



ASHLAND COUNTY WISCONSIN

SHORELAND PROTECTION ORDINANCE

NOVEMBER, 2016

SECTION 1.0	STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE.....	1
1.1	STATUTORY AUTHORIZATION.....	1
1.2	FINDING OF FACT	1
1.3	PURPOSE AND INTENT	1
1.4	TITLE.....	1
SECTION 2.0	GENERAL PROVISIONS	1
2.1	AREAS TO BE REGULATED.	1
2.2	SHORELAND-WETLAND MAPS AND OTHER OFFICIAL MAPS	2
2.3	COMPLIANCE.	2
2.4	MUNICIPALITIES AND STATE AGENCIES REGULATED	3
2.5	ABROGATION AND GREATER RESTRICTIONS.....	3
2.6	INTERPRETATION	4
2.7	SEVERABILITY	4
SECTION 3.0	ZONING DISTRICTS	4
3.1	ZONING MAPS.....	4
3.2	GENERAL PURPOSE DISTRICT	4
3.3	RECREATIONAL-RESIDENTIAL DISTRICT	4
SECTION 4.0	SHORELAND-WETLAND REGULATIONS.....	4
4.1	DESIGNATION	5
4.2	PURPOSE	5
4.3	PERMITTED USES	5
4.4	PROHIBITED USES	7
4.5	REZONING OF LANDS IN THE SHORELAND WETLAND DISTRICT	7
SECTION 5.0	LAND DIVISION REVIEW AND SANITARY REGULATIONS.....	8
5.1	LAND DIVISION REVIEW	8
5.2	SANITARY REGULATIONS	8
SECTION 6.0	MINIMUM LOT SIZE	9
6.1	MINIMUM LOT SIZE.....	9
6.2	SUBSTANDARD LOTS.....	9
6.3	OTHER SUBSTANDARD LOTS	9
SECTION 7.0	BUILDING SETBACKS	9
7.1	SHORELAND SETBACKS	9
7.2	EXEMPT STRUCTURES	10
7.3	EXISTING EXEMPT STRUCTURES.....	11
7.4	REDUCED PRINCIPAL STRUCTURE SETBACK	11
7.5	FLOODPLAIN STRUCTURES.....	12
7.6	STRUCTURE HEIGHT	12
7.7	ACCOMMODATIONS FOR DISABLED PERSONS	13
SECTION 8.0	PRESERVATION AND REMOVAL OF SHORELAND VEGETATIVE COVER.....	13
8.1	PURPOSE	13
8.2	SHORELAND BUFFER	13
8.3	SHORELAND BUFFER RESTORATION PLAN REQUIREMENTS	15
SECTION 9.0	FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING	15
9.1	GENERAL STANDARDS.....	15

9.2	PERMIT REQUIRED	16
9.3	SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE	16
9.4	AGRICULTURAL PRACTICES	16
9.5	FORESTRY ACTIVITIES.....	16
9.6	PERMIT CONDITIONS	16
SECTION 10.0	IMPERVIOUS SURFACE STANDARDS.....	17
10.1	PURPOSE	17
10.2	CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE	17
10.3	GENERAL IMPERVIOUS SURFACE STANDARD	17
10.4	MAXIMUM IMPERVIOUS SURFACE STANDARD	17
10.5	EXCLUDED IMPERVIOUS SURFACES	18
10.6	EXISTING IMPERVIOUS SURFACES.....	18
SECTION 11.0	NONCONFORMING USES AND STRUCTURES	18
11.1	DISCONTINUED NONCONFORMING USE	18
11.2	MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES..	18
11.3	LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES WITHIN THE SETBACK.....	19
11.4	EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURES BEYOND SETBACK	19
11.5	RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURES.....	19
SECTION 12.0	MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE.	20
SECTION 13.0	MITIGATION.....	20
13.1	MITIGATION SCHEDULE.	20
13.2	MITIGATION PLAN.....	21
SECTION 14.0	ADMINISTRATIVE PROVISIONS.....	22
14.1	ZONING ADMINISTRATOR.....	22
14.2	ZONING PERMITS.....	22
14.3	CONDITIONAL USE PERMITS	23
14.4	VARIANCES.....	25
14.5	BOARD OF ADJUSTMENT	25
SECTION 15.0	CHANGES AND AMENDMENTS.....	26
SECTION 16.0	ENFORCEMENT AND PENALTIES.....	27
SECTION 17.0	DEFINITIONS.....	27
SECTION 18.0	EFFECTIVE DATE	30

ASHLAND COUNTY SHORELAND PROTECTION ORDINANCE

SECTION 1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

- 1.1 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in §59.692, Wis. Stats, to implement §59.692 and §281.31, Wis. Stats.

- 1.2 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Ashland 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 Ashland County, Wisconsin.

- 1.3 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:
 - (1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - (b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 - (c) Controlling filling and grading to prevent soil erosion problems.
 - (d) Limiting impervious surfaces to control runoff which carries pollutants.

 - (2) Protect spawning grounds, fish and aquatic life through:
 - (a) Preserving wetlands and other fish and aquatic habitat.
 - (b) Regulating pollution sources.
 - (c) Controlling shoreline alterations, dredging and lagooning.

 - (3) Control building sites, placement of structures and land uses through:
 - (a) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - (b) Setting minimum lot sizes and widths.
 - (c) Setting minimum building setbacks from waterways.
 - (d) Setting the maximum height of near shore structures.

 - (4) Preserve and restore shoreland vegetation and natural scenic beauty through:
 - (a) Restricting the removal of natural shoreland cover.
 - (b) Preventing shoreline encroachment by structures.
 - (c) Controlling shoreland excavation and other earth moving activities.
 - (d) Regulating the use and placement of boathouses and other structures.

