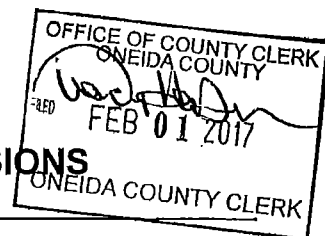




CHAPTER 9

ARTICLE 9 SHORELAND PROTECTION PROVISIONS



- 9.90 Shoreland Protection
- 9.91 Shoreland Wetland Zoning
- 9.92 Shoreland-Wetland Restrictions
- 9.93 Land Division Review and Sanitary Regulations
- 9.94 OHWM Setbacks
- 9.95 Shoreland Vegetation Protection Area
- 9.96 Shoreland Mitigation Plan
- 9.97 Shoreland Alteration Permits
- 9.98 Piers, Other Berth Structures
- 9.99 Shoreland Uses and Structures

9.90 SHORELAND PROTECTION

A. Statutory Authorization

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

B. Finding of Fact

Uncontrolled use of the shorelands and pollution of the navigable waters of Oneida 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 Oneida County, Wisconsin. Changes made in 2017 to comply with NR115, Act 55, Act 167 and Act 391.

C. Purpose and Intent (NR 115.01)

For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has been established to:

- 1. Further the Maintenance of Safe and Healthful Conditions and Prevent and Control Water Pollution Through:
 - a. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.

48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93

- b. Establishing minimum lot sizes to provide adequate area for private on-site wastewater treatment systems (POWTS).
- c. Controlling filling and grading to prevent soil erosion problems.
- d. Limiting impervious surfaces to control runoff which carries pollutants.
- 2. Protect Spawning Grounds, Fish and Aquatic Life Through:
 - a. Preserving wetlands and other fish and aquatic habitat.
 - b. Regulating pollution sources.
 - c. Controlling shoreline alterations, dredging and lagooning.
- 3. Control Building Sites, Placement of Structures and Land Uses Through:
 - a. Prohibiting certain uses detrimental to the shoreland-wetlands.
 - b. Setting minimum lot sizes and widths.
 - c. Setting minimum building setbacks from waterways.
 - d. Setting the maximum height of near shore structures.
- 4. Preserve and Restore Shoreland Vegetation and Natural Scenic Beauty Through:
 - a. Restricting the removal of natural shoreland cover.
 - b. Preventing shoreline encroachment by structures.
 - c. Controlling shoreland excavation and other earth moving activities.
 - d. Regulating the use and placement of boathouses and other structures.

D. Shoreland Jurisdiction

The shoreland protection provisions of this ordinance are adopted pursuant to sec. 59.692, Wis. Stats., and shall apply to all lands (referred to herein as "Shorelands") in the unincorporated areas of Oneida County, which are:

- 1. Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Oneida County shall be presumed to be navigable if they are listed in the DNR publication "Surface Water Resources of Oneida County" or shown on the 7.5 minute series United States Geological Survey quadrangle maps.
- 2. Within three hundred (300) feet of the ordinary high water mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Oneida County shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps. Flood Insurance Rate Maps, which have been adopted by Oneida County, shall be used to determine the extent of the floodplain of navigable rivers or streams in Oneida County. Floodplain areas are subject to the Oneida County Zoning and Shorelands Protection Ordinance.
- 3. 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, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and

94 bridges carried out under the direction and supervision of the Wisconsin
95 Department of transportation is not subject to local shoreland zoning
96 ordinances if s. 30.2022 (1), Wis. Stats., applies. (NR 115.02) Shoreland
97 zoning requirements in annexed or incorporated areas are provided in s.
98 61.353 and s. 62.233, Wis. Stats.

