

ONEIDA COUNTY ZONING AND SHORELAND PROTECTION ORDINANCE

CHAPTER 9

ARTICLE 9 - SHORELAND PROTECTION PROVISION (OA #15-2017)

- 9.90 Shoreland Protection
 - 9.91 Shoreland-Wetland Zoning
 - 9.92 Shoreland-Wetland Restrictions
 - 9.93 Land Division Review, Sanitary Regulations, Planned Unit Development and Minimum Lot Size
 - 9.94 Shoreland Setbacks, Exempt Structures, Reduced Principal Structure Setbacks, Floodplain Structures, Impervious Surfaces and Height
 - 9.95 Vegetation
 - 9.96 Shoreland Mitigation Plan
 - 9.97 Shoreyard Alteration Permits and Filling, Grading, Lagooning, Dredging, Ditching and Excavating
 - 9.98 [Reserved for Future Use]
 - 9.99 Nonconforming Uses and Structures
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9.90 SHORELAND PROTECTION (#3-2019)

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.

- b. Establishing minimum lot sizes to provide adequate area for private onsite 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 s. 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 Shoreland 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 bridges carried out under the direction and supervision of the Wisconsin Department of transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1), Wis. Stats.,

- applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Wis. Stats.
4. Determinations of navigability and ordinary high water mark shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the Northern Region Service Center of the DNR for a final determination of a navigability or ordinary high water mark. The county may work with surveyors with regard to s. 59.692(1h), Wis. Stats.
 5. Under s. 281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 - a. Lands adjacent to farm drainage ditches
 - (1) Such lands are not adjacent to a natural navigable stream or river;
 - (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - b. Lands adjacent to artificially constructed drainage ditches, ponds or storm water retention basins that are not hydrologically connected to a natural navigable water body.
 6. Shoreland Zoning Standards. In the past, counties were allowed to adopt shoreland zoning standards more restrictive than those contained in NR 115. Currently, requirements in 2015 Wisconsin Act 55 do not allow counties to regulate a matter in a shoreland zoning ordinance more restrictively than the matter is regulated by a shoreland zoning standard. However, counties can continue to regulate a matter that is not regulated by a shoreland zoning standard.
 7. Interpretation. s. (59.69)(13), Wis. Stats. In their interpretation and application, the provisions of this ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by statute and a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
 8. Severability. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

E. General Zoning Provisions Apply in Shoreland Jurisdiction

The general zoning provisions of this ordinance consisting of Articles 1, 2, 3, 4, 5, 6, 7, 8 and 10 are expressly incorporated by reference into the Shoreland Protection Provisions (Article 9) of this ordinance and shall apply in the shorelands through the county, in towns that have adopted Comprehensive Zoning, and areas specified in Ordinance Amendment #367 (Sugar Camp Lake), Oneida County Board Resolution #8-92, effective March 2, 1992 and Ordinance Amendment #293 (Indian Lake), Oneida County Board Resolution #100-87, effective November 11, 1987 to the extent applicable. Both in the Town of Sugar Camp. In the event of a conflict between the general zoning provisions and the Shoreland Protection Provisions, the more restrictive provisions shall apply.

F. DNR Notices and Copies of County Decisions

1. Written notice shall be given to the appropriate Service Center of the DNR at least ten (10) days prior to hearings on proposed shoreland variances, special uses (conditional uses), appeals for map or text interpretations and map or text amendments.
2. Copies of decisions on shoreland variances, special uses (special exceptions), (conditional uses), appeals for map or text interpretations, and map or text amendments shall be submitted to the appropriate Service Center of the DNR within ten (10) days after they are granted or denied.

G. Compliance (NR 115.04)

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

H. Municipalities and State Agencies Regulated

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

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

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

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 regulation 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 planning agency as defined in s. 236.02(1), Wis. Stats., and required by s. 59.692(3), Wis. Stats.
3. 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 office of the county zoning administrator, unless prohibited by s. 59.692(1k), Wis. Stats.
4. Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.