- 1.4 TITLE. Ashland County Shoreland Protection Ordinance

SECTION 2.0 GENERAL PROVISIONS

- 2.1 AREAS TO BE REGULATED. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Ashland County which are:

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Ashland County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 "Wisconsin Lakes" book available electronically at the following web site: <http://dnr.wi.gov/lakes/lakebook/wilakes2009bma.pdf> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.
- (2) 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 Ashland 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 Boundary Maps, county soil survey maps or other existing county floodplain zoning maps, which have been adopted by Ashland County, shall be used to delineate floodplain areas.
- (3) The provisions of this ordinance apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when §13.48 (13), 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 §30.2022, Wis. Stats, applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are provided in §61.353 and §62.233, Wis. Stats.
- (4) 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 of Natural Resources (DNR) for a final determination of navigability or ordinary high water mark (OHWM). The county may work with surveyors with regard to s. 59.692 (1h).
- (5) Under s. 281.31(2m), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 - (a) Lands adjacent to farm drainage ditches if:
 - i. Such lands are not adjacent to a natural navigable stream or river;
 - ii. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching;
 - (b) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

2.2 SHORELAND-WETLAND MAPS and OTHER OFFICIAL MAPS. The following maps, including successor and updated maps, are adopted and made part of this ordinance and are on file in the Office of the Zoning Administrator:

- (1) Flood Insurance Study and Flood Insurance Rate Maps
- (2) The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>
- (3) Hydrologic, Hydraulic and Dam Breach Analysis Maps

2.3 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, and dredging of any lands; the cutting of shoreland vegetation; and 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.

- 2.4 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 §13.48(13), Wis. Stats, applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.2022, Wis. Stats, applies.
- 2.5 ABROGATION AND GREATER RESTRICTIONS. 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 §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.
- (1) This ordinance shall not require approval or be subject to disapproval by any town or town board.
 - (2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
 - (3) 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.
 - (4) The following provisions of the Ashland County Zoning Ordinance are hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
 - (5) 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 [section 1.3](#) of this ordinance,
 - (6) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
 - (a) 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.
 - (b) Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
 - (7) (s.59.692(7), Stats) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:
 - (a) The department has issued all required permits or approvals authorizing the construction or maintenance under Ch. 30, 31, 281, or 283.

- 2.6 INTERPRETATION. In their interpretation and application, the provisions of this ordinance 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 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.
- 2.7 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.

SECTION 3.0 ZONING DISTRICTS

3.1 ZONING MAPS. The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Ashland County.

- (1) Official Shoreland Zoning Maps adopted January 19, 1971.
- (2) United State Geological Survey Quadrangle Maps for Ashland County.

Maps Number

- | | |
|---------------------------|-----------------------|
| 1. Rocky Island (1963) | 8. Mellen (1967) |
| 2. Outer Island (1963) | 9. Clam Lake (1942) |
| 3. Bayfield (1964) | 10. Glidden (1942) |
| 4. Madeline Island (1964) | 11. Butternut (1940) |
| 5. Ashland (1964) | 12. Draper (1944) |
| 6. Odanah (1964) | 13. Kennedy (1941) |
| 7. Marengo (1967) | 14. Park Falls (1941) |

(3) The uses named in districts other than the Shoreland-Wetland District are without limitation because of enumeration, provided that such uses are compatible with the uses in the district.

3.2 GENERAL PURPOSE DISTRICT. This district includes all shorelands in Ashland County which are not included in the Recreation Residential, Shoreline Protection or Wetland districts.

- (1) PERMITTED USES. Commercial, agricultural, forestry, recreational and residential.
- (2) CONDITIONAL USES. Industrial uses, nonmetallic mining and nonmetallic mining reclamation may be permitted, provided the applicant received a nonmetallic mining reclamation permit issued pursuant to the provisions of NR 135.16.

3.3 RECREATIONAL-RESIDENTIAL DISTRICT. This district includes all shorelands designated in RED on the official Shoreland Zoning Map for Ashland County, Wisconsin, a copy of which shall at all times be on file in the office of the zoning administrator, Courthouse, Ashland, Wisconsin.

- (1) PERMITTED USES. Seasonal and year-round residences.
- (2) ACCESSORY USES. Horticultural, gardening and any permitted use under [section 4.3](#).
- (3) CONDITIONAL USES. Resorts, dinner clubs, taverns, marinas, mobile home parks, nonmetallic mining (provided the applicant received a nonmetallic mining reclamation permit issued pursuant to the provisions of NR 135.16, or similar uses.

SECTION 4.0 SHORELAND-WETLAND REGULATIONS

- 4.1 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which meet the definition of wetlands in [section 16.0](#) of this Ordinance. The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer shall be used for identifying the district but shall not be substituted for actual field conditions.
- (1) LOCATING SHORELAND-WETLAND BOUNDARIES. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory 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.
- 4.2 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.
- 4.3 PERMITTED USES. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Chs. 30, 31, and 281.36 and 281.37, Wis. Stats, and the provisions of other applicable local, state and federal laws:
- (1) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
- (a) Hiking, fishing, trapping, hunting, swimming, and boating;
 - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (c) The pasturing of livestock;
 - (d) The cultivation of agricultural crops;
 - (e) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - (f) The construction or maintenance of duck blinds.
- (2) Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
- (a) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - (b) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,

- (c) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
 - (d) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (e) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - (f) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - i. The road cannot as a practical matter be located outside the wetland;
 - ii. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in [section 4.5\(2\)](#);
 - iii. The road is designed and constructed with the minimum cross sectional area practical to serve the intended use; and
 - iv. Road construction activities are carried out in the immediate area of the roadbed only.
 - (b) The construction or maintenance of nonresidential buildings, provided that:
 - i. 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;
 - ii. The building cannot, as a practical matter, be located outside the wetland;
 - iii. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - iv. Only limited filling or excavating necessary to provide structural support for the building is authorized.
 - (c) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - i. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, Stats, where applicable;

- ii. 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 [section 4.3\(3\)\(a\)](#); and;
- iii. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

(d) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, 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:

- i. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
- ii. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in [section 4.5\(2\)](#).

