

1 **A Model Burnett** County Shoreland Zoning  
2 Ordinance  
3 for  
4 Wisconsin's Shoreland Protection Program  
5

6  
7 October 1, 2014  
8 Revised January 12, 2015  
9 Revised September 16, 2015 (2015 Wisconsin Act 55)  
10 Revised March 2, 2016 (2015 Wisconsin Act 167)  
11 Revised March 23, 2016  
12 Revised April 27, 2016 (2015 Wisconsin Act 391)  
13



14  
15  
16  
17 ***Final Draft after Public Hearing 9/6/2016 &  
18 after DNR comments rec 1-3-17***

19  
20  
21 **Yellow = Burnett Changes**

22  
23 White = From the model ordinance

24  
25 **Turquoise = Struck from the model ordinance**

26  
27 **Grey = Changes after DNR comments and/or staff changes since 9/6/16.**  
28



Model Burnett County  
SHORELAND ZONING ORDINANCE

Statutory References and Policy Options

Adjacent to each section of the Model, the Department has referenced where that section is located in NR 115 or in other Statutes and Codes. A County is not required to adopt these references in its ordinance, but may utilize the references for organizational purposes in ordinance development. Additionally, this document contains text referencing policy options in Appendix A. These policy options are not required under NR 115 or Ch. 59 of the Wisconsin Statutes, but are provided as suggestions for counties in the effective implementation of their shoreland zoning ordinance.

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1

2

1 **PREFACE**

2  
3 **Note: Any reference to NR 115.# is a reference to ch. NR 115, Wisconsin Administrative Code. Any #, Stats, is a reference to a chapter or section of Wisconsin Statute.**

4  
5  
6 **Revision Required**

7 This Model Shoreland Zoning Ordinance is an update of the Wisconsin Shoreland Protection Ordinance  
8 developed by the Department of Natural Resources in December of 1967 and updated in 1985, 2010,  
9 2014, 2015, and 2016. Initial revision was necessary when ch. NR 115, Wis. Adm. Code, was repealed  
10 and recreated in November 1980 to include wetland protection in shoreland areas. This model was written  
11 to assure compliance with the objectives of shoreland zoning enabling statutes 281.31 and 59.692, Stats,  
12 and to parallel as closely as possible the regulatory provisions of ch. NR 115 and the statutory language  
13 reflected in 1999 Wisconsin Act 9, 2011 Wisconsin Act 170, 2015 Wisconsin Act 55, and 2015 Wisconsin  
14 Act 167.

15  
16 **Provisions Deleted**

17 The revisions reflected in this version of the model ordinance are necessary to accomplish the purpose,  
18 goals, and requirements of NR 115 (as published on October 1, 2014) and the subsequent statutory  
19 changes (as mentioned above). This model is one way to meet the standards as adopted. As experience,  
20 case law, and statutory revisions demand, this model ordinance will be revised to stay consistent with  
21 current standards.

22  
23 **Shoreland Wetland Provisions**

24 NR 115 currently contains absolute standards for permitted uses in shoreland wetlands which cannot be  
25 made more or less restrictive. NR 115 does not prohibit counties to protect wetlands outside of the  
26 shoreland jurisdictional area.

27  
28 **Shoreland Zoning Standards**

29 In the past counties were allowed to adopt shoreland zoning standards more restrictive than those  
30 contained in NR 115. Currently, requirements in 2015 Wisconsin Act 55 do not allow counties to regulate a  
31 matter in a shoreland zoning ordinance more restrictively than the matter is regulated by a shoreland  
32 zoning standard. However, counties can continue to regulate a matter that is not regulated by a shoreland  
33 zoning standard.

34  
35 **Adopt the Model or Amend Your Existing Ordinance?**

36 The adoption of this model ordinance will meet the required minimum standards contained in NR 115 and  
37 the maximum standards as required by 2015 Wisconsin Act 55, which may be found at  
38 <http://legis.wisconsin.gov/rsb/code/nr/nr115.pdf>. An existing ordinance may afford more effective shoreland  
39 management than what may be afforded by the model by creating standards for topics in NR 115 without  
40 specific standards and by addressing other matters that may be regulated. The model ordinance, at  
41 minimum, will need to be adopted in order to be in compliance with NR 115.

42  
43  
44 **NOTICE, HEARING, AND CERTIFICATE OF COMPLIANCE**

45  
46 A Class 2 notice under ch. 985, Stats, is required prior to holding a public hearing regarding or a county  
47 adopting a revised shoreland zoning ordinance. A Class 2 notice consists of publication of the hearing  
48 notice on 2 consecutive weeks, the last at least 7 days prior to the hearing. Notice of the proposed hearing  
49 shall be provided to the appropriate Department of Natural Resources staff person. Subsequently, the  
50 county shall provide the Department of Natural Resources with a copy of the adopted ordinance language,  
51 and a signed and dated copy of the county board resolution or decision document that includes the  
52 resolution or ordinance number on it. The Department of Natural Resources shall review the adopted  
53 county shoreland zoning ordinance and prepare a certificate of compliance, as appropriate, that is mailed  
54 to the county clerk.

1 **SHORELAND PROTECTION ORDINANCE**

2  
3 **1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE.**

4  
5 1.1 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in s.  
6 59.692, Stats, to implement 59.692 and 281.31, Stats.

7  
8 1.2 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of  
9 **Burnett** County will adversely affect the public health, safety, convenience, and general welfare and impair  
10 the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the  
11 maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning  
12 grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve  
13 shore cover and natural beauty. This responsibility is hereby recognized by **Burnett** County, Wisconsin.

14  
15 1.3 PURPOSE AND INTENT. (NR 115.01) For the purpose of promoting the public health, safety,  
16 convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has  
17 been established to:

18  
19 (1) FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT  
20 AND CONTROL WATER POLLUTION THROUGH:

- 21 (a) Limiting structures to those areas where soil and geological conditions will provide a safe  
22 foundation.  
23 (b) Establishing minimum lot sizes to provide adequate area for private on-site waste  
24 treatment systems.  
25 (c) Controlling filling and grading to prevent soil erosion problems.  
26 (d) Limiting impervious surfaces to control runoff which carries pollutants.

27  
28 (2) PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:

- 29 (a) Preserving wetlands and other fish and aquatic habitat.  
30 (b) Regulating pollution sources.  
31 (c) Controlling shoreline alterations, dredging and lagooning.

32  
33 (3) CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:

- 34 (a) Prohibiting certain uses detrimental to the shoreland-wetlands.  
35 (b) Setting minimum lot sizes and widths.  
36 (c) Setting minimum building setbacks from waterways.  
37 (d) Setting the maximum height of near shore structures.

38  
39 (4) PRESERVE AND RESTORE SHORELAND VEGETATION AND NATURAL SCENIC BEAUTY  
40 THROUGH:

- 41 (a) Restricting the removal of natural shoreland cover.  
42 (b) Preventing shoreline encroachment by structures.  
43 (c) Controlling shoreland excavation and other earth moving activities.  
44 (d) Regulating the use and placement of boathouses and other structures.

45  
46 1.4 TITLE. Shoreland Protection Ordinance for **Burnett** County, Wisconsin.

47  
48  
49 **2.0 GENERAL PROVISIONS.**

50  
51 2.1 AREAS TO BE REGULATED. Areas regulated by this ordinance shall include all the lands (referred to  
52 herein as shorelands) in the unincorporated areas of **Burnett** County which are:

- 53  
54 (1) Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds or  
55 flowages. (NR 115.03(8))

1 See Policy Option in Appendix B  
2

3 (2) Within three hundred (300) feet of the ordinary high water mark of navigable rivers or streams,  
4 or to the landward side of the floodplain as mapped, whichever distance is greater. (NR 115.03(8))  
5

6 See Policy Option in Appendix B  
7

8 (3) The provisions of this chapter apply to regulation of the use and development of unincorporated  
9 shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when  
10 s. 13.48 (13), Stats, applies, state agencies are required to comply with, and obtain all necessary  
11 permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair  
12 of state highways and bridges carried out under the direction and supervision of the Wisconsin  
13 Department of Transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1),  
14 Stats, applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are  
15 provided in s. 61.353 and s. 62.233, Stats.  
16

17 (4) Determinations of navigability and ordinary high water mark location shall initially be made by  
18 the zoning administrator or other designated zoning staff. When questions arise, the zoning  
19 administrator or other designated zoning staff shall contact the appropriate office of the Department  
20 for a final determination of navigability or ordinary high water mark. The county may work with  
21 surveyors with regard to s. 59.692(1h).  
22

23 (5) Under s. 281.31(2m), Stats, notwithstanding any other provision of law or administrative rule  
24 promulgated thereunder, this shoreland zoning ordinance does not apply to:

25 (a) Lands adjacent to farm drainage ditches if:

- 26 1. Such lands are not adjacent to a natural navigable stream or river;  
27 2. Those parts of such drainage ditches adjacent to such lands were not navigable  
28 streams before ditching; and

29 (b) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention  
30 basins that are not hydrologically connected to a natural navigable water body.

31  
32 **2.2 SHORELAND-WETLAND MAPS.** The most recent version of the Wisconsin Wetland Inventory as  
33 depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this  
34 ordinance. The maps can be viewed at  
35 <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>  
36

37 **2.3 COMPLIANCE.** The use of any land; the size, shape and placement of lots; the use, size, type and  
38 location of structures on lots; the installation and maintenance of water supply and waste disposal facilities;  
39 the filling, grading, lagooning, and dredging of any lands; the cutting of shoreland vegetation; and the  
40 subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local,  
41 state or federal regulations. Buildings and other structures shall require a permit unless otherwise  
42 expressly excluded by a provision of this ordinance. Property owners, builders and contractors are  
43 responsible for compliance with the terms of this ordinance.  
44

45 **2.4 MUNICIPALITIES AND STATE AGENCIES REGULATED.** Unless specifically exempted by law, all  
46 cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary  
47 permits. State agencies are required to comply when s. 13.48(13), Stats, applies. The construction,  
48 reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of  
49 Transportation are exempt when s. 30.2022(1), Stats, applies.  
50

51 **2.5 ABROGATION AND GREATER RESTRICTIONS.** (s. 59.692(5), Stats) The provisions of this  
52 ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other  
53 words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands  
54 are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted  
55 under a statute other than s. 59.692, Stats, does not solely relate to shorelands and is more restrictive than

1 this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to  
2 the extent of the greater restrictions.

3  
4 (1) (s. 59.692(2)(a), Stats) This ordinance shall not require approval or be subject to disapproval by  
5 any town or town board.

6  
7 (2) (s. 59.692(2)(b), Stats.) If an existing town ordinance relating to shorelands is more restrictive  
8 than this ordinance or any amendments thereto, the town ordinance continues in all respects to the  
9 extent of the greater restrictions but not otherwise.

10  
11 (3) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions,  
12 covenants or easements. However, where this ordinance imposes greater restrictions, the  
13 provisions of this ordinance shall prevail.

14  
15 (4) The following provisions of the Burnett County Zoning Ordinances are hereby incorporated by  
16 reference. These provisions shall only apply to the shoreland area where they impose greater  
17 restrictions than this ordinance otherwise imposes.

18  
19 (5) (s. 59.692(1d)(b), Stats) This ordinance may establish standards to regulate matters that are not  
20 regulated in NR 115, but that further the purposes of shoreland zoning as described in section 1.3 of  
21 this ordinance,

22  
23 (6) (s. 59.692(1k)(a)1, Stats) Counties may not establish shoreland zoning standards in a shoreland  
24 zoning ordinance that requires any of the following:

25 (a) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation  
26 requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or  
27 regulates outdoor lighting in shorelands if the lighting is designed or intended for  
28 residential use.

29 (b) Requires any inspection or upgrade of a structure before the sale or other transfer of the  
30 structure may be made.

31  
32 (7) (s.59.692(7), Stats) The construction and maintenance of a facility is considered to satisfy the  
33 requirements of a shoreland zoning ordinance if:

34 (a) The department has issued all required permits or approvals authorizing the  
35 construction or maintenance under ch. 30, 31, 281, or 283.

36  
37 ~~A "facility" means any property or equipment of a public utility, as defined in s. 196.01 (5), or a~~  
38 ~~cooperative association organized under ch. 185 for the purpose of producing or furnishing heat,~~  
39 ~~light, or power to its members only, that is used for the transmission, delivery, or furnishing of~~  
40 ~~natural gas, heat, light, or power. Moved to definitions section 26.2~~

41  
42  
43 2.6 INTERPRETATION. (59.69(13), Stats) In their interpretation and application, the provisions of this  
44 ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal  
45 of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by  
46 statute and a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the  
47 provision shall be interpreted in light of the statute and ch. NR 115 standards in effect on the date of the  
48 adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

49  
50 2.7 SEVERABILITY. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of  
51 competent jurisdiction, the remainder of this ordinance shall not be affected.

52  
53  
54 **3.0 SHORELAND-WETLAND DISTRICT. (NR 115.04)**

55  
56 3.1 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which

1 are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on  
2 the Department of Natural Resources Surface Water Data Viewer.

3  
4 ~~Note: Be sure to include a reference to the most recent version of the Wisconsin Wetland Inventory. Many  
5 counties have received new inventory data in the past several years but have not initiated an amendment  
6 to incorporate that into their ordinance. It is recommended that instead of making a specific reference to  
7 the year of the update that the county make reference the Department of Natural Resources Surface Water  
8 Data Viewer for your mapping reference. It is also important to recognize that there is no specific reference  
9 to acreage and should not be referenced in ordinance text.~~

10  
11 (1) LOCATING SHORELAND-WETLAND BOUNDARIES. (NR 115.04(b)2.note) Where an  
12 apparent discrepancy exists between the shoreland-wetland district boundary shown on the  
13 Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to  
14 determine if the map is in error. If the Department determines that a particular area was incorrectly  
15 mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the  
16 county shall have the authority to immediately grant or deny a shoreland zoning permit in  
17 accordance with the applicable regulations based on the Department determination as to whether  
18 the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official  
19 zoning map amendment must be initiated within a reasonable period of time.

20  
21 3.2 PURPOSE. This district is created to maintain safe and healthful conditions, to prevent water  
22 pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty  
23 and to control building and development in wetlands whenever possible. When development is permitted  
24 in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

25  
26 3.3 PERMITTED USES. (NR 115.04(3)) The following uses shall be allowed, subject to general shoreland  
27 zoning regulations contained in this ordinance, the provisions of chs. 30, 31, and 281.36, Stats, and the  
28 provisions of other applicable local, state and federal laws:

29 (1) Activities and uses which do not require the issuance of a zoning **or land use** permit, but which  
30 must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:

- 31 (a) Hiking, fishing, trapping, hunting, swimming, and boating;  
32 (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits,  
33 and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;  
34 (c) The pasturing of livestock;  
35 (d) The cultivation of agricultural crops;  
36 (e) The practice of silviculture, including the planting, thinning, and harvesting of timber; and  
37 (f) The construction or maintenance of duck blinds.

38 (2) Uses which do not require the issuance of a zoning **or land use** permit and which may include  
39 limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent  
40 specifically provided below:

- 41 (a) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry  
42 conditions that would have an adverse impact on silvicultural activities if not corrected;  
43 (b) The cultivation of cranberries including flooding, dike and dam construction or ditching  
44 necessary for the growing and harvesting of cranberries; ;  
45 (c) The maintenance and repair of existing agricultural drainage systems including ditching,  
46 tiling, dredging, excavating and filling necessary to maintain the level of drainage required  
47 to continue the existing agricultural use. This includes the minimum filling necessary for  
48 disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is  
49 placed on existing spoil banks where possible;  
50 (d) The construction or maintenance of fences for the pasturing of livestock, including limited

- 1 excavating and filling necessary for such construction or maintenance;
- 2 (e) The construction or maintenance of piers, docks or walkways built on pilings, including  
3 limited excavating and filling necessary for such construction and maintenance; and
- 4 (f) The maintenance, repair, replacement or reconstruction of existing town and county  
5 highways and bridges, including limited excavating and filling necessary for such  
6 maintenance, repair, replacement or reconstruction.
- 7 (3) Uses which require the issuance of a zoning **or land use** permit and which may include limited  
8 filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically  
9 provided below:
- 10 (a) The construction and maintenance of roads which are necessary to conduct silvicultural  
11 activities or agricultural cultivation, provided that:
- 12 1. The road cannot as a practical matter be located outside the wetland;
- 13 2. The road is designed and constructed to minimize adverse impact upon the natural  
14 functions of the wetland enumerated in section 3.5(2);
- 15 3. The road is designed and constructed with the minimum cross-sectional area  
16 practical to serve the intended use; and
- 17 4. Road construction activities are carried out in the immediate area of the roadbed  
18 only.
- 19 (b) The construction or maintenance of nonresidential buildings, provided that:
- 20 1. The building is essential for and used solely in conjunction with the raising of  
21 waterfowl, minnows or other wetland or aquatic animals; or some other use  
22 permitted in the shoreland-wetland district;
- 23 2. The building cannot, as a practical matter, be located outside the wetland;
- 24 3. Such building is not designed for human habitation and does not exceed 500 sq. ft.  
25 in floor area; and
- 26 4. Only limited filling or excavating necessary to provide structural support for the  
27 building is authorized.
- 28 (c) The establishment of public and private parks and recreation areas, natural and outdoor  
29 education areas, historic and scientific areas, wildlife refuges, game bird and animal farms,  
30 fur animal farms, fish hatcheries, and public boat launching ramps and attendant access  
31 roads, provided that:
- 32 1. Any private development is used exclusively for the permitted use and the applicant  
33 has received a permit or license under ch. 29, Stats, where applicable;
- 34 2. Filling or excavating necessary for the construction or maintenance of public boat  
35 launching ramps or attendant access roads is allowed only where such construction  
36 or maintenance meets the criteria in section 3.3(3)(a); and
- 37 3. Ditching, excavating, dredging, or dike and dam construction in public and private  
38 parks and recreation areas, natural and outdoor education areas, historic and  
39 scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and  
40 fish hatcheries is allowed only for the purpose of improving wildlife habitat and to  
41 otherwise enhance wetland values.
- 42 (d) The construction or maintenance of electric, gas, telephone, ~~fiber optic~~, water and sewer  
43 transmission and distribution facilities, by public utilities and cooperative associations  
44 organized for the purpose of producing or furnishing heat, light, ~~communication~~, power or  
45 water to their members and the construction or maintenance of railroad lines provided that:
- 46 1. The transmission and distribution facilities and railroad lines cannot, as a practical

1 matter, be located outside the wetland;

- 2 2. Such construction or maintenance is done in a manner designed to minimize  
3 adverse impact upon the natural functions of the wetland enumerated in section  
4 3.5(2).  
5

6 3.4 PROHIBITED USES. (NR 115.04(4)) Any use not listed in sections 3.3(1), 3.3(2) or 3.3(3) is  
7 prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance  
8 in accordance with section 3.5 of this ordinance and s. 59.69(5)(e), Stats.  
9

10 3.5 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT. (NR 115.04(2))  
11

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

- 14 (a) A copy of every petition for a text or map amendment to the shoreland-wetland provisions  
15 of this ordinance, within 5 days of the filing of such petition with the county clerk. Such  
16 petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of  
17 this ordinance describing any proposed rezoning of a shoreland-wetland;
- 18 (b) Written notice of the public hearing to be held on a proposed amendment at least 10 days  
19 prior to such hearing;
- 20 (c) A copy of the county zoning agency's findings and recommendations on each proposed  
21 amendment within 10 days after the submission of those findings and recommendations to  
22 the county board; and
- 23 (d) Written notice of the county board's decision on the proposed amendment within 10 days  
24 after it is issued.  
25

26 (2) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the  
27 proposed rezoning may result in a significant adverse impact upon any of the following:

- 28 (a) Storm and flood water storage capacity;
- 29 (b) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the  
30 recharge of groundwater from a wetland to another area, or the flow of groundwater  
31 through a wetland;
- 32 (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would  
33 otherwise drain into navigable waters;
- 34 (d) Shoreline protection against soil erosion;
- 35 (e) Fish spawning, breeding, nursery or feeding grounds;
- 36 (f) Wildlife habitat; or
- 37 (g) Wetlands both within the boundary of designated areas of special natural resource interest  
38 and those wetlands which are in proximity to or have a direct hydrologic connection to  
39 such designated areas as defined in NR 103.04, Wis. Adm. Code, which can be accessed  
40 at the following web site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.  
41