5. A variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship 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 zoning ordinance.
6. A special exception (conditional use) procedure for uses presenting special problems.
7. The county shall keep a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.
8. Written notice to the appropriate office of the department at least 10 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 section 9.93.
9. Submission to the appropriate office of the department, within 10 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 an ordinance.
10. Mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments.
11. The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69(11), Wis. Stats.
12. The prosecution of violations of the shoreland ordinance.
13. Shoreland-Wetland Map Amendments. (NR 115.04). Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the department at least 10 days prior to the hearing. A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate office of the department within 10 days after the decision is issued.

9.91 SHORELAND-WETLAND ZONING (DISTRICT 11)

A. Purpose

This district is adopted to maintain safe and healthful conditions, to prevent water pollution, to protect fish, aquatic life, fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building 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.

B. Designation

This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory maps as depicted on the Department of Natural Resources Surface Water Data Viewer <https://dnrmaps.wi.gov/H5/?viewer=SWDV> .

C. Shoreland-Wetland District Boundaries

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

D. Permitted Uses (NR 115.04(3))

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

1. Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 9.91(D)(1, 2 and 3).
 - a. Hiking, fishing, trapping, hunting, swimming, and boating;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The pasturing of livestock;
 - d. The cultivation of agricultural crops;
 - e. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - f. The construction or maintenance of duck blinds.
2. Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
 - a. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

- b. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.
 - c. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
 - d. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 - e. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
 - 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);
 - (3) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
 - (4) Road construction activities are carried out in the immediate area of the roadbed only.
 - b. The construction or maintenance of nonresidential buildings provided that:
 - (1) 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;
 - (2) The building cannot, as a practical matter, be located outside the wetland;
 - (3) Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - (4) Only limited filling or excavating necessary to provide structural support for the building is authorized.
 - c. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - (1) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;
 - (2) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only

where such construction or maintenance meets the criteria in section 9.91(D)(3)(a)(1-4); and

- (3) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- d. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
 - (1) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - (2) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 9.91(F)(2).

E. Prohibited Uses

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

"This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the County Board's approval of this amendment was mailed to the DNR. 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 sec. 59.692(6), Wis. Stats. If the Department of Natural Resources does so notify the County Board, the effect of this amendment shall be stayed until sec. 59.692(6), Wis. Stats., adoption procedure is completed and otherwise terminated."

9.92 SHORELAND-WETLAND RESTRICTIONS (2-2020)

A. Purpose

Wetlands are critical natural environmental features which provide habitat for native animals and plants, help purify surface and subsurface waters, and add to, or help protect, the natural appearance of the northwoods. This section provides the minimum land use restrictions determined to be essential to protect shoreland wetlands.

B. Applicability

This section applies to all areas identified as shoreland wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer. The following restrictions do not apply to public utilities and public roads. Provisions of this section do not supersede more restrictive requirements identified in section 9.91 Shoreland-Wetland Zoning District or involving structures in a floodplain zoning district.

C. Restrictions

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

9.93 LAND DIVISION REVIEW, SANITARY REGULATIONS, PLANNED UNIT DEVELOPMENT AND MINIMUM LOT SIZE

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

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

1. Hazards to the health, safety or welfare of future residents.
2. Proper relationship to adjoining areas.
3. Public access to navigable waters, as required by law.
4. Adequate storm water drainage facilities.
5. Conformity to state law and administrative code provisions.

B. Sanitary Regulations (NR 115.05(3))

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

1. Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
2. Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal system shall, prior to July 1, 1980, be required to comply with ch. SPS 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. and minimum lot size lot size (NR 115.05(1))

C. Planned Unit Development (PUD). (NR 115.05(1)(a)4)

1. Purpose. The planned unit development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the planned unit development at the time of its approval. A condition of all planned residential unit development is