4.4 PROHIBITED USES. Any use not listed in [sections 4.3\(1\)-\(3\)](#) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with [section 4.5](#) of this ordinance and §59.69(5)(e), Stats.

4.5 REZONING OF LANDS IN THE SHORELAND WETLAND DISTRICT.

(1) For all proposed text and map amendments to the shoreland wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:

- (a) A copy of every petition for a text or map amendment to the shoreland wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland wetland;
- (b) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
- (c) 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
- (d) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

(2) 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:

- (a) Storm and flood water storage capacity;
- (b) 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;

- (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (d) Shoreline protection against soil erosion;
 - (e) Fish spawning, breeding, nursery or feeding grounds;
 - (f) Wildlife habitat; or
 - (g) 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.
- (3) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in [section 4.5\(2\)](#) of this ordinance, that amendment, if approved by the county board, shall contain the following provisions:

"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 §59.692(6), Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the §59.692(6), Stats, adoption procedure is completed or otherwise terminated."

SECTION 5.0 LAND DIVISION REVIEW AND SANITARY REGULATIONS

- 5.1 LAND DIVISION REVIEW. The county shall review, pursuant to §236.45, Wis. Stats, and the Ashland County Subdivision Control Ordinance, all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review all of the following factors shall be considered:
- (1) Hazards to the health, safety or welfare of future residents.
 - (2) Proper relationship to adjoining areas.
 - (3) Public access to navigable waters, as required by law.
 - (4) Adequate stormwater drainage facilities.
 - (5) Conformity to state law and administrative code provisions.
- 5.2 SANITARY REGULATIONS. The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.
- (1) Where public water supply systems are not available, private well construction shall be required to conform to Ch. NR 812, Wis. Adm. Code.
 - (2) 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 Comm. 383, Wis. Adm. Code, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under §59.70(5), Stats.

SECTION 6.0 MINIMUM LOT SIZE

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

(1) SEWERED LOTS. For each lot, the minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

(a) The width shall be calculated by averaging the measurements at the following locations:

- i. The ordinary high water mark
- ii. building setback line
- iii. The rear lot line

(2) UNSEWERED LOTS. For each lot, the minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet.

(b) The width shall be calculated by averaging the measurements at the following locations:

- iv. The ordinary high water mark
- v. building setback line
- vi. The rear lot line

6.2 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:

- (1) 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.
- (2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- (3) The substandard lot or parcel is developed to comply with all other ordinance requirements.

6.3 OTHER SUBSTANDARD LOTS. Except for lots which meet the requirements of [section 6.2](#) a building permit for the improvement of a lot having lesser dimensions than those stated in [sections 6.1\(1\) and 6.1\(2\)](#) shall be issued only if a variance is granted by the board of adjustment.

SECTION 7.0 BUILDING SETBACKS

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

7.1 SHORELAND SETBACKS. Unless exempt under [section 7.2](#), or reduced under [section 7.4](#), a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a building or structure shall be required for all buildings and structures.

- (1) Side Yard Setback. There shall be side yards for each building or other structure in a shoreland area. The minimum width of each side yard shall be 10 feet. A side yard distance is measured from the furthest protrusion of each building or other structure, including a roof overhang. This

side yard setback requirement shall not apply to a parcel of real property which is served by a municipal sanitary sewer system.

7.2 EXEMPT STRUCTURES. All of the following structures are exempt from the minimum setback in [section 7.1](#) in accordance with Wisconsin Statutes 59.692(1v) and WI Administrative Code NR 115.05(1)(b)(1m).

(1) Boathouses located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation. The roof of a boathouse may be used as a deck provided that:

- (a) The boathouse has a flat roof.
- (b) The roof has no side walls or screens.
- (c) The roof may have a railing that meets the Department of Safety and Professional Services standards.

(2) A permit pursuant to [section 14.2](#) is required, subject to the following standards:

(a) **Legal Pre-Existing Boathouses** may not be expanded but may be structurally repaired, subject to the following standards:

- i. The boathouse must be located entirely within the allowable view and access corridor calculation.
- ii. The boathouse cannot contain plumbing or plumbing fixtures and cannot be used for human habitation.
- iii. If the roof is to be replaced as part of the structural repair, it shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but is not steeper than 6/12 rise to run.

(b) **New Boathouses** may be constructed subject to the following standards:

- i. The floor or top of the footing must be setback at least 6 feet from the OHWM.
- ii. There may not be more than one story and exceed a dimension of 300 square feet nor may the wall height exceed 10 feet.
- iii. They shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but is not steeper than 6/12 rise to run.
- iv. Must be completely located within the allowable view and access corridor of the parcel.
- v. The boathouse cannot contain plumbing or plumbing fixtures and cannot be used for human habitation.
- vi. Boathouses shall be constructed in conformity with local floodplain zoning standards.
- vii. The structure shall be designed and constructed solely for the storage of boats and related equipment. Other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.