42 (3) If the Department notifies the county zoning agency that a proposed text or map amendment to  
43 the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any  
44 of the criteria listed in section 3.5(2) of this ordinance, that amendment, if approved by the county  
45 board, shall contain the following provision:  
46

47 "This amendment shall not take effect until more than 30 days have elapsed after written notice of  
48 the county board's approval of this amendment is mailed to the Department of Natural Resources.  
49 During that 30-day period the Department of Natural Resources may notify the county board that it  
50 will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Stats. If the

1 Department does so notify the county board, the effect of this amendment shall be stayed until the s.  
2 59.692(6), Stats, adoption procedure is completed or otherwise terminated."  
3  
4

5 **4.0 LAND DIVISION REVIEW AND SANITARY REGULATIONS. (NR 115.05(2))**  
6

7 4.1 LAND DIVISION REVIEW. (NR 115.05(2)) The county shall review, pursuant to s. 236.45, Stats, all  
8 land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less  
9 within a 5-year period. In such review all of the following factors shall be considered:

- 10  
11 (1) Hazards to the health, safety or welfare of future residents.  
12  
13 (2) Proper relationship to adjoining areas.  
14  
15 (3) Public access to navigable waters, as required by law.  
16  
17 (4) Adequate stormwater drainage facilities.  
18  
19 (5) Conformity to state law and administrative code provisions.  
20

21 4.2 PLANNED UNIT DEVELOPMENT (PUD). (NR 115.05(1)(a)4)  
22

23 (1) PURPOSE. The Planned Unit Development is intended to permit smaller non-riparian lots where  
24 the physical layout of the lots is so arranged as to better assure the control of pollution and  
25 preservation of ground cover than would be expected if the lots were developed with the normal lot  
26 sizes and setbacks and without special conditions placed upon the Planned Unit Development at the  
27 time of its approval. A condition of all Planned Residential Unit Development is the preservation of  
28 certain open space, preferably on the shoreland, in perpetuity.  
29

30 (2) REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT. The county Planning and Zoning  
31 Land Use and Information Committee may at its discretion, upon its own motion or upon petition,  
32 approve a Planned Unit Development Overlay District upon finding, after a public hearing, that all of  
33 the following facts exist:

- 34 (a) Area. The area proposed for the Planned Unit Development shall be at least 5.2 acres in  
35 size or have a minimum of 300 200 feet of frontage on a navigable water. The area  
36 proposed for home sites is located in a district that permits residential use. Gross project  
37 area shall include total project area less any areas below the ordinary high water mark of  
38 navigable waters and may include lands in more than one zoning district.  
39  
40 (b) Lots. Any proposed lot in the Planned Unit Development that does not meet the minimum  
41 size standards of sections 5.2 and 5.3 shall be a non-riparian lot.  
42  
43 (c) Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a  
44 Planned Unit Development the governing body shall consider whether proposed lot sizes,  
45 widths, and setbacks are of adequate size and distance to prevent pollution or erosion  
46 along streets or other public ways and waterways. Increased shoreland setbacks shall be  
47 a condition of approval as a way of minimizing adverse impacts of development. Shore  
48 cover provisions in section 11.2 and 11.3 shall apply except that maximum width of a lake  
49 frontage opening shall be 100 feet and minimum vegetative buffer depth shall be  
50 increased to offset the impact of the proposed development. Must have minimum  
51 setbacks of 10 feet to side lot lines, 30 feet to front lot lines, 40 feet to rear lot lines and 40  
52 feet to wetlands.

52 ~~Note: Counties should be aware that the planned unit development standards, as written, grant back lot~~  
53 ~~access (key holding) without applying frontage requirement standards to determine overall density. This~~  
54 ~~comports to NR115.05(1)(a)4. Counties may optionally include requirements to limit overall density based~~

1 upon minimum frontage standards as well. These types of developments may also be known as  
2 conservation subdivisions or planned residential development. The provisions of NR 115.05(1)(a)4 apply  
3 to these types of developments where there may be a combination of a density bonus, smaller lot size and  
4 preservation of open space.

5  
6 See Policy Options in Appendix B

7  
8 (d) Pollution and erosion control. The location and nature of the private on-site wastewater  
9 treatment systems, which will serve the home sites individually or collectively, are in  
10 compliance with the county sanitary code and SPS 383, Wis. Adm. Code. Erosion control  
11 shall be designed/planned to minimize pollution and to follow the standards outlined in  
12 sections 12.0, 12.1, 12.2 and 12.3 below.

13 (e) Open space. At least 50% of the project area shall be undivided and restricted in  
14 perpetuity from further development. Open space shall be deed and plat restricted to  
15 nonstructural agricultural, forestry, recreational or environmental protection uses except  
16 that accessory structures essential to the open space uses may be approved. A private  
17 on-site wastewater treatment system may be located in such an area provided no suitable  
18 site is available on the lot served by the system. Open space shall be contiguous. In this  
19 section contiguous shall mean at least 33 feet in width. Any restriction placed on use of  
20 lands, which is required by this ordinance, or which was placed as a condition of approval  
21 of a planned residential development shall vest in the county the right to enforce the  
22 restriction against anyone who has or acquires an interest in the land subject to the  
23 restriction. If the open space is to be held in common by owners of lots in the  
24 development, a homeowner's association or similar legally constituted body shall be  
25 created to maintain it. Open space may be:

- 26  
27 1. Dedicated to the public. Land dedicated to the public must be accepted by action of  
28 the governing body of the accepting unit of government.
- 29 2. Retained by the former owner, or held in individual ownership, while a nonprofit  
30 conservation organization or other qualified organization holds a conservation  
31 easement prescribing the acceptable uses for the common open space.
- 32 3. Held in common by the residents of the planned residential development.
- 33 4. Held as individual outlots by owners of the planned residential development.
- 34 5. Held by a nonprofit conservation organization acceptable to the county. The  
35 conveyance to the nonprofit conservation organization must contain appropriate  
36 provisions for reversion in the event that the organization becomes unwilling or unable  
37 to uphold the terms of the conveyance.

38 (f) Density. The number of platted home sites shall not exceed 125% of those which would  
39 have been possible if the same land were platted in accordance with the minimum lot  
40 sizes, setbacks, widths and water frontage provided by the applicable provisions of this  
41 chapter, chapter 10, chapter 22, chapter 30, chapter 58 and chapter 70 of the Burnett  
42 County Ordinances. This figure shall be determined by use of the development yield  
43 analysis provided in the application and approval process of the applicable chapters.

44 (g) Design guidelines for approval.

- 45 1. Roadways, lots and building envelopes shall be located in areas where they will have  
46 the least effect on forests, environmentally sensitive areas, crop land, pasture, meadow,  
47 farm buildings and historic structures, and where they will retain or enhance the visual  
48 character of the rural landscape. However, in resolving conflicts between these interests,  
49 priority shall be given to protection of waterways and their buffers, steep slopes, regulated  
50 floodplains and avoidance of a fragmented landscape.

1 2. All residential lots and dwellings shall be encouraged into clusters. Residential clusters  
2 shall be located to minimize negative impacts on the natural, scenic and cultural resources  
3 of the site, and conflicts between incompatible uses.

4 (h) Site development and land disturbing.

5 1. Existing natural drainage ways shall be retained to the greatest extent possible.

6 2. Existing natural vegetation shall be preserved in areas where disturbance outside the  
7 building envelope is not essential.

8 (3) APPLICATION PROCEDURE AND APPROVAL PROCESS FOR A PLANNED RESIDENTIAL  
9 DEVELOPMENT.

10 (a) Initial conference. Before submitting a conditional use application for a planned residential  
11 development, the subdivider shall schedule an appointment with the land use/zoning  
12 department staff to discuss the procedure for approval of a planned residential  
13 development, including submittal requirements and design standards.  
14

15 (b) Initial application. After the initial conference, the subdivider shall submit a conditional use  
16 application and a series of maps and descriptive information to the land use/zoning  
17 department as required by according to the following. Mapping for the initial application can  
18 be done in any combination of features as long as individual map components can be  
19 distinguished and the relationship between map components can be determined. Inventory  
20 and mapping of existing resources including the following mapped at a scale of no less than  
21 one inch equals 50 feet.

22 1. Land contours based at a minimum upon the 2015 Burnett County Lidar with a contour  
23 interval of two feet.

24 2. United States Department of Agriculture Natural Resource Conservation Service soil  
25 type locations and characteristics. Location of bedrock and areas of high potential for  
26 groundwater contamination should also be noted.

27 3. Hydrological characteristics, including surface water bodies, floodplains, wetlands,  
28 groundwater recharge and discharge areas, natural swales, drainage ways and steep  
29 slopes.

30 4. Land cover on the site, according to general cover type, including comments on the  
31 health and condition of trees and other vegetation.

32 5. Current and past land use, all buildings and structures on the land, cultivated areas,  
33 paved areas, and all encumbrances, such as easements and covenants. Any waste sites,  
34 brownfields or waste disposal practices should also be disclosed.

35 6. Known critical habitats for rare, threatened or endangered species.

36 7. Views of the site from surrounding roads, and/or nearby elevated areas, indicating on  
37 the map where photographs were taken.

38 8. Unique geological resources, such as rock outcrops or glacial features.

39 9. Cultural resources, if applicable, such as historic buildings, archaeological sites, and  
40 burial sites.

41 10. All items listed in 4.2(2).

42 (c) Development yield analysis. The subdivider shall submit a table showing the maximum  
43 number of dwelling units that would be permitted under this chapter, consistent with the  
44 minimum lot size, lot widths, setbacks and other provisions of this chapter, chapter 10, chapter  
45 22, chapter 30, chapter 58 and chapter 70 of the Burnett County Ordinances and compare it to  
46 the number of dwellings proposed. Land that is undevelopable because of other laws and

1 ordinances that prohibit development in certain areas (e.g., floodways, wetlands) shall be  
2 excluded from the development yield analysis.

3 (d) Site analyses and concept plan. Using the inventory provided in subsection (b) of this  
4 section, the development yield analysis provided in subsection (c) of this section, and the  
5 design standards in sections 30-425 through 30-427 of the Burnett County Ordinances, the  
6 subdivider shall submit a concept plan including at least the following information at a scale of  
7 no less than one inch equals 50 feet:

8 1. Open space areas indicating which area is to remain undeveloped.

9 2. Boundaries of areas to be developed and proposed general roadway and lot layout.

10 3. Number and type of housing units proposed.

11 4. Proposed methods for and location of water supply, stormwater management and  
12 sewage treatment.

13 5. Inventory of preserved and disturbed natural features and prominent views.

14 6. Preliminary development envelopes showing areas for lawns, pavement, buildings and  
15 grading.

16 7. Proposed methods of ownership and management of open space.

17 (e) General location map. The subdivider shall submit a map showing the general outlines of  
18 existing buildings, land use, and natural features such as water bodies or wooded areas within  
19 500 feet of the parcel. This information may be presented on an aerial photograph at a scale of  
20 no less than one inch equals 400 feet.

21 (f) Review of initial application. Within 30 days following the filing of a complete application for  
22 conditional use, the land use/zoning department shall meet with the subdivider to review the  
23 application. Staff from appropriate state agencies may also be requested by the county to  
24 review the conditional use application. The land use/zoning department shall make the  
25 determination of whether the application is complete. (For the purpose of this chapter, a  
26 complete application accepted by the land use and information committee may include a  
27 preliminary plat as provided for in the subdivision control ordinance codified in chapter 58 of the  
28 Burnett County Ordinances, which may be subject to modification through the public hearing  
29 process.)

30 (g) Upon determination that the application is complete, the application will be scheduled for a  
31 public hearing for a conditional use permit as provided under article VIII of chapter 30 of the  
32 Burnett County Ordinances. (This public hearing may include review of the preliminary plat.)  
33 Copies of the petition and notice of the hearing shall also be sent to the appropriate office of the  
34 Department as described in Section 25.4(2) of this ordinance.

35 (h) Review of conditional use. The conditional use application for a planned residential  
36 development shall be reviewed in accordance with the provisions of article VIII of chapter 30 of  
37 the Burnett County Ordinances, and the requirements of this ordinance. Approval of the  
38 conditional use application is required prior to the filing of the preliminary plat as required under  
39 the subdivision control ordinance codified in chapter 58 of the Burnett County Ordinances.

40 (i) The Burnett County Land Use and Information Committee report to the Burnett County Board  
41 shall reflect the recommendations of any federal, state or local agency with which the county  
42 zoning agency consults.

43  
44 (j) Findings and Conditions of Approval. The county board shall make written findings as to the  
45 compliance or noncompliance of the proposed overlay district with each of the applicable  
46 requirements set forth in Section 4.2(2). If the petition is granted in whole or in part, the county  
47 board shall attach such written conditions to the approval as are required by and consistent with  
48 Section 4.2(2). The conditions of approval shall in all cases establish the specific restrictions  
49 applicable with regard to minimum lot sizes, width, setbacks, dimensions of vegetative buffer

1 zone, dimensions of vegetation protection area and open space requirements.

2  
3 (k) Planning Studies. A landowner or petitioner may at their own expense develop the facts  
4 required to establish compliance with the provisions of Section 4.2(2) or may be required to  
5 contribute funds to the county to defray all or part of the cost of such studies being undertaken  
6 by the county or any agency or person with whom the county contracts for such work.  
7

8  
9 4.3 SANITARY REGULATIONS. (NR 115.05(3)) The county shall adopt sanitary regulations for the  
10 protection of health and the preservation and enhancement of water quality.

11  
12 (1) Where public water supply systems are not available, private well construction shall be required  
13 to conform to ch. NR 812, Wis. Adm. Code.

14 (2) Where a public sewage collection and treatment system is not available, design and construction  
15 of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with ch.  
16 SPS Comm 383, Wis. Adm. Code, and after June 30, 1980 be governed by a private sewage system  
17 ordinance adopted by the county under s. 59.70(5), Stats.  
18

19  
20 **5.0 MINIMUM LOT SIZE. (NR 115.05(1))**

21  
22 5.1 PURPOSE. (NR115.05(1)(a)) Minimum lot sizes in the shoreland area shall be established to afford  
23 protection against danger to health, safety and welfare, and protection against pollution of the adjacent  
24 and/or nearby body of water. In calculating the minimum area or width of a lot, the beds of navigable  
25 waters shall not be included. The lot or parcel must comply with all other Burnett County ordinance  
26 requirements which require larger lot sizes or widths.  
27

28 ~~See Policy Option in Appendix B~~

29  
30 5.2 PUBLICALLY SEWERED RIPARIAN LOTS. (NR 115.05(1)(a)1) MINIMUM AREA AND WIDTH FOR  
31 EACH LOT. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65  
32 feet. The lot or parcel must comply with all other Burnett County ordinance requirements which require  
33 larger lot sizes or widths.

34  
35 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance  
36 between side lot lines at the following locations:

- 37 (a) The ordinary high water mark.  
38 (b) The building setback line of 75 feet from the ordinary high water mark. The setback  
39 averaging line will not be used in this case.  
40 (c) The rear lot line. For lot width averaging purposes only, the definition of rear lot line is the  
41 line opposite of the ordinary high water mark. When there are two or more lines opposite  
42 of the ordinary high water mark the shortest line will be used for averaging purposes.  
43 When there is no line opposite of the ordinary high water mark then a value of zero will be  
44 used for averaging purposes.  
45

46 ~~See Policy Options in Appendix B~~

47  
48 5.3 PRIVATELY SEWERED RIPARIAN LOTS. (NR 115.05(1)(a)2) MINIMUM AREA AND WIDTH FOR  
49 EACH LOT. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100  
50 feet. The lot or parcel must comply with all other Burnett County ordinance requirements which require  
51 larger lot sizes or widths.

52  
53 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance  
54 between side lot lines at the following locations:

- 55 (a) The ordinary high water mark.

- 1 (b) The building setback line of 75 feet from the ordinary high water mark. The setback  
2 averaging line will not be used in this case.
- 3 (c) The rear lot line. For lot width averaging purposes only, the definition of rear lot line is the  
4 line opposite of the ordinary high water mark. When there are two or more lines opposite  
5 of the ordinary high water mark the shortest line will be used for averaging purposes.  
6 When there is no line opposite of the ordinary high water mark then a value of zero will be  
7 used for averaging purposes.

8  
9 **See Policy Options in Appendix B**

10  
11 5.4 **SUBSTANDARD LOTS.** (NR 115.05(1)(a)3) A legally created lot or parcel that met minimum area  
12 and minimum average width requirements when created, but does not meet current lot size requirements,  
13 may be used as a building site if all of the following apply:

- 14  
15 (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by  
16 plat, or survey pursuant to s. 236, Stats. ~~survey, or consolidation by the owner into one property tax~~  
17 ~~parcel.~~
- 18  
19 (2) The substandard lot or parcel has never been developed with one or more of its structures  
20 placed partly upon an adjacent lot or parcel. Removing a structure or structures placed partly upon  
21 an adjacent lot or parcel does not make the lots/parcels separate.
- 22  
23 (3) The substandard lot or parcel is developed to comply with all other **Burnett County** ordinance  
24 requirements.
- 25  
26 ~~(4) The substandard lot or parcel has never been developed with one or more of its structures~~  
27 ~~placed within the required side, front or rear setback for each substandard lot.~~
- 28  
29 ~~(5) The substandard lot or parcel has never been developed with the owner or applicant showing on~~  
30 ~~a prior land use permit that the nearest lot line was across the adjacent lot(s) or parcel(s).~~

31  
32 Note: The intent of this provision is to allow lots that were legally created that currently do not meet the  
33 minimum lot width and area requirements to be considered a building site provided all **other Burnett County**  
34 ordinance requirements can be met. Substandard lots that have been reconfigured by a certified survey  
35 map or consolidated into one legal description with the register of deeds, which result in a larger (closer to  
36 conforming) lot should be allowed to be utilized as a building site. Additionally, lots that have a legal  
37 description for each substandard lot on record with the Register of Deeds but have one tax parcel number  
38 assigned by the Real Property Lister or Assessor for taxing/assessing purposes should be considered  
39 separate building sites and should not be considered consolidated. Lots that have had development over  
40 the lot lines ~~should~~ **shall** be combined with a **Certified Survey Map or Recorded Plat legal description and**  
41 **recorded with a new deed** prior to new development occurring **or within three months of the land use permit**  
42 **being issued.**

43  
44 5.5 **OTHER SUBSTANDARD LOTS.** Except for lots which meet the requirements of section 5.4 a building  
45 permit for the improvement of a lot having lesser dimensions than those stated in sections 5.2, 5.3, 5.6 and  
46 5.7 shall be issued only if a variance is granted by the board of adjustment.

47  
48 5.6 **PUBLICALLY SEWERED NON-RIPARIAN LOTS.** (NR 115.05(1)(a)1) **MINIMUM AREA AND WIDTH**  
49 **FOR EACH LOT.** The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be  
50 65 feet. The lot or parcel must comply with all other Burnett County ordinance requirements which require  
51 larger lot sizes or widths.

- 52  
53 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance  
54 between side lot lines at the following locations:
- 55 (a) The front lot line. For lot width averaging only, the definition of front lot line is the line which  
56 abuts a road. For corner lots the higher ranking road will be considered the front. Ranking

1 highest to lowest is: Federal road, State road, County Road, Town/Village Road, Private  
2 Road. For corner lots where each road has the same ranking then the shortest side shall  
3 be used for averaging purposes. When the lot has no road frontage then the front will be  
4 considered the side which contains the access point to the lot.

5 (b) The building setback line (from the front lot line).

6 (c) The rear lot line. For lot width averaging purposes only on non-riparian lots, the definition  
7 of rear lot line is the line opposite the front lot line. When there are two or more lines  
8 opposite of the front lot line the shortest line will be used for averaging purposes. When  
9 there is no line opposite of the front lot line then a value of zero will be used for averaging  
10 purposes.

