

CHAPTER 26  
SHORELAND PROTECTION ORDINANCE

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CHAPTER 26

SHORELAND PROTECTION ORDINANCE

**26.100 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE**

**26.101 STATUTORY AUTHORIZATION**

This Ordinance is adopted pursuant to the authorization in s. 59.692, Stats, to implement 59.692 and 281.31, Stats

**26.102 FINDING OF FACT**

Uncontrolled use of the shorelands and pollution of the navigable waters of Oconto 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; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Oconto County, Wisconsin.

**26.103 PURPOSE AND INTENT**

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 waste treatment systems.
  - (3) Controlling filling and grading to prevent soil erosion problems.
  - (4) Limiting impervious surfaces to control runoff which carries pollutants.
- (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 use through:
  - (1) Prohibiting certain uses detrimental to the shoreland-wetlands.
  - (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.

**26.104 TITLE**

This ordinance shall be known as the “Oconto County Shoreland Protection Ordinance” except as referred to herein, where it shall be known as “this chapter”.

**26.200 GENERAL PROVISIONS**

**26.201 AREAS TO BE REGULATED**

Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Oconto 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 Oconto County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 “Wisconsin Lakes” 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 Oconto 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 chapter apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in s. 59.692 (7), Wis. Stats. Unless specifically exempted by law, all cities, villages, towns, counties and, when s. 13.48 (13), Wis. Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1), Wis. 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. Determinations made by a professional land surveyor with regard to s.59.692 (1h) shall be reviewed by the Zoning Administrator and the Department where necessary.

- (e) Under s. 281.31 (2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, this shoreland zoning ordinance does not apply to:
  - (1) Lands adjacent to farm drainage ditches if:
    - (A) Such lands are not adjacent to a natural navigable stream or river;
    - (B) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - (2) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

### **26.202 OFFICIAL MAPS**

The maps designated in this section are adopted and made part of Chapter 26 Shoreland Ordinance. They are on file in the office of the Zoning Administrator for Oconto County. Due to inaccuracies inherent in the mapping process, reliance thereupon cannot be guaranteed and on a case by case basis, the Zoning Administrator may require additional investigation to allow for proper application of the shoreland regulations in determining designation.

- (a) The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer. The maps can be viewed at <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>
- (b) Oconto County Official Zoning Map.
- (c) Any historical Wisconsin Wetland Inventory Maps.
- (d) United States Geological Survey 7.5 Quadrangle Maps for Oconto County.
- (e) Flood Insurance Rate Maps dated October 6, 2010 or other official maps adopted as part of the Oconto County Floodplain Zoning Ordinance.
- (f) Oconto County Soil Survey.

In addition to aforementioned official maps the Oconto County Planning and Zoning Office may refer to other available data sources including but not limited to those available on the Oconto County web based parcel mapping application (S.O.L.O)

### **26.203 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.

#### **26.204 MUNICIPALITIES AND STATE AGENCIES REGULATED**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s. 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 s. 30.2022(1), Wis. Stats., applies.

#### **26.205 ABROGATION AND GREATER RESTRICTIONS**

(s. 59.692(5) Wis. Stats.) The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than s. 59.692, Wis. Stats., does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- (a) This ordinance shall not require approval or be subject to disapproval by any town or town board.
- (b) 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.
- (c) Provisions of the Oconto County Code of Ordinances are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
- (d) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in s. 26.103 of this ordinance,
- (e) Oconto County may not establish shoreland zoning standards in a shoreland zoning ordinance that requires 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) Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (f) (s.59.692(7), Stats) The construction and maintenance of a facility is considered to satisfy the requirements of the Oconto County Shoreland Protection Ordinance if:

The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283 Stats.

#### **26.206 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 statute and a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and ch. NR 115, Wis. Adm. Code 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.

### **26.207 SEVERABILITY**

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

### **26.300 SHORELAND-WETLAND DISTRICT**

#### **26.301 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 as depicted on the Department of Natural Resources Surface Water Data Viewer.

**LOCATING SHORELAND-WETLAND BOUNDARIES.** Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, 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. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

#### **26.302 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.

#### **26.303 PERMITTED USES**

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

- (a) Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
  - (1) Hiking, fishing, trapping, hunting, swimming, and boating;
  - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
  - (3) The pasturing of livestock;

- (4) The cultivation of agricultural crops;
  - (5) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
  - (6) The construction or maintenance of duck blinds.
- (b) Uses which do not require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
  - (2) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
  - (3) 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;
  - (4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
  - (6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) Uses which require the issuance of a shoreland permit under 26.1402(a) may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
    - (A) The road cannot as a practical matter be located outside the wetland;
    - (B) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 26.305(b);
    - (C) The road is designed and constructed with the minimum width practical to serve the intended use;
    - (D) Road construction activities are carried out in the immediate area of the roadbed only.
  - (2) The construction or maintenance of nonresidential buildings, provided that:
    - (A) The building is essential for and used solely in conjunction with the raising of

waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;

- (B) The building cannot, as a practical matter, be located outside the wetland;
  - (C) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
  - (D) Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (2) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
- (A) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;
  - (B) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in s. 26.303(c)(1) and;
  - (C) 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.
- (4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
- (A) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
  - (B) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 26.305(b).

#### **26.304 PROHIBITED USES**

Any use not listed in s. 26.303 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with s. 26.305 of this ordinance and s. 59.69(5)(e), Wis. Stats.

#### **26.305 REZONING OF LANDS 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 shall be provided with the following:

- (1) A copy of every petition for a text or map amendment to the conservancy district within the shoreland zone, within 5 days of the filing of such petition with the Planning and Zoning Office. 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 zoning agency'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) 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 which can be accessed at the following web site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.
- (c) If the Department notifies the Planning & Zoning Committee that a proposed text or map amendment to the shoreland-wetland conservancy district provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in s. 26.305(b) 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 Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692 (6), Wis. Stats adoption procedure is completed or otherwise terminated."