- the preservation of certain open space, preferably on the shoreland, in perpetuity.
2. Requirements for Planned Unit Development. The county Planning and Development Committee 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:
 - a. 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.
 - b. Lots. Any proposed lot in the planned unit development that does not meet the minimum size standards of section 9.93 (D-F) shall be a non-riparian lot.
 - c. Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a planned unit development the governing body shall consider whether proposed lot sizes, widths and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in section 9.95 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.
 - d. Back lot access (keyholing) is not permitted.
 3. Procedure for Establishing a Planned Residential Unit Development District. The procedure for establishing a planned residential unit development district shall be as follows:
 - a. Petition. A petition setting forth all of the facts required in section 9.93(C) shall be submitted to the Oneida County clerk with sufficient copies to provide for distribution by the clerk.
 - b. Review and Hearing. The petition shall be submitted to the county zoning agency 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 this ordinance. The Planning and Zoning Department's report to the Oneida County Board shall reflect the recommendations of any federal, state or local agency with which the county zoning agency consults.
 - c. 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 section 9.93(C)(2). If the petition is granted in whole or in part, the county board shall attach such written conditions to the approval as are required by and consistent with section 9.93(C)(2). 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.
 - d. Planning Studies. A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provisions of section 9.93(C)(2) 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.

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;
 - b. Is above the elevation of the regional flood as defined in Wis. Admin. Code NR 116;
 - c. Is at least two feet above the highest known water elevation of any body of water whose regional flood is undefined; and

d. Must have dryland access to a public or private road.

F. Minimum Riparian Frontage and Average Lot Width

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

G. Riparian Access

Keyhole development as defined in this ordinance is prohibited.

9.94 SHORELAND SETBACKS, EXEMPT STRUCTURES, REDUCED PRINCIPAL STRUCTURE SETBACKS, FLOODPLAIN STRUCTURES, IMPERVIOUS SURFACES AND HEIGHT (3-2019, 6-2020)

Unless exempt under section 9.94(A), or reduced under section 9.94(C), 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.

- A. Exempt Structures (NR 115.05(1)(b)1m) and sec. 59.692(1k)(a)(6), Wis. Stats. All of the following structures are exempt from the shoreland setback standards in section 9.94. Any structure not specifically mentioned under section 9.94(A)(1-7) below is not permitted.
1. Boathouse. A riparian owner may construct a boathouse subject to the following restrictions:
 - a. The construction or placement of boathouses below the ordinary high water mark of any navigable waters shall be prohibited.
 - b. The construction of a boathouse is confined to the viewing area and shall be at least 10 feet from the side yard lot line. With the exception of

- 9.94(A)(1)(k) below, boathouses shall be designed and constructed solely for the storage of boats and related equipment. Patio doors, fireplaces, plumbing, living facilities and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
- c. One boathouse is permitted on a lot as an accessory structure.
 - d. Any boathouse which may be permitted within the setback area shall be of one story only. The basement definition does not apply to a boathouse and therefore constitutes a story. The sidewalls of a boathouse shall not exceed 12 feet in height and shall not be less than 7 feet in height as measured from the top of wall to the floor.
 - e. Boathouse construction is subject to the requirements of section 9.97.
 - f. Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - g. The maximum width and footprint of a new boathouse parallel to the OHWM shall not exceed the following: (overhang and eaves are not included in the maximum width or footprint and shall not exceed two feet).
 - (1) For lakes less than 500 acres, rivers and streams the maximum width of a new boathouse shall not exceed 14 feet or a maximum footprint of 336 sq. ft.
 - (2) For lakes of 500 acres or more, flowages and chains the maximum width of a new boathouse shall not exceed 24 feet or a maximum footprint of 720 square feet. (Note: Lake size based on Land Information data.)
 - h. Flat roofs that shed water away from the OHWM are permitted.
 - i. The roof of a boathouse may be used as a deck provided that:
 - (1) The boathouse has a flat roof.
 - (2) The roof has no side walls or screens.
 - (3) The roof may have a railing that meets the State of Wisconsin Uniform Dwelling Code.
 - j. Stairs placed on the exterior side of a boathouse to gain access to a flat roof are not permitted. Concrete aprons/boat launch pads placed between the boathouse and OHWM are not permitted.
 - k. Boathouse construction must comply with the provisions of section 9.97.
 - l. Onsite inspections may be required prior to excavation, during construction and upon completion for the placement all boathouses.
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 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.

AA. 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:

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.

