

ORDINANCE NO. 20 -2016

Repealing and Recreating Chapter 338-Shoreland Zoning
in the Code of Green Lake County

The County Board of Supervisors of Green Lake County, Green Lake Wisconsin, duly assembled at its regular meeting begun on the 20th day of September, 2016, does ordain as follows:

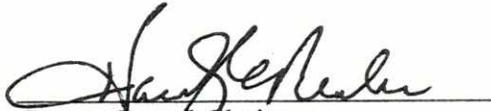
NOW, THEREFORE, BE IT ORDAINED, that the County Board of Supervisors approves the repeal of Chapter 338 as it currently exists and adopts the attached Ordinance to be known as the "Shoreland Zoning Ordinance for Green Lake County, Wisconsin", Chapter 338 of the Green Lake County Code. The ordinance language is attached hereto.

BE IT FURTHER ORDAINED, that this ordinance shall become effective upon passage and publication

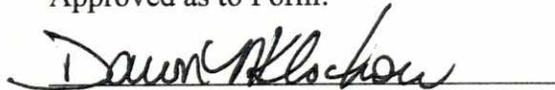
With recommendation to X Approve _____ Disapprove

Roll Call on Ordinance No. 20 - 2016
Aye 11, Nay 6, Absent 2, Abstain 0

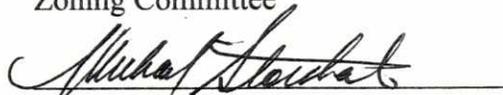
Passed & ~~Rejected~~ Enacted this 20th
day of September, 2016

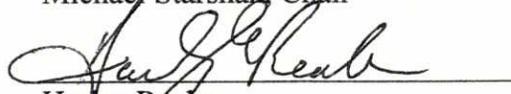

County Board Chairman


Attest. County Clerk
Approved as to Form:

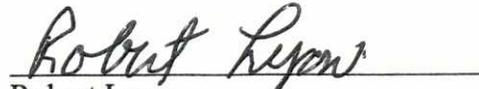

Corporation Counsel

Submitted by Land Use Planning and
Zoning Committee


Michael Starshak, Chair


Harley Reabe


Rich Slate


Robert Lyon

SHORELAND PROTECTION ORDINANCE

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ARTICLE 1.0

Introduction

338-1. Statutory Authorization. This chapter is adopted pursuant to the authorization in ss. 59.692 Wis. Stats., to implement 59.692 and 281.31, Stats.

338-2. Finding of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Green Lake 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 Green Lake County, Wisconsin.

338-3. 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 chapter 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 uses through:
 - (1) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - (2) Setting minimum lot sizes and widths.
 - (3) Setting minimum building setbacks from property boundary lines and 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.

338-4. Title. This chapter shall be known, cited, and referred to as the Shoreland Protection Ordinance for Green Lake County, Wisconsin.

338-5. Effective. This chapter shall be effective upon final adoption by the Green Lake County Board and publication as provided for in the Wisconsin Statutes. Prior to final adoption of this chapter, the County must receive a certificate of compliance from the Department.

Any previously adopted versions of Chapter 338 shall be replaced with this chapter in its entirety upon the effective date of this chapter.

ARTICLE 2.0

General Provisions

338-6. Areas to be Regulated. Areas regulated by this chapter shall include all the lands, referred to herein as shorelands, in the unincorporated areas of Green Lake County which are:

- A. Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds, or flowages. Navigability of lakes, ponds, or flowages in Green Lake County shall be determined based on criteria established in Appendix A of this chapter and revisions thereto.
- 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. Navigability of rivers and streams in Green Lake County shall be determined based on criteria established in Appendix A of this chapter and revisions thereto.
- C. The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas 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 this chapter. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation are not subject to this chapter 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, Wis. Stats.
- D. Determinations of navigability and ordinary high water mark location shall initially be made by the Land Use Planning and Zoning Department. When questions arise, the Land Use Planning and Zoning Department shall contact the appropriate office of the Department for a final determination of navigability or ordinary high water mark. The County may work with surveyors in regard to s. 59.692(1h), Wis. Stats.
- E. Under s. 281.31(2m), Wis. Stats., notwithstanding, any other provision of law or administrative rule promulgated thereunder, this chapter 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.

338-7. Shoreland-Wetland Maps. The most recent version of the Wisconsin Wetland Inventory, as depicted on the Department of Natural Resources Surface Water Data Viewer, is made part of this chapter.

These maps may be viewed at:

<http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>

These maps may also be viewed from the GIS Viewer at the County's website:

<http://gis.co.green-lake.wi.us/>

338-8. Compliance. The use of any land, the size, shape, and placement of lots and parcels, the use, size, type, and location of structures on lots and parcels, 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 and parcels, shall be in full compliance with the terms of this chapter 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 chapter. The property owner(s), or the contractor(s), under the direction of the property owner(s), are responsible for compliance with the terms of this chapter.

338-9. Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter 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.

338-10. Abrogation and Greater Restrictions. When more restrictive, the provisions of this chapter supersede any provisions in a county zoning ordinance that solely relate to shorelands. Therefore, if a zoning standard of another ordinance only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this chapter supersedes those provisions. However, where another ordinance adopted under a statute other than s. 59.692, Wis. Stats., does not solely relate to shorelands and is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- A. This chapter shall not require approval or be subject to disapproval by any town or town board.
- B. If an existing town ordinance relating to shorelands is more restrictive than this chapter or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- C. This chapter is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- D. This chapter may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland protection as described in Section 338-3. of this chapter.
- E. Counties may not establish shoreland zoning standards in a shoreland protection 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 prohibit or regulate 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. The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:

(1) The Department issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281 or 283.

Note - 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.

338-11. Interpretation. In their interpretation and application, the provisions of this chapter 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 chapter is required by statute and a standard in Ch. NR 115, Wis. Adm. Code, and where the chapter provision is unclear, the provision shall be interpreted in light of the statute and Chapter NR 115 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

338-12. Severability. If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

338-13. through 338-15. Reserved

ARTICLE 3.0

Shoreland-Wetland District

338-16. Designation. This district shall include all shorelands within the jurisdiction of this chapter which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as referenced in Section 338-7.

A. 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 land use 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.

338-17. 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.