## **26.400 LAND DIVISION REVIEW AND SANITARY REGULATIONS**

### **26.401 LAND DIVISION REVIEW**

The county shall review, pursuant to s. 236.45, Wis. Stats. and Chapters 13 & 14 of the Oconto County Code of Ordinances; all land divisions in shoreland areas which create parcels or building sites of 10 acres or less in size. In such review, all of 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.
- (f) Conformity to Oconto County comprehensive plan adopted pursuant to s. 59.69 and 66.1001(4), Wis. Stats.

### **26.402 PLANNED UNIT DEVELOPMENT (PUD).**

- (a) **PURPOSE.** The Planned 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 Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.
- (b) **REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT.** The county board may at its discretion, upon its own motion or upon petition, approve a Planned Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:
  - (1) **Area.** The area proposed for the Planned Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
  - (2) **Lots.** Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of s. 26.502 and s. 26.503 shall be a non-riparian lot.
  - (3) **Lot sizes, widths, setbacks, and vegetation removal.** When considering approval of a Planned 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 26.702 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.

**26.403 SANITARY REGULATIONS**

The county has adopted sanitary regulations pursuant to Chapter 12 Oconto County Sanitary Ordinance, 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 system 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 a private sewage system ordinance adopted by the county under s. 59.70(5), Wis. Stats.

**26.500 MINIMUM LOT SIZE**

**26.501 PURPOSE**

Minimum lot sizes for new lots in the shoreland zone 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.

**26.502 SEWERED LOTS: MINIMUM AREA AND WIDTH FOR EACH LOT**

- (a) The minimum lot area for creating a sewerred lot shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.
- (b) The width shall be calculated by averaging the measurements at the following locations:
  - (1) The ordinary high water mark
  - (2) The building setback line
  - (3) The Right-of-Way Line

**26.503 UNSEWERED LOTS: MINIMUM AREA AND WIDTH FOR EACH LOT.**

- (a) The minimum lot area for creating an unsewered lot 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.
- (b) The width shall be calculated by averaging the measurements at the following locations:
  - (1) The ordinary high water mark
  - (2) The building setback line
  - (3) The Right-of-Way Line

**26.504 SUBSTANDARD LOTS**

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 of 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.

A lot or parcel may be exempt from this requirement where Planning & Zoning staff determines the reconfiguration of the parcels involved brings each of the parcels closer to the minimum standards of s. 26.502 or s. 26.503 or brings the parcel(s) closer to the minimum standards of s. 26.502 or s. 26.503 and does not reduce the other parcel(s) below the minimum standards of s. 26.502 or s. 26.503.

- (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 of the same owner.
- (c) The substandard lot or parcel is developed to comply with all other ordinance requirements of this chapter, such as but not limited to setbacks, height, impervious surface, and use.

#### **26.505 OTHER SUBSTANDARD LOTS**

Except for lots which meet the requirements of s. 26.504 a shoreland permit for the improvement of a lot having lesser dimensions than those stated in s. 26.502 and s. 26.503 shall be issued only if a variance is granted by the board of adjustment.

#### **26.600 BUILDING SETBACKS**

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

#### **26.601 SHORELAND SETBACKS**

Unless reduced under s. 26.603 or exempt under s. 26.605(a), a horizontal setback of 75 feet measured from the nearest distance from the ordinary high-water mark of any navigable waters to the nearest part of a building (vertical wall or eaves/overhang) or structure shall be required for all buildings and structures.

#### **26.602 SIDE, REAR AND ROAD SETBACKS**

In addition to the shoreland setback standard, all structures shall comply with the general zoning setback standards of Chapter 14 Oconto County Zoning Ordinance.

#### **26.603 REDUCED PRINCIPLE STRUCTURE SETBACK**

A setback less than the 75' required shoreland setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

- (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 of the following are met:
  - (1) Both of the existing principal structures are located on adjacent lots 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.
  - (5) Measurements are to be taken from the nearest distance from the ordinary high water mark to the nearest portion of the principal structure (vertical wall or eave/overhang).
- (b) Where this 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 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.
  - (5) Measurements are to be taken from the nearest distance from the ordinary high water mark to the nearest portion of the principal structure (vertical wall or eave/overhang).

**26.604 FLOODPLAIN STRUCTURES**

Buildings and structures to be constructed or placed in a floodplain shall be required to comply with ch. 21, Oconto County Floodplain Ordinance.

**26.605 EXEMPT STRUCTURES**

- (a) Exempt Structures –New Construction: All of the following structures are exempt from the shoreland setback standard in s. 26.601 and as referenced in (NR 115.05(1)(b)1m) and s. 59.692(1k)(a)(6).
- (1) New Boathouses may be constructed subject to the following standards:
    - (A) Located entirely above the ordinary high water mark including floor or top of footing.
    - (B) If located within the shoreland buffer area, the boathouse must be within the access corridor of the parcel.
    - (C) Shall not contain plumbing or plumbing fixtures and cannot be used for human

habitation.