2. Where there is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the ordinary high water mark and the required setback of 75' from the ordinary high water mark provided all of the following are met:
 - a. The existing principal structure is located on adjacent lot to the proposed principal structure.
 - b. The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.
 - c. The existing principal structure is located less than 75' from the ordinary high water mark.
 - d. The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
 - e. Principal structures permitted a reduced setback are not permitted future expansion pursuant to section 9.99(C).

D. **Improvements**

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

1. The cutting of trees and shrubbery shall be subject to, and in the aggregate shall not exceed, the restrictions of section 9.95 of this ordinance and Wis. Admin. Code NR 115.05(3)(c). Whenever and wherever practicable, if a viewing area has been created by the cutting of trees and shrubbery, all buildings and structures which may be permitted in the setback area, shall be located within such viewing area(s).
 2. Environmentally sensitive areas are to be avoided.
 3. Native ground cover which stabilizes slopes or screens the improvement from view shall be maintained or, where determined necessary, planted and maintained.
 4. Any filling, grading or excavation shall comply with the shoreland alteration permit requirements of this ordinance.
 5. Either one stairway or one lift, which otherwise meets the terms and conditions of this ordinance, may be allowed, but not both.
 6. Landscaped stairways at grade (not to exceed one foot below the existing grade) are permitted.
 7. Walkways and lifts shall be supported on pilings or footings.
 8. If necessary for safety purposes, landings not exceeding five feet in width, including those required for purposes of access to stairways and lifts, are permitted. Open railings on walkways, and open grill work on lifts are permitted. Benches, seats and tables on walkways are prohibited.
 9. A maximum width of five (5) feet is allowed for stairways and walkways.
 10. Unless otherwise permitted in this ordinance, canopies, roofs and side walls are prohibited.
- E. Floodplain Structures (NR115.05(1)(b)2) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.
- F. Impervious Surface Standards (NR 115.05(1)e)
1. Purpose. Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high water mark of any navigable waterway.
 2. Calculation of Percentage of Impervious Surface. (NR 115.05(1)(e)1) 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 9.94(F)(5) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

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 or a 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 subject to the condominium form of 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.

3. General Impervious Surface Standard. (NR 115.05(1)(e)2) Except as allowed in sections 9.94(F)(4, 5 and 6) 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.
4. Maximum Impervious Surface. (NR 115.05(1)(e)3) A property may exceed the impervious surface standard under section 9.94(F)(3 and 4) provided the following standards are met:
 - a. For properties where the general impervious surface standard applies under section 9.94(F)(3), a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark.
 - b. For properties that exceed the standard under section 9.94(F)(3) but do not exceed the maximum standard under sections 9.94(F)(4)(a), a permit can be issued for development with a mitigation plan that meets the standards found in section 9.96.
5. Treated Impervious Surfaces (NR115.05(1)(e)3m and s. 59.692(1k)(am)1, Wis. Stats.) 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 9.94(F)(2).
 - a. The impervious surface is treated by devices such as storm water 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 9.94(F)(5) 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 9.94(F)(5) 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 9.94(F)(5).

- c. To qualify for the statutory exemption, property owners shall submit a complete permit application that is reviewed and approved by the county. The application shall include the following:
 - (1) 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. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.
6. Existing Impervious Surfaces (NR 115.05(1)(e)(4)) For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in section 9.94(F)(3) or the maximum impervious surface standard in section 9.94(F)(4) the property owner may do any of the following:
 - a. Maintain and repair the existing impervious surfaces;
 - b. Replace existing impervious surfaces with similar surfaces within the existing building envelope;
 - c. Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in section 9.94.

Note: The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

- G. Height. (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty a county may not permit any construction that result in a structure taller than 35 feet within 75 feet of the ordinary high water mark of any navigable waters. Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground to a line horizontal to the highest point of a structure, unless specified under other sections of this code (see appendix).