- 99 4. Determinations of navigability and ordinary high water mark shall initially be
100 made by the Zoning Administrator. When questions arise, the Zoning
101 Administrator shall contact the Northern Region Service Center of the DNR
102 for a final determination of a navigability or ordinary high water mark. The
103 county may work with surveyors with regard to Wis. Stats. Sec. 59.692(1h).
- 104 5. Under s. 281.31(2m) Wis. Stats., notwithstanding any other provision of law
105 or administrative rule promulgated thereunder, this shoreland zoning
106 ordinance does not apply to:
- 107 a. Lands adjacent to farm drainage ditches
 - 108 (1) Such lands are not adjacent to a natural navigable stream or river;
 - 109 (2) Those parts of such drainage ditches adjacent to such lands were
110 not navigable streams before ditching; and
 - 111 b. Lands adjacent to artificially constructed drainage ditches, ponds or
112 stormwater retention basins that are not hydrologically connected to a
113 natural navigable water body.
- 114 6. Shoreland Zoning Standards. In the past counties were allowed to adopt
115 shoreland zoning standards more restrictive than those contained in NR 115.
116 Currently, requirements in 2015 Wisconsin Act 55 do not allow counties to
117 regulate a matter in a shoreland zoning ordinance more restrictively than the
118 matter is regulated by a shoreland zoning standard. However, counties can
119 continue to regulate a matter that is not regulated by a shoreland zoning
120 standard.
- 121 7. Interpretation. Wis.Stats. Sec. (59.69)(13) In their interpretation and
122 application, the provisions of this ordinance shall be liberally construed in
123 favor of the county and shall not be deemed a limitation or repeal of any other
124 powers granted by Wisconsin Statutes. Where a provision of this ordinance
125 is required by statute and a standard in ch. NR 115, Wis. Adm. Code, and
126 where the ordinance provision is unclear, the provision shall be interpreted in
127 light of the statute and ch. NR 115 standards in effect on the date of the
128 adoption of this ordinance or in effect on the date of the most recent text
129 amendment to this ordinance.
- 130 8. Severability. If any portion of this ordinance is adjudged unconstitutional
131 or invalid by a court of competent jurisdiction, the remainder of this
132 ordinance shall not be affected.

133 E. General Zoning Provisions Apply in Shoreland Jurisdiction

134 The general zoning provisions of this ordinance consisting of Articles 1, 2, 3, 4,
135 5, 6, 7, 8 and 10 are expressly incorporated by reference into the Shoreland
136 Protection Provisions (Article 9) of this ordinance and shall apply in the
137 shorelands through the County, in towns that have adopted Comprehensive
138
139

140 Zoning, to the extent applicable. In the event of a conflict between the general
141 zoning provisions and the Shoreland Protection Provisions, the more restrictive
142 provisions shall apply.
143

144 F. DNR Notices and Copies of County Decisions
145

- 146 1. Written notice shall be given to the Northern Region Service Center of the
147 DNR at least ten (10) days prior to hearings on proposed shoreland
148 variances, special uses (conditional uses), appeals for map or text
149 interpretations and map or text amendments.
- 150 2. Copies of decisions on shoreland variances, special uses (special
151 exceptions), (conditional uses), appeals for map or text interpretations, and
152 map or text amendments shall be submitted to the Northern Region Service
153 Center of the DNR within ten (10) days after they are granted or denied.
154

155 G. Compliance (NR 115.04)
156

157 The use of any land, the size, shape and placement of lots, the use, size, type
158 and location of structures on lots, the installation and maintenance of water
159 supply and waste disposal facilities, the filling, grading, lagooning, dredging of
160 any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in
161 full compliance with the terms of this ordinance and other applicable local, state
162 or federal regulations. Buildings and other structures shall require a permit
163 unless otherwise expressly excluded by a provision of this ordinance. Property
164 owners, builders and contractors are responsible for compliance with the terms
165 of this ordinance.
166

167 H. Municipalities and State Agencies Regulated
168

169 Unless specifically exempted by law, all cities, villages, towns, and counties
170 are required to comply with this ordinance and obtain all necessary permits.
171 State agencies are required to comply when s. 13.48(13), Wis. Stats., applies.
172 The construction, reconstruction, maintenance and repair of state highways
173 and bridges by the Wisconsin Department of Transportation are exempt when
174 s. 30.2022(1) Wis. Stats., applies.
175

176 I. Abrogation and Greater Restrictions (s. 59.692(5) Wis. Stats.)
177

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

186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233

1. (s. 59.692(2)(a), Wis. Stats.) This ordinance shall not require approval or be subject to disapproval by any town or town board.
2. (s. 59.692(2)(b), Wis. Stats.) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
3. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
4. The following provisions of the Oneida County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
5. (s. 59.692(1d)(b), Wis. Stats.) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 9.90(C) of this ordinance,
6. (s. 59.692(1k)(a)1., Wis. Stats.) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
 - a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
 - b. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
7. (s.59.692(7), Wis. Stats) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if: The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.

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.

J. Administrative Provisions NR 115.04(4)

The shoreland ordinance adopted by each county shall require all of the following:

1. The appointment of an administrator and such additional staff as the workload may require.
2. The creation of a zoning agency as authorized by s. 59.69, Wis. Stats., a board of adjustment as authorized by s. 59.694, Wis. Stats., and a county