- (D) Designed and constructed solely for the storage of boats and related equipment.
  - (E) One boathouse is permitted on a lot as an accessory structure.
  - (F) Shall be constructed in conformity with local floodplain zoning standards.
  - (G) Shall not exceed a dimension of 288 square feet nor may the wall height exceed 10 feet.
  - (H) Roofs shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but not steeper than 6/12 rise to run.
  - (I) Roofs shall not be designed or used as decks, observation platforms or for other similar uses.
  - (J) Earth toned colors to blend in with the natural landscapes shall be required for all exterior surfaces of a boathouse. Bright or contrasting colors including white are prohibited.
  - (K) The main door shall face the water.
  - (L) Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
  - (M) Mitigation applies only in respect to impervious surface standards.
- (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), Wis. Stats may be constructed with an approved permit subject to the following standards:
- (A) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
  - (B) The total combined footprint of all the structures in the shoreland setback area will not exceed 200 square feet. Walkways and stairways shall be excluded in calculating the combined footprint.
  - (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.
  - (E) The exempt structure, if free standing, may not have a wall height exceeding ten feet.
  - (F) An enforceable affidavit must be filed with the register of deeds prior to construction acknowledging the limitations on vegetation.

- (G) Mitigation applies only in respect to impervious surface standards.
- (3) 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.
- (4) 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 383, Wis. Admin. 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.
- (5) Devices or systems used to treat runoff from impervious surfaces.
- (6) Walkways, stairways or rail systems that are essential to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
  - (1) A stairway, walkway or lift is allowed in the shoreland setback area only when it is necessary to provide safe pedestrian access to the shoreline because of steep slopes or unstable soils on the parcel. The construction is subject to the following standards:
    - (A) Shall be located within the allowable view and access corridor to the extent practicable.
    - (B) Only one stairway or one lift is allowed, not both, except where there is an existing stairway and the lift will be mounted to or is immediately adjacent to the existing stairway.
    - (C) Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas.
    - (D) Vegetation, which stabilizes slopes or screens structural development from view, shall not be removed.
    - (E) Structures shall be colored and screened by vegetation so as to be inconspicuous when viewed against the shoreline.
    - (F) Canopies, roofs and sides are prohibited. Open railings may be provided where required for safety.
    - (G) A maximum width of five (5) feet (outside dimensions) is allowed for stairways, walkways and lifts.
    - (H) Landings are allowed when required for safety purposes and shall not exceed a cumulative total of forty (40) square feet. Attached benches, seats, tables, etc. are prohibited.
    - (I) Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavation that is proposed shall meet the requirements of section 26.800.
    - (J) Lifts shall include a certified plan by a registered professional engineer or

architect showing the lift components are securely anchored to prevent them from shifting and from causing accelerated erosion.

(K) Mitigation applies only in respect to impervious surface standards.

(2) Accommodations for disabled persons. Where strict interpretation of this section would effectively deny disabled persons equal opportunity, and where the property does not meet the criteria for a variance under 26.1404 of this chapter, the Planning & Zoning Department may grant a waiver to the dimensional standards of this chapter in order to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Housing Act and the Wisconsin Fair Housing Act. The permit shall be subject to the following standards:

(A) Only the minimum relaxation of dimensional standards needed to provide reasonable accommodation shall be approved.

(B) No use, structure or other relaxation of standards shall be approved that would violate or undermine the stated purpose of this chapter.

(C) The improvement authorized by this provision shall be removed when the premises are no longer occupied or frequented by a disabled person.

(b) Exempt Structures – Existing: Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and/or remodeled in compliance with the following standards:

(1) Provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure.

(2) Expansion may be permitted if it is necessary to comply with applicable state or federal requirements.

(3) An existing boathouse must be located entirely within the access and viewing corridor.

(4) An existing boathouse must not contain plumbing or plumbing fixtures and cannot be used for human habitation.

(5) An existing boathouse may use the roof as a deck provided that:

(A) The existing boathouse has a flat roof.

(B) The roof of the existing boathouse has no side walls or screens.

(C) The roof may have a railing system that meets Department of Safety and Professional Services standards.

## **26.700 PRESERVATION AND REMOVAL OF SHORELAND VEGETATIVE COVER**

### **26.701 PURPOSE.**

To protect natural scenic beauty, fish and wildlife habitat, and water quality, Oconto County shall regulate removal of vegetation in shoreland areas, consistent with standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and

the flow of effluents, sediments and nutrients.

## **26.702 ACTIVITIES ALLOWED WITHIN A SHORELAND VEGETATIVE BUFFER ZONE.**

To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, this chapter shall designate all land that extends from the ordinary high water mark to a minimum of 35 feet inland as a shoreland vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone. A compliant shoreland vegetative buffer zone shall contain three distinct layers including a native tree canopy, shrub layer, and groundcover layer that promotes shoreland habitat.

The following activities **are allowed** within the shoreland vegetative buffer zone, subject to the following standards:

- (a) The routine maintenance of vegetation consistent with the following standards:
  - (1) Landscaping and lawns that extend into the required shoreland vegetative buffer zone that were in place prior to the adoption of this chapter may be maintained but shall not be extended further into the required shoreland vegetative buffer zone.
  - (2) Pruning, trimming or other generally accepted horticultural practices which do not result in the loss of plant densities within the required shoreland vegetative buffer zone.
  - (3) The removal of trees and shrubs in the shoreland vegetative buffer zone to create access and viewing corridors per s. 59.692(1f)(b), Stats.:
  - (4) The viewing and access corridor may be at least 35 feet wide for every 100 feet of shoreline frontage.
  - (5) The viewing and access corridor may run contiguously for the entire maximum width of the shoreline frontage owned for the parcel.
  - (6) The cleared area of the viewing & access corridor must be maintained with some form of vegetation that prevents bank or overland erosion and sedimentation of the waterway. Sand, gravel, rock or other similar activities shall be prohibited as an alternative to vegetation unless otherwise allowed by this chapter.
- (b) The removal of trees and shrubs 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), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
- (c) The removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, provided that any vegetation removed be replaced with native vegetation or approved cultivars of native stock that is equally effective in fulfilling the purposes of the vegetative buffer zone, as soon as practicable.
- (d) The removal of dead, diseased, dying or damaged trees or branches that present an imminent safety hazard to structures or persons, provided they are replaced with native vegetation or approved cultivars of native stock that is equally effective in fulfilling the purposes of the vegetative buffer zone, as soon as practicable.