9.95 VEGETATION (NR 115.05(1)(c))

- A. Purpose. (NR 115.05(1)(c)1) To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: the county shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients. Filling, grading and excavating within the vegetative buffer zone is prohibited with the exception of construction of a boathouse, walkway or planting vegetation.
- B. Activities Allowed within the Vegetative Buffer Zone. (NR 15.05(1)(c)2) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:
1. The county may allow routine maintenance of vegetation.
 2. The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b), Wis. 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 entire maximum width or shoreline frontage owned.
 3. The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2)(b), and described in department publication “Wisconsin Forest Management Guidelines” (publication FR- 226), provided that vegetation removal be consistent with these practices.
 4. The county may allow 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.
 5. The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
 6. Shoreline protection activities authorized by a state permit and erosion control measures approved by the county Land Conservation Department which are designed to remedy significant existing erosion problems.

9.96 SHORELAND MITIGATION PLAN

Mitigation (s. 59.692(1v), Wis. Stats, NR 115.05(1)(e)3, (g)5, (g)6) When the county issues a permit requiring mitigation under sections 9.94(A)(2), 9.94(F)(4)(b) and 9.99(C and E), the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include the following:

- A. A site plan that describes the proposed mitigation measures.
 - 1. The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
 - 2. The mitigation measures shall be proportional in scope to the impacts on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
- B. An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.
- C. Mitigation options meeting the requirements of section 9.94(A)(2) “open sided and screened structures,” shall preserve and/or establish a 37.5 feet vegetative buffer zone. A buffer zone at least 37.5 feet from and parallel to the ordinary high water mark shall be planted or restored and maintained with vegetation native to the area to the fullest practicable extent possible.
- D. Mitigation options meeting the requirements of section 9.99(C) and (E). Up to 200 sf lateral expansion or relocation of a nonconforming principal structure located 35 feet to 75 feet from the OHWM:

The property owner shall choose and implement two of the following to meet the mitigation requirements under 9.99(C) and three of the following to meet the mitigation requirements under 9.99(E):

- 1. Removal of an accessory structure located less than 75 ft from the OHWM.
- 2. Installation of a rain garden.
- 3. Installation of one of the impervious surface treatment options under 9.96(E).
- 4. Removal of an existing beach.
- 5. Increase depth of 35 ft vegetative buffer to 50 ft (active or passive restoration).
- 6. Reduce view corridor width to 25% of the shoreline frontage.
- 7. Establish a buffer zone at least ten feet (10') wide extending along each side lot line for a depth of at least seventy-five feet (75') from the ordinary high water mark. Buffers shall be planted or restored and maintained with vegetation native to the area to the fullest practicable extent possible.
- 8. POWTS. The associated private onsite wastewater treatment system must be evaluated and upgraded as appropriate in compliance with SPS 383, Wis. Admin. Code. (Note: If the system was evaluated within 3 years and maintenance is up-to-date a new evaluation will not be required.)
- 9. Establish a buffer zone at least 35 feet from, and parallel to the ordinary high water mark. The buffer shall be planted or restored and maintained with vegetation native to the area to the fullest practicable extent possible.

- E. Mitigation options for properties exceeding the impervious surface requirements of section 9.94(F)(4). Development that exceeds 15% impervious surface but not more than 30% impervious surface shall be required to utilize one of the following treatment systems in order to offset the impacts of the impervious surface being permitted.
1. Buffer strips
 2. Constructed wetlands
 3. Depressed pervious area
 4. Extended detention ponds
 5. Infiltration basins
 6. Infiltration trenches
 7. Infiltration tubes
 8. Rain gardens
 9. Rain harvesting systems
 10. Vegetated filter strips
 11. Vegetated swales/grassed channels
 12. Wet detention ponds
 13. Wet retention ponds

9.97 SHOREYARD ALTERATION PERMITS AND FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING (NR115.05(1)(d))

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

A. Shoreyard Alteration Permit Required

As specified in this section, a shoreyard alteration permit is required for the filling, grading, lagooning, dredging, ditching or excavation of a shoreyard except in the Shoreland-Wetland District (District 11) when done in association with the activities specified in sections 9.91(D)(2). Filling, grading and excavating within the vegetative buffer zone is prohibited with the exception of construction of a boathouse, walkway or planting vegetation. Onsite inspections may be required prior to excavation, during construction and upon completion. Shoreline protection activities authorized by a state permit and erosion control measures approved by the county Land Conservation Department which are designed to remedy significant existing erosion problems are permitted without a shoreland alteration permit.