338-18. Permitted Uses. The following uses shall be allowed subject to general shoreland

protection regulations contained in this chapter, the provisions of Chapters. 30, 31, and 281.36, Wis. Stats. and the provisions of other applicable local, state, and federal laws:

- A. Activities and uses which do not require the issuance of a land use permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating except as allowed under Subsections 338-18.A. or 338-18.B.
 - (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 hunting blinds.

- B. Uses which do not require the issuance of a land use 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 land use permit and which 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 Subsection 338-20.B;
 - (c) The road is designed and constructed with the minimum cross-sectional area 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.
- (3) 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 Chapter 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 338-18.C.(1)(a)-(d) 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 Subsection 338-20.B.

338-19. Prohibited Uses. Any use not listed in Subsections 338-18.A., 338-18.B. or 338-18.C. is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with Section 338-20. of this chapter and s. 59.69(5)(e), Wis. Stats.

338-20. Rezoning of Lands in the Shoreland-Wetland District.

- A. For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the appropriate office with the Department shall be provided with the following:
 - (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this chapter, 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 chapter 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 Land Use Planning and Zoning Committee's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board; and
 - (4) Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.

B. 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 Land Use Planning and Zoning Committee that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in Subsection 338-20.B. of this chapter, 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) adoption procedure is completed or otherwise terminated."

338-21. Reserved

ARTICLE 4.0

Land Division and Sanitary Regulations

338-22. Land Division Review. The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create three or more lots or parcels or building sites of five acres each or less within a five-year period. 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.

338-23. Planned Unit Development (PUD).

- A. Purpose. The Planned Unit Development is intended to permit smaller non-riparian lots and parcels where the physical layout of the lots and parcels is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots and parcels 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 two acres in size or have a minimum of 200 feet of frontage on a navigable water.
 - (2) Lots and parcels. Any proposed lot or parcel in the Planned Unit Development that does not meet the minimum size standards of Sections 338-27. and 338-28. shall be a non-riparian lot or parcel.
 - (3) Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a Planned Unit Development the governing body shall consider whether proposed lot or parcel 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. Vegetative shore cover provisions in Section 338-37. 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.

Note — Counties should be aware that the planned unit development standards, as written, grant back lot access (key holing) without applying frontage requirement standards to determine overall density. This comports to NR115.05(1)(a)4. Counties may optionally include requirements to limit overall density based upon minimum frontage standards as well. These types of developments may also be known as conservation subdivisions or planned residential development. The provisions of NR 115.05(1)(a)4.) apply to these types of developments where there may be a combination of a density bonus, smaller lot size, and preservation of open space.

- C. The procedure for establishing a Planned Residential Unit Development district shall be as follows:
 - (1) Petition. A petition setting forth all of the facts required in Subsection 338-23.B. shall be submitted to the county clerk with sufficient copies to provide for distribution by the county clerk as required by Subsection 338-62.H.
 - (2) Review and Hearing: The petition shall be submitted to the County Land Use Planning and Zoning Committee established as required by s. 59.69(3)(d), Wis. Stats., which shall hold a public hearing and report to the County Board as

required by law. Copies of the petition and notice of the hearing shall also be sent to the appropriate office of the Department as described in Subsection 338-65.A. of this chapter.

The Land Use Planning and Zoning Committee's report to the County Board shall reflect the recommendations of any federal, state, or local agency with which the Land Use Planning and Zoning Committee consults.

- (3) Findings and Conditions of Approval. The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Subsection 338-23.B. If the petition is granted in whole or part, the County Board shall attach such written conditions to the approval as are required by and consistent with Subsection 338-23.B. The conditions of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks, dimensions of vegetative buffer zone, and open space requirements.
- (4) Planning Studies. A landowner or petitioner may, at his own expense, develop the facts required to establish compliance with the provisions of Subsection 338-23.B. or may be required to contribute funds to the county to defray all or part of the cost of such studies being undertaken by the county or any agency or person with whom the county contracts for such work.

338-24. Sanitary Regulations. Each county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- A. Where public water supply systems are not available, private well construction shall be required to conform to Chapter NR 812, Wis. Adm. Code.
- B. Where a public sewage collection and treatment system is not available, design and construction of private an on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Chapter SPS Comm. 383, and after June 30, 1980, be governed by a private sewage system ordinance adopted by the county under s. 59.70(5), Wis. Stats.

338-25. Reserved

ARTICLE 5.0

Lot and Parcel Size

338-26. Purpose. Minimum lot and parcel sizes in the shoreland area are established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

- A. In calculating the minimum area or width of a lot or parcel, the beds of navigable waters shall not be included.

338-27. Sewered Lots and Parcels. Minimum area and width for each lot or parcel.

- A. The minimum area shall be 10,000 sq. ft. and the minimum average width shall be 65 feet.
 - (1) The width shall be calculated by averaging the shortest horizontal measurements at the following locations:
 - (a) The landward distance at the ordinary high water mark between the side boundary lines.

- (b) Distances at any angle point along the side boundary line.
- (c) The street/access boundary line.
- (d) The rear boundary line, where applicable.

338-28. Unsewered Lots and parcels. Minimum area and width for each lot or parcel.

- A. The minimum area shall be 20,000 sq. ft. and the minimum average width shall be 100 feet.
 - (1) The width shall be calculated by averaging the shortest horizontal measurements at the following locations:
 - (a) The landward distance at the ordinary high water mark between the side boundary lines.
 - (b) Distances at any angle point along the side boundary line.
 - (c) The street/access boundary line.
 - (d) The rear boundary line, where applicable.

338-29. Substandard lots and parcels. A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current 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.
- B. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- C. The substandard lot or parcel is developed to comply with all other requirements of this chapter.

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

338-30. Other substandard lots and parcels. Except for lots which meet the requirements of Subsection 338-29., a land use permit for the improvement of a lot or parcel having lesser dimensions than those stated in Subsections 338-27. and 338-28. shall be issued only if a variance is granted by the Board of Adjustment.

338-31. Reserved

ARTICLE 6.0

Building Setbacks

338-32. 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.

A. Shoreland setbacks. Unless exempt under 338-32.A(1)., or reduced under 338-33., a setback of 75 feet from the ordinary high water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.

(1) Exempt structures. Per 59.692(1k)(a)(6), All of the following structures are exempt from the shoreland setback standards in Section 338-32.A:

(a) 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.