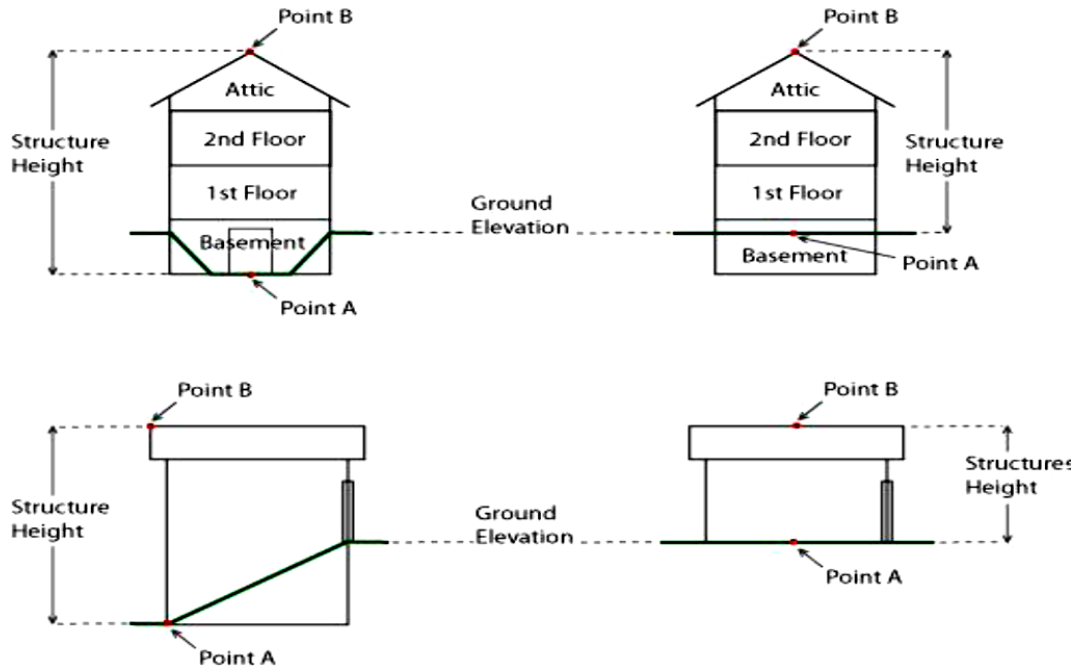
- viii. Siding and roofing color schemes should be muted and blend with natural landscapes and the surrounding environment. Bright colors or contrasting colors including white are prohibited.
- (3) Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in §59.692(1v), Wis. Stats:
 - (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 floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In calculating this square footage, boathouses are excluded.
 - (c) The structure has no sides or has open or screened sides.
 - (d) The county must approve a plan consistent with [section 8.3](#) of this ordinance 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 mitigation schedule in [section 13.1](#) only applies in respect to the impervious surface standards
 - (f) An affidavit shall be signed by the owner requesting the 59.692 permit which acknowledges the shoreland buffer requirements. Said affidavit will also be recorded in the Ashland County Register of Deeds office and serve as official notice of this requirement to future property owners.
- (4) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
- (5) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. SPS Comm. 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
- (6) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
- (7) Devices or systems used to treat runoff from impervious surfaces.
- 7.3 EXISTING EXEMPT STRUCTURES. Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.
- 7.4 REDUCED PRINCIPAL STRUCTURE SETBACK. A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:
 - (1) 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:

- (a) Both of the existing principal structures are located on adjacent lots to the proposed principal structure.
 - (b) Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
 - (c) Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
- (2) Where there is an existing principal structure in only one direction, the setback shall equal the average of the distance the existing principal structure is set back from the ordinary high water mark and the required setback of 75' from the ordinary high water mark provided all of the following are met:
- (a) The existing principal structure is located on an adjacent lot to the proposed principal structure.
 - (b) The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.
 - (c) The existing principal structure is located less than 75' from the ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.

7.5 FLOODPLAIN STRUCTURES. Buildings or structures to be constructed or placed in a floodplain shall be required to comply with Ashland County Floodplain Zoning Ordinance. Legal pre-existing structures within the floodplain may not be replaced, modified or additions constructed that do not comply with Section 87.30 WI. Stats. and WI. Admin. Code NR 116.

7.6 STRUCTURE HEIGHT. To protect and preserve wildlife habitat and natural scenic beauty, the height of both principal and accessory structures are subject to the following standards:

- (a) A structure located within 75 feet of the ordinary high water mark of any navigable body of water shall not exceed a height of 35 feet.
- (b) A structure located between 75 feet and 300 feet of the ordinary high water mark of any navigable body of water shall not exceed a height of 45 feet.
- (c) 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.



7.7 ACCOMMODATIONS FOR DISABLED PERSONS Where strict interpretation of this ordinance would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance under [Section 14.4](#) of this ordinance, the Planning and Zoning Committee may grant a Conditional Use Permit to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Fair Housing Act or the Wisconsin Fair Housing Act. The permit shall be subject to the following conditions:

- (a) Only the minimum relaxation of dimensional, density or other 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 purposes of this ordinance.

SECTION 8.0 PRESERVATION AND REMOVAL OF SHORELAND VEGETATIVE COVER

8.1 PURPOSE. To protect natural scenic beauty, fish and wildlife habitat, and water quality, Ashland County shall regulate removal of vegetation in shoreland areas with standards that consider sound forestry and soil conservation practices, the effect of vegetation removal on water quality including soil erosion and the flow of effluents, sediments and nutrients

8.2 SHORELAND BUFFER. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, this ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer. A compliant shoreland buffer shall contain three distinct layers including a native tree canopy, shrub layer, and groundcover layer, except for closed canopy forest types such as pine and hemlock. The following activities are allowed within the shoreland buffer, subject to the following standards:

- (1) The removal of trees and shrubs in the shoreland buffer to create view and access corridors per 59.692(1f) (b) Wis. Stats:

