

## LAND USE PLANNING AND ZONING COMMITTEE STAFF REPORT

PUBLIC HEARING

April 6, 2017

### ITEM IV: Shoreland Zoning Ordinance Amendment

**REQUEST:** The Green Lake County Land Use Planning and Zoning Department is requesting an amendment to the Code of Green Lake County, Chapter 338 of the Shoreland Zoning Ordinance; more specifically, to remove reference to “highly developed shorelines” in order to obtain a certificate of compliance from the Wisconsin Department of Natural Resources.

**ADDITIONAL INFORMATION / ANALYSIS:** In September of 2016, the County Board adopted a new Shoreland Zoning Ordinance as required by the State of Wisconsin and as approved by the Wisconsin Department of Natural Resources (WDNR). Presently, Green Lake County has not received its certificate of compliance from WDNR. On February 1, 2017, the County received a conditional approval letter from the WDNR that stated that although the Shoreland Zoning Ordinance is in “substantial compliance” with Chapter NR115 Wis. Adm. Code, a revision is required.

The revision identified by the WDNR requires deletion of Section 338-47 and all references to Section 338-47. This section refers to impervious surfaces standards as they relate to “highly developed shorelines.” The WDNR admitted that, during the ordinance review process, they mistakenly forgot to require its deletion. The reasoning behind requiring its deletion is that there is an unnecessary level of confusion that is introduced by this section as there are no unincorporated, shoreland-zoned areas of Green Lake County that qualify as “highly developed shorelines.”

WDNR had provided Green Lake County 3 months, from February 1, 2017, to make the required changes or the conditional approval will expire. With the Committee’s recommendation, this ordinance amendment can be approved by the County Board as early as April 18, 2017, and well within the WDNR’s required timeline.

The Green Lake County Land Use Planning and Zoning Department strongly suggests the Land Use Planning and Zoning Committee recommend adoption of the proposed amendment to the County Board. This amendment will allow WDNR to issue Green Lake County a certificate of compliance and also avoid complications and costs of working under a non-WDNR compliant shoreland zoning ordinance, including the potential that WDNR will require Green Lake County to adopt the WDNR’s model shoreland zoning ordinance. Attached is a copy of the proposed ordinance amendments.

**STAFF COMMENTS:** The Land Use Planning and Zoning Committee has several options in this regard and they are as follows:

- Forward onto the County Board with recommendation to adopt as proposed.

- Hold another public hearing to take additional public comment.
- \*Reject as proposed.

\* In the event that these amendments are not adopted, the WDNR would be within statutory authority, Chapter NR115.06(3) Determination of Noncompliance, to adopt a compliant ordinance. Further, NR115.06(3)(d) allows the WDNR to recover all costs of any actions including its development or any WDNR consultant's development of a code-compliant ordinance. Land Use Planning and Zoning Staff are familiar with the WDNR's model ordinance and staff feels that the current Shoreland Zoning Ordinance (proposed to be amended here in) is intended to better address the needs and concerns of the Citizens of Green Lake County.

**338-47. Impervious surface standard.** Except as allowed in Subsections 338-48. and 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.~~