- 234 planning agency as defined in s.236.02(1), Wis. Stats., and required by s.
235 59.692(3), Wis. Stats.
- 236 3. A system of permits for all new construction, development, reconstruction,
237 structural alteration or moving of buildings and structures. A copy of
238 applications shall be required to be filed in the office of the county zoning
239 administrator, unless prohibited by s. 59.692(1k), Wis. Stats.
 - 240 4. Regular inspection of permitted work in progress to insure conformity of
241 the finished structures with the terms of the ordinance.
 - 242 5. A variance procedure which authorizes the board of adjustment to grant
243 such variance from the terms of the ordinance as will not be contrary to the
244 public interest where, owing to special conditions and the adoption of the
245 shoreland zoning ordinance, a literal enforcement of the provisions of the
246 ordinance will result in unnecessary hardship as long as the granting of a
247 variance does not have the effect of granting or increasing any use of
248 property which is prohibited in that zoning district by the shoreland zoning
249 ordinance.
 - 250 6. A special exception (conditional use) procedure for uses presenting special
251 problems.
 - 252 7. The county shall keep a complete record of all proceedings before the
253 board of adjustment, zoning agency and planning agency.
 - 254 8. Written notice to the appropriate office of the Department at least 10 days
255 prior to any hearing on a proposed variance, special exception or conditional
256 use permit, appeal for a map or text interpretation, map or text amendment,
257 and copies of all proposed land divisions submitted to the county for review
258 under section 9.93.
 - 259 9. Submission to the appropriate office of the Department, within 10 days
260 after grant or denial, copies of any decision on a variance, special
261 exception or conditional use permit, or appeal for a map or text
262 interpretation, and any decision to amend a map or text of an ordinance.
 - 263 10. Mapped zoning districts and the recording, on an official copy of such
264 map, of all district boundary amendments.
 - 265 11. The establishment of appropriate penalties for violations of various
266 provisions of the ordinance, including forfeitures. Compliance with the
267 ordinance shall be enforceable by the use of injunctions to prevent or abate
268 a violation, as provided in s. 59.69 (11), Wis. Stats.
 - 269 12. The prosecution of violations of the shoreland ordinance.
 - 270 13. Shoreland Wetland Map Amendments. (NR 115.04). Every petition for a
271 shoreland- wetland map amendment filed with the county clerk shall be
272 referred to the county zoning agency. A copy of each petition shall be
273 provided to the appropriate office of the Department within 5 days of the filing
274 of the petition with the county clerk. Written notice of the public hearing to be
275 held on a proposed amendment shall be provided to the appropriate office of
276 the Department at least 10 days prior to the hearing. A copy of the county
277 board's decision on each proposed amendment shall be forwarded to the
278 appropriate office of the Department within 10 days after the decision is
279 issued.

280
281 9.91 SHORELAND-WETLAND ZONING (DISTRICT 11)
282

283 A. Purpose

284 This district is adopted to maintain safe and healthful conditions, to prevent
285 water pollution, to protect fish, aquatic life, fish spawning grounds and wildlife
286 habitat, to preserve shore cover and natural beauty and to control building
287 development in wetlands whenever possible. When development is permitted in
288 a wetland, the development should occur in a manner that minimizes adverse
289 impacts upon the wetland.
290

291 B. Designation

292
293 This district shall include all shorelands within the jurisdiction of this ordinance
294 which are designated as wetlands on the most recent version of the
295 Wisconsin Wetland Inventory as depicted on the Department of Natural
296 Resources Surface Water Data Viewer.
297

298 C. Shoreland-Wetland District Boundaries

299
300 Where an apparent discrepancy exists between the Shoreland-Wetland District
301 boundary shown on the Wisconsin Wetland Inventory maps and actual field
302 conditions at the time the maps were adopted, the Zoning Administrator shall
303 contact the Northern Region Service Center of the DNR to determine if the
304 Shoreland-Wetland District boundary, as mapped, is in error. If the DNR staff
305 concur with the Zoning Administrator that a particular area was incorrectly
306 mapped as a wetland or meets the wetland definition the Zoning Administrator
307 shall have the authority to immediately grant or deny a permit in accordance with
308 the regulations applicable to the correct zoning district. In order to correct
309 wetland mapping errors shown on the Wisconsin Wetland Inventory maps, the
310 Zoning Administrator shall be responsible for initiating a shoreland-wetland map
311 amendment within a reasonable period of time.
312

313 D. Permitted Uses (NR 115.04(3))

314
315 The following uses shall be allowed, subject to general shoreland zoning
316 regulations contained in this ordinance, the provisions of chs. 30, 31 and 281.36,
317 Wis. Stats. and the provisions of other applicable local, state and federal laws:
318

- 319 1. Activities and uses which do not require the issuance of a zoning permit,
320 but which must be carried out without any filling, flooding, draining,
321 dredging, ditching, tiling or excavating except as allowed under sections
322 9.91(D)(1, 2 and 3).
323

- 324 a. Hiking, fishing, trapping, hunting, swimming, and boating;