- (c) The view and access corridor may be at least 35 feet wide for every 100 feet of shoreline frontage.
 - (d) The view and access corridor may run contiguously for the entire maximum allowed width per shoreline frontage owned.
 - (e) The allowable view and access shall be determined by the amount of shoreline frontage listed on a Certified Survey Map, Ashland County tax parcel map, or other reasonably accurate assessment tool in use in the Zoning Department.
 - (f) The view and access corridor must be maintained with some form of vegetation that prevents bank erosion and sedimentation of the waterway. Sand, gravel, rock or other similar materials shall be prohibited as an alternative to vegetation unless otherwise allowed by this ordinance.
- (2) The removal of dead, diseased or dying trees and tree branches provided they present a safety hazard to structures or persons, and provided they are replaced with native vegetation or approved cultivars of native stock that is equally effective in fulfilling the purposes of the shoreland buffer.
 - (3) The removal of trees and shrubs in the shoreland buffer 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 The Wisconsin Department of Natural Resources publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
 - (4) The removal of vegetation within the shoreland buffer 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 shoreland buffer.
 - (5) The routine maintenance of vegetation, consistent with the following:
 - (a) Landscaping and lawns that extend into the required shoreland buffer area prior to the adoption of this ordinance may be maintained but shall not be extended further into the required shoreland buffer.
 - (b) Pruning, trimming, or other generally accepted horticultural practices which do not result in the loss of plant densities within the required shoreland buffer.
 - (6) Protection of shoreland buffer vegetation during times of construction. Except where construction within the shoreland buffer is authorized, all vegetation within the required shoreland buffer shall be protected by fencing to exclude construction activities. Such vegetation shall be maintained so as to maximize the soil stabilization and filtering functions of the shoreland buffer.
 - (7) Cutting more than 35 feet inland. From the inland edge of the 35 foot shoreland buffer to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using 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”.
 - (8) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

- (9) An affidavit shall be recorded in the Ashland County Register of Deeds to serve as an official notice of shoreland buffer requirements in the following instances.
- (a) When new construction is proposed on a previously undeveloped lot with a shoreland buffer meeting standards in [section 8.2](#).
 - (b) When shoreland buffer restoration requirements or cutting limitations are a component of proposed mitigation as required in [section 13.0](#).
 - (c) When cutting and clearing activities take place within the shoreland buffer in violation of [section 8.2](#) and shoreland buffer restoration is a component of resolving the violation.
 - (d) When a riparian lot is proposed to be subdivided, each remaining lot with a shoreland buffer meeting standards in [section 8.2](#) shall have a recorded affidavit.

8.3 SHORELAND BUFFER RESTORATION PLAN REQUIREMENTS. A plan for the restoration of an active shoreland buffer shall include:

- (1) An inventory of plant species currently present and an indication of their density within the required shoreland buffer.
- (2) A list of desired native, site-adapted species (or approved cultivars of native species), size or age of species and a schedule for their planting. A minimum size or age of species may be required depending on site conditions.
- (3) A sketch showing no mow areas and/or the placement and densities of each species planned for the restored shoreland buffer.
- (4) A description of how the applicant intends to carry out the project including a watering plan and the erosion control measures that will be used during restoration.
- (5) A description of the proposed method for removal of existing turf grass or other non-native species. Landscape cloth, plastic, mill felt or other barriers similar in nature may only be used on a temporary basis to facilitate the removal of non-native species. Deer proof fencing is required for 5 years after completion of restoration.
- (6) A Replacement schedule for restoration plantings. Any vegetation required as mitigation but subsequently dies due to neglect, lack of watering, planting errors, deer browse. etc. shall be replaced and maintained.

SECTION 9.0 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING

9.1 GENERAL STANDARDS. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under [section 9.2](#) may be permitted in the shoreland area provided that:

- (1) It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer.
- (2) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- (3) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland wetland district meets the requirements of [section 4.3](#) of this ordinance.

- (4) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- (5) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

9.2 PERMIT REQUIRED. Except as provided in [section 9.1](#) a Zoning Permit is required for:

- (1) Soil disturbing activities in any area which is within 300 feet landward of the OHWM of navigable water and which has surface drainage toward the water and on which there is either:
 - (a) Any filling or grading on slopes of more than 20% or,
 - (b) Filling or grading of more than 1,000 square feet on slopes of 12-20% or greater, or,
 - (c) Filling or grading of more than 2,000 square feet on slopes less than 12%.
 - (d) An area of one acre or greater will be disturbed by excavation, grading, filling or other earthmoving activities, resulting in the loss or removal of protective ground cover or vegetation.
 - (e) When constructing a new boathouse under [section 7.2\(1\)](#) of this ordinance.
 - (f) When constructing stairways, walkways, or rail systems under [section 7.2\(5\)](#) within the shoreland setback area prescribed by [section 7.1](#).
 - (g) When constructing a new retaining wall meeting setbacks prescribed by [section 7.1](#) or re-constructing an existing retaining wall.
- (2) Any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is more than 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.

9.3 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE. Soil conservation practices such as but not limited to diversions and grassed waterways used for erosion control shall not require a permit under [section 9.2](#) of this ordinance when designed and constructed to Natural Resources Conservation Service technical standards.

9.4 AGRICULTURAL PRACTICES. Agricultural practices such as plowing of fields and or installation of conservation practices are exempt from permitting and grading/filling standards of this ordinance as long as they are prescribed practices and adhere to standards inherent in Wisconsin Administrative Codes as promulgated under Ch. 281 and 92, Wis. Stats.

9.5 FORESTRY ACTIVITIES. Forestry activities such as harvesting of trees and landings are also exempt from regulation under this ordinance as long as best management practices, as prescribed by "Wisconsin's 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.

