

**BUFFALO COUNTY**

**SHORELAND PROTECTION ORDINANCE**

Amended by the Board of Supervisors of Buffalo County  
Ordinance no. 22-03-01 March \_\_, 2022

**DRAFT**



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## **CHAPTER 1.**

### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE AND TITLE.**

#### **1. Title.**

This Document shall be known, cited, and referred to as the Buffalo County Shoreland Protection Ordinance.

#### **2. Purpose and Intent.**

The purpose of the Ordinance is to provide a regulatory scheme for the purpose of promoting the public health, safety, convenience, and welfare, and promote and protect the public trust in navigable waters. This ordinance has been established to:

A. Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
2. Establishing minimum lot sizes to provide adequate area for private on-site wastewater treatment systems (POWTS) and to allow for some potential infiltration of run-off.
3. Controlling filling and grading to prevent soil erosion problems.
4. Limiting impervious surfaces to control runoff, which carries pollutants.
5. Preserve wetlands to minimize runoff and soil erosion.

B. Protect spawning grounds, fish, and aquatic life through:

1. Preserving wetlands and other fish and aquatic habitat.
2. Regulating pollution sources.
3. Controlling shoreline alterations, dredging and lagooning.

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

1. Prohibiting certain uses detrimental to the shorelands.
2. Setting minimum lot sizes and widths.

3. Setting minimum building setbacks from waterways.
4. Setting the maximum height of near shore structures.

D. Preserve and restore shoreland vegetation and natural scenic beauty through:

1. Restricting the removal of natural shoreland cover.
2. Preventing shoreline encroachment by structures.
3. Controlling shoreland excavation and other earth moving activities.
4. Regulating the use and placement of boathouses and other structures.
5. Preventing the destruction and degradation of wetlands.
  - a. Protect and preserve wetlands and prevent flood damage through:
  - b. Restricting the placement of fill material in wetlands.
  - c. Encourage avoidance and minimization of wetland impacts.
  - d. Preserving native wetland communities.
  - e. Restricting filling, grading, and placement of structures in floodplains and wetlands.
  - f. Preserving the ecological integrity of wetlands and floodplains.

**3. Authority.**

This ordinance is adopted pursuant to the authorization in 59.692 Wis. Stats to implement 59.69, 59.692, and 281.31

**4. Findings of Fact.**

Uncontrolled use of the shorelands and pollution of the navigable waters of Buffalo County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, and aquatic life; control building sites, placement of structures and land uses; to discourage development in erosion hazard areas; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Buffalo County, Wisconsin.

## **5. Compliance.**

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

## **CHAPTER 2.**

### **GENERAL PROVISIONS**

#### **1. Applicability.**

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

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

#### **2. Where Applicable.**

The requirements of this ordinance shall apply to all the lands (referred to herein as shorelands) in the unincorporated areas of Buffalo County, which are:

A. Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds, or flowages. Lakes, ponds, or flowages in Buffalo County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 (or more recent version) "Wisconsin Lakes" book available electronically at the following web site: <http://dnr.wi.gov/lakes/lakebook/wilakes2009bma.pdf> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.

B. Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Buffalo County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.



C. The provisions of this ordinance apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and when 13.48 (13) WI Stats applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if 30.2022 WI Stats applies. Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Stats.

D. Determinations of navigability and ordinary high-water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark.

### **3. Where Not Applicable.**

Under 281.31, Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, this Shoreland Zoning Ordinance does not apply to:

A. Lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river.
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

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

### **4. Severability.**

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

### **5. Abrogation and Greater Restrictions. (s. 59.692(5), Stats)**

A. This ordinance shall not require approval or be subject to disapproval by any town or town board.

B. If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.

C. This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

D. The provisions of the Buffalo County Zoning Ordinance are hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

E. This ordinance may establish standards to regulate matters that are not regulated in Ch. NR 115, Wis. Adm. Code, but that further the purposes of shoreland zoning as described in Section 1.2 of this ordinance,

F. This ordinance does not require any of the following:

1. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
2. An inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

### **6. Shoreland-Wetland Maps.**

The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance.

### **7. Interpretation.**

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

## **CHAPTER 3.**

### **SHORELAND WETLAND DISTRICT (NR 115.04)**

#### **1. Designation.**

This district shall include all shorelands within the jurisdiction of this ordinance, which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory maps as depicted on the Department of Natural Resources Surface Water Data Viewer.

Wetlands are defined as those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. The Shoreland-Wetland District shall include all wetlands located within shorelands and the jurisdiction of this ordinance. The maps adopted as part of this ordinance show the general location of wetlands and are intended to alert landowners that there is a high

likelihood of the presence of wetlands. Maps do not represent the definitive presence and boundaries of wetlands and cannot serve as a substitute for a delineation of wetland boundaries by a certified wetland delineator or verification by the WI DNR or the US Army Corps of Engineers.

A. Locating Shoreland-Wetland Boundaries. (NR115.04(2) note)

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, the county shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. To correct wetland-mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

B. Purpose.

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

C. Permitted Uses. (NR 115.04(3))

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

**2. No Permit-No Land Alteration.**

Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating.

A. Hiking, fishing, trapping, hunting, swimming, and boating.

B. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.

C. The pasturing of livestock.

D. The cultivation of agricultural crops outside of a required vegetative buffer.

E. The practice of silviculture, including the planting, thinning, and harvesting of timber; and

F. The construction or maintenance of duck blinds.

### **3. No Permit-Limited Land Alteration.**

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

- A. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
- B. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
- C. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating, and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
- D. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or
- E. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating, and filling necessary for such construction maintenance; and
- F. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.

### **4. Permit Required-Limited Land Alteration.**

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

- A. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
  - 1. The road cannot as a practical matter be located outside the wetland.
  - 2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland.
  - 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
  - 4. Road construction activities are carried out in the immediate area of the roadbed only.