- 325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
- b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The pasturing of livestock;
 - d. The cultivation of agricultural crops;
 - e. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - f. The construction or maintenance of duck blinds.
2. Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
- a. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - b. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.
 - c. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
 - d. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 - e. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
 - f. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
3. Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - (1) The road cannot as a practical matter be located outside the wetland;
 - (2) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 9.91(F)(2);

- 373 (3)The road is designed and constructed with the minimum cross-
374 sectional area practical to serve the intended use;
375 (4)Road construction activities are carried out in the immediate area of
376 the roadbed only.
- 377 b. The construction or maintenance of nonresidential buildings provided
378 that:
- 379 (1) The building is essential for and used solely in conjunction with
380 the raising of waterfowl, minnows or other wetland or aquatic
381 animals; or some other use permitted in the shoreland-wetland
382 district;
- 383 (2) The building cannot, as a practical matter, be located outside the
384 wetland;
- 385 (3) Such building is not designed for human habitation and does not
386 exceed 500 sq. ft. in floor area; and
- 387 (4) Only limited filling or excavating necessary to provide structural
388 support for the building is authorized.
- 389 c. The establishment of public and private parks and recreation areas,
390 natural and outdoor education areas, historic and scientific areas, wildlife
391 refuges, game bird and animal farms, fur animal farms, fish hatcheries,
392 and public boat launching ramps and attendant access roads, provided
393 that:
- 394 (1) Any private development is used exclusively for the permitted use and
395 the applicant has received a permit or license under ch. 29, Wis.
396 Stats., where applicable;
- 397 (2) Filling or excavating necessary for the construction or maintenance
398 of public boat launching ramps or attendant access roads is
399 allowed only where such construction or maintenance meets the
400 criteria in section 9.91(D)(3)(a)(1-4) and;
- 401 (3) Ditching, excavating, dredging, or dike and dam construction in public
402 and private parks and recreation areas, natural and outdoor education
403 areas, historic and scientific areas, wildlife refuges, game bird and
404 animal farms, fur animal farms, and fish hatcheries is allowed only for
405 the purpose of improving wildlife habitat and to otherwise enhance
406 wetland values.
- 407 d. The construction or maintenance of electric, gas, telephone, water and
408 sewer transmission and distribution facilities, by public utilities and
409 cooperative associations organized for the purpose of producing or
410 furnishing heat, light, power or water to their members and the
411 construction or maintenance of railroad lines provided that:
- 412 (1) The transmission and distribution facilities and railroad lines cannot,
413 as a practical matter, be located outside the wetland;
- 414 (2) Such construction or maintenance is done in a manner
415 designed to minimize adverse impact upon the natural functions
416 of the wetland enumerated in section 9.91(F)(2).
417
418

419 E. Prohibited Uses

420
421
422
423
424
425
426
427
428
429
430

431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464

Any use not listed in section 9.91(D) is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with sec. 59.69(5)(e), Wis. Stats., Wis. Admin. Code NR 115, and section 9.91(F) of this ordinance.

F. Rezoning

1. For all proposed text and map amendments to the Shoreland-Wetland District, the Northern Region Service Center of the DNR shall be provided with the following:
 - a. A copy of every petition for a text or map amendment to the Shoreland-Wetland District, within five (5) days of the filing of such petition with the County Clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
 - b. Written notice of public hearing to be held on a proposed amendment, at least ten (10) days prior to such hearing.
 - c. A copy of the Committee's findings and recommendations on each proposed amendment, within ten (10) days after the submission of those findings and recommendations to the County Board; and
 - d. Written notice of the County Board's decision on the proposed amendment, within ten (10) days after it is issued.

2. A wetland, or a portion thereof, in the Shoreland-Wetland District, shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - a. Storm and flood water storage capacity;
 - b. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against soil erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following web site:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>

3. If the DNR has notified the Committee that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any

465 of the criteria listed in section 9.91(F)(2) of this ordinance, that amendment, if
466 approved by the County Board, shall contain the following provision:
467

468 "This amendment shall not take effect until more than thirty (30) days
469 have elapsed since written notice of the County Board's approval of
470 this amendment was mailed to the DNR. During that 30 day period
471 the Department of Natural Resources may notify the County Board
472 that it will adopt a superseding Shoreland Ordinance for the County
473 under sec. 59.692(6), Wis. Stats. If the Department of Natural
474 Resources does so notify the County Board, the effect of this
475 amendment shall be stayed until sec. 59.692(6), Wis. Stats., adoption
476 procedure is completed and otherwise terminated."
477

478 9.92 SHORELAND-WETLAND RESTRICTIONS.

