsection (e) [Fees.] of Section 13-1-21 [General Land Use Requirements.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-21 General Land Use Requirements.

(e) **Fees.**

- (1) **Fee Schedule.** Unless otherwise noted, all fees are referenced to estimated Fair Market Value (FMV) of the structure or land use and shall be interpreted to mean the best reasonable estimate of the market value of the structure or land use (including labor and material costs) when construction is completed or the use becomes fully operational. Market value shall not be affected by virtue of any reduced or donated actual costs for labor or materials. Municipalities are subject to all applicable fees. When a permit has been denied any portion of a fee (other than an application fee) paid over Fifty Dollars (\$50.00) shall be returned. Required fees are as follows:

- ~~s. Privy Permit (not including required soil verification) \$ 150.00~~
- s. County Sanitary Permit* (not including required soil verification for a pit privy)

<u>1</u>	<u>\$150.00</u>
<u>2-5</u>	<u>\$300.00</u>
<u>6-9</u>	<u>\$450.00</u>
<u>10+</u>	<u>\$600.00</u>
<u>Portable Restroom</u>	<u>\$ 50.00</u>

(*Cost applies to the initial or first phase of development. Subsequent phases must start over with fee schedule.)

Jardine motioned to approve the petition to amend title 13 & 15, **Rantala** seconded. **Casina** asked that portable restrooms be used in short term, less than 10 days, without a permit. **Rondeau** asked if that was ok to add to the motion to approve. **Jardine & Rantala** approved. No further discussion. **Motion carried.**

F. C. Petition to Amend Title 13 - AN ORDINANCE AMENDING SECTIONS 13-1-61 AND 13-1-60, CODE OF ORDINANCES, BAYFIELD COUNTY, WISCONSIN AND REGARDING ZONING DISTRICTS IN THE ZONING CODE

Section 1. Subsection (km) of Section 13-1-61 [Zoning Districts.] of Article D [Zoning Districts] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as follows:

Sec. 13-1-61 Zoning Districts.

(km) **M Municipal and Institutional.** This district is designed to encompass lands for libraries, ballparks, housing authorities, buildings housing municipal units of government, schools, or other uses that are principally of an institutional, educational, or governmental nature and that serve a public need.

Section 2. Subsection (a) of Section 13-1-60 [Zoning District Dimensional Requirements.] of Article D [Zoning Districts] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

Sec. 13-1-60 Zoning District Dimensional Requirements.

(c) Subject to subsections (b) through (h), Zoning District Dimensional Requirements for lots shall be as follows (provided that for lots with lake frontage or adjoining or including river or streams, any more restrictive applicable requirements in Sec. 13-1-32 shall apply instead):

Zoning District	Minimum Area	Minimum Average Width for Non-Shoreland Lots Only	Minimum Side & Rear Yards Principal Building	Accessory Building
R-RB, R-1	30,000 sq. ft.	150'	10'	10'
F-1, R-2, A-1	4 ½ acres	300'	75'	30'
R-3	2 acres	200'	20'	20'
F-2, A-2	35 acres	1,200'	75'	30'
I, C*	20,000 sq. ft.	100'	5'	5'
<u>M</u>	<u>20,000 sq. ft.</u>	<u>100'</u>	<u>10'</u>	<u>10'</u>
R-4				
(a) Sewer/water	10,000 sq. ft.	75'	10'	10'
(b) Sewer only	15,000 sq. ft.	75'	10'	10'
(c) Water only	20,000 sq. ft.	100'	10'	10'

For Setback Requirements see Section 13-1-22.

Lots must have legal access from public roads and comply with Article C, Section 14-1-40 Survey and Recording Requirements.

Rantala motioned to approve. **Miller** Seconded. **Kastrosky** stated that this is time sensitive and if approved with no changes tonight it can go on county boards agenda for next Tuesday. No further discussion. **Motion approved.**

- G. D. Michael Milward (Hughes) – electric wind generator (40' to 60')** [18 acre parcel ID # 04-022-2-47-09-19-203-000-20000 described as SW ¼ of NW 1/4 S of DSS & A PR IN V. 411 P. 393 448 Township 47N, Range 9W, Town of Hughes, Bayfield County, Wisconsin]

Michael Milward came forward to speak in favor and stated that he wants to put up a wind generated and the blades won't be more than 40 or 50 feet high. **Miller** asked if there was a collapse radius around that. **Kastrosky** stated not on a private wind facility. **Furtak** stated this is in the Town of Hughes and that question was asked at the meeting and **Milwards** cabin is in the middle of a parcel on a dead end road. **Milward** stated this is correct and there is no other structure within a half mile or more. **Miller** asked if this shows that the tower will be within 50 feet of the lot line. **Milward** stated it is within 50 feet of the road. **Casina** said that it only has to be 63 feet from the center of the road and 30 feet from the lot line because it is an accessory structure. This property is surrounded by Bayfield County forest. Brule state forest across the road so there are no developed parcels within the area 2,500 radial feet. **Kastrosky** asked **Milward** if it would be a big deal if he had to move it 13 feet more away from the road and **Milward** stated no. That way the fall zone would be on his property.