B. The construction or maintenance of nonresidential buildings, provided that:

1. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district.
2. The building cannot, as a practical matter, be located outside the wetland.
3. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
4. Only limited filling or excavating necessary to provide structural support for the building is authorized.

C. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

1. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, WI. Stats., where applicable.
2. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in Chapter 3, Section 4, A.
3. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

D. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities or other similar utilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

1. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
2. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland.

**5. Prohibited Uses. (NR115.04(4))**

Any use not listed in Sections 2-4 above is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Chapter 3, Section E of this ordinance and S. 59.69(5) (e), WI. Stats.

**6. Rezoning in the Shoreland-Wetland District.**

A. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate district office of the Department of Natural Resources shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland.
- 2.. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.
3. A copy of the county Land Use Committee's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board; and
4. Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.

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

1. Storm and flood water storage capacity.
2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
4. Shoreline protection against soil erosion.
5. Fish spawning, breeding, nursery or feeding grounds.
6. Wildlife habitat; or

7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 Wis. Adm. Code.

8. Disclaimer. If the WI DNR notifies the county Land Use Committee that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 3.5(2) of this ordinance, that amendment, if approved by the County Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the County Board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the County Board that it will adopt a superseding shoreland ordinance for the county under S. 59.692(6), Wis. Stats. If the WI DNR does so notify the County Board, the effect of this amendment shall be stayed until the S. 59.692(6) adoption procedure is completed or otherwise terminated."

## **CHAPTER 4.**

### **LAND DIVISION REVIEW AND SANITARY REGULATIONS. (NR115.05(2))**

#### **1. Land Division Review.**

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

- A. Hazards to the health, safety, or welfare of future residents.
- B. Proper relationship to adjoining areas.
- C. Public access to navigable waters, as required by law.
- D. Adequate stormwater drainage facilities.
- E. Conformity to state law and administrative code provisions.

#### **2. Planned Residential Unit Development. (NR 115.05(1)(a)(4))**

##### **A. Purpose.**

The Planned Residential Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all Planned Residential Unit Development s is the preservation of certain open space, preferably on the shoreland, in perpetuity.

**B. Requirements for Planned Residential Unit Development.**

The County Land Use Committee may at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development Overlay District upon finding, after a public hearing, that all the following facts exist:

1. Area. The area proposed for the Planned Residential Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on navigable water.
2. Lots. Any proposed lot in the Planned Residential Unit Development that does not meet the minimum size standards of Section 5.2 and 5.3 shall be a non-riparian lot.
3. Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a Planned Residential Unit Development the governing body shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in Section 7.2 shall apply except that maximum width of a lake frontage opening shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.

**3. Sanitary Regulations. (NR 115.05(3))**

The County has adopted sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- A. Where public water supply systems are not available, private well construction shall be required to conform to Ch. NR 812, Wis. Adm. Code.
- B. Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment systems shall, prior to July 1, 1980, be required to comply with Ch., SPS 383 Wis. Adm. Code, and after June 30, 1980, be governed by the Buffalo County Sanitary Ordinance.

**CHAPTER 5.**

**MINIMUM LOT SIZE (NR 115.05(1))**

**1. Purpose. (NR115.05(1a))**

Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included.



## **2. Sewered Lots.**

**Minimum area and width for each lot.** The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

A. The width shall be calculated by averaging measurements at the following 3 locations:

1. The ordinary high-water mark.
2. The building setback line.
3. One other location on the lot within 300 feet of the OHWM.

## **3. Unsewered Lots.**

**Minimum area and width for each lot.** The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high-water mark.

A. The width shall be calculated by averaging measurements at the following 3 locations:

1. The ordinary high-water mark.
2. The building setback line.
3. One other location on the lot within 300 feet of the ordinary highwater mark.

## **4. Substandard Lots (NR 115.05(1.3) (a)3)**

A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all the following apply:

- A. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
- B. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- C. The substandard lot or parcel is developed to comply with all other ordinance requirements.

Note: The intent of this provision is to allow lots that were legally created that currently do not meet the minimum lot width and area requirements to be considered a building site provided all ordinance requirements can be met. Substandard lots that have been reconfigured by a certified survey map or consolidated into one legal description with the register of deeds, which result in a larger (closer to conforming) lot shall be allowed to be utilized as a building site. Additionally, lots that have a legal description for each substandard lot on record with the Register of Deeds but have one tax parcel number assigned by the Real Property Lister or Assessor for taxing/assessing purposes shall be considered separate building sites and should not be considered consolidated.

Lots that have had development over the lot lines shall be combined with a legal description and recorded with a new deed prior to new development occurring.

### **5. Other Substandard Lots.**

Except for lots which meet the requirements of Chapter 5, Section 4 a zoning permit for the improvement of a lot having lesser dimensions than those stated in Chapter 5, Section 2 and Section 3 shall be issued only if a variance is granted by the Board of Adjustment.

## **CHAPTER 6.**

### **BUILDING SETBACKS (NR 115.05(1)(b))**

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

#### **1. Shoreland Setbacks.**

Unless exempt under Section 6.1(1), or reduced under Section 6.2, a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.

A. Exempt Structures. (NR115.05(1)(b)1) All of the following structures are exempt from the shoreland setback standards in section 6.1:

1. Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.

a. The construction or placing of boathouses below the ordinary high-water mark of any navigable waters shall be prohibited.

b. Boathouses shall be designed and constructed solely for the storage of boats and related equipment and shall not be used for human habitation.

c. One boathouse is permitted on a lot as an accessory structure.

d. Boathouses shall be constructed in conformity with local floodplain zoning standards.

e. Boathouses shall not exceed one story and 250 square feet in floor area.

f. The maximum pitch of the roof of a boathouse shall be 4/12.

g. The roof of a boathouse may be used as a deck subject to the following:

(1) The boathouse has a flat roof.