- (e) Cutting more than 35 feet inland. From the inland edge of the 35 foot area to the outer limits of the shoreland zone, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality as outlined in the Department of Natural Resources Publication "Wisconsin's Forestry Best Management Practices for Water Quality".

### **26.703 ACTIVITIES REQUIRING A PERMIT WITHIN A SHORELAND VEGETATIVE BUFFER ZONE.**

Where a shoreland vegetative buffer zone is required, the buffer shall be designed in accordance with NRCS Interim Standard No.643A and NRCS Wisconsin Biology Technical Note1: Shoreland Habitat. In cases where these standards provide options, the Planning & Zoning Department shall make the determination which option is most appropriate in the design and execution of the project.

- (a) The permit shall require an enforceable restriction to preserve the newly restored area.
- (b) The following instances require an affidavit recorded in the register of deeds to serve as an official notice of the shoreland vegetative buffer zone requirements:
  - (1) Where vegetative buffer zone requirements or cutting limitations are a component of proposed mitigation as required by 26.1300.
  - (2) When cutting and clearing activities take place within the vegetative buffer zone in violation of 26.702 and shoreland vegetative buffer zone restoration is a component of resolving the violation.

### **26.800 SOIL DISTURBANCE ACTIVITIES**

Soil disturbance activities such as 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.

#### **26.801 GENERAL STANDARDS.**

- (a) Soil disturbing activities such as filling, grading, lagooning, dredging, ditching, excavating or other land disturbance activity may be permitted provided that the following standards are met:
  - (1) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
  - (2) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of s. 26.303(a) and 26.303(c) of this ordinance.
  - (3) All applicable federal, state and local authority is obtained in addition to a permit under this chapter.
  - (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead through a Chapter 30, Wis. Stats., permit, where applicable.

#### **26.802 PERMIT REQUIRED.**

- (a) Except as provided in 26.804, A permit is required 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 sloped toward the water and meets one of the following:
  - (1) Any filling or grading on slopes of more than 20%.
  - (2) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
  - (3) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
- (b) A permit is required for any land disturbance activity 10,000 sq ft or greater within 1000 ft landward of the ordinary high water mark of a navigable water body, which slopes toward and drains to the water body.
- (c) A conditional use permit is required for any construction or dredging commenced on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
- (d) Land disturbance activity of any area, any size at or below the ordinary high water mark of a navigable body of water requires approval by the WDNR.

#### **26.803 PERMIT CONDITIONS.**

In granting a permit under s. 26.802, all elements of the general standards under s. 26.801 as well as the following conditions shall apply:

- (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 destroy 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.

#### **26.804 SOIL CONSERVATION, FORESTRY PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE**

Soil conservation, forestry or agricultural practices such as but not limited to diversions and grassed waterways used for erosion control, harvesting of trees, landings, field drainage and plowing shall not require a permit under 26.802 of this chapter under the following conditions:

- (a) Conservation practices are designed and constructed to Natural Resources Conservation Service

technical standards.

- (b) Agricultural practices are completed with prescribed practices and adhere to standards inherent in WI Admin. Code as promulgated under Ch. 281 and 92, Wis. Stats.
- (c) Forestry activities as long as best management practices as prescribed by "Wisconsin Forestry Best Management Practices for Water Quality Field Manual" are adhered to by the landowner and logger or the practice is prescribed and supervised by a practicing forester.

## **26.900 IMPERVIOUS SURFACE STANDARDS.**

### **26.901 PURPOSE.**

Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. 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 nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

### **26.902 CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE.**

Percentage of impervious surface shall be calculated by dividing the surface area of the 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 lot or parcel, and multiplied by 100. Impervious surfaces described in s. 26.905 shall be excluded from the calculation of impervious surface on the lot or parcel.

- (a) 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.
- (b) For properties under alternative forms of ownership such as condominiums, cooperatives and associations, the limits of expansion on structures and caps on impervious surfaces shall be attributable to the total number of units within the development. Impervious surface calculations apply to the entire property. For example: If owners within a 3 unit condominium development have 1500 square feet of expansion opportunity available to the units under the impervious surface limitations and they want to expand their structures, then the expansion opportunity for principal or accessory structures shall be split equally amongst the 3 units so that no more than 500 square feet of expansion to impervious surfaces is afforded to each unit. It will be important to remember also that mitigation applies to the property as a whole and not just to the portion of the frontage that might be in front of the unit impacted.

### **26.903 GENERAL IMPERVIOUS SURFACE STANDARD.**

Except as authorized in s. 26.904 and s. 26.905 up to 15% impervious surfaces are allowed on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

- (a) **IMPERVIOUS SURFACE STANDARD FOR HIGHLY DEVELOPED SHORELINES.** (NR 115.05(1)(e)2m.) The county at its discretion may adopt an ordinance for highly developed shorelines allowing up to 40% for residential land use and up to 60% for commercial, industrial or business land uses for lands that meets one of the following standards:

- (1) The highly developed shoreline is identified as an Urbanized Area or Urban Cluster in the

2010 US Census or has a commercial, industrial, or business land use as of January 31, 2013.

- (2) After conducting a hearing and receiving approval by the department of natural resources, the county has mapped additional areas of highly developed shorelines that are at least 500 feet in length and meet the one of the following criteria:
  - (A) Located on a lake served by a sewerage system as defined in NR 110.03(30), Wis. Adm. Code.
  - (B) The majority of the lots contain less than 20,000 square feet in area.
- (3) Refer to **Appendix A** for all areas designated as highly developed shoreline in Oconto County pursuant to s. 26.903 (a) (2).