9.6 PERMIT CONDITIONS. In granting a permit under [section 9.2](#) all elements of the site disturbance plan required in [section 14.2\(2\)\(f\)](#) as well as the following conditions shall apply:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.

- (2) Temporary ground cover (such as mulch or erosion control matting) shall be used as needed and permanent vegetative cover shall be established.
- (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used as needed to prevent erosion.
- (4) Lagoons shall be constructed to avoid fish trap conditions.
- (5) Fill shall be stabilized according to accepted engineering standards.
- (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (7) Channels or artificial watercourses shall be constructed with side slopes of 2 units of horizontal distance to one unit of vertical distance, or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
- (8) Runoff shall be contained onsite and containment structures shall be designed so as to not allow it to escape onto adjoining properties.
- (9) Any other conditions deemed necessary to prevent erosion and protect water quality.

SECTION 10.0 IMPERVIOUS SURFACE STANDARDS

- 10.1 **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 non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
- 10.2 **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 [section 10.5](#) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.
- 10.3 **GENERAL IMPERVIOUS SURFACE STANDARD.** Except as otherwise allowed in [section 10.4](#) and [10.5](#) the county shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- 10.4 **MAXIMUM IMPERVIOUS SURFACE STANDARD.** A property may exceed the impervious surface standard under [section 10.3](#) provided the following standards are met:
 - (1) For properties where the general impervious surface standard applies under [section 10.3](#), a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
 - (2) For properties that exceed the standard under section 10.3 but do not exceed the maximum standard under [section 10.4\(1\)](#) a permit can be issued for development with a mitigation plan that meets the standards found in [section 13.0](#).

- 10.5 EXCLUDED IMPERVIOUS SURFACES. Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under [section 10.2](#):
- (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
 - (2) 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.
 - (3) 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:
 - (a) Calculations showing how much runoff is coming from the impervious surface area.
 - (b) Documentation that the runoff from the impervious surface is being treated by a proposed treatment system, treatment device or internally drained area.
 - (c) 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.
- 10.6 EXISTING IMPERVIOUS SURFACES. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in [section 10.3](#) or the maximum impervious surface standard in [section 10.4](#), the property owner may do any of the following:
- (1) Maintain and repair the existing impervious surfaces;
 - (2) Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
 - (3) 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 sections 7.1, 7.2, 7.3, and 7.4.

SECTION 11.0 NONCONFORMING USES AND STRUCTURES

- 11.1 DISCONTINUED NONCONFORMING USE. If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.
- 11.2 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:
- (1) The activity does not expand the footprint of the nonconforming structure.
 - (2) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded as long as the vertical expansion does not extend more than 35 feet above grade level.
 - (3) The expansion of a structure beyond the existing footprint within the required setback is allowed only if the expansion is necessary to comply with other applicable state or federal requirements.

- 11.3 LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES WITHIN THE SETBACK. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per [section 7.1](#) may be expanded laterally, provided that all of the following requirements are met:
- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - (3) 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.
 - (4) 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 [section 13.2](#).
 - (5) All other provisions of the shoreland ordinance shall be met.
- 11.4 EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURES BEYOND SETBACK. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under [section 7.1](#) may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per [section 7.1](#) 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 [section 10.0](#).
- 11.5 RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURES. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per [section 7.1](#) may be relocated on the property provided all of the following requirements are met:
- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - (3) 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.
 - (4) 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 [section 7.1](#).
 - (5) 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 [section 13.0](#), 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 relocation 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 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.
 - (6) All other provisions of the shoreland ordinance shall be met.

SECTION 12.0 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 if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

SECTION 13.0 MITIGATION

When a permit is issued requiring mitigation under [section 10.4](#), [11.3](#) or [11.5](#) the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include a plan that outlines the proposed mitigation measures and meets the following criteria:

13.1 MITIGATION SCHEDULE.

Mitigation points are required for developing property under the following conditions:	Opportunities to earn mitigation points include:
Impervious surface coverage is greater than 15% but less than 20% - 2 points	Removal of a structure within the shoreland setback.- up to 3 points
Impervious surface coverage is from 20% to 30% - 3 points	<ul style="list-style-type: none"> • Up to 250 ft² – 1 point • 251-750 ft² – 2 points • 750 ft² and greater – 3 points
Lateral Expansion of Nonconforming principal structure within the shoreland set-back (section 11.3) 3 points	Installation of a Rain Garden – up to 2 points (System should be designed to hold surface runoff for 24 to 48 hours after rainfall event)
Relocation of Nonconforming principal Structure within the shoreland setback. (section 11.5) 1 point	<p>Installation of a Stormwater Infiltration System- 3 points (A typical design should capture and release the collected stormwater from a 1.5 inch rain event within a 48 hour period and safely pass through or bypass the flows produced by the 24 hour, 100-year storm.)</p> <p>Existing compliant shoreland buffer- 2 points</p> <p>Active Restoration (Accelerated Recovery) of a compliant shoreland buffer-3 points –(7.3)</p> <p>Increasing depth of an existing compliant shoreland buffer along entire buffer area-2 points for every 15 feet of depth</p> <p>Reducing width of allowable view and access corridor(s) within the entire 35 ft. buffer- 1 point for every 15 foot reduction</p> <p>If lot size is larger than prescribed minimum – 1 point</p>

	<p>for every 10,000 sq. ft. increment of lot area which may not be subdivided from remaining parcel.</p> <p>Sea Wall Removal and Bank Stabilization with buffer restoration – 3 points</p> <p>Increasing Shoreland Setback – 1 point for every 15 foot increase beyond required. (maximum of 3 points)</p> <p>Removal of an existing artificial sand beach at least 200 sq. ft. in size within 35 feet of the OHWM with active restoration (accelerated recovery) of area - 1 point</p> <p>Maintaining a compliant POWTS system – 2 points</p>
--	--

13.2 MITIGATION PLAN. When a permit is issued requiring mitigation under section [10.4](#), [11.3](#), or [11.5](#) the property owner must submit a complete permit application, including a mitigation plan reviewed and approved by the county zoning department and implemented by the property owner by the date specified in the permit. The application shall include the following:

- (1) A site plan that describes the proposed mitigation measures. 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 amount and impacts of the development being permitted to establish or maintain measures adequate to offset the impacts of the development on water quality, near-shore habitat, upland wildlife habitat and natural scenic beauty.
- (3) The mitigation plan shall include an implementation schedule and enforceable obligations on the property owner to establish and maintain the mitigation measures. 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.