11  
12  
13 **5.7 PRIVATELY SEWERED NON-RIPARIAN LOTS.** (NR 115.05(1)(a)2) **MINIMUM AREA AND WIDTH**  
14 **FOR EACH LOT.** The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be  
15 100 feet. The lot or parcel must comply with all other Burnett County ordinance requirements which require  
16 larger lot sizes or widths.

17  
18 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance  
19 between side lot lines at the following locations:

20 (a) The front lot line. For lot width averaging only, the definition of front lot line is the line which  
21 abuts a road. For corner lots the higher ranking road will be considered the front. Ranking  
22 highest to lowest is: Federal road, State road, County Road, Town/Village Road, Private  
23 Road. For corner lots where each road has the same ranking then the shortest side shall  
24 be used for averaging purposes. When the lot has no road frontage then the front will be  
25 considered the side which contains the access point to the lot.

26 (b) The building setback line (from the front lot line).

27 (c) The rear lot line. For lot width averaging purposes only on non-riparian lots, the definition  
28 of rear lot line is the line opposite the front lot line. When there are two or more lines  
29 opposite of the front lot line the shortest line will be used for averaging purposes. When  
30 there is no line opposite of the front lot line then a value of zero will be used for averaging  
31 purposes.

32  
33  
34 **6.0 BUILDING SETBACKS.** (NR 115.05(1)(b)) **Permitted building setbacks shall be established to**  
35 **conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards**  
36 **and avoid water pollution.**

37  
38 **6.1 SHORELAND SETBACKS.** (NR115.05(1)(b)1) Unless exempt under section 6.1(1), or reduced under  
39 section 6.2, or increased under section 6.3, a setback of 75 feet from the ordinary high water mark of any  
40 navigable water to the nearest part of a building or structure shall be required for all buildings and  
41 structures. ~~Adding solar panels is not considered an expansion if all above-grade components are within 3~~  
42 ~~feet of the existing three-dimensional building envelope and the height limit is not exceeded. Adding other~~  
43 ~~utilities and their components such as a gas meter, propane tank, electric meter, air conditioning unit,~~  
44 ~~furnace, chimney, etc is not considered an expansion if all above-grade components are within 3 feet of the~~  
45 ~~existing three-dimensional building envelope and the height limit is not exceeded. However Burnett County~~  
46 ~~flood ordinance chapter 22 requirements still apply for these items.~~

47  
48 (1) **EXEMPT STRUCTURES.** (NR 115.05(1)(b)1m) and s. 59.692(1k)(a)(6). All of the following  
49 structures are exempt from the shoreland setback standards in section 6.1:

50  
51 (a) Boathouses located entirely above the ordinary high water mark and entirely within the  
52 access and viewing corridor that do not contain plumbing and are not used for human habitation.  
53 The following standards apply to boathouses:

54 1. The construction or placement of a boathouse below the ordinary high water mark of  
55 any navigable waters shall be prohibited.

2. Boathouse shall be designed and constructed solely for the storage of boats and related equipment.
3. The boathouse shall not exceed 250 square feet in size (outside dimensions).
4. One boathouse is permitted per buildable lot as an accessory structure.
5. The siding and roofing color schemes shall be muted (non-reflective with dull intensity) and shall only be shades of grey or brown.
6. The boathouse shall have a gabled roof with a pitch that equals or exceeds a 4/12 rise to run ratio but is not steeper than 6/12 rise to run ratio. The roof shall not be designed or used as decks, observation platforms or for other similar uses.
7. The boathouse shall not exceed one story.
8. No attached/detached decks or patios will be allowed.
9. The width of the boathouse, parallel to the shoreline, to length ratio shall not exceed 1:3 and shall not be less than 1:1.
10. The boathouse framing shall only be built out of wood. No concrete or asphalt slabs shall be allowed in the construction. Concrete footings may be used, but they must be no more than 6 inches above the outside grade.
11. One garage style access door not exceeding 10 feet in width and no less than 8 feet in width shall be installed on the boathouse. The garage style door shall be on the water body side of the structure and may not contain windows.
12. A maximum of 10 square feet of window surface may be allowed on each of the three sides that do not face the water body. No windows may be on the water body side of the boathouse including in the garage door, or on the roof of the structure.
13. One service/entry door not exceeding 36 inches in width shall be allowed per boathouse. The service/entry door shall not be on the water body side of the boathouse.
14. The width of the boathouse on the water body side shall not exceed 12 feet.
15. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
16. Any construction on slopes greater than 20% shall require a filling/grading permit in conjunction with approval from the Land and Water Conservation Department.
17. No retaining walls shall be used in the construction.
18. Boathouses shall be constructed in conformity with local floodplain zoning standards.
19. Boathouses must meet all other setbacks, such as; wetland, side lot line, front lot line, rear lot line, property lines, road right-of-way and sanitary setbacks.
20. A set of construction plans shall be submitted as part of the application.
21. A map of survey shall be submitted with the permit application to demonstrate the location of the proposed structure along with floodplain information and required setback information.
22. Applicant must obtain any relative permits from their town before construction.
23. An agreement to abide by these requirements shall be notarized and recorded with the Register of Deeds Office prior to the permit being issued. The agreement shall be binding on all future owners and shall run with the land until the boathouse is completely removed and the site is restored to a natural state.

(b) The roof of an existing boathouse may be used as a deck provided that:

1. The existing boathouse has a flat roof.
2. The existing boathouse roof has no side walls or screens.
3. The boathouse was legally constructed.
4. The roof may have a railing that meets the Department of Safety and Professional

Services standards.

5. The existing roof material is to be used as the deck surface. This provision does not allow a deck to be constructed over the existing roof surface.

See Policy Option in Appendix B

- (c) Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats:
1. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
  2. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
    - a. In calculating this square footage, boathouses, walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline shall be excluded.
    - b. In calculating this square footage the following structures are not excluded from the 200 square foot maximum:
      1. Utility type structures such as: air conditioning unit, solar panel, propane tank, gas meter, electric meter, furnace, chimney, etc.
      2. Variance approved structures within the setback.
      3. Illegally built/placed structures within the setback.
      4. Structures placed via setback averaging within the setback.
  3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides. Standard height knee walls will be allowed to be enclosed.
  4. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
  5. An enforceable affidavit must be filed recorded with the register of deeds prior to construction the permit being issued acknowledging the limitations on vegetation.
  6. The structure does not exceed 35 feet in height.
  7. The open-sided and/or screened structure shall be located entirely within the access and viewing corridor or outside the vegetated buffer zone.
  8. All other setback requirements apply, such as wetland, side lot line, front lot line, rear lot line, property lines, road right-of-way and sanitary setbacks.
  9. These structures are not exempt from floodplain requirements.

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

See Policy Option in Appendix B

(c) Fishing rafts that are authorized on the Wolf River and Mississippi River under s. 30.126, Stats.

- (d) 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. The broadcast signal receiver shall be located entirely within the access and viewing corridor or outside the vegetated buffer zone. All other setback requirements apply, such as; wetland, side lot line, front lot line, rear lot line, property lines, road right-of-way and sanitary setbacks. The structure does not exceed 35 feet in height.
- (e) 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, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure. The utility structure shall be located entirely within the access and viewing corridor or outside the vegetated buffer zone. All other

1 setback requirements apply, such as; wetland, side lot line, front lot line, rear lot line, property  
2 lines, road right-of-way and sanitary setbacks. The structure does not exceed 35 feet in  
3 height.

4 (f) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the  
5 shoreline and are a maximum of 60-inches in width. If a rail system and a stairway/walkway  
6 are necessary (per section 25.1(12)) and desired on the same lot/parcel then they shall be  
7 constructed adjacent and parallel to each other and shall not exceed 120-inches in width at  
8 any point. The combined width of both structures will be measured from the outside edge of  
9 the stairway/walkway to the outside edge of the rail system basket/platform. The  
10 stairway/walkway or rail system structure shall be located entirely within the access and  
11 viewing corridor or outside the vegetated buffer zone. All other setback requirements apply,  
12 such as; wetland, side lot line, front lot line, rear lot line, property lines, road right-of-way and  
13 sanitary setbacks. The structure does not exceed 35 feet in height or is no more than 6 feet  
14 above the existing grade at any point. No roofs are allowed on walkways, stairways or rail  
15 systems.

16 (g) Devices or systems used to treat runoff from impervious surfaces. The structure shall be  
17 located entirely within the access and viewing corridor or outside the vegetated buffer zone.  
18 All other setback requirements apply, such as; wetland, side lot line, front lot line, rear lot line,  
19 property lines, road right-of-way and sanitary setbacks. The structure does not exceed 35 feet  
20 in height and the structure is no more than 6 feet above the existing grade at any point.

21  
22 (2) EXISTING EXEMPT STRUCTURES. (s.59.692(1k)(a)2m, Stats) Existing exempt structures  
23 may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does  
24 not expand the footprint, **does not change the existing use** and does not go beyond the three-  
25 dimensional building envelope of the existing structure. Counties may allow expansion of a structure  
26 beyond the existing footprint if the expansion is necessary to comply with applicable state or federal  
27 requirements. ~~Adding solar panels is not considered an expansion if all above grade components  
28 are within 3 feet of the existing three-dimensional building envelope and the height limit is not  
29 exceeded. Adding other utilities and their components such as a gas meter, propane tank, electric  
30 meter, air conditioning unit, furnace, chimney, etc is not considered an expansion if all above grade  
31 components are within 3 feet of the existing three-dimensional building envelope and the height limit  
32 is not exceeded.~~

33  
34 Note: Section 59.692(1k)(a)2m, Stats, prohibits counties from requiring any approval or imposing any fee  
35 or mitigation requirement for the activities specified in section 6.1(2). However, it is important to note that  
36 property owners may be required to obtain permits or approvals and counties may impose fees under  
37 ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning,  
38 sanitary codes, building codes, or even stormwater erosion control.

39  
40 6.2 REDUCED PRINCIPAL STRUCTURE SETBACK. (s.59.692(1n), Stats) A setback less than the 75'  
41 required setback from the ordinary high water mark shall be permitted for a proposed principal structure  
42 **(this is not allowed for additions to existing principal structures, must be a new principal structure)** and shall  
43 be determined as follows:

44  
45 (1) Where there are existing principal structures **in on both sides directions**, the setback shall equal  
46 the average of the distances the two existing principal structures are set back from the ordinary high  
47 water mark provided all of the following are met:

- 48 (a) Both of the existing **legal** principal structures are located on adjacent **side lots** to the  
49 proposed principal structure.  
50 (b) Both of the existing **legal** principal structures are located within 250' of the proposed  
51 principal structure and are the closest structures.  
52 (c) Both of the existing **legal** principal structures are located less than 75' from the ordinary  
53 high water mark.  
54 (d) The average setback shall not be reduced to less than 35' from the ordinary high water  
55 mark of any navigable water.  
56

1 Note: s. 59.692(1d)(a), Stats, requires counties to adopt the standards consistent with section 6.2(1) for  
2 reducing the shoreland setback.

3  
4 ~~(2) Where this is an existing principal structure in only one direction, the setback shall equal the  
5 distance the existing principal structure is set back from the ordinary high water mark and the  
6 required setback of 75' from the ordinary high water mark provided all of the following are met:~~

7 ~~(a) The existing principal structure is located on adjacent lot to the proposed principal  
8 structure.~~

9 ~~(b) The existing principal structure is located within 250' of the proposed principal structure  
10 and is the closest structure.~~

11 ~~(c) The existing principal structure is located less than 75' from the ordinary high water mark.~~

12 ~~(d) The average setback shall not be reduced to less than 35' from the ordinary high water  
13 mark of any navigable water.~~

14  
15 ~~Note: Section 6.2(2) is optional and is not required to be compliant.~~

16  
17  
18 **6.3 INCREASED PRINCIPAL STRUCTURE SETBACK.** (s.59.692(1n)(c), Stats) A setback greater than  
19 the required 75' from the ordinary high water mark may be required for a proposed principal structure and  
20 determined as follows:

21  
22 (1) Where there are existing principal structures **in on** both **sides directions**, the setback shall equal  
23 the average of the distances the two existing principal structures are set back from the ordinary high  
24 water mark provided all of the following are met:

25 (a) Both of the existing **legal** principal structures are located on adjacent **side lots** to the  
26 proposed principal structure.

27 (b) Both of the existing **legal** principal structures are located within 200' of the proposed  
28 principal structure.

29 (c) Both of the existing **legal** principal structures are located greater than 75' from the ordinary  
30 high water mark.

31 (d) Both of the existing **legal** principal structures were required to be located at a setback  
32 greater than 75' from the ordinary high water mark.

33 (e) The increased setback does not apply if the resulting setback limits the placement to an  
34 area on which the structure cannot be built.

35  
36 ~~Note: Section 6.3 is optional and can be adopted in a shoreland ordinance provided there was a previous  
37 setback that was more restrictive than the required 75' setback. Please provide the previous ordinance  
38 section.~~

39  
40  
41 **6.4 FLOODPLAIN STRUCTURES.** (NR 115.05(1)(b)2) Buildings and structures to be constructed or  
42 placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance ~~except~~  
43 ~~those listed as exempt structures in sections 6.1(1)(e), 6.1(1)(f), and 6.1(1)(g).~~

44  
45 **6.5 ROAD SETBACKS.**

46 (1) All state and U.S. numbered highways are hereby designated class A highways. The setback line  
47 for class A highways and for any other roads designated as major roads on official maps in effect in  
48 the county shall be 66 feet from road right-of-way as established by a Wisconsin licensed professional  
49 land surveyor or 130 feet from centerline when no survey exists.

50 (2) All county trunk highways not otherwise designated as class A highways are hereby designated  
51 class B highways. The setback for class B highways and for roads designated as arterial roads on  
52 official maps in effect in the county shall be 42 feet from road right-of-way as established by a  
53 Wisconsin licensed professional land surveyor or 75 feet from centerline when no survey exists.

54 (3) All town roads not otherwise designated class A or class B highways are hereby designated class  
55 C highways. The setback for class C highways and for streets other than major and arterial roads

1 designated as such on official maps in effect in the county shall be 30 feet from road right-of-way as  
2 established by a Wisconsin licensed professional land surveyor or 63 feet from centerline when no  
3 survey exists.

4 (4) A setback equal to the average setback of all existing principal buildings located within 300 feet of  
5 a proposed building site and on the same side of the road for class A, class B, and class C highways  
6 and private roads, shall be permitted where three of these buildings do not conform to the appropriate  
7 setback line. If the average is less than 25 feet, the proposed building shall be constructed no closer  
8 than 25 feet to the right-of-way.

9 (5) Minor, readily removable structures, such as fences or signs permitted by this ordinance or other  
10 Burnett County ordinances, may be placed within setback lines. When deemed necessary by the  
11 county land use and information committee in connection with development such as highway  
12 improvement programs, property owners and public utilities may be required to remove, at their own  
13 expense and without right of compensation, any such structures erected within setback lines.

14 (6) Public utility equipment without permanent foundations are allowed, such as; overhead telephone,  
15 overhead electric, open fences less than 10 feet in height, underground telephone, underground  
16 electric, underground fiber optic, underground gas, underground public sewer, underground public  
17 water as long as they have approval from the department/agency who has oversight of the  
18 highway/road that it will not be a safety hazard. Public utility equipment with foundations and roofed or  
19 enclosed buildings must be at least 10 feet from any property line and must have approval from the  
20 department/agency who has oversight of the highway/road that it will not be a safety hazard. No  
21 roofed or enclosed building shall be more than 10 feet in height. When deemed necessary by the  
22 county land use and information committee in connection with development such as highway  
23 improvement programs, property owners and public utilities may be required to remove, at their own  
24 expense and without right of compensation, any such structures erected within setback lines.

25 (7) Any proposed or planned roads (e.g., frontage roads, service roads, access roads, etc.) indicated  
26 in the county land use/zoning maps shall require all buildings to meet the required setbacks  
27 designated above. Any proposed or planned roads not designated shall be considered class C  
28 highways for setback purposes.

29 (8) Structural setbacks from privately constructed roads (except individual driveways) shall be 40 feet  
30 from the centerline of the road.

31 (9) Within the unincorporated village overlay district a minimum structural setback distance of ten feet  
32 from the right-of-way line of any road or alley shall be maintained.

33 (a) Special structural setback reductions will be permitted within the unincorporated village overlay  
34 if there are at least three existing principal buildings, built to less than the required setback (ten  
35 feet), within 300 feet on either side of the proposed site, the reduced setback may be equal to but  
36 no closer than the setback of the closest adjacent principal building.

37  
38 **6.6 REAR SETBACKS.** Rear setbacks shall be 40 feet in all zoning districts except as listed below in  
39 ~~section 20.2~~ chapter 30.

40  
41  
42 **6.7 SIDE SETBACKS.** Side setbacks shall be 10 feet in all zoning districts except those as listed below in  
43 ~~section 20.2~~ chapter 30.

44  
45  
46 **6.8 WETLAND SETBACKS.** A setback of 40 feet from the wetland to the nearest part of a building or  
47 structure shall be required for all buildings and structures.

48  
49 **6.9 EAVE SETBACKS.** Standard eaves 2 feet or less in width will not apply to the setback requirements.  
50

51  
52 **7.0 ACCESSORY USES AND STRUCTURES.**

1 ~~(1) Any structure serving as an accessory use, if attached to the principal building, shall be considered~~  
2 ~~a part of the principal building. If such structure is not attached to the principal building, it shall~~  
3 conform to the setback and other dimensional requirements of the district within which it is located, ~~or~~  
4 unless it is exempt structure under 6.1(1) above.

5 (2) A single (one per lot/parcel) bunkhouse/temporary guest quarters will be permitted by land use  
6 permit where:

7 (a) The bunkhouse/temporary guest quarters shall be located within or as part of an  
8 accessory structure.

9 (b) The bunkhouse/temporary guest quarters shall not exceed 50% of the gross floor area of  
10 the accessory structure with a maximum of 499 square feet of habitable floor area.  
11 Square footage is measured as all area within the exterior walls of the habitable area and  
12 all area within the exterior walls of the entire area of the structure. Enclosed porches will  
13 be included in these amounts, decks will not be included in these amounts. Although not  
14 habitable by definition bathrooms, utility rooms, kitchens, entry ways, closets and interior  
15 stairwells will be included in the square footage not to exceed 499. Storage area must be  
16 separate and segregated from any habitable area (can have a door from the habitable  
17 area to the storage area).

18 (c) All of the ~~standard~~ setback requirements are met including shoreland, road, property line  
19 and wetland.

20 (d) Minimum average lot width of 100 feet and minimum lot area of 30,000 square feet are  
21 provided.

22 (e) Plumbing, if installed, conforms to the county sanitary code.

23 (f) Leasing, rental or use as a residence is strictly prohibited.

24 (g) A document is recorded with the register of deeds outlining use restrictions.

25 (h) The lot/parcel does not exceed the principal building density allowed.

26 (i) Not allowed in Commercial or Industrial districts.

27 (j) The sewer system on the lot must be sized to handle the number of occupants in the  
28 bunkhouse.  
29

30 (3) A single (one per lot/parcel) independent bunkhouse/temporary guest quarters will be permitted by  
31 land use permit where:

32 (a) The structure does not exceed 250 square feet of footprint. Square footage is measured  
33 as the exterior wall area of the structure. Enclosed porches will be included in this  
34 amount, decks will not be included in these amounts. Entry ways and interior stairwells will  
35 be included in the square footage not to exceed 250.

36 (b) Plumbing of the structure is prohibited.

37 (c) All of the ~~standard~~ setback requirements are met including shoreland, road, property line  
38 and wetland.

39 (d) Minimum average lot width of 100 feet and minimum lot area of 20,000 square feet are  
40 provided.

41 (e) Leasing, rental or use as a residence is strictly prohibited.

42 (f) A document is recorded with the register of deeds outlining use restrictions.

43 (g) The lot/parcel does not exceed the principal building density allowed.

44 (h) Not allowed in Commercial or Industrial districts.  
45

- (i) For those beyond the shoreland setback, the height limit shall not exceed 20 feet as measured in section 14.1 below.
- (j) The sewer system on the lot must be sized to handle the number of occupants in the bunkhouse.