#### **26.904 MAXIMUM IMPERVIOUS SURFACE.**

A property may exceed the impervious surface standard under s. 26.903 or s. 26.903(a) provided the following standards are met:

- (a) For properties where the general impervious surface standard applies under s. 26.903, 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 on shorelands where the impervious surface standard for highly developed shorelines applies under 26.903 1., a property owner may have more than 30% impervious surface but not more than 40% impervious surface for residential land uses. For commercial, industrial or business land uses a property owner may have more than 40% impervious surface but not more than 60% impervious surface.
- (c) For properties that exceed the standard under s. 26.903 or s. 26.903 (a) but do not exceed the maximum standard under s.26.904 a permit can be issued for development with a mitigation plan that meets the standards found in s. 26.1300.

#### **26.905 TREATED IMPERVIOUS SURFACES**

Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under s. 26.902.

- (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 the following:
  - (1) A calculation 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.

**26.906 EXISTING IMPERVIOUS SURFACES.**

For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in s. 26.903 or the maximum impervious surface standard in s. 26.904, the property owner may do any of the following:

- (a) Maintain and repair the existing impervious surfaces;
- (b) Replace existing impervious surfaces with similar surfaces within the existing building envelope;
- (c) Relocate or modify an existing impervious surface with similar or different impervious surface, 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 ordinance, and the impervious surface meets the applicable setback requirements in s. Wis. Admin. Code NR 115.05 (1) (b).

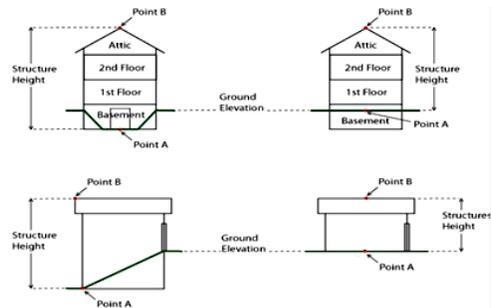
**26.907 COMPLIANCE WITH OTHER PROVISIONS**

The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the Shoreland Protection Ordinance. All of the provisions of the Shoreland Protection Ordinance still apply to new or existing development.

**26.1000 HEIGHT**

To protect and preserve wildlife habitat and natural scenic beauty, structures shall not be permitted taller than 35 feet in height, including structures located within 75 feet of the ordinary high-water mark of any navigable waters.

- (a) Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect 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 code or ch. 14, Oconto County Zoning Ordinance.



**26.1100 NONCONFORMING USES AND STRUCTURES**

The provisions of this section are intended to regulate nonconforming uses and structures so as to protect water quality, fish and wildlife habitat, and natural scenic beauty as provided in the purpose statement of sec 26.103 of this chapter and 281.31, WI Stats.

**26.1101 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.

**26.1102 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES.**

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, subject to the following standards:

- (a) The activity does not expand the footprint of the nonconforming structure.
- (b) 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.
- (c) The expansion of a structure beyond the existing footprint within the required setback is allowed only if the expansion is necessary to comply with applicable state or federal requirements.

**26.1103 LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURE WITHIN THE SETBACK.**

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per s. 26.601 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 county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in s. 26.1300.
- (e) All other provisions of the shoreland ordinance shall be met.

**26.1104 EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURE BEYOND SETBACK**

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under s. 26.601 may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per s. 26.601 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per s. 26.1300.

**26.1105 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 s. 26.601 may be relocated on the property provided 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) 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 county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per s. 26.601.
- (e) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in s. 26.1300 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.

**26.1200 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE.**

A structure, of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled subject to the following standards:

- (a) The activity does not expand the footprint of the authorized structure.
- (b) The structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level.
- (c) The expansion of a structure beyond the existing footprint within the required setback is allowed only if the expansion is necessary to comply with applicable state or federal requirements.

**26.1300 MITIGATION**

When the county issues a permit requiring mitigation under s. 26.605 1 a., s. 26.904, s. 26.1103, s. 26.1105 the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include the following:

- (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.
  - (1) The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.
  - (2) All shoreland mitigation activities must begin within one year of the recording date of the mitigation affidavit or in accordance with the timeline that is written into the mitigation plan and must be completed in accordance with said timeline or within 2 years of the recording date if a timeline has not been established.

#### **26.1301 MITIGATION POINT REQUIREMENTS**

- (a) Mitigation points are required for developing property under the following conditions:
  - (1) Impervious Surface coverage is greater than 15% but less than 20% - 2 points
  - (2) Impervious Surface coverage is from 20% to 30% - 3 points
  - (3) Lateral expansion of nonconforming principal structure within the shoreland setback under s 25.1103 – 3 points
  - (4) Relocation of Nonconforming principal structure within the shoreland setback under s. 25.1105 – 1 point

#### **26.1302 MITIGATION OPTIONS**

- (a) Mitigation point options include:
  - (1) Active restoration (accelerated recovery) of a vegetative shoreland buffer. (3 pts)
  - (2) Increasing depth of a compliant existing vegetative shoreland buffer (1 point for every 15 feet of depth)
  - (3) Passive restoration (natural recovery) of a vegetative shoreland buffer (1 pt)
  - (4) Existing compliant shoreland buffer (2 points)
  - (5) Install rain gutters/down spouts to divert water to a naturally vegetated area or rain garden. (1 point)
  - (6) Install a rain garden in accordance with UWEX publication GWZ037 or stormwater infiltration system and direct runoff from impervious surfaces to rain garden. (up to 3 points)
  - (7) Removal of a structure located within 75 ft. of the OHWM (2 pts)
  - (8) Removal of a structure located within 35 ft. of the OHWM (3 pts)

- (9) Reducing the allowable viewing and access corridor (1 pt for every 15 feet of depth)
- (10) (½ - Max 3 pts) At the discretion of the Planning and Zoning Staff mitigation measures not specifically identified above which are likely to provide significant benefits in meeting the objectives of this ordinance may be approved. (Example: construction of water detention basin or implementation of other storm water management activities.)