SECTION 14.0 ADMINISTRATIVE PROVISIONS

14.1 ZONING ADMINISTRATOR. The zoning administrator shall have the following duties and powers:

- (1) Develop and administer a system of permits for new construction, development, reconstruction, structural alteration or moving of buildings and structures. s. A copy of applications shall be required to be filed in the office of the county zoning administrator
- (2) Regularly inspect permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
- (3) Develop and maintain a variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
- (4) Develop and maintain a special exception (conditional use) procedure.
- (5) Keep a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.
- (6) Provide written notice to the appropriate office of the Department at least 10 days prior to any hearing on a requested variance, special exception 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 [section 5.0](#).
- (7) Submit to the appropriate office of the Department, within 10 days after grant or denial, 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.
- (8) Develop and maintain an official map of all mapped zoning district boundaries, amendments and recordings.
- (9) Establish appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats.
- (10) Pursue the prosecution of violations of the shoreland ordinance

14.2 ZONING PERMITS.

- (1) When Required. Unless prohibited by 59.692 (1k) Stats. and 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 before any new development, as defined in [section 16.0](#), any structural repair of nonconforming structures or any change in the use of an existing building or structure, is initiated.
- (2) Application. An application for a permit shall be made to the zoning administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following information:
 - (a) Name and address of applicant and property owner.
 - (b) Legal description of the property and type of proposed use.

- (c) 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.
- (d) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
- (e) Plans for appropriate mitigation when required.
- (f) A proposed Site Disturbance Plan that includes:
 - i. The location of planned areas of excavation, clearing, grading or fill.
 - ii. Appropriate use of best management practices to protect the site from erosion, sedimentation, contamination, and vegetation protection. Such measures shall include, but may not be limited to:
 - 1. Silt fencing, hay or straw bales and other barriers.
 - 2. Sedimentation basins.
 - 3. Protective fencing for trees and other vegetation.
 - 4. Designated soil stockpile and staging areas.
 - 5. Designated heavy equipment and vehicular access drives and staging areas.
 - 6. Designation of existing vegetation that will be preserved by the applicant.
 - 7. Other techniques as deemed appropriate by the Zoning Department.
 - 8. Demonstration of how the applicant proposes to contain all runoff generated from the property within the same property.
- (g) Payment of the appropriate fee.
- (h) Additional information required by the zoning administrator.
- (i) The property owner is required to sign and be responsible for all information provided on the permit application form or other plans.

(3) Permit Issuance. All other applicable documents, including but not limited to sanitary permit applications, must be completed prior to issuance of the zoning permit. All site protection measures required in the approved Site Disturbance Plan must be put in place prior to any site disturbance or construction.

(4) Expiration of Permit. Zoning permits shall expire 24 months from date issued if no substantial work has commenced.

14.3 CONDITIONAL USE PERMITS.

(1) Application for a Conditional Use Permit. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the zoning committee.

(2) Standards applicable to all conditional uses. In passing upon a conditional use permit, the zoning committee shall evaluate the effect of the proposed use upon:

- (a) The maintenance of safe and healthful conditions.

- (b) The prevention and control of water pollution including sedimentation.
- (c) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
- (d) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (e) The location of the site with respect to existing or future access roads.
- (f) The need of the proposed use for a shoreland location.
- (g) Its compatibility with uses on adjacent land.
- (h) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
- (i) Location factors under which:
 - i. Domestic uses shall be generally preferred;
 - ii. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - iii. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

(3) Conditions attached to conditional uses. Upon consideration of the factors listed above, the zoning committee 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. 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. To secure information upon which to base its determination, the zoning committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

- (a) A plan of the area showing surface contours, soil types, ordinary highwater marks, groundwater conditions, subsurface geology and vegetative cover.
- (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- (c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
- (d) Specifications for areas of proposed filling, grading, lagooning or dredging.
- (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
- (f) Rationale for why the proposed special exception meets all of the special exception criteria listed in the ordinance

- (4) Notice, public hearing and decision. Before passing upon an application for a conditional use permit, the zoning committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the committee, shall be given as a Class 2 notice under Ordinance 985, Wisconsin Statutes. Such notice shall be mailed to the appropriate area office of the Department at least 10 days prior to the hearing. The zoning committee shall state in writing the grounds for granting or refusing a conditional use permit.
- (5) 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 mailed to the appropriate area office of the Department within 10 days after it is granted or denied.
- (6) Revocation. Where the conditions of a conditional use permit are violated, the conditional use permit may be revoked by the zoning committee.

14.4 VARIANCES.

- (1) The board of adjustment may grant upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that the request represents the minimum relief necessary to relieve unnecessary burdens and that literal enforcement of the provisions of the ordinance will:
 - (a) Result in unnecessary hardship on the applicant;
 - (b) Due to special conditions unique to the property; and
 - (c) That such variance is not contrary to the public interest.
- (2) No use variance. A variance shall not grant or increase any use of property which is prohibited in the zoning district.
- (3) Notice, hearing and decision. Before passing 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 Ordinance 985, Wisconsin Statutes. Such notice shall be mailed to the appropriate area 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 mail a copy of such decision to the appropriate Department area office within 10 days of the decision.