- (2) The roof has no side walls or screens.
  - (3) The roof shall have a railing that meets the Department of Safety and Professional Services standards. Transparent or translucent panels are prohibited.
  - h. Earth toned colors are required for all exterior surfaces of boathouses.
  - i. The main door shall face the water.
  - j. Patio doors, fireplaces, and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
2. Open sided and screened structures such as gazebos, decks, patios, and screen houses in the shoreland setback area that satisfy the requirements in S. 59.692 (1v), Stats.
- a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high watermark.
  - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
  - c. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
  - d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
3. Fishing rafts that are authorized on the Wolf River and Mississippi River under S. 30.126, Stats.
4. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
5. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. SPS Comm. 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

6. Walkways, stairways, or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.

a. Stairways, Walkways, and Lifts. The Zoning Administrator may permit a stairway, walkway, or lift, in the setback area contained within the access and viewing corridor, when necessary to provide safe pedestrian access to the shoreline. The permitted stairway, walkway or lift may not exceed 60-inches in width.

B. Existing Exempt Structures. (s.59.692(1k) (a)2m, Stats)

Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt, and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure.

**2. Reduced Principal Structure Setback. (s.59.692(1n), Stats)**

Where there is an existing development pattern, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot within 250 feet of the proposed principal structure. The shoreland setback may not be reduced to less than 35-feet from the ordinary high-water mark of any navigable waters.

A. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high-water mark provided all the following are met:

1. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
2. Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
3. Both of the existing principal structures are located less than 75' from the ordinary high-water mark.
4. The average setback shall not be reduced to less than 35' from the ordinary high-water mark of any navigable water.

B. Where there is an existing principal structure in only one direction, the setback shall equal the average of the distance the existing principal structure is set back from the ordinary high-water mark and the required setback of 75' from the ordinary high-water mark provided all of the following are met:

1. The existing principal structure is located on an adjacent lot to the proposed principal structure.
2. The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.

3. The existing principal structure is located less than 75' from the ordinary high-water mark.
4. The average setback shall not be reduced to less than 35' from the ordinary high-water mark of any navigable water.

**3. Floodplain Structures. (NR 115.05(1)(b)2)**

Buildings and structures to be constructed or placed in a floodplain shall be required to comply with the Buffalo County Floodplain Zoning Ordinance.

## **CHAPTER 7.**

### **VEGETATION (NR 115.05(c))**

**1. Purpose.**

To protect natural scenic beauty, fish and wildlife habitat, and water quality, Buffalo County regulates the removal of vegetation in shoreland areas, consistent with the following: The County establishes ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments, pollutants and nutrients

**2. Activities Allowed Within A Vegetative Buffer Zone. (NR 115.05(1)(c)2)**

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

- A. All land disturbing activity including row cropping, cultivation farming, and tillage practices are prohibited, except that tillage practices are allowed to establish or re-establish a vegetative buffer.
- B. Livestock pasturing shall not remove or cause to prevent the permanent growth of perennial vegetation within the vegetative buffer.
- C. The routine maintenance of vegetation is allowed.
- D. The removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors is allowed Per s. 59.692(1f) (b), Stats, the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.

E. The removal of trees and shrubs is allowed in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2)(b), Wis. Adm. Code and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), if vegetation removal be consistent with these practices.

F. The removal of vegetation is allowed within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed under the permit be replaced by replanting in the same area as soon as practicable.

G. The Zoning Department may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this sub. par. shall require that all management activities comply with detailed plans approved by the Department and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also may require an enforceable restriction to preserve the newly restored area.

### **3. Cutting More Than 35 Feet Inland.**

From the inland edge of the 35-foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

### **4. Vegetative Buffer Establishment.**

When a vegetative buffer is required to be established or is chosen for mitigation under Chapter 12, the vegetative buffer shall be established by one of the following methods:

A. Avoidance. If an existing buffer, that was not part of a previous mitigation requirement, is undisturbed or totally intact and meets the density requirements of Wisconsin Biology Technical Note 1 and the buffer shall remain undisturbed and fully compliant.

B. Accelerated Recovery- Enhancement. If an existing buffer, that was not part of a previous mitigation requirement, is undisturbed but does not meet the density requirements of Wisconsin Biology Technical Note 1, vegetation shall be added to meet the density requirements and the enhanced buffer shall remain fully intact and compliant.

C. Accelerated Recovery-Creation. When no buffer exists on a property, vegetation must be planted meeting the density requirements of Wisconsin Biology Technical Note 1 and the newly created buffer shall remain fully intact and compliant.

D. Plant quantities shall be calculated based on the area in square feet to be reestablished and the appropriate density according to Wisconsin Biology Technical Note 1. Trees shall be more than two years old and a minimum of 18 inches tall at the time

of planting. Shrubs shall be 1 liter container size or larger, and plant plugs shall be 3 inches tall or 1 inch in diameter at the time of planting.

E. Plant species shall be selected from the Buffalo County Native Plant List. Substitutions shall be allowed on a case-by-case basis and shall be approved by the Zoning Administrator. Plants may be transplanted from areas outside of the vegetative buffer zone.

## **5. Vegetative Buffer Plan Requirements.**

A Vegetative Buffer Plan shall be completed for all required shoreland mitigation or preservations.

### **A. Plans Shall Include:**

1. Name and address of property owner.
2. Property address and legal description.
3. Extent of the shoreland buffer.
4. Ordinary high-water mark (OHWM) location.
5. Location of all structures in the shoreland buffer zone.
6. Viewing and access corridor.
7. Boundary of the shoreland buffer zone.
8. Existing trees, shrubs, and native ground cover.
9. Areas to be planted with trees, shrubs, and groundcovers.
10. Implementation schedule.
11. A plant species list: indicate if you are requesting substitutions from the Buffalo County Native Plant List.
12. Erosion control practices (to be installed prior to and during buffer establishment).
13. Water diversions and channelized flow areas.
14. Maintenance plan (weeding, replanting).

## B. Implementation Schedule

The approved Vegetative Buffer Plan must be started within one year from the issue date of the applicable zoning permit. All plantings and any other required activities in the Vegetative Buffer Plan must be completed within two years of the permit issue date.