### **26.1303 MITIGATION PLAN REQUIREMENTS**

The mitigation measures shall be maintained in perpetuity, unless the property owner receives approval of a new mitigation plan. In cases where a buffer restoration plan per s. 26.1103 is required, one plan may be prepared provided the requirements of both plans are met. Mitigation plans submitted for review and approval shall include the following:

- (a) Name of Property Owner
- (b) Property Address
- (c) Legal description of the property or Volume and Page of the instrument that shows the platted area.
- (d) Lot Boundaries
- (e) All Impervious Surfaces Shown
- (f) Total Impervious Surface Area with Dimensions
- (g) Total Lot Area (measured from Right-of-Way to OHWM)
- (h) Location of OHWM
- (i) Vegetative Buffer Zone Shown with Dimensions
- (j) Viewing Access Corridor Shown with Dimensions
- (k) Scale (e.g. 1 inch = 10 ft.)
- (l) North Arrow
- (m) List of Mitigation Options Selected and Associated Points Utilized
- (n) All Mitigation Options Utilized Shown in Detail
- (o) Erosion Control Measures Shown (if applicable)
- (p) List of all Selected Plants (if applicable)
- (q) Implementation Schedule (implementation shall be completed within 12 months of the issuance of the relate shoreland land use permit)

- (r) Certificates of Approval (if applicable)
- (s) An Affidavit describing the mitigation actions and maintenance required.

For mitigation options where plantings are required, plant species shall be selected from the Wisconsin Botanical Information System list <http://www.botany.wisc.edu/cgi-bin/SearchResults.cgi?County=Oconto> and approved by Planning and Zoning staff. Substitutions to the list will be allowed in the event of lack of plant stock or seed availability on a case-by-case basis. All plants may be transplanted from areas outside of the buffer zone or mitigation area.

#### **26.1400 ADMINISTRATIVE PROVISIONS.**

The Oconto County Shoreland Protection Ordinance adopted by the Oconto County Board of Supervisors shall require all of the following:

- (a) The appointment of an administrator and such additional staff as the workload may require.
- (b) The creation of a zoning agency as authorized by s. 59.69, Stats. a Board of Adjustment as authorized by s. 59.694, Stats., and a County Planning agency as defined in s. 236.02(1), Stats., and required by s. 59.692(3), Stats.

#### **26.1401 ZONING ADMINISTRATOR.**

The zoning administrator shall have the following duties and powers:

- (a) 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 Planning & Zoning office, unless prohibited by s. 59.692 (1k), Stats.
- (b) Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
- (c) 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 zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
- (d) Conditional use procedure.
- (e) The county shall keep a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.
- (f) Written notice to the appropriate regional office of the department at least 10 days prior to any hearing on a proposed variance, or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under s. 26.401.
- (g) Submission to the appropriate regional office of the department, within 10 days after grant or denial, of copies of any permit granted under s. 26.1502, any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

- (h) Maintain mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments.
- (i) The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Wis. Stats.
- (j) The prosecution of violations of the Oconto County Shoreland Protection Ordinance.

**26.1402 PERMITS**

- (a) **WHEN REQUIRED.** Unless prohibited by 59.692 (1k) Stats. and except where another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Department or Board of Adjustment prior to any new development, any structural repair of nonconforming structures or any change in the use of an existing building or structure is initiated.
- (b) **APPLICATION.** An application for a zoning permit shall be made to the Zoning Department upon forms furnished by Zoning Department and shall include for the purpose of proper enforcement of these regulations, the following information:
  - (1) Name and address of applicant and property owner.
  - (2) Legal description of the property and type of proposed use.
  - (3) A to scale drawing of 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) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
  - (5) Plans for appropriate mitigation when required.
  - (6) Payment of the applicable fee.
  - (7) Additional information as required by Planning & Zoning Staff.
- (c) **PERMITS REQUIRING MITIGATION AND/OR BUFFER RESTORATION.** Where mitigation and/or buffer restoration are required as part of the zoning permit, the owner(s) shall be allowed to construct that for which the permit was issued while also implementing the mitigation and/or buffer restoration plan.
- (d) **EXPIRATION OF PERMIT.** Zoning permits shall expire twelve (12) months from date issued if no substantial work has commenced during the duration of the permit.
- (e) **CERTIFICATES OF COMPLIANCE.**
  - (1) No land or building shall be occupied or used until a certificate of compliance is issued by the zoning administrator.
    - (A) The certificate of compliance shall certify that the building or premises or part

thereof, and the proposed use thereof, conform to the provisions of this ordinance.

- (B) Application for such certificate shall be concurrent with the application for a zoning permit.
  - (C) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.
  - (D) The owner or his/her agent is responsible for the notification.
- (2) The zoning administrator may issue a temporary certificate of compliance for part of a building, pursuant to rules and regulations established by the county board.
  - (3) Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.
- (f) **SUBSEQUENT PERMITS WHERE MITIGATION MEASURES WERE REQUIRED.** If applicable, prior to issuance of subsequent zoning permits Planning and Zoning staff shall review mitigation and/or buffer restoration plans to confirm compliance with all aspects of plan implementation. If prior permit conditions are determined to not be successfully implemented at the time of permit application, no subsequent permit shall be issued until such time as the prior permit conditions are determined compliant.