14.5 BOARD OF ADJUSTMENT.

The chairman of the county board shall appoint a board of adjustment consisting of 3 members under Section 59.99, Wisconsin Statutes. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by Section 59.99(3), Wisconsin Statutes.

- (1) Powers and Duties.
 - (a) 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 Section 59.694, Wisconsin Statutes.
 - (b) 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.

- (c) It may grant a variance from the dimensional standards of this ordinance pursuant to [section 14.4](#).
 - (d) The board of adjustment may hear appeals from zoning committee decisions concerning conditional use permits.
- (2) 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 a reasonable time, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.
- (3) Hearing appeals and applications for variances.
- (a) 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 Ordinance 985, Wisconsin Statutes, 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 area office of the Department at least 10 days prior to hearings on proposed shoreland variances, and appeals for map or text interpretations.
 - (b) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the appropriate area office of the Department within 10 days after they are granted or denied.
 - (c) 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. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
 - (d) At the public hearing, any party may appear in person or by agent or by attorney.

14.6 FEES.

The fees are cited in the fee schedule adopted by the county board. Failure to obtain a permit at the time required shall result in the amount of the permit fee payable being doubled.

SECTION 15.0 CHANGES AND AMENDMENTS

- 15.1 The County may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of Section 59.69 and 59.692 Wisconsin Statutes, and Ordinance NR 115, Wisconsin Administrative Code where applicable.
- 15.2 Amendments to this ordinance may be made on petition of any interested party as provided in Section 59.69(5), Wisconsin Statutes.
- 15.3 Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency by the county clerk. A copy of each petition shall be mailed to the appropriate area 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 mailed to the appropriate area office of the Department at least 10 days prior to the hearing.

- 15.4 A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate area office of the Department within 10 days after the decision is issued.

SECTION 16.0 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 the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten (\$50.00) dollars nor more than two hundred (\$200.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Sections 59.69, 59.69(11) and 66.0113, Wisconsin Statutes.

- 16.1 This ordinance is subject to Ordinance 66.119, Wisconsin Statutes and the Ashland County Citation ordinance.

SECTION 17.0 DEFINITIONS

- 17.1 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.

- 17.2 The following terms used in this ordinance mean:

- (1) **"Access and viewing corridor"** A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone. (NR 115.03(1d))
- (2) **"Accessory structure"** A subordinate structure on the same property as the principal structure which is devoted to a use incidental to the principal use of the property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, patios, decks, swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways and lifts.
- (3) **"Boathouse"** Any 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.
- (4) **"Building envelope"** Is the three dimensional space within which a structure is built. (NR 115.03(1p))
- (5) **"Conditional use"** 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.
- (6) **"County zoning agency"** The committee or commission created or designated by the county board under s. 59.69(2)(a), Stats, to act in all matters pertaining to county planning and zoning.

- (7) **"Department"** The Department of Natural Resources.
- (8) **"Development"** 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.
- (9) **"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.
- (10) **"Existing development pattern"** When principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (11) **"Expansion"** Any structural modification, which increases the existing structure envelope or footprint.
- (12) **"Facility"** 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.
- (13) **"Floodplain"** 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 116.03(16), Wis. Adm. Code.
- (14) **"Footprint"** the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a dwelling 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, etc.) a single horizontal plan bounded by the furthest portion of the structure projected to natural grade. 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 or deck projected to natural grade. This would constitute lateral expansion under NR 115 and would need to follow NR 115.05(1)(g)5.
- (15) **"Generally accepted forestry management practices"** means Forestry management practices that promote sound management of a forest (NR 1.25(2)(b), Wis. Adm. Code). 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.
- (16) **"Impervious surface"** an area that releases as runoff all or a majority of the precipitation that falls on it.
- (a) *Excludes* (among other things): frozen soil and decks that have at least a ¼ inch space between deck boards with a pervious surface below.
- (b) *Includes* (among other things): rooftops, sidewalks, driveways, parking lots, shingles, concrete, asphalt and streets (unless specifically designed, constructed, and maintained to be pervious). Roadways as defined in s. 340.01(54) or sidewalks as defined in s. 340.01(58) are not considered impervious surfaces.
- (17) **"Legal Pre-Existing Structure"** A dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.

- (18) **“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.
- (19) **“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.
- (20) **“Mitigation”** means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
- (21) **“Navigable waters”** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2m), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Stats, and Ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:
- (c) 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
 - (d) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- (22) **“Non-conforming use”** A use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.
- (23) **“Ordinary high-water mark”** 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 (NR 115.03(6)).
- (24) **“Principal Building or Principal Structure”** A structure that is designed for independent human habitation and includes sanitary and/or food preparation facilities whether such structure is attached to another structure(s) or stands alone
- (25) **“Regional flood”** 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.
- (26) **“Routine maintenance of vegetation”** Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance (NR 115.03(7m)).
- (27) **“Shorelands”** 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.
- (28) **“Shoreland setback”** or **“Shoreland setback area”** An area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under section 59.692, Stats.
- (29) **“Shoreland-wetland district”** The 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 which have been adopted and made part of this ordinance.

- (30) **"Structure"** A principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit (s.59.692(1)(e), Wis. Stats).
- (31) **"Substandard Lot"** A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current requirements for a new lot.
- (32) **"Unnecessary hardship"** Those circumstances 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.
- (33) **"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.
- (34) **"Wetlands"** 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.

SECTION 18.0 EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and publication.
Dated this 15th day of November, 2016.