Jardine motioned to approve the wind tower with the addition that it is moved 63 feet away from the road right of way, ~~plus 33 feet from property line~~ for a total of 96 feet from the center of the road. **Rantala** seconded. No further discussion. **Motion carried.**

- H. E. Jack Smith/Mary Agostine (Clover) – home based business (curio/souvenir shop)** [.06 acre parcel ID# 04-014-2-50-07-08-100-322-08000 described as NW ¼ of NE ¼ Section 8, Township 50N, Range 7W, Town of Clover, Govt. lot 3 subdivision Robert Bartlett Jr 2nd ADD to orchard city part of lot 3 W of Lenawee Rd in V. 929 P. 903, Bayfield County, Wisconsin]

Mary Agostine came forward to speak in favor and stated that she would like the permission to open small studio on her property. It would be located in a little building that they moved to property and used as storage.

Miller motioned to approve. **Rantala** seconded. **Kastrosky** stated that the town board has not met on this issue and the planned commission has not met either. **Miller** amended motion that it is contingent on Town Board approval and it meets the comprehensive plan. **Rondeau** asked **Rantala** if that was ok with her second and she stated yes. **Jardine** asked about the opposition letter from **Jim Sislo**. **Jack Smith** came forward to address the opposition from **Jim Sislo** he stated that **Sislo** wrote a letter stating that he was not in favor because he felt he owned that property. **Smith** met with **Sislo** and measured property lines. **Smith** also came to the court house and went through deeds for the property. **Smith** owns lot 3 where the studio is located. He wrote **Sislo** a letter stating that he owns lot 3. **Smith** and **Sislo** went and measured the stakes

from when the surveys were at the property and they line up with what the deed states. **Casina** stated that there is a permit for the structure but it has not been approved yet since it was originally used as storage and is waiting on approval from the special use permit. **Kastrosky** stated that the building needs to meet setbacks to be approved. **Smith** stated the stakes are there for measurement. **Kastrosky** stated that there is also a sign that goes with the permit. **Miller** asked how big the sign is and **Smith** states it is approximately 2 feet by 32 inches. **Rondeau** asked if there is any other discussion on the motion. No further discussion. **Motion carried.**

- I. **F. Clark Olson (Barksdale) – home based business (gunsmithing – sale of firearm & ammunition sales)** [32 acre parcel ID# 04-050-2-48-05-08-202-000-10000 described as NW ¼ of NW ¼ of section 8, township 48N, range 5W, town of Barksdale V. 738 P. 221 Bayfield County, Wisconsin]

Withdrawn

- J. **G. Discussion of Possible Action regarding NR 115**

Kastrosky stated as of last week there are notices going out that there is a public hearing meeting in Minocqua pertaining to NR 115.

No further discussion.

- K. **H. Discussion and Possible Action on comprehensive planning**

Kastrosky stated that the books are printed and there are 8 towns that need to still adopt the plan. Letters and plans went out Monday and received one call from Oulu.

No further discussion.

- L. **I. Discussion and Possible Action regarding structures in an F-2 zoning district**

Kastrosky does not know where this is going to go. The board needs to come up with a policy on buildings in F-2 zone. There was a request for a warming shack in an F-2 zone. This Committee denied it and they came back with a rezone. Instead of sending people down the wrong path it would be nice to have a clear direction whether it be an ordinance amendment or some guidance for us on how to proceed. **Rondeau** remembers that a while back hunting shacks were allowed but then they were phased out. **Furtak** stated that a month ago he looked through the ordinance and it doesn't address buildings for recreational use on F-2 zoning. Committee does not want to allow buildings. The next move was to come to zoning to rezone and then these buildings would be allowed within that rezone area. **Miller** asked how much land they want to rezone, the whole 40 acres. **Furtak** stated no just a few acres but he needs minutes from the committee stating that **Ned Zouwlsdorf** can act as an agent to rezone a piece of County land. The County needs something from the Forestry Committee saying he is authorized. **Kastrosky** states that a way side rest is allowed in forestry zone. **Furtak** states that this amendment was adopted in the 70's and since then, county land has been shifted to recreational use. Now they are applying for a rezone and the Forestry Committee needs to authorize him to act as an agent. That is the problem we have now. There is wording that no one can have a habitable structure in an F-2 zone. **Miller** states

he cannot rezone this property because he does not own it. If he is authorized he can apply to rezone. **Rondeau** states that this needs to be withheld from the next meeting.

No further discussion.

M- J. Discussion and Possible Action regarding county policy(s) on permitting

Kastrosky said based on new case that zoning does not want to be issuing permit where they are not supposed too. **Furtak** states that the county board needs to discuss it some more for a defined period of time on any building on a railroad right of way until the issue is settled. **Rondeau** stated they are going to pass a resolution.

No further discussion.

N- K. Report on compliance issues

Kastrosky noted he didn't have a chance to put together a report but the database is put together and the compliance is better than anticipated.

No further discussion.

11. Monthly Report

Kastrosky stated that they are \$500 short from last year. **Miller** motioned to receive and place on file the monthly report. **Jardine** seconded. No further discussion. **Motion carried.**

No further discussion.

12. Budget and Revenue

Kastrosky commented next month.

13. Adjournment

Rondeau called adjournment at 5:30pm.

*Prepared by KMH on July 25, 2011
Approved by KLK on July 28, 2011
Final Approval on August 24, 2011
2nd Final Approval on September 15, 2011*

k/zc/minutes/2011/#7July