#### **26.1403 CONDITONAL 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 Planning & Zoning staff and a conditional use permit has been granted by the Oconto County Board of Adjustment. To secure information upon which to base its determination, the Oconto County 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 special exception meets all of the special exception

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 Oconto County 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 Department at least 10 days prior to the hearing. The Oconto County Board of Adjustment shall state in writing the grounds for granting or denying a conditional use permit.
  
- (c) STANDARDS APPLICABLE TO ALL CONDITIONAL USE PERMITS. In deciding a conditional use application, the Oconto County 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 local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
  - (4) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  - (5) The location of the site with respect to existing or future access roads.
  - (6) The need of the proposed use for a shoreland location.
  - (7) Its compatibility with uses on adjacent land.
  - (8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
  - (9) Location factors under which:
    - (A) Domestic uses shall be generally preferred;
    - (B) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
    - (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...maybe refer to the applicable part of their 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 Oconto County 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 Oconto County 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 Department 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.

#### **26.1404 VARIANCES**

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

- (a) literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
- (b) the hardship is due to special conditions unique to the property; and
- (c) is not contrary to the public interest.

NOTICE, 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 Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department district office within 10 days of the decision.

#### **26.1405 BOARD OF ADJUSTMENT**

The Chair of the County Board shall appoint a Board of Adjustment consisting of 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. See Appendix 1 Chapter 14 of the Oconto County Code of Ordinances.

- (a) POWERS AND DUTIES.
  - (1) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of 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 special exception permits pursuant to s. 26.1304.

- (4) It may grant a variance from the standards of this ordinance pursuant to s. 26.1304.
  - (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.
- (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 administrative 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 AND APPLICATIONS FOR VARIANCES AND 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 Department 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 Department 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 and secretary of the board. The final disposition of an appeal or application to the board of adjustment shall be in the form of a written decision document signed by the chairman and secretary of the board. The decision document shall either affirm, deny, vary or modify the appeal and list the specific reasons for the determination.
  - (4) At the public hearing, any party may appear in person or by agent or by attorney.

**26.1406 FEES**

Applicable fees shall be created by resolution of the Oconto County Planning and Zoning Committee and adopted by the Oconto County Board.

**26.1500 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. 59.97(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and this ordinance where applicable. See Appendix II Chapter 14 of of the Oconto County Code of Ordinances.

## **26.1501 AMENDMENTS**

Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.97(5), Wis. Stats.

## **26.1502 SHORELAND WETLAND MAP AMENDMENTS**

Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county planning & zoning office. A copy of each petition shall be provided to the appropriate office of the Department 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 Department 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 Department within 10 days after the decision is issued.

## **26.1600 ENFORCEMENT AND PENALTIES**

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator or County Zoning Agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. 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. 59.97(11), Wis. Stats.

- (a) Violation of Permits and Penalty: Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this Ordinance, shall be subject to forfeiture in accordance with the schedule established by §18.300(d) of the Oconto County Code of Ordinances for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and as such, forfeitures shall apply accordingly. The Zoning Administrator shall refer violations to the Corporation Counsel who shall prosecute violations.
- (b) Injunction: Any use or action which violates the provisions of this Ordinance shall be subject to a court injunction prohibiting such violation.
- (c) 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 zoning administrator or the designated staff. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly. 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), Wisconsin Statutes.
- (d) Suspension of Permit: Whenever the zoning administrator or designated staff determines there are reasonable grounds for believing there is a violation of any provision of this Ordinance, the zoning administrator or the designated staff 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 prevail 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 the designated staff or apply to the Oconto County Board of Adjustment for a variance.

- (e) Emergency Conditions: Whenever the zoning administrator or the designated staff find that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Administrator may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The zoning administrator shall notify the Chairperson of the Zoning Committee within 24 hours of such situations. Notwithstanding any other provisions of this Ordinance such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Adjustment.
  
- (f) As required by 59.692(1), Wis. Stats., where a building or structure violated the dimensional or use standards of this chapter, and the violating building or structure has been in place for more than 10 years before an enforcement action is initiated, such building or structure shall not be pursued as a violation or require removal from the parcel but will not be considered a nonconforming structure according to the definition found in 26.1700. The provisions of 26.1100 of this chapter do not apply to illegally constructed buildings or structures.
  - (1) Any property owner asserting as a defense to a charge of violating this chapter that the alleged violation has been in place for more than 10 years before enforcement action was initiated has the burden of proving that:
    - (A) The building or structure that is in violation has been in place more than 10 years before enforcement action was initiated;
    - (B) That the building or structure (and its use, if the use is nonconforming) has remained unchanged for at least 10 years;
    - (C) That the building or structure has been active and continuous for 10 years or more. If use was discontinued for more than 12 months, the use shall not be considered active or continuous.

**26.1700 DEFINITIONS**

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.

**26.1701 SHORELAND ZONING DEFINITIONS**

**ACCESS AND VIEWING CORRIDOR (NR 115.03(1d))** - a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

**ACCESSORY STRUCTURE**- see STRUCTURE, ACCESSORY.

**BACKLOT(S)** – Lots which do not front on a navigable body of water, or which do not have any portion that is within 300 feet of a navigable body of water.

**BOATHOUSE (NR 115.03(1h))** - 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 ENVELOPE (NR 115.03(1p))** - The three dimensional space within which a structure is built.