## CHAPTER 8.

### FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCACATING (NR115.05(1)(D))

Filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in accordance with the provisions of S. NR 115.04, the requirements of Ch. 30, Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

#### 1. General Standards.

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

- A. It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- B. It is not done within the vegetative buffer zone, unless necessary for establishing or expanding the vegetative buffer or for the construction of a permitted stairway/walkway.
- C. Filling, grading, lagooning, dredging, ditching, or excavating in a shoreland-wetland district meets the requirements of Chapter 3 of this ordinance.
- D. All applicable federal, state, and local authority is obtained in addition to a permit under this ordinance.
- E. Fill placed in the Shoreland area shall be adequately protected against erosion through the use of mulch, erosion control matting, establishment of a vegetative cover, riprap, or other measures deemed appropriate by the Zoning Department.

#### 2. Zoning Permit Required.

- A. A zoning permit shall be approved based upon:
  - 1. A stormwater management, erosion control and grading plan.
    - a. Findings that the activity will not result in:



- (1). Impairment of natural wetland functions.
- (2). Erosion or sedimentation.
- (3). Impairment of aquatic life.
- (4). Unnecessary loss of native appearance or natural beauty of the shoreland.
- (5). Restricting flood flows.
- (6). Reducing the storage capacity of the floodplain.

B. The Zoning Department or Board of Adjustment may attach conditions to their approval to assure compliance, including but not limited to:

- a. Time limits for exposure of bare ground.
- b. Use of temporary ground cover.
- c. Use of sediment traps such as diversion terraces and silting basins.
- d. Use of riprap or other stabilizing measures.
- e. Erosion control measures.

C. A zoning permit for a land alteration is required:

1. For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:
  - a. Any filling or grading on slopes of more than 20%.
  - b. Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
  - c. Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
2. A conditional use permit is required for any area described in a. above on which there is filling or grading of more than 10,000 square feet of land.
3. A conditional use permit is required for any area described in b. and c. above which will disturb one acre or more of land.
4. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within 300 feet landward of the ordinary highwater mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

### **3. Soil Conservation Practices.**

Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit when designed and constructed to Natural Resource Conservation Service technical standards.

#### **4. Permit Conditions.**

In granting a permit, the Zoning Department or Board of Adjustment shall attach the following conditions, where appropriate, in addition to those provisions specified in Chapter 8, Section 2.

- A. The smallest amount of bare ground shall be exposed for as short a time as feasible.
- B. Temporary ground cover (such as mulch or jute netting) shall be used, and permanent vegetative cover shall be established.
- C. Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- D. Lagoons shall be constructed to avoid fish trap conditions.
- E. Fill shall be stabilized according to accepted engineering standards.
- F. Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or inhibit the flood storage capacity of a floodplain.
- G. Channels or artificial watercourses shall be constructed with side slopes of two (2) units' horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated unless bulkheads or riprap are provided.

## **CHAPTER 9.**

### **IMPERVIOUS SURFACE STANDARDS. (NR 115.05(1)(e))**

#### **1. Purpose.**

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

#### **2. Calculation of Impervious Surface.**

Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that portion of the lot or parcel that is within 300 feet of the ordinary high-water mark and multiplied by 100.

Impervious surfaces described in Chapter 9, Section 5 shall be excluded from the calculation of impervious surface on the lot or parcel.

If an outlot lies between the ordinary high-water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

### **3. Impervious Surface Standard.**

The maximum impervious surface percentage for a riparian lot or parcel or a non-riparian lot or parcel located entirely within 300 feet of the ordinary high-water mark of any navigable waterway shall be 15 percent, except as allowed in Chapter 9, Sections 5 and 6.

### **4. Maximum Impervious Surface. (NR 115.05(1)(e)3)**

A property may exceed the impervious surface standard under Chapter 9, Section 3 provided the following standards are met:

- A. For properties where the general impervious surface standard applies under Chapter 9, Section 3, a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- B. For properties that exceed the standard under Chapter 9, Section 3 but do not exceed the maximum standard under Section 4(A) above, a permit can be issued for development with a mitigation plan that meets the standards found in Chapter 12.

### **5. Treated Impervious Surface. (NR115.05(1)(e)3m and s. 59.692(1k)(a)5, Stats)**

Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under Chapter 9, Section 2:

- A. The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
- B. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.
- C. To qualify for the statutory exemption, property owners shall submit a complete permit application that is reviewed and approved by the County. The application shall include:
  - 1. Calculations showing how much runoff is coming from the impervious surface area.
  - 2. Documentation that the runoff from the impervious surface is being treated by a proposed treatment system, treatment device, or internally drained area.
  - 3. An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices, or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.

## **6. Existing Impervious Surfaces.**

For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in Chapter 9, Section 3 and 4, the property owner may do any of the following:

- A. Maintain and repair all existing impervious surfaces.
  
- B. Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
  
- C. Relocate and modify existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county Shoreland Protection Ordinance, and meets the applicable setback requirements in Chapter 6, Section 1.

## **CHAPTER 10.**

### **HEIGHT (NR 115.05(1)(f))**

#### **1. Height Limitations.**

To protect and preserve wildlife habitat and natural scenic beauty, no principal structure shall exceed 35 feet in height. Accessory structures may not exceed 24 feet in height.

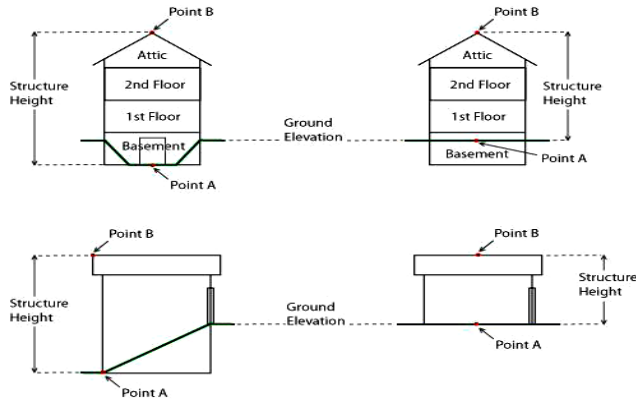
#### **2. Exemptions.**

The following are exempt from the height requirements of this Chapter.