479 A. Purpose.

480 Wetlands are critical natural environmental features which
481 provide Habitat for native animals and plants, help purify surface and
482 subsurface waters, and add to, or help protect, the natural appearance of the
483 Northwoods. This section provides the minimum land use restrictions
484 determined to be essential to protect shoreland wetlands.
485

486 B. Applicability.

487 This section applies to all areas identified as shoreland wetlands on
488 Wisconsin Wetland Inventory maps, or otherwise determined officially to
489 be wetlands in shoreland areas. The following restrictions do not apply to
490 public utilities and public roads. Provisions of this section do not supersede
491 more restrictive requirements identified in section 9.91 Shoreland-Wetland
492 Zoning District or involving structures in a floodplain zoning district.
493

494 C. Restrictions.

- 495 1. No grading or other land disturbing activities shall be permitted closer than
496 5 feet from the edge of a shoreland wetland. An elevated walkway may be
497 permitted pursuant to section 9.91(D)(2)(e).
498 2. Grading or other land disturbing activities less than 25 feet from a
499 shoreland wetland shall require silt fencing. Installation shall be
500 done in accordance with the standards and specifications outlined in
501 the Wisconsin Construction Site Best Management Practices
502 Handbook (WDNR Pub. WR-222 1993 Revision).
503

504 9.93 LAND DIVISION REVIEW, SANITARY REGULATIONS, PLANNED UNIT
505 DEVELOPMENT and MINIMUM LOT SIZE
506
507

511 A. Land Division Review (NR 115.05(2))

512
513 The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions
514 in shoreland areas which create 3 or more parcels or building sites of 5 acres
515 each or less within a 5-year period. In such review all of the following factors
516 shall be considered:

- 517
518 1. Hazards to the health, safety or welfare of future residents.
519 2. Proper relationship to adjoining areas.
520 3. Public access to navigable waters, as required by law.
521 4. Adequate stormwater drainage facilities.
522 5. Conformity to state law and administrative code provisions.

523
524 B. Sanitary Regulations (NR 115.05(3))

525
526 Each county shall adopt sanitary regulations for the protection of health and
527 the preservation and enhancement of water quality.

- 528
529 1. Where public water supply systems are not available, private well
530 construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
531 2. Where a public sewage collection and treatment system is not available,
532 design and construction of private sewage disposal system shall, prior to July
533 1, 1980, be required to comply with ch. SPS Comm 383, and after June 30,
534 1980 be governed by a private sewage system ordinance adopted by the
535 county under s. 59.70(5), Wis. Stats. and Minimum Lot Size (NR 115.05(1))

536
537
538 C. Planned Unit Development (pud). (NR 115.05(1)(a)4)

539
540 1. Purpose. The Planned Unit Development is intended to permit smaller non-
541 riparian lots where the physical layout of the lots is so arranged as to better assure
542 the control of pollution and preservation of ground cover than would be expected if
543 the lots were developed with the normal lot sizes and setbacks and without special
544 conditions placed upon the Planned Unit Development at the time of its approval. A
545 condition of all Planned Residential Unit Development is the preservation of certain
546 open space, preferably on the shoreland, in perpetuity.

547
548 2. Requirements for planned unit development. The county Planning and Zoning
549 Committee may at its discretion, upon its own motion or upon petition, approve a
550 Planned Unit Development Overlay District upon finding, after a public hearing, that
551 all of the following facts exist:

- 552 (a) Area. The area proposed for the Planned Unit Development shall be at least
553 2 acres in size or have a minimum of 200 feet of frontage on a navigable
554 water.

- 555 (b) Lots. Any proposed lot in the Planned Unit Development that does not meet
556 the minimum size standards of Section 9.93 (D-F) shall be a non-riparian lot.
- 557 (c) Lot sizes, widths, setbacks, and vegetation removal. When considering
558 approval of a Planned Unit Development the governing body shall consider
559 whether proposed lot sizes, widths, and setbacks are of adequate size and
560 distance to prevent pollution or erosion along streets or other public ways
561 and waterways. Increased shoreland setbacks shall be a condition of
562 approval as a way of minimizing adverse impacts of development. Shore
563 cover provisions in Section 9.95 shall apply except that maximum width of a
564 lake frontage opening shall be 100 feet and minimum vegetative buffer depth
565 shall be increased to offset the impact of the proposed development.
- 566 (d) Back lot access (keyholing) is not permitted.