1. The construction or placement of boathouses below the ordinary high water mark of any navigable waters shall be prohibited.
2. Boathouses shall be designed and constructed solely for the storage of boats and related equipment.
3. One boathouse is permitted on a lot or parcel as an accessory structure.
4. Boathouses constructed where the existing slope is more than 50% shall be designed to not destabilize the existing slope. Final grades must be at a slope that is naturally stable, depending on soil type.
5. Boathouses shall be constructed in conformity with local floodplain zoning standards.
6. Boathouses shall be one story with sidewalls not exceeding 10 feet in height and a footprint within the access and viewing corridor of the vegetative buffer not to exceed 16 feet in width by 24 feet in depth.
7. Boathouse roofs shall be designed with a pitched roof having a maximum slope of 4/12 and in no case shall be designed for use as a deck, observation platform, or for other similar uses.
8. Earth-toned color shall be required for all exterior surfaces of a boathouse.
9. The main door shall face the water.
10. Patio doors, fireplaces, and other features, inconsistent with the use of the structure exclusively as a boathouse, are not permitted.
11. Per 59.692(1o) Stats, The roof of an existing boathouse may be used as a deck provided that the boathouse has a flat roof, has no side walls or screened walls, and has a railing that meets Department of Safety and Professional Services standards.

(b) Open-sided and screened structures such as gazebos, decks, patios, and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats.

1. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
2. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
4. 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.

Note: The statutory requirements under s. 59.692(1v) which require the establishment of a vegetative buffer for the construction of open sided structures is not superseded by s. 59.692(1f)(a).

5. The structure must be free standing and more than five-feet from a principal structure.
 6. An enforceable affidavit must be filed with the Register of Deeds prior to construction acknowledging the limitations on vegetation.
- (c) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two meters or less in diameter.
 - (d) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with Chapter SPS Comm. 383, 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 stormwater runoff from the structure.
 - (e) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.
 1. In cases of steep slopes, a rail system (i.e. tram or lift) in addition to a stairway, shall be permitted as long as the rail system is mounted to or immediately adjacent to the existing stairway and can be located entirely within the viewing access corridor per Section 338-37.B.
 - (f) Devices or systems used to treat runoff from impervious surfaces.
- (2) Existing Exempt Structures. Per 59.692(1k)(a)2m, Stats. Existing exempt structure 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. The expansion of a structure beyond the existing footprint may be permitted if the expansion is necessary to comply with applicable state and federal requirements.

Note - Section 59.692(1k)(a)2m, Stats, prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 338-32.A.(2). However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

- B. Reduced Principal Structure Setback. (s.59.692(1n), Stats) 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 an adjacent lot 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.

Note - s. 59.692(1d)(a), Stats, requires counties to adopt the standards consistent with section 338-32.B(1) for reducing the shoreland setback.

- C. In addition to the shoreland setback standards in A. and B. above, buildings and

structures shall comply with the following setback standards.

- (1) Side yard: 12-foot minimum for lots at least 85 feet wide.
- (2) Side yard: 10-foot minimum for lots less than 85 feet wide.
- (3) Street yard: 25-foot minimum

D. In addition to the shoreland setback standard in A. and B. above, fences shall comply with the following:

- (1) All fences, no greater than eight 8 feet in height, may be allowed along any lot line excluding the street right-of-way line and the side lot lines within the street-yard setback.
- (2) Open style fences (greater than 50% open space), no greater than four feet in height, may be allowed along the street right-of-way line and alongside lot lines within the street-yard setback.

E. In addition to the shoreland setback standard in A. and B. above, retaining walls shall comply with the following:

- (1) Retaining and decorative/landscape walls may be allowed in the street-yard, side-yard and rear-yard with a minimum zero setback.

338-33. Floodplain structures. Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

338-34. and 338-35. Reserved

ARTICLE 7.0

Vegetation

338-36. Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, this Article shall regulate removal of vegetation in shoreland areas, consistent with the following: The standards of this chapter shall 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.

338-37. Vegetative buffer zone. To protect water quality, fish and wildlife habitat, and natural scenic beauty, and to promote preservation and restoration of native vegetation, there shall be designated 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 zone except as follows.

- A. Routine maintenance of vegetation.
- B. Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b), Stats., the viewing corridor may be at least 35-feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the for the entire maximum width or shoreline frontage owned.
- C. Removal of trees and shrubs in the vegetative buffer zone on a parcel with ten 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.

- D. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
- E. Additional vegetation management activities in the vegetative buffer zone may be allowed by permit. The permit issued under this Subsection 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.

Note - Section 59.692(1f)(a) prohibits counties from requiring a property owner to establish a vegetative buffer zone on previously developed land or expand an existing vegetative buffer zone. However, as part of a counties shoreland mitigation standards, the establishment or expansion of the vegetative buffer may remain an option.

338-38. and 338-39. Reserved

ARTICLE 8.0

Land Disturbing Activity

338-40. Land disturbing activity. Filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in accordance with the provisions of Ch. NR 115.04, the requirements of Chapter 30, Wis. Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation, impairment of fish and wildlife habitat, and natural scenic beauty.

338-41. General standards: Filling, grading, lagooning, dredging, ditching, or excavating, which does not require a permit under Section 338-42., may be permitted in the shoreland area provided that:

- A. It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
- B. Filling, grading, lagooning, dredging, ditching, or excavating in a shoreland-wetland district meets the requirements of Subsections 338-18.B. and 338-18.C. of this chapter.
- C. All applicable federal, state, and local authority is obtained in addition to a permit under this chapter.
- D. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover, or a bulkhead.

338-42. Permit required.

- A. For any filling or grading of any area which is within 300 feet landward of the ordinary high water mark of navigable water and which has surface drainage toward the water and on which there is either:
 - (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. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

338-43. Permit conditions. In granting a permit under Section 338-42., the County shall attach the following conditions, where appropriate, in addition to those provisions specified in Sections 338-63. or 338-65.

- 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 and excavations shall be stabilized according to soil type and accepted non-engineered and engineering standards as required by the Land Use Planning & Zoning Department.
- 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.

338-44. Reserved

ARTICLE 9.0

Impervious Surfaces

338-45. Purpose. Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. Impervious surface standards of this chapter 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.

338-46. Impervious surface calculation. 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 338-49. 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.