B. Application

An application for a shoreyard alteration permit shall be filed with the department on a form approved by the committee and available from the department. Completed applications shall be accompanied by the application fee, as determined

by the County Board from time to time. Any state or federal permits required for a project shall be filed with the application. No application will be considered complete until these permits are filed.

C. Permit Review Procedure

1. Permit from Zoning Administrator

The zoning administrator has the authority to act on applications in the instances set forth below. The zoning administrator shall act on an application within 30 working days of the completed application being filed.

- a. Alterations for the placement of structures, pursuant to 9.94(A), and walkways if located in, on or over steep slopes or rocks, saturated or unstable soils.
- b. Alterations greater than 200 square feet but less than 10,000 square feet of the shoreyard that slope towards the ordinary high water mark of a navigable water body, when the slope is between 12% to 45%.
- c. Alterations of more than 10,000 square feet of the shoreyard when the slope of the shoreyard is less than 45%.
- d. Alterations of the shoreyard when the slope is greater than 45% is prohibited.

2. Engineering or Architectural Plans

In the following circumstances, when a shoreyard alteration permit is required, the applicant shall file plans created by a registered professional engineer or landscape architect describing erosion control measures to be utilized during construction excavation. The registered professional engineer or landscape architect shall certify that the erosion control measures specified in the permit and plans have been properly installed prior to the start of any construction excavation activities:

- a. Alterations less than 35 ft from the OHWM of a navigable water body when the slope is between 12% to 45%.
- b. Alterations greater than 35 ft but less than 75 ft from the OHWM that slope towards the ordinary high water mark of a navigable water body, when the slope is between 25% to 45%.
- c. Alterations of more than 10,000 square feet of the shoreyard where the project is for the construction of anything other than a single family dwelling.
- d. The zoning director upon review of a completed shoreyard alteration permit may waive the registered professional engineer or landscape architect plan requirement and, as a substitute, require special restrictions and conditions to ensure proper erosion control measures will be implemented before, during and after construction excavation.

D. Inspections

1. An inspection of the site by the department may be performed prior to the issuance of any shoreyard alteration permit.
2. A second onsite inspection may be performed by the department to ensure proper fencing and erosion control measures after the permit is issued but prior to any construction excavation.
3. An onsite inspection may be performed by department during construction and upon completion to ensure that the project complies with this ordinance.

E. Permit Conditions

In granting a shoreyard alteration permit, the committee or the zoning administrator, shall require that the applicant comply with the following conditions where appropriate:

1. The smallest amount of bare ground shall be exposed for as short a time as feasible.
2. Temporary ground cover (such as mulch) shall be used and permanent cover (such as sod) shall be planted.
3. Diversion, silting basin, terraces and other methods shall be used to trap sediment.
4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions.
5. Fill shall be stabilized according to accepted engineering standards.
6. Fill shall not restrict a floodway or destroy the storage capacity of a floodplain.
7. Sides of a channel or artificial watercourses shall be stabilized to prevent slumping.
8. Sides of channels or artificial watercourses shall be constructed with slopes (side) of two units horizontal distance to one unit vertical or flatter, unless bulkheads or rip-rapping are provided.
9. Any specific landscaping, construction, planting, or erosion control conditions.
10. Fill materials shall not be deposited in any floodplain, wetland, or outside the designated and fenced construction without proper written authorization.
11. Post-construction runoff shall be infiltrated or temporarily stored to prevent erosion and sediment transport.
12. Upland slopes and artificial watercourses shall be stabilized according to accepted engineering standards.
13. Any other conditions intended to protect shorelines and minimize erosion, sedimentation, and the impairment of fish and wildlife habitat.
14. Onsite inspections may be required prior to excavation, during construction and upon completion for alterations greater than 200 square feet but less than 10,000 square feet located within 75 ft of the OHWM that slope towards the ordinary high water mark of a navigable water body, when the slope is between 12% to 45%.