567
568
569 3. Procedure for Establishing A Planned Residential Unit Development District.
570 The procedure for establishing a Planned Residential Unit Development district shall
571 be as follows:
572

- 573 (a) Petition. A petition setting forth all of the facts required in Section 9.93(C)
574 shall be submitted to the Oneida county clerk with sufficient copies to provide
575 for distribution by the clerk.
- 576 (b) Review and Hearing: The petition shall be submitted to the county zoning
577 agency established as required by s. 59.69(3)(d), Stats, which shall hold a
578 public hearing and report to the county board as required by law. Copies of
579 the petition and notice of the hearing shall also be sent to the appropriate
580 office of the Department as described in this ordinance.
581 The Planning and Zoning Department's report to the Oneida county board
582 shall reflect the recommendations of any federal, state or local agency with
583 which the county zoning agency consults.
- 584 (c) Findings and Conditions of Approval. The county board shall make written
585 findings as to the compliance or noncompliance of the proposed overlay
586 district with each of the applicable requirements set forth in Section
587 9.93(C)(2). If the petition is granted in whole or in part, the county board
588 shall attach such written conditions to the approval as are required by and
589 consistent with Section 9.93(C)(2). The conditions of approval shall in all
590 cases establish the specific restrictions applicable with regard to minimum lot
591 sizes, width, setbacks, dimensions of vegetative buffer zone and open space
592 requirements.
- 593 (d) Planning Studies. A landowner or petitioner may at his own expense develop
594 the facts required to establish compliance with the provisions of Section
595 9.93(C)(2) or may be required to contribute funds to the county to defray all
596 or part of the cost of such studies being undertaken by the county or any
597 agency or person with whom the county contracts for such work.
598
599
600

601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645

D. Minimum Lot Size (NR 115.05(1))

1. Purpose (NR115.05(1)(a))
Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.
2. Sewered lots (NR 115.05(1)(a)1) Minimum area and width for each lot.
The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width and riparian frontage width shall be 65 feet.
3. Unsewered lots (NR 115.05(1)(a)2) Minimum area and width for each lot.
The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width and riparian frontage width shall be 100 feet.
4. Substandard lots (NR 115.05(1)(a)3)
A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all 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 ordinance requirements.
5. Other substandard lots
Except for lots which meet the requirements of section 9.93(D)(4) a building permit for the improvement of a lot having lesser dimensions than those stated in sections 9.93(D)(2) and (3) shall be issued only if a variance is granted by the board of adjustment.

E. Minimum Buildable Area Criteria

1. Each lot shall have the minimum lot area per Section 9.93(D)(2) and (3).
2. Minimum lot area shall be measured from the OHWM landward.
3. Any portion of a lot having a width of less than 30' shall not be considered in determining the minimum lot area.
4. Except for utility easements, any other easement or combination of adjacent easements which are greater than 20' in width shall not be used in determining the minimum lot area unless approved by the Department.
5. Except for utility easements, that portion of a lot that exceeds the minimum area requirements of Minimum Buildable Area Criteria shall not be divided by easements unless approved by the Department.
6. Square footage of the minimum buildable area shall:
 - a. Not contain any shoreland-wetlands or beds of navigable waters

- 646 b. Is above the elevation of the regional flood as defined in Wis. Admin.
647 Code NR 116.
648 c. Is at least 2' above the highest known water elevation of any body of
649 water whose regional flood is undefined.
650 d. Must have dryland access to a public or private road.
651

652
653 F. Minimum Riparian Frontage and Average Lot Width
654

- 655 1. Each lot shall have the minimum riparian frontage width (RFW) and average
656 lot width (ALW) per Section 9.93(D)(2) and (3).
657 2. The minimum required riparian frontage width shall be measured the lesser of
658 a straight line connecting points where the side lot lines intersect the OHWM
659 or as the length of a chord which is perpendicular to a side lot where it
660 intersects the OHWM and terminates at the opposite side lot line.
661 3. The minimum average lot width shall apply to the area covered by the
662 minimum lot area. The width shall be calculated by averaging the
663 measurements at the following locations:
664 a) The ordinary high water mark.
665 b) The building setback line (75ft from the OHWM).
666 c) The rear lot line or 200ft of the OHWM, whichever is closest.
667
668 4. Non Riparian ALW - The average horizontal straight line measurement
669 between side lot lines of a lot from any given point within the lot area to be
670 computed. The minimum average lot width (ALW) shall apply to the area
671 covered by the portion of the lot containing the buildable area for the district and
672 land use that applies. If the districts average width dimensions are maintained
673 from the point(s) at which the lot's minimum area requirement has been
674 satisfied; no additional area of a particular lot in question need meet the
675 minimum average width requirement.
676

677 G. Riparian Access
678

679 Keyhole development as defined in this ordinance is prohibited.
680

681 9.94 SHORELAND SETBACKS, EXEMPT STRUCTURES, REDUCED PRINCIPAL
682 STRUCTURE SETBACKS, FLOODPLAIN STRUCTURES, IMPERVIOUS
683 SURFACES AND HEIGHT
684

685 Unless exempt under Section 9.94(A), or reduced under Section 9.94(C), a setback
686 of 75 feet from the ordinary high-water mark of any navigable waters to the nearest
687 part of a building or structure shall be required for all buildings and structures.
688

- 689 A. Exempt Structures (NR 115.05(1)(b)1m.) and s59.692(1k)(a)(6), Wis. Stats.
690 All of the following structures are exempt from the shoreland setback

691 standards in section 9.94. Any structure not specifically mentioned under
692 Section 9.94(A)(1-7) below is not permitted.
693

694 1. Boathouse. A riparian owner may construct a boathouse subject to the
695 following restrictions:
696

697 (a) The construction or placement of boathouses below the ordinary high
698 water mark of any navigable waters shall be prohibited.