Note - NR 115.05(1)(e)1m. Clarifies that, if an outlot lies between the OHWM and the developed lot or parcel and both are in common ownership, then the lot or parcel should be considered one property for the purposes of calculating the percentage of impervious surfaces. If there is an outlot, parcel or road that is owned by some other entity, for example a hydroelectric facility, town, or county, then the county should determine what level of control the property owner has over that portion of the lot. Can the property owner place structures, such as shoreline protection, piers, stairs, boathouses etc. on that portion of the lot, or does some other entity have control over development? If a property owner has no or little say over construction on that portion of the lot, then impervious surfaces on that portion of the lot should be calculated separately.

For properties that have condominium ownership, the impervious surface calculations apply to the entire property. The property is still under one legal description and the proposed expansion to a unit is not the only impervious surface calculated since the regulation states lot or parcel and not a 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.

338-47. Impervious surface standard. Except as allowed in Subsections 338-47.A. through 338-49., 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.

- A. Impervious surface standard for highly developed shorelines. The county, at its discretion, may adopt an ordinance for highly-developed shorelines allowing up to 30% for residential land use and up to 40% for commercial, industrial, or business land uses for lands that meet 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) The majority of the lots are developed with more than 30% of impervious surface area.
 - (b) Located on a lake served by a sewerage system as defined in NR 110.03(30), Wis. Adm. Code.
 - (c) The majority of the lots contain less than 20,000 square feet in area.

Note: Counties are not required under s. 59.692 to adopt the impervious surface standards for highly-developed shorelines in Subsection 338-47.A. but are required to adopt the general impervious surface standard in Section 338-47.

338-48. Maximum impervious surface. A property may exceed the impervious surface standard under Section 338-47. or Subsection 338-47.A. provided the following standards are met:

- A. For properties where the general impervious surface standard applies under Section 338-47., 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 Subsection 338-47.A., 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 Section 338-47. or Subsection 338-47.A. but do not exceed the maximum standard under Subsections 338-48.A. or 338-48.B., a permit can be issued for development with a mitigation plan that meets the standards found in Article 12.0.

Note - Counties that do not adopt the impervious surface standards for highly developed shorelines are not required to adopt Subsection 338-48.B.

338-49. 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 Section 338-46.

- 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.

Note - The provisions in Section 338-49. are an exemption from the impervious surface standards and, as such, should be read construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device, or internally drained. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with Section 338-4., will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device, or internally drained area, the impervious surface is no longer exempt under section 338-49.

To qualify for the statutory exemption, property owners shall submit a complete land use permit application that is reviewed and approved by the Land Use Planning and Zoning Department. The application shall include the following:

- (1) Calculations showing how much runoff is coming from the impervious surface area.
- (2) Documentation that the runoff from the impervious surface is being treated by a proposed treatment system, treatment device, or internally drained area.
- (3) An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices, or internally drained area.
 - (a) The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the land use permit.

338-50. Existing impervious surfaces. For existing impervious surfaces that were lawfully placed when constructed but do not comply with the impervious surface standard in Section 338-47. or the maximum impervious surface standard in section 338-48., 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 protection ordinance, and the impervious surface meets the applicable setback requirements in this chapter.

Note - The impervious surface standards in this paragraph (changed to reflect NR 115) shall not be construed to supersede other provisions in the county shoreland protection ordinance.

All of the provisions of the county shoreland protection ordinance still apply to new or existing development.

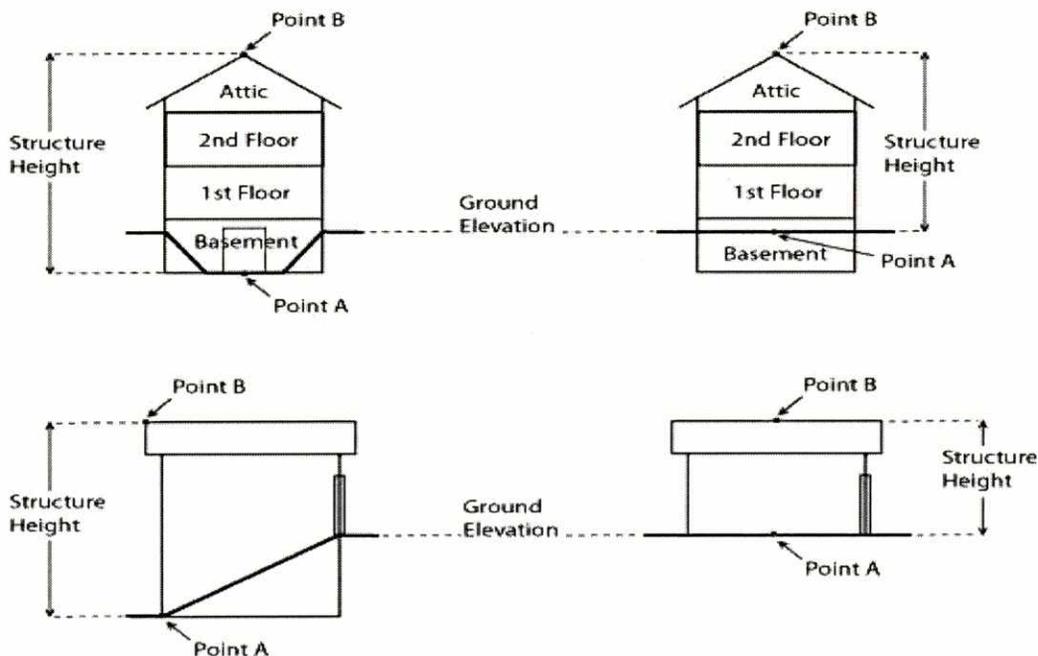
338-51. Reserved

ARTICLE 10.0

Height

338-52. Height. To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a land use permit may not be granted for any construction that results in a structure taller than 35 feet within 75 feet of the ordinary high water mark of any navigable waters.

- A. The structure height for structures at or greater than 75 feet from the ordinary high water mark shall comply with the provisions of other applicable ordinance standards, if any.
- B. Structure height within 75 feet of the ordinary high water mark of any navigable water is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground (Point A in the diagram below) to a line horizontal to the highest point of a structure excluding items attached to a structure such as, but not limited to, chimneys, ornamental towers, vents, television towers, and mechanical appurtenances (Point B in the diagram below), unless specified under other sections of this chapter.