**8.0 PARKING/LOADING/UNLOADING REQUIREMENTS.**

(1) Any building hereafter erected or placed on a lot shall be provided with off-road parking spaces for those using such building. Off-road is located outside of the road right-of-way.

- (a) Each parking space required must be at least 180 square feet of usable parking area.
- (b) Residential uses shall be provided with at least one parking space for each dwelling unit.
- (c) Commercial and industrial uses as listed and permitted in the zoning districts, shall be provided, except as noted below, with one parking space for each 200 square feet of floor area. However, restaurants, taverns and similar establishments shall be provided with at least one space for each three seats devoted to patron use; motels, tourist cabins and similar establishments, shall be provided with at least one space for each unit; drive-in eating stands offering in-car service shall be provided with at least five spaces for each person employed to serve customers.
- (d) Public gathering uses shall be provided with at least one space for each five patrons to be accommodated on the premises.
- (e) Off-road parking will not be required in the unincorporated village overlay district (UVOD) where parking is allowed and provided for on public right-of-way.

(2) Any commercial or industrial building hereafter erected or placed on a lot, shall be provided with sufficient off-road loading and unloading space so that no public roads or alleys need be blocked by such activities. In the commercial and industrial districts such buildings shall be provided with a minimum of 400 square feet of off-road loading and unloading space.

(3) Parking/loading/unloading areas are considered structures and must meet the shoreland setbacks.

**9.0 DRIVEWAYS AND PRIVATE ROADS.**

(1) Private roads are described as those serving more than one parcel. All private roads serving multiple parcels shall be a minimum width of two rods.

(2) Driveways are described as serving only one parcel. All driveways which serve new agricultural/residential/commercial/industrial buildings that are greater than 75 feet from a public or private road shall meet the following within 60 days of land use permit issuance:

- (a) Driveways shall have a minimum clearance width of 20 feet. Any curves in driveways must not be less than 100-foot radius.
- (b) Overhead clearance shall be established at a minimum height of 13 feet.
- (c) Driveways exceeding 150 feet in length must provide an adequate turnaround area that will accommodate a 30-foot long fire truck. The turnaround space can be provided by one of the following methods and shall be within 75 feet of the principal building:

1. If a circle drive is constructed, it must have a radius of no less than 35 feet to the centerline;

2. A turnaround space free of trees and other obstructions may be provided if it has the dimensions of not less than 60 feet by 50 feet; or

3. A turnout may be provided with the following dimensions: the length shall be a minimum of 30 feet. The width at the entrance shall also be a minimum of 30 feet. The turnout may be

1 trapezoidal in shape, thereby tapering down to a minimum of 20 feet at the rear. In addition,  
2 a minimum of 40 feet of driveway must be provided between the building and the turnout to  
3 allow enough room to back a 30-foot long fire truck into the turnout.

4 (3) Exemptions from the provisions of this section would include:

5 (a) New buildings that are 75 feet or less from a public or private road.

6 (b) Those portions of both private roads and driveways that are restricted by existing  
7 easement.

8 (4) In the interest of public safety and better delivery of emergency services, the county board  
9 encourages and recommends that existing driveways be upgraded to these minimum standards.

10 (5) Driveways and private roads are considered structures and must meet the shoreland setbacks.

## 11 10.0 FENCES.

12  
13  
14 (1) Solid Fences. A setback of 75 feet from the ordinary high water mark of any navigable water to the  
15 nearest part of a solid fence shall be required. A solid fence is considered to be wood panels, wood  
16 boards, metal panels, glass panels, or any other type of fence structure besides chain link, wood rail,  
17 or wire.

18 (2) Open fences may be allowed to within 40 feet of the ordinary high water mark and may not exceed  
19 six feet in height. To be considered an open fence at least 90% of the fence surface area must be  
20 open and unobstructed for air passage.

21 (2) (3) Agricultural/livestock open type fences might be exempt under of other statutes. shall be  
22 exempt from the 40-foot setback. These are only allowed in zoning districts which allow livestock.

23 (3) (4) An open fence is considered to be a chain link, wood rail or wire and will not obstruct the  
24 adjoining property owner's view of the water. A setback of 75 feet from the ordinary high water mark of  
25 any navigable water to the nearest part of an open fence shall be required, except for those exempt  
26 under 10(2).

27 (4) (5) Fence height is measured from the lowest original grade at the fence location perpendicular to  
28 the slope to the highest point of any fence component.

29 (5) (6) Any open or solid fence less than ten feet in height is allowed to be placed on the side, front, or  
30 rear lot line with a setback of zero feet. Lake and wetland setbacks still apply in this case.

31 (6) (7) Any open or solid fence less than ten feet in height is allowed to be placed on the road right-of-  
32 way line with a setback of zero feet. Lake and wetland setbacks still apply in this case.

33 (7) (8) No county land use permit will be required for open or solid fences if they comply with the  
34 above criteria 10(1) to 10(7 6).

35 (8) (9) Any open or solid fence over ten feet in height will be treated as an accessory structure and  
36 must meet all accessory structure setback requirements and requires a land use permit.

## 37 11.0 VEGETATION. (NR 115.05(1)(c))

38  
39 11.1 PURPOSE. (NR 115.05(1)(c)1) To protect natural scenic beauty, fish and wildlife habitat, and water  
40 quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following:  
41 The county shall establish ordinance standards that consider sound forestry and soil conservation  
42 practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of  
43 effluents, sediments and nutrients.  
44  
45

46  
47 11.2 ACTIVITIES ALLOWED WITHIN A VEGETATIVE BUFFER ZONE. (NR 115.05(1)(c)2) To protect  
48 water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and

1 restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary  
2 high water mark to 50 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the  
3 vegetative buffer zone except as follows:

4 (1) The county may allow routine maintenance of vegetation.  
5

6 (2) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access  
7 and viewing corridors. No filling and/or grading is allowed within the access and viewing corridors.  
8 Tree stumps should be removed by a stump grinder to preserve existing grade. Per s. 59.692(1f)(b),  
9 Stats, the viewing corridor may be at least 35 feet wide for every 100-foot increment of shoreline  
10 frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline  
11 frontage owned. For lots with less than 100 feet of shoreline frontage the viewing corridor can be up  
12 to 35% of the shoreline frontage. For lots over 100 feet of shoreline frontage the viewing corridor will  
13 be 35 feet for every 100-foot increment of shoreline frontage. Some examples are: 100.00-199.99  
14 feet of shoreline frontage gets 35 feet of corridor, 200.00-299.99 feet of shoreline frontage gets 70  
15 feet of corridor, 300.00-399.99 feet of shoreline frontage gets 105 feet of corridor, 400.00-499.99 feet  
16 of shoreline gets 140 feet of corridor, this pattern continues on.  
17

18 (3) The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with  
19 10 or more acres of forested land consistent with "generally accepted forestry management  
20 practices" as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication  
21 "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal  
22 be consistent with these practices.  
23

24 (4) The county may allow removal of vegetation within the vegetative buffer zone to manage exotic  
25 or invasive species, damaged vegetation, vegetation that must be removed to control disease, or  
26 vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by  
27 replanting in the same area as soon as practicable.  
28

29 (5) The county may authorize by permit additional vegetation management activities in the  
30 vegetative buffer zone. The permit issued under this subd. par. shall require that all management  
31 activities comply with detailed plans approved by the county and designed to control erosion by  
32 limiting sedimentation into the waterbody, to improve the plant community by replanting in the same  
33 area, and to maintain and monitor the newly restored area. The permit also shall require an  
34 enforceable restriction to preserve the newly restored area.  
35

36 Note: Section 59.692(1f)(a), Stats, prohibits counties from requiring a property owner to establish a  
37 vegetative buffer zone on previously developed land or expand an existing vegetative buffer zone.  
38 However, as part of a counties shoreland mitigation standards, the establishment or expansion of the  
39 vegetative buffer may remain an option.  
40

41 11.3 ACTIVITIES ALLOWED WITHIN A VEGETATION PROTECTION AREA. To protect water quality,  
42 fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native  
43 vegetation, the county ordinance shall designate land between 35 feet inland from the ordinary high water  
44 mark and 50 feet inland from the ordinary high water mark as a vegetation protection area and prohibit  
45 removal of vegetation in the vegetation protection area except as follows:

46 (1) The county may allow routine maintenance of vegetation.  
47

48 (2) The county may allow removal of trees and shrubs in the vegetation protection area to create  
49 access and viewing corridors. No filling and/or grading is allowed within the access and viewing  
50 corridors. Tree stumps should be removed by a stump grinder to preserve existing grade. The  
51 access and viewing corridor may be at least 35 feet wide for every 100-foot increment of shoreline  
52 frontage. The access and viewing corridor may run contiguously for the entire maximum width of  
53 shoreline frontage owned. For lots with less than 100 feet of shoreline frontage the access and  
54 viewing corridor can be up to 35% of the shoreline frontage. For lots over 100 feet of shoreline  
55 frontage the access and viewing corridor will be 35 feet for every 100-foot increment of shoreline

1 frontage. Some examples are: 100.00-199.99 feet of shoreline frontage gets 35 feet of corridor,  
2 200.00-299.99 feet of shoreline frontage gets 70 feet of corridor, 300.00-399.99 feet of shoreline  
3 frontage gets 105 feet of corridor, 400.00-499.99 feet of shoreline gets 140 feet of corridor, this  
4 pattern continues on.  
5

6 (3) The county may allow removal of trees and shrubs in the vegetation protection area on a parcel  
7 with 10 or more acres of forested land consistent with “generally accepted forestry management  
8 practices” as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication  
9 “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal  
10 be consistent with these practices.  
11

12 (4) The county may allow removal of vegetation within the vegetation protection area to manage  
13 exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease,  
14 or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced  
15 by replanting in the same area as soon as practicable.  
16

17 (5) The county may authorize by permit additional vegetation management activities in the  
18 vegetation protection area. The permit issued under this subd. par. shall require that all management  
19 activities comply with detailed plans approved by the county and designed to control erosion by  
20 limiting sedimentation into the waterbody, to improve the plant community by replanting in the same  
21 area, and to maintain and monitor the newly restored area. The permit also shall require an  
22 enforceable restriction to preserve the newly restored area.  
23

24 [See Policy Option in Appendix B](#)  
25

## 26 **12.0 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING.**

27 **(NR115.05(1)(d)) Filling, grading, lagooning, dredging, ditching and excavating may be permitted**  
28 **only in accordance with the provisions of s. NR 115.04, the requirements of ch. 30, Stats, and other**  
29 **local, state and federal laws where applicable, and only if done in a manner designed to minimize**  
30 **erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.**  
31

32 **12.1 GENERAL STANDARDS.** Filling, grading, lagooning, dredging, ditching or excavating which does  
33 not require a permit under section 12.2 may be permitted in the shoreland area provided that:  
34

35 (1) It is not done within the vegetative buffer zone unless necessary for establishing or expanding  
36 the vegetative buffer.  
37

38 (2) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and  
39 wildlife habitat.  
40

41 (3) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets  
42 the requirements of section 3.3(2) and 3.33 of this ordinance.  
43

44 (4) All applicable federal, state and local authority is obtained in addition to a permit under this  
45 ordinance.  
46

47 (5) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative  
48 cover or a bulkhead.  
49

50 (6) It is not done within the vegetation protection area unless necessary for establishing or  
51 expanding the vegetation protection area.  
52

53 **12.2 PERMIT REQUIRED.** Except as provided in section 12.1, a permit is required:  
54

55 (1) For any filling or grading of any area which is within 300 feet landward of the ordinary high water  
56 mark of navigable water and which has surface drainage toward the water and on which there is

1 either:

- 2 (a) Any filling or grading on slopes of more than 20%.  
3 (b) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.  
4 (c) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.

5  
6 (2) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon,  
7 pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a  
8 navigable body of water or where the purpose is the ultimate connection with a navigable body of  
9 water.

10  
11 **12.3 PERMIT CONDITIONS.** In granting a permit under section 12.2, the County shall attach the following  
12 conditions, where appropriate, in addition to those provisions specified in sections 17.2 25.2 13.2 or 13.4

- 13  
14 (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.  
15  
16 (2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative  
17 cover shall be established.  
18  
19 (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be  
20 used to prevent erosion.  
21  
22 (4) Lagoons shall be constructed to avoid fish trap conditions.  
23  
24 (5) Fill shall be stabilized according to accepted engineering standards.  
25  
26 (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or  
27 destroy the flood storage capacity of a floodplain.  
28  
29 (7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units  
30 horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless  
31 bulkheads or riprap are provided.

32  
33 **See Policy Option in Appendix B**

34  
35 **13.0 IMPERVIOUS SURFACE STANDARDS. (NR 115.05(1)(e))**

36  
37 **13.1 PURPOSE.** Establish impervious surface standards to protect water quality and fish and wildlife  
38 habitat and to protect against pollution of navigable waters. County impervious surface standards shall  
39 apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface  
40 on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the  
41 ordinary high water mark of any navigable waterway.

42  
43 **13.2 CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE.** (NR 115.05(1)(e)1) Percentage  
44 of impervious surface shall be calculated by dividing the surface area of the existing and proposed  
45 impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark  
46 by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in  
47 section 13.5 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot  
48 lies between the ordinary high water mark and the developable lot or parcel and both are in common  
49 ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of  
50 calculating the percentage of impervious surface.

51  
52 Note: NR 115.05(1)(e)1m clarifies that if an outlot lies between the ordinary high water mark OHWM and  
53 the developed lot or parcel and both are in common ownership, then the lot or parcel should be considered  
54 one property for the purposes of calculating the percentage of impervious surfaces. If there is an outlot,  
55 parcel or road that is owned by some other entity, for example a hydroelectric facility or a town or county,  
56 then the county should determine what level of control the property owner has over that portion of the lot.

1 Can the property owner place structures, such as shoreline protection, piers, stairs, boathouses etc... on  
2 that portion of the lot or does some other entity have control over development? If a property owner has no  
3 or little say over construction on that portion of the lot then impervious surfaces on that portion of the lot  
4 should be calculated separately.  
5

6 For properties that have been "condominiumized" the impervious surface calculations apply to the entire  
7 property. The property is still under one legal description and the proposed expansion to a unit is not the  
8 only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be  
9 important to remember also that mitigation applies to the property as a whole and not just to the portion of  
10 the frontage that might be in front of the unit impacted.  
11

12 **13.3 GENERAL IMPERVIOUS SURFACE STANDARD.** (NR 115.05(1)(e)2) Except as otherwise allowed  
13 in sections **13.4** through **13.6** and **13.5**, the county shall allow up to 15% impervious surface on the portion  
14 of a lot or parcel that is within 300 feet of the ordinary high water mark.  
15

16 ~~**9.4 IMPERVIOUS SURFACE STANDARD FOR HIGHLY DEVELOPED SHORELINES.** (NR  
17 115.05(1)(e)2m and s. 59.692(1k)(am)2, Stats) The county at its discretion may adopt an ordinance for  
18 highly developed shorelines allowing up to 30% for residential land use and up to 40% for commercial,  
19 industrial or business land uses for lands that meets one of the following standards:~~  
20

21 ~~(1) The highly developed shoreline is identified as an Urbanized Area or Urban Cluster in the 2010  
22 US Census or has a commercial, industrial, or business land use as of January 31, 2013.~~

23  
24 ~~(2) After conducting a hearing and receiving approval by the department of natural resources, the  
25 county has mapped additional areas of highly developed shorelines that are at least 500 feet in  
26 length and meet the one of the following criteria:~~

27 ~~(a) The majority of the lots are developed with more than 30% of impervious surface area.~~

28 ~~(b) Located on a lake served by a sewerage system as defined in NR 110.03(30), Wis. Adm.  
29 Code.~~

30 ~~(c) The majority of the lots contain less than 20,000 square feet in area.~~  
31

32 ~~Note: Counties are not required under s. 59.692, Stats, to adopt the impervious surface standards for  
33 highly developed shorelines in section 9.4 but are required to adopt the general impervious surface  
34 standard in section 9.3.~~  
35  
36

37 **13.4 MAXIMUM IMPERVIOUS SURFACE STANDARD.** (NR 115.05(1)(e)3) A property may exceed the  
38 impervious surface standard under **13.3** ~~or 9.4~~ provided the following standards are met:  
39

40 (1) For properties where the general impervious surface standard applies under section **13.3**, a  
41 property owner may have more than 15% impervious surface but not more than 30% impervious  
42 surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark.  
43

44 ~~(2) For properties on shorelands where the impervious surface standard for highly developed  
45 shorelines applies under 9.4, a property owner may have more than 30% impervious surface but not  
46 more than 40% impervious surface for residential land uses. For commercial, industrial or business  
47 land uses a property owner may have more than 40% impervious surface but not more than 60%  
48 impervious surface.~~  
49

50 (2) For properties that exceed the standard under **13.3** ~~or 9.4~~ but do not exceed the maximum  
51 standard under **13.4(1)** ~~or 9.5(2)~~ a permit can be issued for development with a mitigation plan that  
52 meets the standards found in section **17.0**.  
53

54 **13.5 TREATED IMPERVIOUS SURFACES.** (NR 115.05(1)(e)3m and s. 59.692(1k)(a)5, Stats)  
55 Impervious surfaces that can be documented to demonstrate they meet either of the following standards  
56 shall be excluded from the impervious surface calculations under section **13.2**:

1  
2 (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands,  
3 infiltration basins, rain gardens, bio-swales or other engineered systems.  
4

5 (2) The runoff from the impervious surface discharges to an internally drained pervious area that  
6 retains the runoff on or off the parcel and allows infiltration into the soil.  
7

8 Note: The provisions in section 13.5 are an exemption from the impervious surface standards and as such  
9 should be read and construed narrowly. As such, a property owner is entitled to this exemption only when  
10 the runoff from the impervious surface is being treated by a sufficient (appropriately sized to handle and  
11 treat a 100 yr storm event) treatment system, treatment device or internally drained. Property owners that  
12 can demonstrate that the runoff from an impervious surface is being treated consistent with section 13.5  
13 will be considered pervious for the purposes of implementing the impervious surface standards in this  
14 ordinance. If a property owner or subsequent property owner fails to maintain the treatment system,  
15 treatment device or internally drained area, the impervious surface is no longer exempt under section 13.5.  
16

17 [See Policy Option in Appendix B](#)  
18

19 To qualify for the statutory exemption, property owners shall submit a complete permit application, that is  
20 reviewed and approved by the county. The application shall include 1) calculations showing how much  
21 runoff is coming from the impervious surface area; 2) documentation that the runoff from the impervious  
22 surface is being treated by a proposed treatment system, treatment device, or internally drained area; and  
23 3) an implementation schedule and enforceable obligation on the property owner to establish and maintain  
24 the treatment system, treatment devices, or internally drained area. The enforceable obligations shall be  
25 evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the  
26 permit.  
27

28 **13.6 EXISTING IMPERVIOUS SURFACES.** (NR 115.05(1)(e)4) For existing impervious surfaces that  
29 were lawfully placed when constructed but that do not comply with the impervious surface standard in  
30 section 13.3 or the maximum impervious surface standard in section 13.4, the property owner may do any  
31 of the following:  
32

33 (1) Maintain and repair the existing impervious surfaces;

34  
35 (2) Replace existing impervious surfaces with similar surfaces within the existing ~~building envelope~~  
36 ~~footprint~~; or  
37

38 (3) Relocate or modify an existing impervious surface with similar or different impervious surface,  
39 provided that the relocation or modification does not result in an increase in the percentage of  
40 impervious surface that existed on the effective date of the county shoreland ordinance, and the  
41 impervious surface meets the applicable setback requirements in sections 6.1, 6.2 or 6.3.  
42

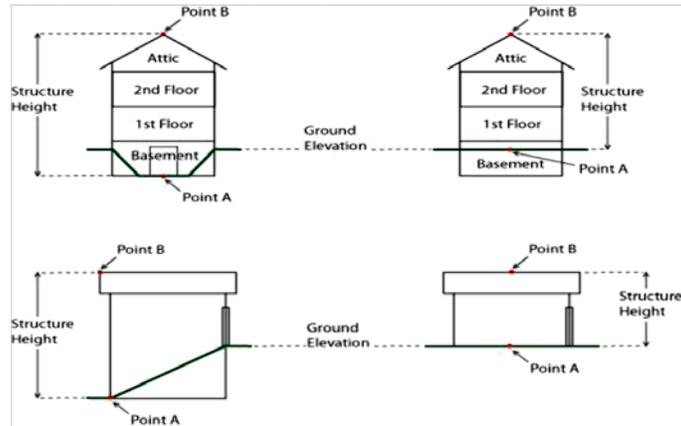
43 (4) For impervious surface purposes only a land use permit is required for 13.6(2) and 13.6(3) if the  
44 area of replacement, relocation or modification exceeds 100 square feet in size. Other Burnett  
45 County ordinance requirements for land use permits still apply.  
46

47 Note: The impervious surface standards in this ordinance shall not be construed to supersede other  
48 provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still  
49 apply to new or existing development.  
50

51  
52 **14.0 HEIGHT.** (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty,  
53 on or after February 1, 2010, a county may not permit any construction that results in a structure  
54 taller than 35 feet within 75 feet of the ordinary high water mark of any navigable waters.  
55

56 [See Policy Option in Appendix B](#)

1  
2 **14.1 HOW TO DETERMINE STRUCTURE HEIGHT.** Structure height is the measurement of the vertical  
3 line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in  
4 the following diagram) to a line horizontal to the highest point of a structure (Point B in the following  
5 diagram), unless specified under other sections of this code.