**CONDITIONAL USE (SPECIAL EXCEPTION)** - A use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.

**CONSTRUCTION** – means building, erecting, or placing a structure on a parcel of land.

**COUNTY ZONING AGENCY (NR 115.03(2))** - That committee or commission created or designated by the county board under s. 59.97(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.

**DECK**- An outdoor platform, usually above ground grade, intended to support persons and outdoor furniture such as chairs or a picnic table. It also includes flat roofs over other legal structures if the intention is the same.

**DEPARTMENT (NR 115.03(3))** - Wisconsin Department of Natural Resources.

**DEVELOPMENT (NR 116.03 (9))** - 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** - 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 (NR 115.03(3m))** - That principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

**FACILITY**- A "facility" means any property or equipment of a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

**FIREPIT**- A structure used to contain an outdoor fire and constructed to have a permanent location on the landscape such as a depression surrounded by pavers, gravel or other impervious surfaces. Metal fire rings or other moveable vessels intended to contain an outdoor fire are not considered fire pits for regulatory purposes.

**FLOODPLAIN (NR 115.03(4))** - The land which has been or may be hereafter covered by flood water 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.

**FLOOR AREA** - means the total area of the structure footprint, including all area encompassed by

foundations, basement walls, exterior walls, roof overhangs greater than 24 inches in width, support structures, and any attachments or appurtenances. Floor area, as calculated for the minimum living space of a dwelling unit, shall be completely enclosed, considered habitable under the building and mechanical code requirements, and be at least 7 feet in height from floor to ceiling. Such things as attached garages, open decks and floors with a wall height under 7 feet in height are not considered floor area.

**FOOTPRINT** – means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5..

**GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES (NR 1.25(2)(b))** - 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 (NR 115.03(4g))** - 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. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not considered impervious surfaces.

**KEYHOLE DEVELOPMENT** - The creation of a lot, outlot or parcel of land, by any type of recorded instrument, that provides access to a navigable water body for more than one non-riparian lot, outlot or parcel of land and where the ownership of the riparian and non-riparian lots are not the same. Keyhole development shall also include dredging of a channel for the purpose of navigational access to a water body from one or more lots, outlots or parcels of land. Keyhole development shall not include public boat ramps or marinas permitted under this ordinance or ch. 30, Wis. Stats.

**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** - includes such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement (i.e. size shall not be increased) of windows, doors, wiring, siding, roof (i.e. sheeting/shingles) and other nonstructural components; and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.

**MITIGATION (NR 115.03(4r))** - 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 (NR 115.03(5))** - 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. 144.26(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under s. 59.971, Wis. Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

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

**ORDINARY HIGH-WATER MARK (OHWM) (NR 115.03(6))** - 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** means a lot or parcel that was developed with a structure legally placed upon it.

**RAINGARDEN** – Excavated area of natural vegetation to which surface water runoff is directed with the purpose of slowing and filtering runoff and allowing for runoff infiltration. Refer to "Rain Gardens: A How - To Manual for Homeowners" by University of Wisconsin [Publication #GWQ034 \[PDF 3.2MB\]](#)

**REGIONAL FLOOD (NR 115.03(7))** - 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 principle building or portion thereof is torn down and replaced by a new structure or building or portion thereof. (Also known as Reconstruction or Rebuild)

**RETAINING WALL** – A vertical structure or near vertical structure, located above the OHWM, constructed of rock, stone, wood, blocks or other similar material this is built to resist lateral pressure.

**ROUTINE MAINTENANCE OF VEGETATION (NR 115.03(7m))** - Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

**SHORELAND (NR 115.03(8))** - 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” in s. 59.692(1)(bn) Wis. Stats. 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 buildings or structures has been limited or prohibited under an ordinance enacted under s. 59.692 Wis. Stats.

**SHORELAND-WETLAND DISTRICT (NR 115.03(9))** - A zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin Wetland Inventory Maps prepared by the department and made a part of this ordinance.

**STRUCTURAL ALTERATIONS OR REPAIR** – To remove or replace 50% or less of the original structural elements such as foundation, support posts, floor joists, rafters, trusses, exterior walls or similar structural members. For purposes of calculation: foundation constitutes 20% of the structure, roof constitutes 20%

of the structure, otherwise a percentage of the perimeter of each floor/level may be used.

**STRUCTURE (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 (for floodplain purposes) (NR 116.03 (45))**– Any man-made object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, river bed, stream bed or lakebed.

**STRUCTURE, ACCESSORY** - 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, decks, sheds, barns, gazebos, patios, swimming pools, hot tubs, retaining walls, fences, driveways, parking lots and parking facilities, sidewalks, detached stairways and lifts, recreational courts and private emergency shelters.

**STRUCTURE, PRINCIPAL** - The main structure, not including accessory structures on a lot, intended for primary use as permitted by the regulations of the district in which it is located. A lot on which more than one principal use is permitted may have more than one principal structure.

**STRUCTURE, TEMPORARY** - A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term.

**SUBSTANDARD LOT** - A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements for a new lot.

**UNNECESSARY HARDSHIP (NR 115.03(11))** - A 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** - 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.

**VIEW AND ACCESS CORRIDOR** – A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

**VEGETATIVE BUFFER ZONE** – An area of “natural” or “restored to natural” shoreland vegetation extending from the Ordinary High Water Mark (OHWM) inland 35 ft. The buffer zone is comprised of vegetation that is critical to protecting natural scenic beauty, fish & wildlife habitat, and water quality for the adjacent public waters. Contains three distinct layers including native tree canopy, shrub layer, and groundcover layer, except for closed canopy forest types such as pine or hemlock.

**WETLANDS (NR 115.03(13))** - Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

**ZONING PERMIT** – May include land use permit, 59.692 permit and grade & fill permit.