ARTICLE 11.0

Nonconforming Uses and Structures

338-54. 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 this chapter.

338-55. Maintenance, repair, replacement, or vertical expansion of nonconforming structures. An existing structure that was lawfully placed when constructed but does not comply with the required setbacks, per Section 338-32 and Section 338-33, may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but 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, as provided in Subsection 338-52.B. Expansion of a structure may be allowed beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Note - Section 59.692(1k)(a)1.b. and d. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in Section 338-57.. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

Note - NR115.05(1)(b)1m lists structures that are exempt from the shoreland setback. These structures are considered conforming structures and are not considered nonconforming structures. Structures that were granted variances or illegally constructed structures are not considered nonconforming structures.

338-56. Lateral expansion of nonconforming principal structure within the setback. An existing principal structure that was lawfully placed when constructed but does not comply with the required building setback per Sections 338-32.A. and 338-33., may expand 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 Land Use Planning and Zoning Department shall issue a permit that requires a mitigation plan that shall be approved by the Land Use Planning and Zoning Department and implemented by the property owner by the date specified in the land use permit. The mitigation plan shall meet the standards found in Article 12.0.
- E. All other provisions of this chapter shall be met.

338-57. Expansion of a nonconforming principal structure beyond setback. An existing principal structure that was lawfully placed when constructed but does not comply with the required building setback under Sections 338-32. and 338-33., may be expanded horizontally,

landward, or vertically provided that the expanded area meets the building setback requirements per Section 338-32. or 338-33. and that all other provisions of this chapter are met. A mitigation plan is not required solely for expansion under this Section, but may be required per Article 9.0.

338-58. Relocation of nonconforming principal structure. An existing principal structure that was lawfully placed when constructed but does not comply with the required building setback per Sections 338-32.A. and 338-33., 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 Land Use Planning and Zoning Department determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per Section 338-32.A.
- E. The Land Use Planning and Zoning Department shall issue a permit that requires a mitigation plan that shall be approved by the Land Use Planning and Zoning Department and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Article 12.0. and include enforceable obligations of the property owner to establish or maintain measures that the Land Use Planning and Zoning Department 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 this chapter shall be met.

338-59. 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.

Note - Section 59.692(1k)(a)2. Prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 338-59. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control

ARTICLE 12.0

Mitigation

338-60. Mitigation. When a land use permit, issued under this chapter, requires mitigation according to Paragraph 338-32.A.(2) and Sections 338-48. and 338-58., the property owner must submit a complete permit application that includes a mitigation plan.

- A. The application shall be reviewed and approved by the County Land Use Planning and Zoning Department. The application shall include the following:
- (1) A scaled site plan that describes with images and notations the proposed mitigation measures:
 - a) The mitigation site plan shall be designed and implemented to restore natural functions lost through development and human activities
 - b) The mitigation measures of the plan shall be proportional in scope to the impacts of development on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.
 - (2) An implementation schedule stating the completion date of the mitigation measures. Also, there shall be an enforceable obligation on the property owner to establish and maintain the mitigation measures.
 - a) The enforceable obligations shall be evidenced by an instrument, Shoreland Mitigation Agreement, recorded in the office of the Register of Deeds, prior to issuance of a land use permit.
- B. The various types of development projects that require mitigation measures based on this chapter shall have options to mitigate the impacts of those development projects as provided herein. In cases where a development project impacts more than one type of development requiring mitigation, mitigation measures shall provide the total points for all affected types of development. The mitigation measures with corresponding mitigation points applicable to development projects requiring mitigation are as follows:
- (1) 3 Points: Creation or restoration of the shoreland vegetative buffer zone. The mitigation points and buffer depth may be modified if a lesser buffer depth is approved by the Land Use Planning and Zoning Department, based on the scope of the development project.
 - (2) 1 Point: Each additional 500 square feet of native secondary vegetative shoreland buffer; after the shoreland vegetative buffer zone has been created or restored.
 - (3) 2 Points: Removal of each building structure having 200 square feet or more of impervious surface within the 75-foot shoreland setback area.

1 Point: Removal of each building structure having less than 200 square feet of impervious surface within the 75-foot shoreland setback area.

Removal area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone shall be in accordance with D below.
 - (4) 1 Point: Removal of each 200 square feet of impervious surface within 300 feet of the ordinary high water mark of navigable waters. Removal area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone shall be in accordance with D

below.

- (5) 1 Point: Removal of seawalls/bulkheads.
 - (6) 1 Point: Relocate access and viewing corridor to include boathouse. Vacated area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Vacated area(s) within the shoreland vegetative buffer zone shall be vegetated in accordance with D below.
 - (7) Stormwater management that will infiltrate the peak flow discharge of stormwater runoff on a lot or parcel, for a two-year rainfall event, into a rain garden(s) for conditions stated below. Other infiltration methods may be used as approved by the Land Use Planning and Zoning Department.
 - (a) 2 Points: Stormwater management practice that will infiltrate all the stormwater runoff from the impervious surface of principal building structure(s).
 - (b) 3 Points: Stormwater management practice that will infiltrate all the stormwater runoff from the impervious surface of principal building structure(s) and any accessory building structure(s).
 - (c) 4 Points: Stormwater management practice that will infiltrate the stormwater runoff from all the impervious surface(s).
- C. Types of development requiring mitigation measures are as follows:
- (1) Impervious surface development. Any of the following levels of impervious surface area, based on the standards of Article 9.0, shall provide mitigation measures having the following number of mitigation points.
 - (a) 5 mitigation measure points shall be included in a mitigation plan on a lot or parcel where the percentage of impervious surface is greater than 15% and up to and including 20%.
 - (b) 6 mitigation measure points shall be included in a mitigation plan on a lot or parcel where the percentage of impervious surface is greater than 20% and up to and including 25%.
 - (c) 7 mitigation measure points shall be included in a mitigation plan on a lot or parcel where the percentage of impervious surface is greater than 25% and up to and including 30%.
 - (2) Lateral expansion of a nonconforming principal structure per Section 338-56. shall require a mitigation plan that includes any mitigation measures listed in Subsection 338-60.B. having a minimum of 1 point.
 - (3) Replacement or relocation of a nonconforming principal structure per Section 338-58. shall require a mitigation plan that includes any mitigation measures listed in Subsection 338-60.B. having a minimum of 2 points.
- D. Where reference is made to a shoreland vegetative buffer zone, the buffer shall be designed in accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat. In cases where these standards provide options, the Land Use Planning and Zoning Department shall make the determination which option is most appropriate in the design and execution of the project.
- E. Where reference is made to a rain garden, the rain garden shall be designed, installed, and maintained in accordance with Wis. DNR Publication, PUB-WT-776 2003 "Rain Gardens: A how-to manual for homeowners."
- F. Where the Land Use Planning and Zoning Department determines a lot or parcel has excessive navigable water frontage for the purpose of a shoreland vegetative buffer installation, the Land Use Planning and Zoning Department may reduce the width of

the shoreland vegetative buffer to no less than 100 feet.