6  
7  
8  
9 **14.2 HEIGHT LIMIT BEYOND 75' SETBACK.** To protect and preserve wildlife habitat and natural scenic  
10 beauty, a county may not permit any construction that results in a structure outside of the 75 foot shoreland  
11 setback taller than 40 feet.

12 (1) Chimneys are exempt from the 40 foot height limit if they are less than 10 feet in height above  
13 point B as shown in 14.1 and less than 10 square feet in footprint area above point B as shown in  
14 14.1.

15 (2) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in  
16 diameter are exempt from the 40 foot height limit if they are less than 10 feet in height above point  
17 B as shown in 14.1.

18 (3) Certain Agricultural buildings are exempt per section 30-658(d)(1) of the Burnett County  
19 Ordinances.

20 (4) Certain telecommunication facilities per Chapter 30 Article VI of the Burnett County  
21 Ordinances.

22 (5) If any portion of the structure is within the 75 foot shoreland setback then a height limit of 35  
23 feet applies to the entire structure.  
24

25 **15.0 NONCONFORMING USES AND STRUCTURES. (NR 115.05(1)(g))**

26  
27 **15.1 DISCONTINUED NONCONFORMING USE.** (NR 115.05(1)(g)3) If a nonconforming use is  
28 discontinued for a period of 12 months, any future use of the building, structure or property shall conform to  
29 all Burnett County the ordinance requirements.  
30

31 **15.2 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING**  
32 **STRUCTURES.** (s. 59.692(1k)(a)2,4 and (b), Stats) An existing structure that was lawfully placed when  
33 constructed but that does not comply with the required shoreland setback may be maintained, repaired,  
34 replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming  
35 structure. Further, an existing structure that was lawfully placed when constructed but that does not comply  
36 with the required shoreland setback may be vertically expanded unless the vertical expansion would  
37 extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the  
38 existing footprint if the expansion is necessary to comply with applicable state or federal requirements.  
39 The following requirements must be met to allow replacement or vertical expansion of a nonconforming  
40 existing structure:  
41

42 (1) The use of the existing structure has not been discontinued for a period of 12 months or more if

1 a nonconforming use.

2  
3 (2) The lot or parcel in which the existing structure is located on must comply with lot dwelling  
4 density.

5  
6 (3) The existing structure must be conforming to all other setback requirements, such as; wetland,  
7 side lot line, front lot line, rear lot line, property lines, road right-of-way and the requirements of Wis.  
8 Admin. Code ch. SPS 383.

9  
10 (4) Floodplain requirements shall be met.

11  
12 (5) Land uses related to permitted and/or conditional uses within a zoning district shall not be  
13 permitted to be replaced or vertically expanded unless made into a conforming zoning district land  
14 use or obtaining a new conditional use permit prior to replacement or vertical expansion.

15  
16  
17 Note: Sections 59.692(1k)(a) 2,4 and (b), Stats, prohibits counties from requiring any approval or imposing  
18 any fee or mitigation requirement for the activities specified in section 15.2. However, it is important to  
19 note that property owners may be required to obtain permits or approvals and counties may impose fees  
20 under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general  
21 zoning, sanitary codes, building codes, or even stormwater erosion control.

22  
23 Note: NR115.05(1)(b)1m lists structures that are exempt from the shoreland setback. These structures are  
24 considered conforming structures and are not considered nonconforming structures. Structures that were  
25 granted variances or illegally constructed structures are not considered nonconforming structures.

26  
27 **15.3 LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES WITHIN THE**  
28 **SETBACK.** (NR 115.05(1)(g)5) An existing principal structure that was lawfully placed when constructed  
29 but that does not comply with the required building setback per section 6.1 may be expanded laterally,  
30 provided that all of the following requirements are met:

31  
32 (1) The use of the structure has not been discontinued for a period of 12 months or more, if a  
33 nonconforming use.

34  
35 (2) The existing principal structure is at least 35 feet from the ordinary high water mark.

36  
37 (3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No  
38 portion of the expansion may be any closer to the ordinary high water mark than the closest point of  
39 the existing principal structure.

40  
41 (4) The county shall issue a permit that requires a mitigation plan that shall be approved by the  
42 county and implemented by the property owner by the date specified in the permit. The mitigation  
43 plan shall meet the standards found in section 17.0.

44  
45 (5) All other provisions of the shoreland ordinance shall be met.

46  
47 (6) The lot or parcel in which the structure is located on must comply with lot dwelling density.

48  
49 (7) Floodplain requirements shall be met.

50  
51  
52 **15.4 EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURES BEYOND SETBACK.** (NR  
53 115.05(1)(g)5m) An existing principal structure that was lawfully placed when constructed but that does  
54 not comply with the required building setback under section 6.1 may be expanded horizontally, landward,  
55 or vertically provided that the expanded area meets the building setback requirements per section 6.1 and  
56 that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for

1 expansion under this paragraph, but may be required per section 13.0.

2 The following requirements must be met to allow expansion of a nonconforming existing structure beyond  
3 the setback:

4  
5 (1) The use of the existing structure has not been discontinued for a period of 12 months or more if  
6 a nonconforming use.

7  
8 (2) The lot or parcel in which the existing structure is located on must comply with lot dwelling  
9 density.

10  
11 (3) Floodplain requirements shall be met.

12  
13  
14 **15.5 RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURES.** (NR 115.05(1)(g)6) An  
15 existing principal structure that was lawfully placed when constructed but that does not comply with the  
16 required building setback per section 6.1 may be relocated on the property provided all of the following  
17 requirements are met:

18  
19 (1) The use of the structure has not been discontinued for a period of 12 months or more, if a  
20 nonconforming use.

21  
22 (2) The existing principal structure is at least 35 feet from the ordinary high water mark.

23  
24 (3) No portion of the relocated structure is located any closer to the ordinary high water mark than  
25 the closest point of the existing principal structure.

26  
27 (4) The county determines that no other location is available on the property to build a principal  
28 structure of a comparable size to the structure proposed for relocation that will result in compliance  
29 with the shoreland setback requirement per section 6.1.

30  
31 (5) The county shall issue a permit that requires a mitigation plan that shall be approved by the  
32 county and implemented by the property owner by the date specified in the permit. The mitigation  
33 plan shall meet the standards found in section 17.0, and include enforceable obligations of the  
34 property owner to establish or maintain measures that the county determines are adequate to offset  
35 the impacts of the permitted expansion relocation on water quality, near-shore aquatic habitat,  
36 upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to  
37 the amount and impacts of the replaced or relocated structure being permitted. The obligations of the  
38 property owner under the mitigation plan shall be evidenced by an instrument recorded in the office  
39 of the County Register of Deeds.

40  
41 (6) All other provisions of the shoreland ordinance shall be met.

42  
43 (7) The lot or parcel in which the existing structure is located on must comply with lot dwelling  
44 density.

45  
46 (8) The relocated structure must conform to all other setback requirements, such as; wetland, side  
47 lot line, front lot line, rear lot line, property lines, road right-of-way and the requirements of Wis.  
48 Admin. Code ch. SPS 383.

49  
50 ~~(9) Land uses related to permitted and/or conditional uses within a zoning district shall not be~~  
51 ~~permitted to be replaced or vertically expanded unless made into a conforming zoning district land~~  
52 ~~use.~~

53  
54 ~~(10)~~ (9) Floodplain requirements shall be met.

1 **16.0 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT**  
2 **WERE AUTHORIZED BY VARIANCE. (s. 59.692(1k)(a)2. and (a)4.)** A structure of which any part has  
3 been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015,  
4 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand  
5 the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the  
6 vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a  
7 structure beyond the existing footprint if the expansion is necessary to comply with applicable state or  
8 federal requirements. **The following requirements must be met to allow replacement or vertical**  
9 **expansion of a structure authorized by a shoreland setback variance:**

10 ~~(1) The use of the existing structure has not been discontinued for a period of 12 months or more.~~

11  
12  
13 ~~(2) (1) The lot or parcel in which the existing structure is located on must comply with lot dwelling~~  
14 ~~density.~~

15  
16 ~~(3) (2) The existing structure must be conforming to all other setback requirements, such as;~~  
17 ~~wetland, side lot line, front lot line, rear lot line, property lines, road right-of-way and the requirements~~  
18 ~~of Wis. Admin. Code ch. SPS 383. Example – a structure was given a variance to reduce the~~  
19 ~~shoreland setback, it was built without knowing where the side lot line was, now it is determined that~~  
20 ~~the structure doesn't meet the required side setback. Since a variance was not granted to reduce~~  
21 ~~the side setback this structure is illegal.~~

22  
23 ~~(4) (3) Floodplain requirements shall be met.~~

24  
25  
26 Note: Section 59.692(1k)(a)2. prohibits counties from requiring any approval or imposing any fee or  
27 mitigation requirement for the activities specified in section 16. However, it is important to note that  
28 property owners may be required to obtain permits or approvals and counties may impose fees under  
29 ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning,  
30 sanitary codes, building codes, or even stormwater erosion control

31  
32  
33 **17.0 MITIGATION. (NR 115.05 (1)(e)3, (g)5, (g)6) When the county issues a permit requiring**  
34 **mitigation under sections 13.4, 15.3 and 15.5 the property owner must submit a complete permit**  
35 **application that is reviewed and approved by the county. The application shall include the**  
36 **following:**

- 37  
38 (1) A site plan that describes the proposed mitigation measures.  
39 (a) The site plan shall be designed and implemented to restore natural functions lost through  
40 development and human activities.  
41 (b) The mitigation measures shall be proportional in scope to the impacts on water quality,  
42 near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.  
43  
44 (2) An implementation schedule and enforceable obligation on the property owner to establish and  
45 maintain the mitigation measures.  
46 (a) The enforceable obligations shall be evidenced by an instrument recorded in the office of  
47 the Register of Deeds prior to the issuance of the permit.

48  
49 **See Policy Options in Appendix B**

50  
51 ~~(3) Mitigation points as shown in section 17(6) required for lateral expansion per section 15.3 are 4.0~~  
52 ~~2.0 points for 0.01-100.00 square feet of lateral expansion and 2.0 4.0 points for 100.01-200.00~~  
53 ~~square feet of lateral expansion.~~

54  
55 ~~(4) Mitigation points as shown in section 17(6) required for relocation of a nonconforming principal~~  
56 ~~structure per section 15.5 are 2.0 points for 0.01-500.00 square feet of relocated building footprint~~

1 within the shoreland setback area, ~~4.0~~ 3.0 points for 500.01-999.99 square feet of relocated building  
2 footprint within the shoreland setback area and ~~6.0~~ 4.0 points for 1,000.00 and over square feet of  
3 relocated building footprint within the shoreland setback area.

4  
5 (5) Mitigation points as shown in section 17(6) required for maximum impervious surface standard  
6 per section 13.4 are 2.0 points for 15.01%-20.00% impervious surface, 4.0 points for 20.01%-  
7 25.00% and 6.0 points for 25.01%-30.00% impervious surface.

8  
9 (6) Mitigation points are as follows:

10 A. Restore and maintain native vegetation along the vegetative buffer zone within 35 feet of the  
11 ordinary high water mark with a state allowed width viewing and access corridor on lots with  
12 200.00 feet or more of shoreline. (2.0 points)

13 B. Restore and maintain native vegetation along the vegetative buffer zone within 35 feet of the  
14 ordinary high water mark with only a 30 foot wide viewing and access corridor on lots with 200.00  
15 feet or more of shoreline. (4.0 points)

16 C. Restore and maintain native vegetation along the vegetative buffer zone within 35 feet of the  
17 ordinary high water mark with a state allowed width viewing and access corridor on lots with less  
18 than 200 feet of shoreline, but more than 100 feet of shoreline. (2.0 points)

19 D. Restore and maintain native vegetation along the vegetative buffer zone within 35 feet of the  
20 ordinary high water mark with only a ~~30~~ 20 foot wide viewing and access corridor on lots with less  
21 than 200 feet of shoreline, but more than 100 feet of shoreline. (~~2.5~~ 3.0 points)

22 E. Restore and maintain native vegetation along the vegetative buffer zone within 35 feet of the  
23 ordinary high water mark with a state allowed width viewing and access corridor on lots with less  
24 than 100 feet of shoreline. (1.0 points) Allow 35% of shoreline to be used for the viewing and  
25 access corridor for lots with 100 feet or less of shoreline.

26 F. Restore and maintain native vegetation along the vegetative buffer zone within 35 feet of the  
27 ordinary high water mark with only a 15 foot wide viewing and access corridor on lots with less  
28 than 100 feet of shoreline. (2.0 points)

29 G. Restore and maintain the vegetation protection area. (2.0 points) The use of this option  
30 requires the vegetative buffer zone and viewing and access corridor to be in compliance or be  
31 brought into compliance.

32 H. Remove ~~legal~~ nonconforming accessory buildings from the shoreland setback area. (~~0.5~~ 1.0  
33 points for a structure from 0.01 square feet to 199.99 square feet in size, ~~4.0~~ 2.0 points for a  
34 structure ~~from 100.00 square feet to 199.99 square feet and 2.0 points for a structure 200.00~~  
35 square feet or larger). Illegal nonconforming structures do not qualify for these points. Exempt  
36 structures (boathouse, stair/walkway, etc) do not qualify for these points.

37 I. Installation of gutters on all structures on the lot/parcel and divert all gutter water to a rain garden  
38 located on the same lot/parcel or storm water treatment device located on the same lot/parcel. (3.0  
39 points). Rain garden or storm water treatment device must be designed by a Wisconsin licensed  
40 professional engineer and the engineer must sign off after construction that it was built according  
41 to the plans. Maintenance on the rain garden or storm water treatment device must be performed  
42 as required. Rain garden or storm treatment device must be able to handle and treat a 100 yr  
43 storm event. This type of mitigation in section 17(6)(I) can be excluded from the impervious  
44 surface calculation in section 13.2.

45 J. Divert all water from gutters, driveways, patios, sidewalks and all other impervious surfaces on  
46 the lot/parcel to a rain garden located on the same lot/parcel or storm water treatment device  
47 located on the same lot/parcel. (4.0 points). Rain garden or storm water treatment device must be  
48 designed by a Wisconsin licensed professional engineer and the engineer must sign off after  
49 construction that it was built according to the plans. Maintenance on the rain garden or storm  
50 water treatment device must be performed as required. Rain garden or storm treatment device  
51 must be able to handle and treat a 100 yr storm event. This type of mitigation in section 17(6)(J)  
52 can be excluded from the impervious surface calculation in section 13.2.

53  
54 (7) If 3.0 or more points are required for mitigation then at least 2.0 points shall be from items 6A to  
55 6G.

Note: Each county must select a mitigation system and codify that system in this ordinance that states the exact requirements. There are samples in Appendix C and there is a sample affidavit to the Register of Deeds in Appendix D. The department has developed mitigation recommendations to help guide the county as they develop the shoreland mitigation component of their ordinance. Those mitigation recommendations are available at <http://dnr.wi.gov/topic/ShorelandZoning/documents/MitigationRecommendations.pdf>.

## 18.0 LAKE CLASS STANDARDS FOR RIPARIAN LOTS.

(1) The following classification lists identify lakes named in "Surface Water Resources of Burnett County," published by the state department of natural resources, and appearing by name on the 1:24,000 scale topographic maps published by the U.S. Geological Survey, commonly referred to as the U.S.G.S. quadrangle maps.

(a) All unnamed lakes listed in the "Surface Water Resources of Burnett County," state department of natural resources and all named lakes 50 acres in size or less are considered class 3 protection lakes.

(b) In addition, any lake inadvertently omitted from the "Surface Water Resources of Burnett County" over 50 acres in size will be classified according to available information and unlisted lakes 50 acres or less in size will be considered class 3 protection lakes.

(c) It should be noted that the county's shoreline regulation jurisdiction extends only to those portions of shoreline outside the boundaries of any incorporated municipality.

(d) Development standards for rivers and streams refer to all rivers and streams in the county deemed by the state department of natural resources to be navigable.

(e) There are unnamed lakes that have "local" names and for the purpose of this classification are considered class 3 lakes.

(2) Dimensional requirements. Class development standards apply to all riparian parcels.

Lakes Classification	Side Yard Setback for all Structures
Class 1	10' min.
Class 2	10' min.
Class 3	10' min.
Rivers and Streams – Also considered Class 3	10' min.

(3) Burnett County Lakes Classification List of Lakes.

### CLASS 1

Austin
Big McKenzie
Big Sand
Burlingame
Clam (Upper and Lower to the dam)
Devils
Dunham
Lipsett
Little Wood
Little Yellow
Middle McKenzie
Mud Hen
Rice (15-39-14)*
Round (27-37-18)
Sand (25-40-15)
Spirit
Trade (Big and Little)
Twenty-Six
Viola
Warner
Webb
Wood
Yellow

1  
2  
3

**CLASS 2**

Bashaw
Bass (23-39-16)
Bass (13-40-17)
Benoit
Big Bear

Big Doctor
Birch Island
Bluff
Bonner
Briggs
Buck (26-39-15)
Buffalo
Cadotte/Loon (1-40-15)
Clam River Flowage
Clear
Cranberry (8-38-15)
Cranberry (36-41-16)
Crooked (8-38-16)
Danbury Flowage (County Rd U to dam)
Deer
Des Moines
Dubois
Eagle (34-41-15)
Falk
Fish (8-40-14)
Fremstadt
Gaslyn
Godfrey
Green
Gull
Ham
Hanscom
Holmes
Johnson (23-40-16)

Lily (34-41-14)
Little Bear
Long (33-41-14)
Long (16-38-16)
Loon (31-41-15)
Loon/Cadotte
Love
Mallard
McGraw (Big & Little)
Minerva
Minnow
Nicaboyne
No Mans
North Rice
Oak
Owl
Pine (22-37-18)
Pokegama
Poquette
Prinel
Rooney
Round (33-41-16)
Sand (22-38-16)
Shoal
Silver (22-38-16)
Spencer
Staples
Tabor
Taylor

Upper Twin

1  
2  
3

CLASS 3

Baker (2-39-15)
Baker (18-39-14)
Banach
Barren Springs #1
Barren Springs #2
Bartash
Bass (24-39-14)
Bass (13-41-16)
Bass (25-38-15)
Bass (9-38-15)
Bass (23-40-15)
Bass (3-41-14)
Bass (17-37-18)
Bass Lake Springs
Behr
Berg
Big
Black
Blomberg
Bogey
Bradley
Buck (14-37-14)
Chase
Clam River Springs
Clubhouse
Connors
Corwick

Cranberry (4-40-14)
Crescent
Crooked (12-40-16)
Crystal
Culbertson
Culbertson Springs
Deep
Doctor
Dogtown Springs
Durand
Eagle (27-40-14)
Echo
Elbow
Fawn
Fenton
Ferry
Fish (6-38-16)
Frog (23-41-14)
Gabrielson
Glendenning
Goose
Greenwood
Hayden
Horseshoe
Hunters
Indian
Island
Johnson (24-41-15)
Kent

Kreiner
Lake 32
Larson
Lily (6-39-15)
Lind
Lindy
Little Bass (22-40-16)
Little Bass (36-38-15)
Little Deer
Little Dunham
Little Mallard
Little Round
Lone Star
Long (33-41-16)
Lost (2-39-14)
Lost (27-39-15)
Lost Lakes
Lower Loon (Lang)
Lower Twin
Lucerne
McElroy
Meeker Run
Middle Loon (Myre)
Miller
Mingo
Miniature
Mollette
Money
Mud (34-41-15)

Mud (26-40-16)
Myrick
Mystery
North
North Lang
North Twin
Our
Peacock
Perch
Peterson
Pickle
Pike
Pine (25-40-15)
Places
Point
Pratt
Put
Rahn
Rice (36-37-18)
Richart
Robie
Rohr
Round (3-39-15)
Saginaw
Silver (36-38-18)
Smith
South Twin
Spook
Spring Creek Springs

Stone
Stullen
Swamp (11-39-15)
Swamp (30-38-16)
Tamarack
Tanda
Temple
Thatcher
Tomoe
Tucker
Twenty-Six Lake Spring
Upper Loon (Phernetton)
Wilson
All unnamed lakes
All rivers and streams

1

2 **19.0 REGULATION OF CONDITIONAL USES.** Except as added to or hereafter altered in this ordinance,  
3 the procedures and requirements of article VIII of chapter 30 of the Burnett County Ordinances governing  
4 conditional uses shall apply.