699 (b) The construction of a boathouse is confined to the viewing area and shall
700 be at least 10 feet from the side yard lot line. With the exception of 9.94(A)
701 (1) (k) below, boathouses shall be designed and constructed solely for the
702 storage of boats and related equipment. Patio doors, fireplaces, plumbing,
703 living facilities and other features inconsistent with the use of the structure
704 exclusively as a boathouse are not permitted.

705 (d) One boathouse is permitted on a lot as an accessory structure.

706 (e) Any boathouse which may be permitted within the setback area shall be
707 of one story only. The basement definition does not apply to a boathouse
708 and therefore constitutes a story. The sidewalls of a boathouse shall not
709 exceed 12 feet in height and shall not be less than 7 feet in height as
710 measured from the top of wall to the floor.

711 (f) Boathouse construction is subject to the requirements of Section 9.97.

712 (g) Boathouses shall be constructed in conformity with local floodplain zoning
713 standards.

714 (h) The maximum width of a boathouse parallel to the OHWM shall not
715 exceed 24 feet. The overhang and eaves are not included in the maximum
716 width and shall not exceed two feet. The maximum length of a boathouse
717 landward and away from the OHWM shall not exceed 30 feet.

718 (i) The maximum total footprint shall not exceed 720 square feet.

719 (j) Flat roofs that shed water away from the OHWM are permitted.

720 (k) The roof of a boathouse may be used as a deck provided that:

721 (1) The boathouse has a flat roof.

722 (2) The roof has no side walls or screens.

723 (3) The roof may have a railing that meets the State of
724 Wisconsin Uniform Dwelling Code.

725 (l) The number of berths within a boathouse shall be subject to the provisions
726 of section 9.98(D).

727 (m) The placement of decking on top of a flat roof boathouse is not permitted.

728 (n) Stairs placed on the exterior side of a boathouse to gain access to a flat
729 roof are not permitted. Concrete aprons/boat launch pads placed between
730 the boathouse and OHWM are not permitted.

731 (o) Boathouse construction must comply with the provisions of Section 9.97.

732 (p) Onsite inspections may be required prior to excavation, during
733 construction and upon completion for the placement all boathouses.

- 734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
2. Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Wis. Stats.
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
 - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded. The square footage of stairways, walkways, and lifts that are determined to be necessary by the Department to provide pedestrian access to a berth structure or shoreline because of steep slopes, or rocky, wet, or unstable soils, are not included in calculating the total floor area.
 - c. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
 - e. An enforceable affidavit must be filed with the register of deeds prior to construction acknowledging the limitations on vegetation.
 3. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
 4. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS 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 storm water runoff from the structure.
 5. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.
 6. Devices or systems used to treat runoff from impervious surfaces.
- A. Relaxation of standards for persons with disabilities
- The Zoning Director may issue a permit to relax dimensional standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions of federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish:

780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825

1. That the facility or premises are routinely used by a disabled person;
2. The nature and extent of the disability; and
3. That the relaxation requested is the minimum necessary to provide reasonable use of the facility by the disabled person.

B. Existing Exempt Structures. (s.59.692(1k)(a)2m, Wis. Stats) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Oneida County 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)2m, Wis. Stats, prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 9.94(B). 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 storm water erosion control.

C. Reduced Principal Structure Setback. (s.59.692(1n), Wis. 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 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.
 - (e) Principal Structures permitted a reduced setback are not permitted future expansion pursuant to Section 9.99(C).

Note: s. 59.692(1d)(a), Wis. Stats, requires counties to adopt the standards consistent with section 9.94(C)(1) for reducing the shoreland setback.

826 (2) Where there is an existing principal structure in only one direction, the
827 setback shall equal the distance the existing principal structure is set back
828 from the ordinary high water mark and the required setback of 75' from the
829 ordinary high water mark provided all of the following are met:

- 830 (a) The existing principal structure is located on adjacent lot to the
831 proposed principal structure.
- 832 (b) The existing principal structure is located within 250' of the
833 proposed principal structure and is the closest structure.
- 834 (c) The existing principal structure is located less than 75' from the
835 ordinary high water mark.
- 836 (d) The average setback shall not be reduced to less than 35' from
837 the ordinary high water mark of any navigable water.
- 838 (e) Principal Structures permitted a reduced setback are not
839 permitted future expansion pursuant to Section 9.99(C).