- A. Architectural projections such as; spires, belfries, domes, chimneys, church steeples and cupolas provided that cupolas do not exceed 100 square feet in floor area and are not higher than 10 feet above the adjacent roof ridge, and contain no living quarters.
  
- B. Agricultural Structures such as; silos, barns, and grain storage structures are exempt provided the setback requirements in Section 3, A of this Chapter is met.
  
- C. Special Structures such as; grain elevators, observation towers in recreational area, communication towers, electric transmission poles and towers, and smoke stacks. The height of each such structures shall not exceed the distance of the structure from the nearest lot line.
  
- D. Public or semi-public facilities such as schools, churches, monuments, libraries and government buildings may be granted a variance by the Board of Adjustments to a height of 75 feet provided that all required setbacks are increased by not less than one foot for each foot the structure exceeds 35 feet in height.

### 3. Height Calculation

Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersected with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this ordinance.



## CHAPTER 11.

### NONCONFORMING USES AND STRUCTURES (NR 115.05(1g))

#### 1. Discontinued Nonconforming Use.

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

#### 2. Maintenance, Repair, Replacement or Vertical Expansions of Nonconforming Structures. (s. 59.692(1k) (a)2,4 and (b), Stats)

An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Structures that were granted variances or illegally constructed structures are not considered nonconforming structures.

#### 3. Lateral Expansion of Nonconforming Principal Structures Within the Setback. (NR115.05(1)(g)5)

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Chapter 6, Section 1 may be expanded laterally, provided that all of the following requirements are met:

- A. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.

- B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- C. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- D. The Zoning Department shall issue a permit that requires a mitigation plan that shall be approved by the Department and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 12.0.
- E. All other provisions of the shoreland ordinance shall be met.

**4. Expansion of a Nonconforming Principal Structure Beyond Setback. (NR 115.05(1)(g)5m)**

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under Chapter 6, Section 1, may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per Chapter 6, Section 1, and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph.

**5. Relocation of Nonconforming Principal Structure.**

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Chapter 6 may be relocated on the property provided all the following requirements are met:

- A. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- C. No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- D. The Zoning Department determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement per Chapter 6.
- E. The Zoning Department shall issue a permit that requires a mitigation plan that shall be approved by the Department and implemented by the property owner by the date specified on the permit. The mitigation plan shall meet the standards found in Chapter 12 and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.
- F. All other provisions of the shoreland ordinance shall be met.

**6. Maintenance, Repair, Replacement, or Vertical Expansion of Structures That Were Authorized by Variance.** (s.59.692(1k) (a)2. and (a)4.), Wis. Stats.)

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 25, 2015, may be maintained, repaired, replaced, restore, rebuilt, or remodeled if the activity does not expand the footprint of the authorized structure.

Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Expansion of a structure beyond the existing footprint is allowed if the expansion is necessary to comply with applicable state or federal requirements.

Note: Section 59.692(1k) (a)2 prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in Chapter 11, Section 6. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or stormwater control ordinances.

**7. Maintenance, Repair, and Replacement of Illegal Structures.** (s59.692(1k) (a)2c, Wis. Stats)

A structure that was illegally constructed, which is older than ten years and may not be enforced under the shoreland protection ordinance (s59.692(1t) Stats) may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the structure. (No vertical or lateral expansion of illegal structures is allowed.)

## **CHAPTER 12.**

### **MITIGATION.** (NR 115.05 (1)(e)3, (g)5, (g)6)

#### **1. Purpose.**

Mitigation standards shall be established to protect and restore water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty that is otherwise lost through development and human activities.

#### **2. Permit Requirements.**

When the county issues a permit requiring mitigation under Chapter 9 Section 5, Chapter 11 Section 3, and Chapter 11 Section 5, a complete permit application from a property owner must include a plan to mitigate for the adverse impacts of human activity and development. This application shall include:

- A. A site plan that describes the proposed mitigation measures.
  - 1. The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
  - 2.. The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

B. An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.

### 3. Mitigation Requirements.

A. Mitigation shall be required for the following activities:

1. Lateral Expansion of Nonconforming Principal Structure within the Setback. Lateral expansion of a nonconforming principal structure as allowed under Chapter 11; Section 3 shall require a minimum of 5 mitigation points. See Chapter 12, Section 4 for approved mitigation options.
2. Relocation of Nonconforming Principal Structure. Relocation of a nonconforming principal structure as allowed under Chapter 11; Section 5 shall require a minimum of 3 mitigation points. See Chapter 12, Section 4 for approved mitigation options.
3. Exceeding Impervious Surface Standards. To exceed the impervious surface standards listed under Chapter 9, Section 3, 2 points of mitigation shall be required for every 5 percent increase above the standard. The total increase shall not exceed the maximum impervious surface standards under Chapter 9, Section 4. Properties that exceed the maximum impervious surface standards under Chapter 9, Section 4 may be redeveloped, provided that the project does not make the property exceed the existing impervious surface coverage. See Chapter 12, Section 4 for approved mitigation options.