5 **19.1 QUARRIES AND MINES.**

6 (a) Application requesting county land use and information committee approval of a proposed  
7 quarrying activity shall be accompanied by:

- 8 1. A description of all phases of the contemplated operation including types of machinery and  
9 equipment, which will or might be necessary to carry on the operation. Where the operation is to  
10 include sand and gravel washing, the estimated daily quantity of water required, its source and  
11 its disposition shall be identified.
- 12 2. A legal description of the proposed site.
- 13 3. A restoration plan as hereinafter required.

14 (b) In reviewing a proposal for a quarrying activity, the county land use and information committee  
15 shall take into consideration:

- 16 1. The effect of the proposed operation on drainage and water supply, particularly in connection  
17 with sand and gravel washing.
- 18 2. The possibility of soil erosion as a result of the proposed operation.
- 19 3. The most suitable land use for the area.

1 (c) No grant to carry on a quarrying operation shall be given until the applicant complies with all  
2 requirements of chapter 32 of the Burnett County Ordinances, pertaining to nonmetallic mining,  
3 and Wis. Admin. Code ch. NR 135.

4 (d) The county land use and information committee may set forth conditions regarding appropriate  
5 setback and other dimensional requirements, particularly with reference to avoiding a nuisance  
6 effect on surrounding residential uses. Suitable fencing and landscaping may be required.

7 (e) Existing quarries shall be limited to registered areas and be subject to chapter 32 of the Burnett  
8 County Ordinances, pertaining to nonmetallic mining, and Wis. Admin. Code ch. NR 135.

9 **19.2 SALVAGE YARDS.** No salvage yard as defined in Chapter 30 of the Burnett County Ordinances  
10 shall be permitted in the county except in conformance with the standards, rules and regulations of the  
11 Wisconsin Administrative Code and all other requirements of the Burnett County Ordinances.

12  
13 (a) An application is required prior to issuance of a conditional use permit for a salvage yard. This  
14 application requesting county land use and information committee approval of a proposed salvage  
15 yard activity shall be accompanied by:

16 1. A description of all phases of the contemplated operation including types of machinery and  
17 equipment, which will or might be necessary to carry on the operation.

18 2. A legal description of the proposed site.

19 3. A location map showing all adjacent land use.

20 (b) In reviewing a proposal for a salvage yard, the county land use and information committee shall  
21 take into consideration:

22 1. The effect of the proposed operation on existing land uses.

23 2. The possibilities of noise, smoke, dust and other factors common to a salvage yard.

24 3. The most suitable land use for the area.

25 (c) The county land use and information committee may set forth conditions regarding appropriate  
26 setback and other dimensional requirements, particularly with reference to avoiding a nuisance  
27 effect on surrounding residential uses.

28 1. All salvage yards shall have minimum front, side and rear yards setback of 100 feet.

29 2. Salvage yards shall be screened in accordance with article VII of chapter 30 of the Burnett  
30 County Ordinances.

31 **19.3 GARBAGE AND REFUSE DISPOSAL SITES.**

32 (a) No garbage or refuse disposal sites shall be permitted in the county except in conformance with  
33 the rules and regulations of Wisconsin Administrative Codes.

34 (b) All such disposal sites shall have a minimum front, side and rear yards setback of 100 feet each.

35 (c) Garbage and refuse disposal sites shall be screened in accordance with article VII of chapter 30  
36 of the Burnett County Ordinances.

37  
38 **19.4 MOBILE HOME/MANUFACTURED HOME PARKS.** Except as otherwise specifically authorized, no  
39 mobile home intended for occupancy shall be located in the county except in a mobile home/manufactured  
40 home park, the plan of which has been approved by the county land use and information committee. Such  
41 parks shall meet the following requirements:

42 (a) Minimum size, five acres.

43 (b) Maximum number of mobile home/manufactured home sites, six per acre.

- 1 (c) Minimum width of a mobile home/manufactured home site, 40 feet.
- 2 (d) Maximum height of a mobile home/manufactured home, 20 feet. Height is measured from the  
3 lowest original site grade to the highest point of the mobile home roof.
- 4 (e) The distance between separate mobile homes/manufactured homes shall not be less than 30 feet.
- 5 (f) Minimum distance between mobile home/manufactured home and service road, ten feet.
- 6 (g) All drives, parking areas and walkways shall be hard surfaced. There shall be one parking space  
7 for each mobile home/manufactured home and additional parking spaces for automotive vehicles  
8 within the park, totaling not less than 1¼ parking spaces for each mobile home/manufactured  
9 home space.
- 10 (h) No mobile home/manufactured home sales office or other business or commercial use shall be  
11 located on the mobile home/manufactured home park site. However, laundries, washrooms,  
12 recreation rooms, maintenance equipment storage and one office are permitted.
- 13 (i) Minimum side yard setback, 40 feet at all front, side and rear lot lines of the mobile  
14 home/manufactured home park.
- 15 (j) Each mobile home shall be placed on a mobile home stand. The stand should provide for practical  
16 placement on and removal from the lot of the mobile home and retention of the home on the lot in  
17 a stable condition and in satisfactory relationship to its surroundings. The size of a development  
18 will be acceptable if it is suitable for the general market to be served by the individual proposal and  
19 fits the dimensions of mobile homes anticipated. The location of each mobile home stand shall be  
20 at such elevation, distance and angle in relation to the access street and the mobile home  
21 accessway that placement and removal of the mobile home is practical. Appropriate material,  
22 properly graded, placed and compacted so as to be durable and adequate for the support of the  
23 maximum anticipated loads during all seasons should be used.
- 24 (k) All mobile home/manufactured home parks shall be screened in accordance with article VII of  
25 chapter 30 of the Burnett County Ordinances.
- 26 (l) All mobile homes/manufactured homes shall meet the required construction standards of the Mobile  
27 Homes Manufacturing Association.
- 28 (m) Mobile home/manufactured home parks shall comply with the sanitation regulations of the county  
29 sanitary code and the appropriate requirements of the Wisconsin Administrative Codes.
- 30 (n) Each manufactured home shall be placed on a foundation meeting the appropriate requirements of  
31 the Wisconsin Administrative Codes.

## 32 19.5 CAMPING AND CAMPING GROUNDS.

33 (a) Definitions. The following words, terms and phrases, when used in this section, shall have the  
34 meanings ascribed to them in this subsection, except where the context clearly indicates a different  
35 meaning:

36 Awning means a covering used by campers for protection from the weather and may be used over  
37 a deck. An awning shall only be attached to the camping unit.

38 Camping unit means a portable vehicle or unit less than 400 square feet designed for and used in  
39 the pastime of camping.

40 Deck/Patio means a platform which is intended to support persons/chattels.

41 Screen house means a structure with a roof and sides, with or without a floor, with at least 50% of  
42 each exposed wall covered by screen for protection from insects. There shall be no solid material  
43 (glass, wood, metal or rigid plastic material) in front of or behind the sides to impede the free  
44 movement of air through the screen. A temporary covering of canvas or flexible plastic material is  
45 permitted for protection from the weather.

1 Storage structure means a structure intended for storage purposes only, not to be used for human  
2 habitation. The structure footprint shall not exceed 100 square feet. The structure height shall not  
3 exceed 12 feet.

4 Tent means a portable sleeping shelter made of canvas or other materials and supported by poles  
5 or framework.

6 (b) No camping unit shall be located within the shoreland areas of the county except in a permitted  
7 federal, state, town and county camp, a private campground or planned unit development, except that a  
8 camping unit may be placed on a private lot for not more than 30 days in any one calendar year without  
9 a land use permit for a private camping unit or a conditional permit as per article VIII of chapter 30 of the  
10 Burnett County Ordinances. Camping units on private parcels cannot be issued a land use permit on  
11 parcels that have an existing dwelling or other structures for human habitation.

12 (1) Camping grounds requirements.

13 A. Must meet all Wis. Admin. Code ch. ATCP 79 requirements which are enforced by the  
14 state personnel or their designated agent, all sanitary requirements of the county sanitary  
15 ordinance and Wisconsin Administrative Codes, and any other applicable local, state and  
16 federal codes.

17 B. Minimum size of five acres.

18 C. Maximum number of sites shall be ten per developable gross acre.

19 D. Each site shall be clearly numbered and consistent with the placement shown on the  
20 campground map.

21 E. A campground map shall be placed on file in the zoning office and shall include the  
22 campground layout, location of campsites, roads, property lines, required setbacks,  
23 structures, water supplies, private waste disposal system, recreation areas and any other  
24 information the land use and information committee shall deem necessary. Any proposed  
25 changes in the approved campground shall be presented to the zoning office for approval. No  
26 implementation of the proposed change shall take place until written approval is received  
27 from the zoning office.

28 F. Each site shall have sufficient area for one vehicle parking on that site.

29 G. Each camping unit shall meet the setback requirements of 75 feet to the ordinary high  
30 water mark of any navigable water and there shall be a minimum 50-foot setback from all  
31 exterior lot lines to each recreation unit. All other setback requirements of this chapter and  
32 other Burnett County Ordinances along with any other federal, state or local codes shall  
33 apply. The land use and information committee may require additional setback requirements  
34 as per conditional permit.

35 H. Screening provisions of article VII of chapter 30 of the Burnett County Ordinances shall  
36 apply where the land use and information committee determines they are needed.

37 I. Individual site accessory uses require a land use permit and are limited to:

38 1. Storage structure. Each site may be provided with a storage structure with a footprint  
39 not to exceed 100 square feet and the structure height shall not exceed 12 feet. The  
40 storage structure shall not be used for human habitation. This structure must meet  
41 floodplain requirements.

42 2. Awnings, decks/patios and screen houses. Awnings, decks/patios and screen houses  
43 will be permitted provided they do not exceed the unit size in square feet and in any  
44 event the total area of these uses shall not exceed 144 square feet. These structures  
45 must meet floodplain requirements.

46 3. Accessory Uses. Via Conditional Use Permit the Land Use and Information  
47 Committee may grant larger storage structures, awnings, decks/patios and screen  
48 houses as part of the conditional use permit for larger sites. Each rental site must be  
49 mapped on the campground map.

J. A separate area may be designated in a campground for group camping in tents; however, such group camping shall not exceed two weeks in any one time period and no more than 20 tent units per developable acre shall be permitted. In addition, the group camping area must be provided with proper sanitary provisions as required by Wis. Admin. Code ch. ATCP 79.

K. A campground may have a home and accessory buildings for the home one owner's or one manager's occupant's private use.

L. Campgrounds shall not be expanded except by conditional permit review.

(2) Provisions required to be met before issuing a land use permit for a camping unit on a private lot:

A. One unit per lot.

B. Must have private on-site waste water treatment system meeting the requirements of Wis. Admin. Code ch. SPS 383. A privy type waste water treatment system is not allowed to be the only treatment system used for the camping unit if the camping unit has plumbing.

C. No camping unit shall be less than 75 feet from the ordinary high water mark of a navigable water body. No camping unit shall be less than 25 feet from the side lot line. No camping unit shall be less than 40 feet from a wetland. The camping unit must meet all other setback requirements.

D. Camping units to be allowed on the lot for no more than the six months per year allowed by land use permit.

E. Must have statements from adjoining property owners stating they have no objections to this land use.

F. Each camper must have a unique site address issued by the county.

(3) If the provisions of subsection (b)(2)D. or (b)(2)E. of this section cannot be met, a conditional use permit must be acquired before a camping unit can be placed on a private lot in a shoreland area for more than 30 days.

#### 19.6 MAJOR RECREATIONAL EQUIPMENT.

(a) The parking, storage, or use of major recreational equipment shall not be subject to the provisions of this section, except that no major recreational equipment shall be parked or stored on any lot in a residential district except in a garage or carport or behind the nearest portion of a building to a street.

(b) It shall be further required that the storage of such equipment must meet all standard setback requirements, and with parcels having lake or river frontage, this equipment must be stored so it is not visible from the water.

**20.0 ESTABLISHMENT OF DISTRICTS.** For the purposes of this article, the unincorporated areas of the county are hereby divided into the following types of districts:

	Zoning Districts	
(1)	RR-1	Residential-Recreation District
(2)	RR-2	Residential-Recreation District
(3)	RR-3	Residential-Recreation District
(4)	A	Exclusive Agricultural District
(5)	A-1	Agricultural-Transition District
(6)	A-2	Agricultural-Residential District
(7)	A-3	Agricultural-Residential District

(8)	A-4	Ag/Forestry/Residential District
(9)	C-1	Commercial District
(10)	I-1	Industrial District
(11)	F-1	Forestry District
(12)	W-1	Resource Conservation District
(13)	SP-1	Shoreland Protection District
(14)	PUD	Planned Unit Development District
(15)	SW-1	Shoreland-Wetland District
(16)	UVOD	Unincorporated Village Overlay District
(17)	AP	Airport District

1 (See district purpose, permitted district uses and conditional uses in section 30-60 et seq. chapter 30 of  
2 the Burnett County Ordinances)

3 **20.1 ZONING MAP, DISTRICT BOUNDARIES AND LAND USE REQUIREMENTS.**

4 For purpose of this chapter, the county, outside the incorporated villages and cities, is hereby divided into  
5 the zoning districts identified and described in section 30-27 of the Burnett County Ordinances. The  
6 purpose, permitted uses and conditional uses from each zoning district will apply within the shoreland  
7 areas. The boundaries of districts are established as shown upon the maps designated as the "Zoning Map  
8 of Burnett County, Wisconsin," which are hereby adopted and made a part of this chapter. All notations,  
9 references and other information shown upon the zoning maps shall be as much a part of this chapter as if  
10 the matter and things set forth by said maps were fully described herein. The zoning maps are on display  
11 in the office of the zoning administrator.

12 ~~20.2 SCHEDULE OF DIMENSIONAL REQUIREMENTS.~~

13 ~~SCHEDULE OF DIMENSIONAL REQUIREMENTS<sup>(1)</sup>~~

	RR-1	RR-2	RR-3	A	A-1	A-2	A-3	A-4	C-1	I-1	F-1
Required lot area (square feet and acres)											
— With public sewer	30,000 <sup>(2)</sup>	1½ Acres <sup>(7)</sup>	5 Acres <sup>(7)</sup>						10,000	1 Acre	20 Acres <sup>(7)</sup>
— Without public sewer	30,000 <sup>(3)</sup>	1½ Acres <sup>(7)</sup>	5 Acres <sup>(7)</sup>	35 Acres	35 Acres	10 Acres <sup>(7)</sup>	10 Acres <sup>(7)</sup>	40 Acres <sup>(6)</sup>	20,000 <sup>(3)</sup>	1 Acre	20 Acres <sup>(7)</sup>
Minimum lot width											
— With public sewer	150	300 <sup>(7)</sup>	300 <sup>(7)</sup>	300	300	300 <sup>(7)</sup>	300 <sup>(7)</sup>	300	100	200	300 <sup>(7)</sup>
— Without public sewer	150	300 <sup>(7)</sup>	300 <sup>(7)</sup>	300	300	300 <sup>(7)</sup>	300 <sup>(7)</sup>	300	100	200	300 <sup>(7)</sup>
Yard required											

Front	30 <sup>(6)</sup>	10 <sup>(6)</sup>	50 <sup>(6)</sup>	30 <sup>(6)</sup>							
Side											
Principal	10	10	10	20	20	10	10	10	10	20	10
Accessory	10	10	10	20	10	10	10	10	10	10	10
Rear	40	40	40	50	50	40	40	40	20	50	40
Floor area, res. (square feet)											
3 Bedrooms	700	700	700	700	700	700	700	700	700	700	700
2 Bedrooms	600	600	600	600	600	600	600	600	600	600	600
1 Bedroom	500	500	500	500	500	500	500	500	500	500	500
Building height limit	35	35	35	35 <sup>(4)</sup>	35	60	35				

1 **Notes:**

2 <sup>(1)</sup> Unless specified elsewhere in this chapter or Chapter 30 of the Burnett County Ordinances per  
3 PUD/PRD or on the official zoning map the dimensional requirements of this schedule shall apply to  
4 the respective listed districts. A planned residential development may be approved by the land use  
5 and information committee as a conditional use in any zoning district that permits residential use, but  
6 not A and A-1 zoning districts. Requirements for the W-1 resource conservation, SP-1 shoreland  
7 protection, SW-1 shoreland wetland, and PUD planned unit development are contained on the official  
8 zoning maps.

9 <sup>(2)</sup> Minimum for one-family dwellings: Add 5,000 for each additional unit over one.

10 <sup>(3)</sup> Plus any additional area required by Wisconsin Administrative Code.

11 <sup>(4)</sup> Farm buildings are exempt from building height limit.

12 <sup>(5)</sup> See sections 30-443 et seq. and 30-503 et seq. of the Burnett County Ordinances for additional  
13 setback requirements.

14 <sup>(6)</sup> Minimum lot size 40 acres (nominal ¼, ¼ section) with one-time additional split of a one to five acre  
15 parcel per 40 acres.

16 <sup>(7)</sup> Density development allows for flexibility in the size and number of parcels to be created within a  
17 nominal ¼, ¼ of a section (40 acres), based on zoning district. The maximum development density  
18 credits shall be calculated by using the density development formula and rounding down to the  
19 nearest whole number. Development credits represent the total parcels into which the original zoned  
20 parcel may be divided, provided they meet all other applicable zoning and subdivision ordinances.  
21 Development credits are assigned to the existing parcel and parcels created based on the density  
22 development formula. These credits will determine whether created parcels can be further divided  
23 under the density standard. Persons purchasing or proposing to develop parcels should contact the  
24 Burnett County Land Use/Zoning Department to determine if development credits are available for the  
25 parcel. See chapter 30-413 of the Burnett County Ordinances for how to calculate density and  
26 minimum lot size.

27 Condominium-type development, per WI § 703, may be permitted by conditional permit using density  
28 development standards. The maximum density will be determined with the method used for standard

1 development (including lake class minimum standards). Condominium development in the RR-1  
2 zoning district may also be permitted using minimum standards of 30,000 ft<sup>2</sup> area; 150 foot lot width.

3  
4  
5 **21.0 SIGN REGULATIONS.** Sign regulations in chapter 30, article IV of the Burnett County  
6 Ordinances apply in all shoreland areas.

7  
8  
9 **22.0 TELECOMMUNICATIONS FACILITIES.** Telecommunication facility regulations in chapter 30,  
10 article VI of the Burnett County Ordinances apply in all shoreland areas.