- G. All development projects requiring mitigation measures on a lot or parcel having a POWTS (private onsite wastewater treatment system) shall be required to have the POWTS evaluated by a licensed plumber to determine condition and sizing compliance; and, if needed, the POWTS shall be upgraded to comply with current applicable standards.

338-61. Reserved

ARTICLE 13.0

Administration

338-62. Administrative provisions. Given the County has created a Land Use Planning and Zoning Department, and Land Use Planning and Zoning Committee, and Board of Adjustment to administer and enforce land use ordinances, these same officials shall also administer and enforce this chapter. These officials, for the purpose of this shoreland protection ordinance, shall be responsible for all of the following:

- A. A system of permits for all new construction, development, reconstruction, structural alteration, or moving of buildings and structures. A copy of applications shall be required to be filed in the Land Use Planning and Zoning Department, unless prohibited by s. 59.692(1k), Stats.
- B. Perform regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of this chapter.
- C. Establish a variance procedure which authorizes the Board of Adjustment to grant such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland protection ordinance, a literal enforcement of the provisions of this chapter will result in unnecessary hardship as long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland protection ordinance.
- D. Establish a special exception (conditional use permit) procedure for uses presenting special problems.
- E. The county shall keep a complete record of all proceedings before the Board of Adjustment, and Land Use Planning and Zoning Committee.
- F. Written notice to the appropriate office of the Department at least ten days prior to any hearing on a proposed 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 Article 4.0.
- G. Submission to the appropriate office of the Department, within ten days after grant or denial, copies of 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 this chapter.
- H. 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 this

chapter, including forfeitures. Compliance with this chapter shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Wis. Stats.

- J. Investigate and report violations of this chapter for enforcement and/or prosecution.

338-63. Permits.

- A. When required. Except where another section of this chapter specifically exempts certain types of development from this requirement, a land use permit shall be obtained from the Land Use Planning and Zoning Department, or Board of Adjustment, or Land Use Planning and Zoning Committee before any new development.
- B. Application. An application for a land use permit shall be made to the Land Use Planning and Zoning Department upon forms furnished by the Land Use Planning and 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 appropriate fee.
 - (7) Additional information required by the Land Use Planning and Zoning Department.
- C. Expiration of permit. A land use permit shall expire twelve (12) months from date issued if no substantial work has commenced.
- D. Certificates of Compliance. Upon written request from the owner, the Land Use Planning and Zoning Department shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this chapter, 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 chapter.

338-64. Special Exception Permits (Conditional Use Permits).

- A. 13.31 Application for a Special Exception Permit. Any use listed as a special exception in this chapter shall be permitted only after an application has been submitted to the Land Use Planning and Zoning Department and a special exception permit has been granted by the Board of Adjustment. To secure information upon which to base its determination, the Board of Adjustment may require the applicant to furnish, in addition to the information required for a land use 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 chapter.
- (6) Rationale for why the proposed special exception meets all of the special exception criteria listed in this chapter.

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

C. Standards Applicable to all Special Exceptions. In deciding a special exception application, the Board of Adjustment shall evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Compliance with 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., may be referred to the applicable part of their ordinance.

D. Conditions Attached to Special Exception. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking, and signs; and type of construction.

Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter.

In granting a special exception permit, the Board of Adjustment may not impose

conditions which are more restrictive than any of the specific standards in this chapter. Where this chapter is silent as to the extent of restriction, the Board of Adjustment may impose any reasonable permit conditions to affect the purpose of this chapter.

- E. Recording. When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted. Such permit shall be applicable solely to the structures, use, and property so described. **A copy of any decision on a special exception permit shall be provided to the appropriate office of the Department within ten days after it is granted or denied.**
- F. 13.36 Revocation. Where the conditions of a special exception permit are violated, the special exception permit may be revoked.

338-65. Variances. The Board of Adjustment may grant upon appeal a variance from the standards of this chapter where an applicant convincingly demonstrates that:

- literal enforcement of the provisions of this chapter will result in unnecessary hardship on the applicant; and
- the hardship is due to special conditions unique to the property; and
- is not contrary to the public interest.

- A. 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 Chapter. 985, Wis. Stats. **Such notice shall be provided to the appropriate office of the Department at least ten days prior to the hearing. The Board of Adjustment shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department office within ten days of the decision.**

338-66. Board of Adjustment. The chair of the County Board shall appoint a Board of Adjustment consisting of three members and two alternate members under s. 59.694, Wis. Stats. The County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by s. 59.694(3), Wis. Stats.

- A. Powers and Duties. (s. 59.694 Wis. Stats.)

- (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, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.
- (3) It shall hear and decide applications for special exception permits pursuant to Section 338-64.
- (4) It may grant a variance from the standards of this chapter pursuant to Section 338-65.
- (5) In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in this chapter. Where this chapter is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this chapter.

- B. Appeals to the Board. Appeals to the Board of Adjustment may be made by any

person aggrieved of by an officer, department, board, or bureau of the county affected by any decision of the Land Use Planning and Zoning Department or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the County 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 Land Use Planning and Zoning Department, or other officer whose decision is in question, shall promptly transmit to the Board of Adjustment all the papers constituting the record concerning the matter appealed.

C. Hearing Appeals and Applications for Variances and Special Exception Permits. (s. 59.694(6), Wis. Stats.)

(1) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The Board of Adjustment shall give public notice thereof by publishing a Class 2 notice under Chapter 985, Wis. Stats, specifying the date, time, and place of the hearing and the matters to come before the Board of Adjustment.

Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate office of the Department at least ten days prior to hearings on proposed shoreland variances, special exceptions (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, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate office of the Department within ten 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 of Adjustment. Such resolution shall state the specific facts which are the basis of the Board of Adjustment determination and shall either affirm, reverse, vary, or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

(4) At the public hearing, any party may appear in person or by agent or by attorney.

338-67. Reserved

ARTICLE 14.0

Amendments

338-68. Changes and Amendments. The County Board may, from time to time, alter, supplement, or change the regulations contained in this chapter in accordance with the requirements of s. 59.69(5)(e), Wis. Stats, Ch. NR 115, Wis. Adm. Code and this chapter where applicable.

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

B. Shoreland Wetland map amendments. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the Land Use Planning and Zoning Committee. A copy of each petition shall be provided to the appropriate

office of the Department within five 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 ten days prior to the hearing.

- (1) A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate office of the Department within ten days after the decision is issued.

338-69. Reserved

ARTICLE 15.0

Enforcement

338-70. Investigation of Alleged Violations.

Any violation of the provisions of this chapter shall be deemed unlawful. When necessary, to determine compliance with this chapter, the Land Use Planning and Zoning Department shall investigate alleged violations. After confirmation that a violation exists, the Land Use Planning and Zoning Department shall pursue compliance of the violation.

338-71. Violations, Penalties, and Citations.

- A. Any violation of the provisions of this chapter by or under the direction of the landowner shall be brought into compliance upon notification by the Land Use Planning and Zoning Department or the Land Use Planning and Zoning Committee or the County Corporation Counsel.
- B. The County Corporation Counsel shall have the authority to use all legal remedies necessary to pursue compliance with the provisions of this chapter. After consultation with the Land Use Planning and Zoning Department and/or the Land Use Planning and Zoning Committee, the Corporation Counsel shall determine which legal remedy or legal remedies are in order to pursue compliance with the provisions of this chapter.
- C. Any landowner who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$50 nor more than \$5,000 per offense, together with the taxable costs of action. Each day that the violation exists shall constitute a separate offense.
- D. In addition to the Corporation Counsel having the authority to pursue compliance per Subsection B above, the designated staff of the Land Use Planning and Zoning Department shall have the authority to and may prepare, sign, and issue citations in order to commence action to achieve compliance with the provisions of this chapter.

338-72. Stop-work orders.

- A. No land use permit obtained. When the Land Use Planning and Zoning Department is notified or becomes aware of any activity in violation of the provisions of this chapter by or under the direction of the landowner that requires issuance of a land use permit pursuant to this chapter, and such a permit has not been obtained, the Land Use Planning and Zoning Department may issue a stop-work order requiring any such

activity to be immediately stopped and enjoined.

- B. Land use permit obtained. When the Land Use Planning and Zoning Department is notified or becomes aware of any activity in violation of the provisions of this chapter by or under the direction of the landowner for which a land use permit was issued and the actual activity deviates from that land use permit, the Land Use Planning and Zoning Department may issue a stop-work order requiring the activity to be immediately stopped and enjoined.
- C. The stop-work order shall be mailed to the subject landowner's property tax bill mailing address or the mailing address as stated on the land use permit application and/or to any person signing the land use permit application.
- D. The stop-work order card issued and posted by the Land Use Planning and Zoning Department shall be posted at the subject site in plain view from a non-trespass location off the subject property. A stop-work order card shall remain posted until compliance of the violation occurs.
- E. An action filed pursuant to the Board of Adjustment or to any court shall stop work during and until the final outcome of the action has been reached or until so ordered by a Court of appropriate jurisdiction.

338-73. Injunctions.

Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined and the maintenance thereof abated pursuant to § 59.69(11), Wis. Stats.

338-74. Emergency Conditions. Whenever the Land Use Planning and Zoning Department finds that an emergency exists such as sudden, unexpected occurrences, or combinations thereof, unforeseen conditions or circumstances at the time beyond a landowner's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety, and welfare, the Land Use Planning and Zoning Department 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 Land Use Planning and Zoning Department shall notify the Chairperson of the Land Use Planning and Zoning Committee within 24 hours of such situations. Notwithstanding any other provisions of this chapter, 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 to the Board of Adjustment after emergency conditions have ceased.

338-75. Reserved

ARTICLE 16.0

Fees

338-76. Fees.

- A. The following fees shall be paid to Green Lake County at the Land Use Planning and Zoning Department at the time of application for each service requested as listed below to defray the cost of administration, investigation, advertising, and processing. Land use permit fee is based on construction value of project:
 - (1) Fee.

Value of Project	Fee
\$0 to \$999	\$50
\$1,000 to \$99,999	\$150
\$100,000 to \$199,999	\$300
\$200,000 to \$299,999	\$400
\$300,000 to \$399,999	\$500
\$400,000 to \$499,999	\$600
\$500,000 to \$599,999	\$700
\$600,000 to \$699,999	\$800
\$700,000 to \$799,999	\$900
\$800,000 to \$899,999	\$1,000
\$900,000 or more	\$1,250

- (2) Permit renewals are the same as the original fee.
 - (3) After-the-fact permit is double the above stated fee.
 - (4) Permit fees may be waived in cases where the Land Use Planning & Zoning Department determines the project(s) to be funded or conducted by Federal, State, or Local governmental bodies.
- B. All public hearing items such as a variance, rezone, appeal, conditional use permit, ordinance amendment, planned unit development, or special exception permit: \$375.
 - C. All public hearing items listed above, postponed at the request of the applicant prior to public hearing: \$250.

338-77. Reserved

ARTICLE 17.0

Definitions

338-78. Definitions. For the purpose of administering and enforcing this chapter, 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.

A. The following terms or words used in this chapter mean:

- (1) **Access and viewing corridor:** means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
- (2) **Boathouse:** means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls, or any combination of these structural parts.
- (3) **Building envelope:** means the three-dimensional space within which a structure is built.
- (4) **County zoning agency:** means that committee or commission created or designated by the County Board under s. 59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning. In Green Lake County, this body shall be known as the Land Use Planning and Zoning Committee.
- (5) **Department:** means the Department of Natural Resources.
- (6) **Deer Stand:** means open or enclosed platforms used by hunters. The platforms are secured to trees (or free standing) in order to elevate the hunter and give him (or her) a better vantage point.
- (7) **Development:** means any man-made change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures, or accessory structures; the construction of additions or substantial alterations to buildings, structures, or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials.
- (8) **Drainage System:** means one or more artificial ditches, tile drains, or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (9) **Existing development pattern:** means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (10) **Floodplain:** means 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 Chapter NR 116, Wis. Adm. Code.
- (11) **Footprint:** means the land covered by a structure at ground level measured on a horizontal plane. The footprint of a structure 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) having a single-horizontal plane, the footprint is 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.