### 4. Mitigation Options.

- A. Removal of nonconforming accessory structures. **1 point per 100 square feet of accessory structure, not to exceed 3 points.**
- B. Removal of shoreland structures, such as, but not limited to artificial beaches, seawalls, or and bulkheads. **1 point per 25 lineal feet or 1 point per 100 square feet of structure, whichever is greater, not to exceed 3 points.**
- C. Replacement of private on-site wastewater treatment system (POWTS) or connection to a public sanitary sewer service or private group wastewater treatment system serving five or more lots. **2 points.**
- D. Reduction of impervious surface coverage to less than 15 percent of lot. **2 points per 2.5% reduction.**
- E. Proposed structure will utilize earth tone exterior colors or replacement of an existing structure's unnatural exterior hue with earth tone colors. **1 point.**



- F. Removal of existing shore lighting or replacement with downcast lighting within 75' of the ordinary high-water mark. **1 point.**
- G. Establishment of primary vegetative buffer zone. Must follow minimum standards outlined in Chapter 7. **1 point per 7' (depth) of buffer establishment, not to exceed 5 points.**
- H. Reduction of existing viewing and access corridor. **1 point per 20% reduction, not to exceed 3 points.**
- I. Establishment of secondary vegetative buffer zone. Must be located between 35 and 75 feet of the ordinary high-water mark and must be established after primary vegetative buffer zone. **1 point per 200 square feet.**
- J. Installation of stormwater management system such as, but not limited to rain gardens, rainwater gutter collection systems, and water diversions of overland flow. **3 points.**
- K. Installation of a bio-retention system, rain garden, or other stormwater system, designed by an engineer to contain the rainfall minimum sizing standard for impervious surfaces on the lot. **3 points for the first 15 percent impervious surface runoff captured and/or 2 points for every 5 percent captured above 15 percent, not to exceed 9 points.**
- L. Other shoreland stabilization, as determined necessary by the Zoning Administrator. Stabilization must be within 75 feet of the ordinary high-water mark. **1 to 3 points.**
- M. Other practices as approved by the Zoning Administrator.

## 5. Mitigation Sizing Requirements.

### A. Mitigation Subsurface Dispersal System Limits.

Systems (e.g., Drain fields, tree box filters, infiltration trenches, dry wells, and bio-retentions) designed for stormwater infiltration into the subsoil shall require the following:

1. Site Evaluation Requirements. Subsurface Dispersal Systems will require site evaluation per Wisconsin Department of Natural Resources Conservation Practices Standards "Site Evaluation for Stormwater Infiltration (1002)".
2. Plan Certification. A mitigation plan that includes a subsurface dispersal system shall include certification from a professional engineer registered in the State of Wisconsin, that all computations and designs for the proposed subsurface dispersal system have been reviewed and approved by the engineer as being in accordance with technical and design standards.
3. Notice of the provisions of the approved plan shall be recorded with the title to the property by affidavit with the County Register of Deeds.

## CHAPTER 13.

### ADMINISTRATIVE PROVISIONS. (NR 115.05(4))

#### 1. Purpose

The overall purpose of this chapter is to establish responsibilities for administration of this Ordinance, procedural requirements for various development approvals under this chapter, and enforcement procedures and penalties for noncompliance.

#### 2. Zoning Administrator

The general duty of the Zoning Administrator is to interpret and administer this Ordinance, as well as certain other ordinances within Buffalo County, as indicated within those ordinances. The Zoning Administrator shall have the following duties and powers:

- A. Develop and maintain a system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of all applications shall be required to be filed in the office of the county Zoning Administrator.
- B. Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance. Be permitted access to premises and structures between 8 a.m. and 6 p.m., or such other time agreed to by all parties involved, to make inspections to ensure compliance with this ordinance.
- C. Develop and maintain a variance procedure which authorizes the Board of Adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the Shoreland Protection Ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
- D. Develop and maintain a conditional use permit procedure.
- E. Keep a complete record of all proceedings before the Board of Adjustment, Zoning Committee and the Buffalo County Board of Supervisors.
- F. Provide written notice to the appropriate office of the Department of Natural Resources at least 10 days prior to any hearing on a proposed variance, conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under Chapter 4.
- G. Submission to the appropriate office of the Department of Natural Resources, within 10 days after grant or denial, of copies of any permit granted under Chapter 8 or 13, any decision on a variance, conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

H. Maintain permanent and current records associated with this chapter, including but not limited to all maps, amendments, conditional use permits, zoning permits, site plans, mitigation plans, variances, appeals, inspections, interpretations, applications, and other official actions.

I. Review and approve site plans for land uses under this chapter prior to the issuance of permits for such uses, ensuring compliance with this and other applicable ordinances and any additional requirements of designated official review and approval bodies for associated rezoning, conditional use permit, or variance requests.

J. Establish appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats.

K. Investigate all complaints made relating to the location and use of structures, lands, and waters and pursue the prosecution of violations of the Shoreland Protection Ordinance.

L. In combination with other professional and administrative staff of the Department, advise applicants for development approvals regarding the provisions of this ordinance and assist applicants, to the extent practical, in preparing required permit applications.

### **3. Permits**

#### **A. Purpose.**

The purpose of this section is to specify the requirements and procedures for the issuance of permits. Permits are issued by the Buffalo County Zoning Administrator for certain projects specified in this section in order to verify compliance with the provisions of this Ordinance. In certain cases, other land use approvals and permits, including but not limited to rezoning, conditional use permit approval, or variance approval is required before a zoning permit may be issued.

#### **B. When required.**

Except where another section of this ordinance specifically exempts certain types of development from this requirement, a permit shall be obtained from the Zoning Administrator or Board of Adjustment before any new development.

#### **C. Application.**

An application for a permit shall be made to the Zoning Department upon forms furnished by the county and shall include, for the purpose of proper enforcement of these regulations, the following information:

1. A completed form, provided by the Zoning Department and signed by the owner, including basic information on the owner and project to ensure compliance with this ordinance.
2. A legal description of the subject site by lot, block, and recorded subdivision or certified survey map, or by metes and bounds, or a copy of the deed.

3. A to-scale site plan showing the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting waterways.
4. A plan, which may be included on the site plan, indicating the location of the existing and proposed sewage treatment system and well location where municipal sewer and/or water service will not be provided.
5. Plans for appropriate mitigation when required.
6. Payment of the required application fee.
7. Any additional information as required by the Zoning Administrator to determine if the proposed use meets the requirements of this ordinance.