840 841 D. Improvements

842
843 Any of the improvements referred to in section 9.94(A), and any stairway,
844 walkway or lift which are essential to provide riparian access to the shoreline and
845 which are a necessary extension of a pier, shall require a shoreland alteration
846 permit if located in, on or over steep slopes, or rocky, saturated or unstable soils.
847 The shoreland alteration permit shall be subject to the following minimum
848 requirements and to such other requirements as the County may determine are
849 necessary in order to maintain or improve the natural beauty and environmental
850 stability of the setback area and the adjacent navigable waters:

- 851
852 1. The cutting of trees and shrubbery shall be subject to, and in the aggregate
853 shall not exceed, the restrictions of section 9.95 of this ordinance and Wis.
854 Admin. Code NR 115.05(3)(c). Whenever and wherever practicable, if a
855 viewing area has been created by the cutting of trees and shrubbery, all
856 buildings and structures which may be permitted in the setback area, shall be
857 located within such viewing area(s).
- 858 2. Environmentally sensitive areas are to be avoided.
- 859 3. Native ground cover which stabilizes slopes or screens the improvement from
860 view shall be maintained or, where determined necessary, planted and
861 maintained.
- 862 4. Any filling, grading or excavation shall comply with the shoreland alteration
863 permit requirements of this ordinance.
- 864 5. Either one stairway or one lift, which otherwise meets the terms and
865 conditions of this ordinance, may be allowed, but not both.
- 866 6. Landscaped stairways at grade (not to exceed one foot below the existing
867 grade) are permitted.
- 868 7. Walkways and lifts shall be supported on pilings or footings.
- 869 8. If necessary for safety purposes, landings not exceeding five feet in width,
870 including those required for purposes of access to stairways and lifts, are

871 permitted. Open railings on walkways, and open grill work on lifts are
872 permitted. Benches, seats and tables on walkways are prohibited.
873 9. A maximum width of five (5) feet is allowed for stairways, and walkways.
874 10. Unless otherwise permitted in this ordinance, canopies, roofs and side walls
875 are prohibited.
876

877 E. Floodplain Structures (NR115.05(1)(b)((2)) Buildings and structures to be
878 constructed or placed in a floodplain shall be required to comply with any
879 applicable floodplain zoning ordinance.
880

881 F. Impervious Surface Standards (NR 115.05(1)(e)
882

883 1. Purpose. Establish impervious surface standards to protect water quality
884 and fish and wildlife habitat and to protect against pollution of navigable
885 waters. County impervious surface standards shall apply to the
886 construction, reconstruction, expansion, replacement or relocation of any
887 impervious surface on a riparian lot or parcel and any non-riparian lot or
888 parcel that is located entirely within 300 feet of the ordinary high-water mark
889 of any navigable waterway.
890

891 2. Calculation of Percentage of Impervious Surface. (NR 115.05(1)(e)((1))
892 Percentage of impervious surface shall be calculated by dividing the surface
893 area of the existing and proposed impervious surfaces on the portion of a lot
894 or parcel that is within 300 feet of the ordinary high- water mark by the total
895 surface area of that lot or parcel, and multiplied by 100. Impervious
896 surfaces described in section 9.94(F)(5) shall be excluded from the
897 calculation of impervious surface on the lot or parcel. If an outlot lies
898 between the ordinary high water mark and the developable lot or parcel and
899 both are in common ownership, the lot or parcel and the outlot shall be
900 considered one lot or parcel for the purposes of calculating the percentage
901 of impervious surface.
902

903 Note: NR 115.05(1)(e)1m. clarifies that if an outlot lies between the OHWM
904 and the developed lot or parcel and both are in common ownership, then
905 the lot or parcel should be considered one property for the purposes of
906 calculating the percentage of impervious surfaces. If there is an outlot,
907 parcel or road that is owned by some other entity, for example a
908 hydroelectric facility or a town or county, then the county should determine
909 what level of control the property owner has over that portion of the lot. Can
910 the property owner place structures, such as shoreline protection, piers,
911 stairs, boathouses etc... on that portion of the lot or does some other entity
912 have control over development? If a property owner has no or little say
913 over construction on that portion of the lot then impervious surfaces on that
914 portion of the lot should be calculated separately.
915

916 For properties subject to the Condominium form of ownership, the impervious
917 surface calculations apply to the entire property. The property is still under
918 one legal description and the proposed expansion to a unit is not the only
919 impervious surface calculated since the regulation states lot or parcel and