11  
12  
13 **23.0 SCREENING AND FENCING.** Screening and fencing regulations in chapter 30, article VII of the  
14 Burnett County Ordinances apply in all shoreland areas when required by any use or conditional  
15 use.

16  
17  
18 **24.0 OTHER NONCONFORMING USES AND STRUCTURES.** The existing lawful use of a structure or  
19 premises which is compliant with shoreland setbacks, but is not in conformance with other provisions of the  
20 Burnett County Ordinances may be continued subject to the following conditions:

21 (1) No structural addition to any nonconforming structure over the life of the structure shall exceed  
22 50% of its building envelope, or the replacement of more than 50% of its structural components,  
23 and may not increase the nonconformity, unless a variance permitting expansion beyond 50% of  
24 its building envelope or replacement of more than 50% of its structural components, or an increase  
25 in its nonconformity, is successfully obtained.

26 (2) Discontinued nonconforming use. If a nonconforming use is discontinued for a period of 12  
27 months, any future use of the building, structure or property shall conform to this chapter and all  
28 other Burnett County Ordinance provisions.

29 (3) Uses or adjuncts thereof which are nuisances shall not be permitted to continue as  
30 nonconforming uses.

31  
32  
33 **25.0 ADMINISTRATIVE PROVISIONS.** (NR 115.05(4)) The shoreland zoning ordinance adopted by  
34 each county shall require all of the following:

35  
36 (1) The appointment of an administrator and such additional staff as the workload may require.

37  
38 (2) The creation of a zoning agency as authorized by s. 59.69, Stats, a board of adjustment as  
39 authorized by s. 59.694, Stat., and a county planning agency as defined in s. 236.02(3), Stats, and  
40 required by s. 59.692(3), Stats. The zoning agency and planning agency is called the land use and  
41 information committee in Burnett County.

42  
43 ~~(3) A system of permits for all new construction, development, reconstruction, structural alteration or~~  
44 ~~moving of buildings and structures. A copy of applications shall be required to be filed in the office of~~  
45 ~~the county zoning administrator, unless prohibited by s. 59.692(1k), Stats.~~

46  
47 ~~(4) Regular inspection of permitted work in progress to insure conformity of the finished structures~~  
48 ~~with the terms of the ordinance.~~

49  
50 ~~(5) A variance procedure which authorizes the board of adjustment to grant such variance from the~~  
51 ~~terms of the ordinance as will not be contrary to the public interest where, owing to special conditions~~  
52 ~~and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the~~  
53 ~~ordinance will result in unnecessary hardship as long as the granting of a variance does not have the~~  
54 ~~effect of granting or increasing any use of property which is prohibited in that zoning district by the~~

1 ~~shoreland zoning ordinance.~~

2  
3 ~~(6) A special exception (conditional use) procedure for uses presenting special problems.~~

4  
5 ~~(7) The county shall keep a complete record of all proceedings before the board of adjustment,~~  
6 ~~zoning agency and planning agency.~~

7  
8 ~~(8) Written notice to the appropriate office of the Department at least 10 days prior to any hearing on~~  
9 ~~a proposed variance, special exception or conditional use permit, appeal for a map or text~~  
10 ~~interpretation, map or text amendment, and copies of all proposed land divisions submitted to the~~  
11 ~~county for review under section 4.0.~~

12  
13 ~~(9) Submission to the appropriate office of the Department, within 10 days after grant or denial,~~  
14 ~~copies of any decision on a variance, special exception or conditional use permit, or appeal for a~~  
15 ~~map or text interpretation, and any decision to amend a map or text of an ordinance.~~

16  
17 ~~(10) Development and maintenance of an official map of all mapped zoning district boundaries,~~  
18 ~~amendments, and recordings.~~

19  
20 ~~(11) The establishment of appropriate penalties for violations of various provisions of the ordinance,~~  
21 ~~including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to~~  
22 ~~prevent or abate a violation, as provided in s. 59.69 (11), State.~~

23  
24 ~~(12) Pursuing the prosecution of violations of the shoreland ordinance.~~

25  
26 (13) Shoreland wetland map amendments according to s. NR 115.04. Every petition for a  
27 shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning  
28 agency. A copy of each petition shall be provided to the appropriate office of the Department within 5  
29 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held  
30 on a proposed amendment shall be provided to the appropriate office of the Department at least 10  
31 days prior to the hearing. A copy of the county board's decision on each proposed amendment shall  
32 be forwarded to the appropriate office of the Department within 10 days after the decision is issued.

33  
34 **See Policy Option in Appendix B**

35  
36 **25.1 ZONING ADMINISTRATOR.** (NR 115.05(4)) The zoning administrator shall have the following  
37 duties and powers:

38  
39 (1) Develop and maintain a system of permits for new construction, development, reconstruction,  
40 structural alteration or moving of buildings and structures. A copy of applications shall be required to  
41 be filed in the office of the county zoning administrator.

42  
43 (2) Regularly inspect permitted work in progress to insure conformity of the finished structures with  
44 the terms of the ordinance.

45  
46 (3) Develop and maintain a variance procedure which authorizes the board of adjustment **for land**  
47 **use variances and the land use and information committee for subdivision variances** to grant such  
48 variance from the terms of the ordinance as will not be contrary to the public interest where, owing to  
49 special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the  
50 provisions of the ordinance will result in unnecessary hardship.

51  
52 (4) Develop and maintain a **conditional use** ~~(special exception)~~ procedure.

53  
54 (5) Keep a complete record of all proceedings before the board of adjustment, **zoning agency** and  
55 **the land use and information committee** ~~planning agency~~.

1 (6) Provide written notice to the appropriate office of the Department at least 10 days prior to any  
2 hearing on a requested variance, ~~special exception~~ or conditional use permit, appeal for a map or  
3 text interpretation, map or text amendment, and copies of all proposed land divisions submitted to  
4 the county for review under section 4.0.  
5

6 (7) Submit to the appropriate office of the Department, within 10 days after grant or denial, any  
7 decision on a variance, ~~special exception~~ or conditional use permit, or appeal for a map or text  
8 interpretation, and any decision to amend a map or text of an ordinance.  
9

10 (8) Develop and maintain an official map of all mapped zoning district boundaries, amendments, and  
11 recordings.  
12

13 (9) Establish appropriate penalties for violations of various provisions of the ordinance, including  
14 forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent  
15 or abate a violation, as provided in s. 59.69 (11), Stats.  
16

17 (10) Pursue the prosecution of violations of the shoreland ordinance.  
18

19 (11) Approve subdivision variance requests which appear to meet the intent of the Burnett County  
20 Ordinances. If the Zoning Administrator feels the subdivision variance request does not meet the  
21 intent of the Burnett County Ordinances then the subdivision variance shall be heard by the land use  
22 and information committee. A Certified Survey Map (CSM) or recorded plat will be required for each  
23 lot/parcel which is reconfigured as part of the subdivision variance within one year of the approval.  
24

25 (12) The zoning administrator may issue a special permit to relax the standards of this ordinance in  
26 order to provide reasonable accommodations as required by provisions of federal and state law.  
27 Such relaxation shall be the minimum necessary to be consistent with federal guidelines for  
28 accommodation of persons with disabilities and shall, where practicable, be terminated when the  
29 facility is no longer used by the disabled person. A person applying for a permit for construction  
30 under this section shall establish the nature and extent of the disability and that the relaxation  
31 requested is the minimum necessary to provide reasonable use of the facility. A deed restriction for  
32 the reasonable accommodation shall be recorded with the register of deeds.  
33

## 34 35 **25.2 PERMITS.** 36

37 (1) WHEN REQUIRED. Except where another section of this ordinance specifically exempts certain  
38 types of development from this requirement, a permit shall be obtained from the zoning administrator  
39 or board of adjustment **or land use and information** committee before any new development.  
40

41 (2) APPLICATION. An application for a permit shall be made to the zoning administrator upon  
42 forms furnished by the county and shall include for the purpose of proper enforcement of these  
43 regulations, the following information:  
44

45 (a) Name and address of applicant and property owner.

46 (b) Legal description of the property and type of proposed use.

47 (c) A to scale drawing of the dimensions of the lot and location of all existing and proposed  
48 structures and impervious surfaces relative to the lot lines, center line of abutting highways  
49 and the ordinary high water mark of any abutting waterways.

50 (d) Location and description of any existing private water supply or sewage system or  
51 notification of plans for any such installation.

52 (e) Plans for appropriate mitigation when required.

53 (f) Payment of the appropriate fee.

(g) Additional information required by the zoning administrator.

1 (h) When the zoning administrator or other designated zoning staff determines the impervious  
2 surface appears to cover 12% or more of the portion of the lot/parcel that is within 300 feet  
3 of the ordinary high water mark, then the applicant shall submit a map of survey drawn to a  
4 scale of 1:10 to 1:60 by a Wisconsin licensed professional surveyor with the application.  
5 The map must show all existing and proposed structures, existing and proposed  
6 impervious surfaces and existing and proposed mitigation or treatment  
7 devices/components. The map must include a chart documenting the existing and  
8 proposed square footage area of all buildings/structures, asphalt/pavement, concrete,  
9 decks/patios/stairs, paver blocks and gravel driveways/walkways/paths.

10 (3) EXPIRATION OF PERMIT. Zoning permits shall expire 12 months from date issued if no  
11 substantial work has commenced. If additional time is needed, a 12 month extension may be  
12 granted upon written request to the zoning office and upon paying the corresponding permit  
13 extension fee. Only 1 extension will be allowed.  
14

#### 15 ~~(4) CERTIFICATES OF COMPLIANCE.~~

16 ~~(a) No land or building shall be occupied or used until a certificate of compliance is issued by~~  
17 ~~the zoning administrator.~~

18 ~~1. The certificate of compliance shall certify that the building or premises or part~~  
19 ~~thereof, and the proposed use thereof, conform to the provisions of this ordinance.~~

20 ~~2. Application for such certificate shall be concurrent with the application for a zoning~~  
21 ~~permit.~~

22 ~~3. The certificate of compliance shall be issued within 10 days after notification of the~~  
23 ~~completion of the work specified in the zoning permit, if the building or premises or~~  
24 ~~proposed use thereof conforms with all the provisions of this ordinance.~~

25 ~~(b) The zoning administrator may issue a temporary certificate of compliance for part of a~~  
26 ~~building, pursuant to rules and regulations established by the county board.~~

27 ~~(c) Upon written request from the owner, the zoning administrator shall issue a certificate of~~  
28 ~~compliance for any building or premises existing at the time of the adoption of this~~  
29 ~~ordinance, certifying after inspection the extent and type of use made of the building or~~  
30 ~~premises and whether or not such use conforms to the provisions of this ordinance.~~  
31

### 32 25.3 SPECIAL EXCEPTION PERMITS (OR) CONDITIONAL USE PERMITS.

33  
34 (1) APPLICATION FOR A SPECIAL EXCEPTION CONDITIONAL USE PERMIT. Any use listed as  
35 a special exception conditional use in this chapter or any other Burnett County ordinance shall be  
36 permitted only after an application has been submitted to the zoning administrator and a special  
37 exception conditional use permit has been granted by the Land Use and Information Committee. To  
38 secure information upon which to base its determination, the Land Use and Information Committee  
39 may require the applicant to furnish, in addition to the information required for a zoning permit, the  
40 following information:  
41

42 (a) A plan of the area showing surface contours, soil types, ordinary high water marks,  
43 ground water conditions, subsurface geology and vegetative cover.

44 (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open  
45 space and landscaping.

46 (c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of  
47 operations.

48 (d) Specifications for areas of proposed filling, grading, lagooning or dredging.

49 (e) Other pertinent information necessary to determine if the proposed use meets the  
50 requirements of this ordinance or any other Burnett County ordinance requirements.

51 (f) Rationale for why the proposed special exception conditional use meets all of the  
52 conditional use criteria listed in this ordinance or any other Burnett County ordinance  
53 requirements.  
54

1  
2 (2) NOTICE, PUBLIC HEARING AND DECISION. Before deciding whether to grant or deny an  
3 application for a special exception conditional use permit, the board of adjustment Land Use and  
4 Information Committee shall hold a public hearing. Notice of such public hearing, specifying the  
5 time, place and matters to come before the Land Use and Information Committee, shall be given as  
6 a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate office of  
7 the Department at least 10 days prior to the hearing. The Land Use and Information Committee  
8 meeting minutes shall state in writing the grounds for granting or denying a special exception  
9 conditional use permit.

10  
11 (3) STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS CONDITIONAL USES. In  
12 deciding a special exception conditional use application, the Land Use and Information Committee  
13 shall evaluate the effect of the proposed use upon:

- 14 (a) The maintenance of safe and healthful conditions.
- 15  
16 (b) The location and safety of proposed parking areas.
- 17  
18 (c) The prevention of noise pollution.
- 19 (d) The prevention and control of water pollution including sedimentation.
- 20 (e) Compliance with local floodplain zoning ordinances and opportunity for damage to  
21 adjacent properties due to altered surface water drainage.
- 22 (f) The erosion potential of the site based upon degree and direction of slope, soil type and  
23 vegetative cover.
- 24 (g) The location of the site with respect to existing or future access roads.
- 25 (h) The need of the proposed use for a shoreland location.
- 26 (i) Its compatibility with uses on adjacent land.
- 27 (j) The amount of liquid and solid wastes to be generated and the adequacy of the proposed  
28 disposal systems.
- 29 (k) Location factors under which:
- 30 1. Domestic uses shall be generally preferred;
  - 31 2. Uses not inherently a source of pollution within an area shall be preferred over uses  
32 that are or may be a pollution source; and
  - 33 3. Use locations within an area tending to minimize the possibility of pollution shall be  
34 preferred over use locations tending to increase that possibility.

35  
36 (4) CONDITIONS ATTACHED TO SPECIAL EXCEPTIONS CONDITIONAL USES. Such conditions  
37 may include specifications for, without limitation because of specific enumeration: type of shore  
38 cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period  
39 of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and  
40 signs; and type of construction. Upon consideration of the factors listed above, the Land Use and  
41 Information Committee shall attach such conditions, in addition to those required elsewhere in this  
42 ordinance or any other Burnett County ordinances, as are necessary to further the purposes of this  
43 ordinance or any other Burnett County ordinances. Violations of any of these conditions shall be  
44 deemed a violation of this ordinance.

45  
46 In granting a special exception conditional use permit, the Land Use and Information Committee may  
47 not impose conditions which are more restrictive than any of the specific standards in the ordinance  
48 or any other Burnett County ordinance. Where the ordinance is silent as to the extent of restriction,  
49 the board Land Use and Information Committee may impose any reasonable permit conditions to  
50 affect the purpose of this ordinance or any other Burnett County ordinance.

51  
52 (5) RECORDING. When a special exception conditional use permit is approved, an appropriate

1 record shall be made of the land use and structures permitted. Such permit shall be applicable solely  
2 to the structures, use and property so described. A copy of any decision on a special exception  
3 conditional use permit shall be provided to the appropriate office of the Department within 10 days  
4 after it is granted or denied.

5  
6 (6) REVOCATION. Where the conditions of a special exception conditional use permit are violated,  
7 the special exception conditional use permit shall be revoked.

8  
9 **25.4 VARIANCES.**

10  
11 (1) VARIANCE CRITERIA TO BE MET. The board of adjustment for land use variances and the  
12 land use and information committee for subdivision variances may grant upon appeal a variance  
13 from the standards of this ordinance where an applicant convincingly demonstrates that:

- 14 (a) literal enforcement of the provisions of the ordinance will result in unnecessary hardship on  
15 the applicant;  
16 (b) the hardship is due to special conditions unique to the property;  
17 (c) the request is not contrary to the public interest; and  
18 (d) the request represents the minimum relief necessary to relieve unnecessary burdens.

19  
20 (2) NOTICE, PUBLIC HEARING AND DECISION. (s. 59.694(6), Stats) Before deciding on an  
21 application for a variance, the board of adjustment for land use variances and the land use and  
22 information committee for subdivision variances shall hold a public hearing. Notice of such hearing  
23 specifying the time, place and matters of concern, shall be given a Class 2 notice under ch. 985,  
24 Stats. Such notice shall be provided to the appropriate office of the Department at least 10 days prior  
25 to the hearing. The board/committee shall state in writing the reasons for granting or refusing a  
26 variance and shall provide a copy of such decision to the appropriate office of the Department within  
27 10 days of the decision.

28  
29 (3) Land Use variances are heard by the Board of Adjustment. Subdivision variances are heard by  
30 the Land Use and Information Committee.

31  
32 (4) The Land Use and Information committee may grant a variance from the lot/parcel dimensional  
33 standards (subdivision variance) of this ordinance pursuant to this section. In granting a variance,  
34 the land use and information committee may not impose conditions which are more restrictive than  
35 any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of  
36 restriction, the land use and information committee may impose any reasonable permit conditions to  
37 affect the purpose of this ordinance or any other Burnett County ordinance.

38  
39 **25.5 BOARD OF ADJUSTMENT.** (s. 59.694 Stats) The county executive, county administrator or chair of  
40 the county board shall appoint a board of adjustment consisting of 3 or 5 members under s. 59.694, Stats.  
41 The county board shall adopt such rules for the conduct of the business of the board of adjustment as  
42 required by s. 59.694(3), Stats.

43  
44 (1) POWERS AND DUTIES. (s. 59.694 Stats)

- 45 (a) The board of adjustment shall adopt such additional rules as it deems necessary and may  
46 exercise all of the powers conferred on such boards by s. 59.694, Stats.  
47 (b) It shall hear and decide appeals where it is alleged there is error in any order, requirement,  
48 decision, or determination made by an administrative official in the enforcement or  
49 administration of this ordinance.  
50 (c) It may grant a variance from the dimensional standards of this ordinance pursuant to  
51 section 25.4. Subdivision variances are heard by the land use and information committee.  
52 (d) In granting a variance, the board may not impose conditions which are more restrictive  
53 than any of the specific standards in the ordinance. Where the ordinance is silent as to the  
54 extent of restriction, the board may impose any reasonable permit conditions to effect  
55 affect the purpose of this ordinance or any other Burnett County ordinance.

1 (2) APPEALS TO THE BOARD. (s. 59.694 Stats) Appeals to the board of adjustment may be  
2 made by any person aggrieved or by an officer, department, board or bureau of the county affected  
3 by any decision of the zoning administrator, Land Use and Information Committee, or other  
4 administrative officer, or other designated zoning staff. Such appeal shall be made within 30 days, as  
5 provided by the rules of the board, by filing with the officer whose decision is in question zoning  
6 administrator, and with the Board of Adjustment, a notice of appeal specifying the reasons for the  
7 appeal. The zoning administrator or other officer whose decision is in question shall promptly  
8 transmit to the board all the papers constituting the record concerning the matter appealed.  
9

10 (3) HEARING APPEALS AND APPLICATIONS FOR VARIANCES. (s. 59.694(6), Stats)

11 (a) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or  
12 application. The board shall give public notice thereof by publishing a Class 2 notice under  
13 ch. 985, Stats, specifying the date, time and place of the hearing and the matters to come  
14 before the board. Notice shall be mailed to the parties in interest. Written notice shall be  
15 provided to the appropriate office of the Department at least 10 days prior to hearings on  
16 proposed shoreland variances, and appeals for map or text interpretations.

17 (b) A decision regarding the appeal or application shall be made as soon as practical. Copies  
18 of all decisions on shoreland variances, and appeals for map or text interpretations shall  
19 be provided to the appropriate office of the Department within 10 days after they are  
20 granted or denied.

21 (c) The final disposition of an appeal or application to the Board of Adjustment shall be in the  
22 form of a written resolution or order signed by the chairman and secretary of the board.  
23 The final disposition of an appeal or application to the Board of Adjustment shall be in the  
24 form of a written decision document signed by the chairman and secretary of the board.  
25 The decision document shall either affirm, deny, vary or modify the appeal and list the  
26 specific reasons for the determination.

27 (d) At the public hearing, any party may appear in person or by agent or by attorney.  
28

29 **25.6 FEES.** (ss. 59.69, 59.694, 59.696, 59.697, Stats) The county board may, by resolution, adopt fees  
30 for the following:

31 (1) Zoning permits.