- (12) **Generally accepted forestry management practices:** means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the Department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (13) **Hunting Blind:** a hunting blind (or hide) is an easily portable, cover device for hunters, designed to reduce the chance of detection. Not including deer stands.
- (14) **Impervious surface:** means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s.340-01(54), Wis. Stats., or sidewalks as defined in s.340.01(58), Wis. Stats., are not considered impervious surfaces.
- (15) **Lot:** means an area of land that is part of a recorded subdivision plat, certified survey map, or other document using the platting process, that is identified by an assigned number or letter.
- (16) **Lot or Parcel Area:** means the total square footage lying within the peripheral boundaries of a recorded lot or parcel boundary description, including the land over which easements have been granted. The area of a lot or parcel does not include the area of any land below the ordinary high water mark of navigable waters.
- (17) **Lot or Parcel of Record:** means an area of land, the description of which is properly recorded with the County Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations. The act of recording is the time at which a lot or parcel is created.
- (18) **Lot or Parcel, Substandard:** means 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 or parcel.
- (19) **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.
- (20) **Navigable waters:** means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats and Ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

- (1) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - (2) Artificially constructed drainage ditches, ponds, or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
-
- (21) **Ordinary high water mark:** means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
 - (22) **Parcel:** means an area of contiguous land having a boundary description duly recorded in the Register of Deeds office that identifies the boundaries of that specific parcel.
 - (23) **Regional Flood:** means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
 - (24) **Routine maintenance of vegetation:** means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
 - (25) **Shoreland:** means lands within the following distances from the ordinary high water 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.
 - (26) **Shoreland setback:** also known as the "Shoreland setback area" in s. 59.692(1)(bn) means an area in a shoreland that is within a certain distance of the ordinary high water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.
 - (27) **Shoreland-wetland district:** means 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.
 - (28) **Special exception (conditional use):** means a use which is permitted by this chapter provided that certain conditions specified in this chapter are met and that a permit is granted by the Board of Adjustment or, where appropriate, the Land Use Planning and Zoning Committee or County Board.
 - (29) **Structure:** means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.
 - (30) **Structure, Accessory:** means 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.
 - (31) **Unnecessary hardship:** means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

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

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

Appendix A

Shoreland Zone Determinations		
Lakes, Ponds and Flowages	Navigability	Extent of Shoreland
Natural lake or pond with a defined bed and bank that is navigable-in-fact (including bodies of water called "sloughs" that are actually separate lakes or ponds)	Navigable and public	1000 feet from OHWM
Glacial pothole lake that is navigable-in-fact	Navigable and public	1000 feet from OHWM
Man-made agricultural pond that is navigable-in-fact and not connected to navigable waters*	Non-navigable and private	None
Man-made non-agricultural pond that is navigable-in-fact and connected to waterway that is navigable-in-fact	Navigable and public	1000 feet from OHWM
Man-made non-agricultural pond that is navigable-in-fact and constructed prior to 1963 revision of s. 30.19, Wis. Stats., with (a) no connection or (b) a non-navigable connection to waterway that is navigable-in-fact	Non-navigable and private*	None
Man-made non-agricultural pond that is navigable-in-fact and within 500 feet of the OHWM of a navigable waterway and made public as a condition of a Wis-DNR Chapter 30 permit.	Navigable and public	1000 feet from OHWM
Man-made non-agricultural pond that is navigable-in-fact, more than 500 feet from OHWM of waterway that is navigable-in-fact and is not connected to waterway	Non-navigable and private*	None
Flowage that is navigable-in-fact & created by a dam on a navigable waterway	Navigable and public	1000 feet from OHWM or floodplain
Flowage that is navigable-in-fact, created by a dam on a non-navigable waterway and authorized by s. 30.19, Wis. Stats.	Navigable and public	1000 feet from OHWM or floodplain
Flowage that is navigable-in-fact and created by a dam on a non-navigable waterway, but not authorized by s. 30.19, Wis. Stats.	Non-navigable and private*	None
Inner harbors, turning basins, waterways, slips, and canals created by a municipality under s. 30.10, Wis. Stats., on a navigable lake, pond, or flowage	Navigable and public	1000 feet from OHWM or floodplain
Lake, pond, or flowage that is navigable-in-fact and enclosed pursuant to s. 30.196, Wis. Stats.,	Navigable and public	1000 feet from OHVWM or floodplain

Shoreland Zone Determinations

Rivers and Streams	Navigability	Extent of Shoreland
Natural stream with a defined bed and bank that is navigable-in-fact	Navigable and public	300 feet from OHWM or floodplain
Non-navigable stream	Non-navigable and private	None
Agricultural drainage ditch that is navigable-in-fact and has navigable stream history	Navigable and public	300 feet from OHWM or floodplain
Agricultural drainage ditch that is navigable-in-fact, no stream history, and adjacent shoreland is maintained in non-structural agricultural uses	Non-navigable and private*	None
Non-agricultural drainage ditch or channel that is navigable-in-fact, constructed since the 1963 revision of s. 30.19, Wis. Stats., and ultimately connected to a navigable lake, pond, or flowage	Navigable and public	300 feet from OHWM or floodplain
Slough that is navigable-in-fact on a navigable stream	Navigable and public	300 feet from OHWM or floodplain
Inner harbors, turning basins, waterways, slips and canals created by a municipality under s. 30.10, Wis. Stats., on a navigable stream	Navigable and public	300 feet from OHWM or floodplain
Non-agricultural drainage ditch or channel that is navigable-in-fact, constructed since the 1963 revision of s. 30.19, Wis. Stats., and ultimately connected to a navigable stream	Navigable and public	300 feet from OHWM or floodplain
Stream that is navigable-in-fact and enclosed pursuant to s. 30.196, Wis. Stats.	Navigable and public	300 feet from OHWM or floodplain