#### **4. Permit Time Limits**

A permit shall either be granted or denied in writing by the Zoning Administrator within thirty days of the filing of a complete application, unless other parallel processes (e.g., conditional use permit) require a longer review period. Once issued, each permit shall be posted in a prominent place on the premises prior to and during the period of construction, alteration, or movement. If the work authorized by the permit is not completed within 24 months of the date of the approval, the permit approval shall be considered void. The applicant may apply for, and the Zoning Administrator may grant, a one time, 12-month extension, provided that a written extension request is submitted before the original expiration date.

#### **5. Conditional Use Permits**

##### **A. Application for a Conditional Use Permit.**

Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Adjustment. To secure information upon which to base its determination, the Board of Adjustment may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

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

requirements of this ordinance.

6. Rationale for why the proposed conditional use meets all the criteria listed in the ordinance.

#### B. Notice, Public Hearing, and Decision.

Before deciding whether to grant or deny an application for a conditional use permit, the Board of Adjustment shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Board of Adjustment, shall be given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate office of the DNR at least 10 days prior to the hearing. The Board of Adjustment shall state in writing the grounds for granting or denying a special exception permit.

#### C. Standards Applicable to all Conditional Uses.

In deciding a conditional use permit application, the Board of Adjustment shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Compliance with the Buffalo County Floodplain Ordinance and alleviation of opportunity for damage to adjacent properties due to altered surface water drainage.
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
5. The location of the site with respect to existing or future access roads.
6. The need of the proposed use for a shoreland location.
7. Its compatibility with uses on adjacent land.
8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
9. Location factors under which:
  - a. Domestic uses shall be generally preferred.
  - b. Uses not inherently a source of pollution within an area shall be preferred overuses that are or may be a pollution source.
  - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility. Additional standards such as parking, noise, etc. may refer to the applicable part of the Buffalo County Zoning Ordinance.

#### D. Conditions Attached to Conditional Use Permits.

Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking, and signs; and type of construction. Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance.

In granting a conditional use permit, the Board of Adjustment may not impose conditions, which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

#### E. Recording.

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

#### F. Revocation.

Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked.

#### G. Time Limits Associated with Conditional Uses.

If the conditional use permit is not initiated by securing at least one zoning permit—within one year of the date of approval, the conditional use permit approval shall be considered void. The applicant may without fee apply for, and the Zoning Administrator may grant, a one-time, twelve-month extension, provided that a written request for extension is submitted before the original expiration date. If a use or activity associated with a previously approved conditional use permit ceases for twelve months or more after first being established on the property, the use will be deemed to have been terminated and the property owner or authorized agent must reapply and obtain approval of another conditional use permit before recommencing the use or activity.

## 6. Variances

#### A. Variance Criteria to Be Met.

The Board of Adjustment may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:

1. Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant.

2. The hardship is due to special conditions unique to the property.
3. It is not contrary to the public interest; and
4. The request represents the minimum relief necessary to relieve unnecessary burdens.

**B. Notice, Public Hearing, and Decision.**

Before deciding on an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the DNR at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate DNR district office within 10 days of the decision.

**7. Board of Adjustment**

The county executive, county administrator or chair of the County Board shall appoint a Board of Adjustment consisting of 3 or 5 members under S. 59.694, Wis. Stats. The County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by s. 59.694(3), Wis. Stats.

**A. Powers and Duties.**

1. The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all the powers conferred on such boards by s. 59.694, Wis. Stats.
2. It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
3. It shall hear and decide applications for conditional use permits pursuant to Chapter 13, Section 5.
4. It may grant a variance from the standards of this ordinance pursuant to Chapter 13, Section 6.
5. In granting a variance, the board may not impose conditions, which are more restrictive than any of the specific standards in the ordinance. Where the Ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.
6. Such duties and powers as stipulated and defined in the Buffalo County Zoning ordinance.

**B. Appeals to the Board.**

Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer,

department, board, or bureau of the county affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

C. Hearing Appeals for Variances & Conditional Use Permits.

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

**8. Fees**

The County Board may, by resolution, adopt fees for the following:

- A. Zoning Permits.
- B. Planned Unit Development. Fee is same as for subdivision review.
- C. Conditional Use Permit.
- D. Variance.



## **9. Changes and Amendments**

The County Board may from time to time, alter, supplement, or change the regulations contained in this Ordinance in accordance with the requirements of s. 59.69(5)(e), Wis. Stats, Ch. NR 115, Wis. Adm. Code, and this ordinance where applicable.

### **A. Amendments.**

Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.69(5)(e), Wis. Stats.

### **B. Shoreland Wetland Map Amendments.**

Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county Land Use Committee. A copy of each petition shall be provided to the appropriate office of the DNR within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the WI DNR at least 10 days prior to the hearing. A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate office of the DNR within 10 days after the decision is issued.

## **10. Enforcement and Penalties (NR 115.05(4j))**

Any development, any building or structure constructed, moved, or structurally altered, or any use established after the effective date of this Ordinance in violation of the provisions of this Ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the district attorney who shall expeditiously prosecute violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this Ordinance shall be subject to a forfeiture of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars per offense, together with the taxable costs of action. Each day the violation exists shall constitute a separate offense. Every violation of this Ordinance is a public nuisance, and the creation thereof may be enjoined, and the maintenance thereof may be abated pursuant to s. 59.69(11), Wis. Stats.

### **A. Authority.**

In the enforcement of this Ordinance, the Zoning Administrator shall have the power and authority for the following:

1. At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof.
2. Upon reasonable cause or question as to proper compliance, to revoke any zoning or occupancy and use permit and issue stop work orders requiring the cessation of any building, moving, alteration or use which is violation of the provisions of this Ordinance. Notice of a stop work order is given both by posting upon the land where the violation occurs one or more copies of a poster stating the violation, and by mailing a copy of the order to the owner of the property on which the activity is in violation of this Ordinance. The order shall specify the activity that must cease immediately or be brought

into compliance with a time period as determined by the Zoning Administrator. Any stop work order shall be in effect until removed by the Zoning Administrator.

3. To refer to the District Attorney for commencement of any legal proceedings necessary to enforce this Ordinance. Compliance with the provisions of this Ordinance may be enforced by injunctive order at the suit of the County. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunctive proceedings.