F. Storm Water Runoff/Soil Disturbance

The placement of structures, the development of property, filling grading, lagooning, dredging, ditching or excavation of the shoreyard cannot result in the diversion of water onto adjoining properties. All storm water must be contained within the boundaries of a lot or parcel, with the exception of runoff directed to private easement roads, public roads or highways. If storm water runoff cannot be contained on the property, it may be directed towards a town road or highway upon receipt of a written statement from the government entity that has jurisdiction over such road, stating that it has no objection. This provision applies to both on-water and off-water lots within all shoreland zoning districts.

9.98 RESERVED FOR FUTURE USE (#8-2020)

9.99 NONCONFORMING USES AND STRUCTURES (NR 115.05(1)(g)) (#3-2019)

A. Discontinued Nonconforming Use (NR 115.05(1)(g)3)

If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.

B. Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures. (s. 59.692(1k)(a)2m and 4, Wis. Stats.)

An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. 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)2m and 4, Wis. Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 9.99. 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. Lateral Expansion of Nonconforming Principal Structure Within the Setback NR 115.05(1)(g)5)

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per sections 9.94 may be expanded laterally, provided that all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
2. The existing principal structure is at least 35 feet from the ordinary high water mark.
3. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high water mark than the closest point of the existing principal structure.
4. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 9.96.
5. Conforming principal structures permitted a reduced setback per section 9.94 are not permitted expansion under this section.
6. All other provisions of the shoreland ordinance shall be met.

D. Expansion of a Nonconforming Principal Structure Beyond Setback
(NR115.05(1)(g)((5m))

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under section 9.94, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per section 9.94 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 9.94(F).

E. Relocation of Nonconforming Principal Structures (NR 115.05(1)(g)6)

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 9.94 may be relocated on the property provided all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
2. The existing principal structure is at least 35 feet from the ordinary high water mark.
3. No portion of the relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure.
4. The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 9.94.
5. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 9.96.

6. All other provisions of the shoreland ordinance shall be met.

F. Maintenance, Repair, Replacement or Vertical Expansion of Structures that were Authorized by Variance (s. 59.692(1k)(a)2 and (a)4, Wis. Stats.)

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 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.

MAINTENANCE, REPAIR, REPLACEMENT OF ILLEGAL STRUCTURES s. 59.692(1k)(a)2c, Wis. Stats. A structure that was illegally constructed, which is older than ten years and may not be enforced under the shoreland ordinance (s.59.692(1t), Stats) may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the structure. (No vertical or lateral expansion allowed for structures in violation.)

Note: Section 59.692(1k)(a)2, Wis. Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 12. 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.

G. Structures that do not meet the Minimum Setbacks to Lot Lines (Side Yard or Rear Yard Setback) and Road Right-of-Way Lines

The following requirements do not apply to the OHWM setback.

1. Accessory structures that encroach over lot lines, road right-of-way lines, or are located within the road setback, side yard or rear yard setback are permitted ordinary maintenance and repair. Such accessory structures shall not be structurally altered, improved, replaced or expanded.
2. Dwelling units or principal buildings located in road setback, side yard setback or rear yard setback areas may be continued subject to the following:
 - a. All work must be in strict compliance with all other requirements of this ordinance. Ordinary maintenance, repairs and structural improvements shall be permitted.
 - b. A dwelling unit or principal building or portions thereof located in a road setback, side yard setback or rear yard setback areas is permitted to be expanded vertically and horizontally, which may result in total replacement, in a direction away from the adjoining lot line or road right-of-way line. Upon reaching the setback line, such expansion may also be lateral to the setback

- line.
- c. In the event a proposed expansion is in a road setback area, the property owner shall obtain a written statement from the government entity that has jurisdiction over such road stating that it has no objection.
3. Dwelling units or principal buildings that encroach over lot lines or road right-of-way lines may be continued subject to the following:
- a. All work shall be in strict compliance with all other requirements of this ordinance.
 - b. Ordinary maintenance, repairs and non-structural improvements shall be permitted provided they do not alter the envelope of such structure, which consists of any existing exterior wall, roof or foundation.
 - c. Structural improvements. The alteration of any structural members of the existing walls, roof or interior structural members of such structure shall not be permitted.