4. Beginning construction without a permit will result in the imposition of an after-the-fact fee as defined in the Buffalo County Zoning Ordinance.

B. Responsibility for Compliance.

It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this Ordinance. Any person, firm, or corporation, causing a violation or refusing to comply with any provision of this Ordinance will be notified in writing of such violation by the County Zoning Administrator or his designated Zoning Deputy. Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and, as such, forfeitures shall apply accordingly.

C. Suspension of Permit.

Whenever the Zoning Administrator determines there are reasonable grounds for believing there is a violation of any provision of this Ordinance, the Zoning Administrator shall give notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30-day period, an extension may be granted if reason of hardship prevails and can be verified. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin. The owner of record has the right to appeal any decision by the Zoning Administrator or apply to the Buffalo County Board of Adjustment for a Variance from the strict rule of the Ordinance within 30 days of receipt of a notice or order.

D. Violations of Permits.

1. Violation of a permit or other approval issued under this Ordinance, or any condition or approved plan associated with such permit or other approval, shall be deemed a violation of this Ordinance, and shall constitute grounds for revocation of the permit, as well as fines and forfeitures and any other available remedies. A permit or other approval may be revoked only by action of the body that initially granted the permit or other approval, following procedures required for its initial issuance to the extent practical. The decision of the appropriate body shall be furnished to the permit holder in writing, stating the reasons, therefore.

2. A permit or other approval issued in violation of this Ordinance, the Wisconsin Administrative Code, or Wisconsin Statutes gives the permit holder no vested right to continue the activity authorized by the permit, and the permit is considered voidable.

## CHAPTER 14.

### DEFINITIONS

#### 1. Interpretation

For the purpose of administering and enforcing this Ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

#### 2. Definitions

Access and viewing corridor: A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

Accessory structure: A subordinate structure on the same property as the principal structure which is devoted to a use incidental to the principal use of the property. Accessory structures include, but are not limited to, detached garages, boathouses, sheds, barns, gazebos, patios, decks, swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways, and lifts.

Accessory Use: An accessory use is a land use that both serves and is customarily incidental and subordinate to a principal use. Accessory uses may be established only after the principal use of the property is established and must be on the same parcel as the principal use.

Boathouse: Means a permanent structure used for the storage of watercraft and associated materials and includes all structures, which are totally enclosed, have roofs or walls or any combination of these structural parts.

Building: Any structure, which is built for the support, shelter or enclosure of animals, chattels, or movable property of any kind and which is permanently affixed to the land, does not include a dwelling.

Building envelope: The three-dimensional space within which a structure is built.

Conditional Use: A use which is permitted by this ordinance provided that certain specified conditions are met and that a permit is granted by the Board of Adjustment.

County Land Use Committee: Means that committee or commission created or designated by the County Board under s. 59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.

Department: Means the Buffalo County Zoning Department.

Development: Means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.

Drainage System: Means one or more artificial ditches, tile drains or similar devices, which collect surface runoff or groundwater and convey it to a point of discharge.

Existing development pattern: Means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

Floodplain: Means the land that has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Ch. NR 116, Wis. Adm. Code.

Footprint: The land area covered by a structure, defined as the surface area projected on the ground that falls directly beneath all areas that are included in the definition of a structure. The surface area projected on the ground of any part of a building, including roof overhangs, that projects outward beyond its supporting exterior columns, poles, or walls by more than three feet shall be included in the surface area. For the purposes of replacing or reconstructing a nonconforming structure with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade.

Generally accepted forestry management practices: Means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

Impervious surface: Means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Public roadways as defined in s. 340.01(54) or public sidewalks as defined in s. 340.01(58) are not considered impervious surfaces.

Lot: A continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.

Lot area: The area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high-water mark of navigable waters.

Lot of Record: Any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Maintenance and repair: The ordinary maintenance and repair of a structure or premises that contains a nonconforming use is permitted, including repairs reasonably necessary to prevent the deterioration of a structure, remodeling of the structure, and necessary nonstructural repairs and alterations that do not extend, enlarge, or intensify the structure. Ordinary maintenance and repairs include such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components, the installation or replacement of heating, electricity, or plumbing systems, and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.

Mitigation: Means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

Navigable waters: Means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats, and Ch. NR 115, Wis. Adm. Code, do not apply to:

1. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
2. Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body

Ordinary high-water mark: Means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Previously developed: A lot or parcel that has had a structure as defined by this chapter legally placed upon it.

Regional Flood: Means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

Replacement Construction: In which the principal building, or portion thereof is torn down and replaced by a new structure or building or portion thereof.

Routine maintenance of vegetation: Means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance. Examples of routine maintenance include pruning, watering, and mulching. Routine maintenance

of vegetation does not include the removal and/or replacement of vegetation.

Shoreland: Means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Shoreland setback also known as the Shoreland setback area: Means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.

Shoreland-wetland district: Means the zoning district, created as a part of this Shoreland Zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps, which have been adopted and made a part of this ordinance.

Structural alterations: Any changes in the supporting members of a structure such as foundations, bearing walls, columns, beams, or girders, footing and piles or any substantial change in the roof structure, or in the exterior walls.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on the ground or attached to something having a permanent or temporary location on the ground, including but not limited to any building, dwelling, manufactured building, manufactured home, mobile home, house trailer, recreational vehicle, boathouse, boat shelter, advertising sign, deck, patios, driveways, fences, retaining walls, or other improvements or any part of such structure. Per; (s.59.692(1)(e), Stats), a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

Structure, Principal: The main structure on a lot, intended for primary use as permitted by the regulations of the district in which it is located.

Substandard lot: A legally created lot or parcel that met minimum area and minimum average width requirements when created but does not meet current lot size requirements.

Unnecessary hardship: Means that circumstance where special conditions, which were not self-created, affect a particular property, and make strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

Variance: Means an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.

Wetlands: Means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have hydric soils indicative of wet conditions.