32  
33 (2) Planned Unit Development reviews.

34  
35 (3) Public hearings.

36  
37 (4) Legal notice publications.

38  
39 (5) ~~Special exception~~ Conditional Use permits.

40  
41 (6) Variances.

42  
43 (7) Administrative appeals.

44  
45 (8) Other duties as determined by the county board.  
46

47 **25.7 CHANGES AND AMENDMENTS.** The county board may from time to time, alter, supplement or  
48 change the regulations contained in this ordinance in accordance with the requirements of s. 59.69(5)(e),  
49 Stats., NR 115, and this ordinance where applicable.  
50

51 (1) AMENDMENTS. Amendments to this ordinance may be made on petition of any interested party  
52 as provided in s. 59.69(5), Stats.  
53

54 (2) SHORELAND WETLAND MAP AMENDMENTS. (NR 115.04) Every petition for a shoreland-  
55 wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A  
56 copy of each petition shall be provided to the appropriate office of the Department within 5 days of

1 the filing of the petition with the county clerk. Written notice of the public hearing to be held on a  
2 proposed amendment shall be provided to the appropriate office of the Department at least 10 days  
3 prior to the hearing. A copy of the county board's decision on each proposed amendment shall be  
4 provided to the appropriate office of the Department within 10 days after the decision is issued.  
5

6 **25.8 ENFORCEMENT AND PENALTIES.** (NR 115.05(4)(j)) Any development, any building or structure  
7 constructed, moved or structurally altered, or any use established after the effective date of this ordinance  
8 in violation of the provisions of this ordinance, by any person, firm, association, corporation (including  
9 building contractors or their agents) shall be deemed a violation. The zoning administrator, **other**  
10 **designated zoning staff** or the county zoning agency shall refer violations to the **district attorney or**  
11 **corporation counsel** who shall expeditiously prosecute violations. Any person, firm, association or  
12 corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject  
13 to a forfeiture of not less than ~~ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars~~ **two**  
14 **hundred \$200.00** dollars per offense, together with the taxable costs of action. Each day which the violation  
15 exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the  
16 creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.69(11),  
17 Stats.  
18

19 (1) PENALTY. Any person, firm or corporation, including those doing work for others, who violates  
20 any of the provisions of this Ordinance shall be subject to a forfeiture of not less than ~~\$50.00 dollars~~  
21 ~~nor more than \$500.00~~ **two hundred \$200.00 dollars** for each violation plus the cost of prosecution.  
22 Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and as  
23 such, forfeitures shall apply accordingly. The Zoning Administrator **or other designated zoning staff**  
24 shall refer violations to the Corporation Counsel who shall prosecute violations.  
25

26 (2) INJUNCTION. Any use or action which violates the provisions of this Ordinance shall be subject  
27 to a court injunction prohibiting such violation.  
28

29 (3) RESPONSIBILITY FOR COMPLIANCE. It shall be the responsibility of the applicants as well as  
30 their agent or other persons acting on their behalf to comply with the provisions of this Ordinance.  
31 Any person, firm or corporation, causing a violation or refusing to comply with any provision of this  
32 Ordinance will be notified in writing of such violation by the County Zoning Administrator or **his**  
33 **designated Zoning Deputy** **other designated zoning staff**. Each day a violation exists shall constitute  
34 a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly.  
35 Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and  
36 the maintenance thereof may be abated pursuant to Section 59.69(11), Stats.  
37

38 (4) SUSPENSION OF PERMIT. Whenever the Zoning Administrator, ~~Assistant Zoning~~  
39 ~~Administrator or Deputy Zoning Administrator~~ **or other designated zoning staff**, determines there are  
40 reasonable grounds for believing there is a violation of any provision of this Ordinance, the Zoning  
41 Administrator, ~~Assistant Zoning Administrator or Deputy Zoning Administrator~~ **or other designated**  
42 **zoning staff** shall give notice to the owner of record as hereinafter provided. Such notice shall be in  
43 writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30  
44 days for the performance of any act it requires. If work cannot be completed in the 30 day period, an  
45 extension may be granted if reason of hardship prevail and can be verified. Such notice or order  
46 shall be deemed to have been properly served upon such owner or agent when a copy thereof has  
47 been sent by registered mail to owner's last known address or when the owner has been served by  
48 such notice by any method authorized by the laws of Wisconsin. The owner of record has the right to  
49 appeal any decision by the Zoning Administrator, ~~Assistant Zoning Administrator or Deputy Zoning~~  
50 ~~Administrator~~ **or other designated zoning staff** or apply to the **Vilas Burnett** County Board of  
51 **Adjustment for land use variances or the Land Use and Information Committee for subdivision**  
52 **variances** for a Variance from the strict rule of the Ordinance within 30 days of receipt of a notice or  
53 order.  
54

55 (5) EMERGENCY CONDITIONS. Whenever the Zoning Administrator finds that an emergency  
56 exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or

1 circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable  
2 which requires immediate action to protect the public health, safety and welfare, the Administrator  
3 may, without notice or hearing, issue an order citing the existence of such emergency and may  
4 require that such action be taken as may be deemed necessary to meet the emergency. The  
5 Administrator shall notify the Chairperson of the **Zoning Land Use and Information Committee** within  
6 24 hours of such situations. Notwithstanding any other provisions of this Ordinance such order shall  
7 become effective immediately. Any person to whom such order is directed shall comply therewith  
8 immediately. Appeals or challenges to emergency orders may be brought after emergency  
9 conditions have ceased, to the Board of Adjustment.

## 10 11 12 **26.0 DEFINITIONS.**

13  
14 **26.1 PURPOSE.** For the purpose of administering and enforcing this ordinance, the terms or words used  
15 herein shall be interpreted as follows: Words used in the present tense include the future; words in the  
16 singular number include the plural number; and words in the plural number include the singular number.  
17 The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured  
18 horizontally.

19  
20 **26.2 MEANING OF TERMS.** The following terms used in this ordinance mean:

21  
22 (1) "Access and viewing corridor" (NR 115.03(1d)) means a strip of vegetated land that allows safe  
23 pedestrian access to the shore through the vegetative buffer zone or through the vegetation  
24 protection area.

25  
26 (2) "Accessory structure" means a subordinate structure on the same property as the principal  
27 structure which is devoted to a use incidental to the principal use of the property. Accessory  
28 structures include, but are not limited to, detached garages, sheds, barns, gazebos, patios, decks,  
29 swimming pools, hot tubs, fences, doghouses, swing sets, wood sheds, tool sheds, retaining walls,  
30 driveways, parking lots, sidewalks, detached stairways and lifts.

31  
32 (3) "Addition" means a contiguous roofed connection no less than 10 feet wide at any point.

33  
34 ~~(3)~~ (4) "Attached Buildings" means as defined in SPS 320.07(5m) Wis. Adm. Code.

35  
36 ~~(4)~~ (5) "Average lot width for riparian lots" is calculated by averaging the measurements of the  
37 shortest horizontal distance between side lot lines at the following locations:

38 (a) The ordinary high water mark.

39 (b) The building setback line of 75 feet from the ordinary high water mark.

40 (c) The rear lot line. For lot width averaging only on riparian lots, the definition of rear lot line  
41 is the line opposite of the ordinary high water mark. When there are two or more lines  
42 opposite of the ordinary high water mark the shortest line will be used for averaging  
43 purposes. When there is no line opposite of the ordinary high water mark then a value of  
44 zero will be used for averaging purposes.

45  
46 ~~(5)~~ (6) "Average lot width for non-riparian lots" is calculated by averaging the measurements of the  
47 shortest horizontal distance between side lot lines at the following locations:

48 (a) The front lot line. For lot width averaging only, the definition of front lot line is the line  
49 which abuts a road. For corner lots the higher ranking road will be considered the front.  
50 Ranking highest to lowest is: Federal road, State road, County Road, Town/Village Road,  
51 Private Road. For corner lots where each road has the same ranking then the shortest  
52 side shall be used for averaging purposes. When the lot has no road frontage then the  
53 front will be considered the side which contains the access point to the lot.

54 (b) The building setback line (from the front lot line).

55 (c) The rear lot line. For lot width averaging purposes only on non-riparian lots, the definition  
56 of rear lot line is the line opposite the front lot line. When there are two or more lines

1 opposite of the front lot line the shortest line will be used for averaging purposes. When  
2 there is no line opposite of the front lot line then a value of zero will be used for averaging  
3 purposes.

4  
5 ~~(6)~~ (7) "Boathouse" (NR 115.03(1h)) means a permanent structure used for the storage of watercraft  
6 and associated materials and includes all structures which are totally enclosed, have roofs or walls  
7 or any combination of these structural parts.

8  
9 ~~(7)~~ (8) "Building" see definition of "Structure".

10  
11 ~~(8)~~ (9) "Building envelope" (NR 115.03(1p)) means the three dimensional space within which a  
12 structure is built. ~~(Still used in Section 9 — Impervious surface section)~~

13  
14 ~~(9)~~ (10) "Bunkhouse/Temporary Guest Quarters" means an accessory structure or part of an  
15 accessory structure with or without plumbing which is used as temporary sleeping quarters only.

16  
17 ~~(10)~~ (11) "Campground" means a parcel or tract of land owned by a person, state or local  
18 government that is designed, maintained, intended, or used for the purpose of providing campsites  
19 offered with or without charge, for temporary overnight sleeping accommodations.

20  
21 ~~(11)~~ (12) "Camping Unit" means a structure, including a tent, camping cabin, yurt, recreational  
22 vehicle, bus, van or pickup truck.

23  
24 ~~(12)~~ (13) "Chimney" means as defined in SPS 320.07(13) Wis. Adm. Code.

25  
26 ~~(13)~~ (14) "Common open space" means undeveloped land within a planned residential development  
27 that has been designated, dedicated, reserved or restricted in perpetuity from further development,  
28 and is set aside in the interest of the residents of the development. Common open space shall not be  
29 part of individual residential lots. It shall be substantially free of structures, but may contain historic  
30 structures and archeological sites including Indian mounds, and/or such recreational facilities for  
31 residents as indicated on the approved development plan.

32  
33 ~~(14)~~ (15) "Conservation easement" means the grant of a property right or interest from the property  
34 owner to a unit of government or nonprofit conservation organization stipulating that the described  
35 land shall remain in its natural, scenic, open or wooded state, precluding future or additional  
36 development.

37  
38 ~~(15)~~ (16) "Conditional use" means a use that is specifically listed in a local zoning ordinance as a  
39 conditional use, and that can only be permitted if the Burnett County Land Use and Information  
Committee determine that the conditions specified in the ordinance for that use are satisfied.

40  
41 ~~(16)~~ (17) "County zoning agency" (NR 115.03(2)) means that committee or commission created or  
42 designated by the county board under s. 59.69(2)(a), Stats, to act in all matters pertaining to county  
43 planning and zoning.

44  
45 ~~(17)~~ (18) "Deck" means as defined in SPS 320.07(21m) Wis. Adm. Code.

46  
47 ~~(18)~~ (19) "Department" (NR 115.03(3)) means the Department of Natural Resources.

48  
49 ~~(19)~~ (20) "Development" means any artificial change to improved or unimproved real estate,  
50 including, but not limited to, the construction of buildings, structures or accessory structures; the  
51 repair of any damaged structure or the improvement or renovation of any structure, regardless of the  
52 percentage of damage or improvement; the construction of additions or substantial improvements to  
53 buildings, structures or accessory structures; the placement of buildings and structures; mining,  
54 dredging, filling, grading, paving, excavation, or drilling operations; the storage, deposition or  
55 extraction of materials or equipment, and the installation, repair or removal of public or private  
sewage disposal systems or water supply facilities.

1 ~~(20)~~ (21) "Development envelopes" means areas within which grading, lawns, pavement and  
2 buildings will be located.

3 ~~(24)~~ (22) "Drainage system" means one or more artificial ditches, tile drains or similar devices which  
4 collect surface runoff or groundwater and convey it to a point of discharge.

5  
6 (23) "Eave" means the part of a roof that overhangs the walls of a building.

7  
8 ~~(22)~~ (24) "Existing development pattern" (NR 115.03(3m)) means that principal structures exist  
9 within 250 feet of a proposed principal structure in both directions along the shoreline.

10  
11 ~~(23)~~ (25) "Dwelling" means a building designed or used as the living quarters for one or more  
12 families. A dwelling is construed to include manufactured homes.

13 ~~(24)~~ (26) "Dwelling, multifamily" means a dwelling or group of dwellings on one plot containing  
14 separate living units for two or more families but which may have joint services or facilities or both.

15 ~~(25)~~ (27) "Enclosed dwelling area" means a space, measured by floor area, which is enclosed by  
16 walls (solid, windows, or screens) and covered by roof, and is measured for each story of a multi-  
17 story structure, but does not include basements or garages.

18 ~~(26)~~ (28) "Essential services" means services provided by public and private utilities necessary for  
19 the exercise of the principal use or service of the principal structure. These services include  
20 underground surface or overhead gas, electrical, steam, water, sanitary sewerage, stormwater  
21 drainage and communications systems and accessories thereto such as poles, towers, wires, mains,  
22 drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables,  
23 fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including  
24 buildings.

25 ~~(27)~~ (29) "Expansion" means an addition to an existing structure regardless of whether the addition is  
26 vertical or horizontal or both.

27 ~~(28)~~ (30) "Facility" means any property or equipment of a public utility, as defined in s. 196.01 (5),  
28 or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat,  
29 light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural  
30 gas, heat, light, or power.

31  
32 ~~(29)~~ (31) "Family" means one or more persons living, sleeping, cooking and eating on the same  
33 premises as a single housekeeping unit.

34 ~~(30)~~ (32) "Farming, general" means the production of field crops or the raising of livestock or  
35 livestock products for commercial gain.

36 ~~(34)~~ (33) "Floodplain" (NR 115.03(4)) means the land which has been or may be hereafter covered  
37 by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as  
38 those terms are defined in ch. NR 116, Wis. Adm. Code.

39  
40 ~~(32)~~ (34) "Floor Area" – means the square foot measurement of all area within the outside of the  
41 exterior walls (siding) of the structure.

42  
43 ~~(33)~~ (35) "Footprint" means the land area covered by a structure at ground level measured on a  
44 horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by  
45 the furthest exterior wall and eave if present, projected to natural grade. For structures without walls  
46 (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the  
47 structure projected to natural grade. Note: For the purposes of replacing or reconstructing a  
48 nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is  
49 located within the horizontal plane from the exterior wall to the eaves projected to natural grade.  
50 This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5.

51

1 (34) (36) "Foundation" means the underlying base of a building or other structure, including, but not  
2 limited to, pillars, footings and concrete and masonry walls.

3 (35) (37) "Generally accepted forestry management practices" (NR 1.25(2)(b), Wis. Adm. Code)  
4 means forestry management practices that promote sound management of a forest. Generally  
5 accepted forestry management practices include those practices contained in the most recent  
6 version of the department publication known as Wisconsin Forest Management Guidelines and  
7 identified as PUB FR-226.

8 <http://dnr.wi.gov/topic/forestmanagement/documents/guidelines/foreword.pdf>

9  
10 (36) (38) "Guest cabin" means the same as dwelling. See definition of "Dwelling".

11 (37) (39) "Habitable" means any room used for sleeping, living or dining purposes.

12 (38) (40) "Home Occupation" means a gainful occupation conducted by a member of the family  
13 within his or her place or residence where the space used is incidental to residential use and no  
14 article is sold or offered for sale except such as is produced by such home occupation.

15 (39) (41) "Hospital" Unless otherwise specified, the term "Hospital" shall be deemed to include  
16 sanitarium, sanatorium, clinic, rest home, convalescent home and any other place for the diagnosis,  
17 treatment or other care of ailments, and shall be deemed to be limited to places for diagnosis,  
18 treatment or other care of human ailments.

19 (40) (42) "Impervious surface" (NR 115.03(4g)) means an area that releases as runoff all or a  
20 majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes  
21 rooftops, sidewalks, driveways, parking areas, parking lots, streets, roadways and private roads  
22 unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s.  
23 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not  
24 considered impervious surfaces.

25  
26 ~~"Lot" means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to  
27 meet the lot width and lot area provisions of this ordinance.~~

28  
29 (41) (43) "Lot" means a parcel of land occupied or capable of being occupied by structures and/or  
30 uses consistent with the provisions of this article and the Burnett County Subdivision Ordinance.  
31 Adjoining lands of common ownership shall be considered a contiguous parcel even if divided by a  
32 public or private road, easement or navigable rivers or streams.

33 ~~"Lot area" means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot,  
34 but not including the area of any land below the ordinary high water mark of navigable waters.~~

35  
36 (42) (44) "Lot area" means the horizontal projection of a parcel of land, exclusive of any portion of  
37 public right-of-way, any portion of a lot 33 feet or less in width. Measurements are to be made by  
38 standard surveying methods. This area shall be exclusive of lakebeds and easements. (This  
39 excludes blanket easements.)

40  
41 (43) (45) "Lot of record" means any lot, the description of which is properly recorded with the  
42 Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances,  
43 and regulations.

44  
45 (44) (46) "Lot line" means any line dividing one lot from another.

46 (45) (47) "Maintenance and repairs" mean any work done on a structure, including such activities as  
47 interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of  
48 windows, doors, wiring, siding, roof and other nonstructural components; and repair of cracks in  
49 foundations, sidewalks, walkways, and the application of waterproof coatings to foundations.

50 (46) (48) "Manufactured home" means a home built factory-built in the United States to the U.S.  
51 Department of Housing and Urban Development (H.U.D.) construction standards. This H.U.D. code

1 took effect on June 15, 1976. A H.U.D. coded home will display documentation called the  
2 Certification Label and the Data Plate. Removing the Certification Label and Data Plate is illegal.  
3 Removal could hinder the buying, selling, permitting, financing or insuring of a manufactured home,  
4 they are not replaceable.

5 ~~(47)~~ (49) "Mitigation" (NR 115.03(4r)) means balancing measures that are designed, implemented  
6 and function to restore natural functions and values that are otherwise lost through development and  
7 human activities.

8  
9 ~~(48)~~ (50) "Mobile home" means any structure originally designed to be capable of transportation by  
10 motor vehicle upon public highway which does not meet standards established for manufactured  
11 housing construction and safety standards as administered by the U.S. Department of Housing and  
12 Urban Development (H.U.D.). This H.U.D. code took effect on June 15, 1976. A mobile home is  
13 considered built before June 15, 1976 or not built to a uniform construction code.

14 ~~(49)~~ (51) "Navigable waters" (NR 115.03(5)) means Lake Superior, Lake Michigan, all natural inland  
15 lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the  
16 territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable  
17 under the laws of this state. Under s. 281.31~~(2)(d)~~ (2m), Stats, notwithstanding any other provision  
18 of law or administrative rule promulgated thereunder, shoreland ordinances required under s.  
19 59.692, Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

- 20 (a) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or  
21 river and such lands were not navigable streams before ditching; and  
22 (b) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not  
23 hydrologically connected to a natural navigable water body.

24  
25 ~~(50)~~ (52) "Nonprofit conservation organization" means any charitable corporation, charitable  
26 association or charitable trust (such as a land trust), the purposes or powers of which include  
27 retaining or protecting the natural scenic or open-space values of real property, assuring the  
28 availability of real property for agricultural, forest, recreational or open-space use, protecting natural  
29 resources, maintaining or enhancing air or water quality, or preserving the historical, architectural,  
30 archaeological or cultural aspects of real property.

31  
32 ~~(51)~~ (53) "Non-Riparian Lot" – A lot or parcel of land which does not abut navigable water.

33  
34 ~~(52)~~ (54) "Non-Riparian Owner" – A non-riparian owner is someone who owns land which does not  
35 abut navigable water.

36  
37 ~~(53)~~ (55) "Ordinary high water mark" (NR 115.03(6)) means the point on the bank or shore up to  
38 which the presence and action of surface water is so continuous as to leave a distinctive mark such  
39 as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation,  
40 or other easily recognized characteristics.

41  
42 ~~(54)~~ (56) "Planned residential development" means a housing development in a rural setting that is  
43 characterized by compact lots and common open space, and where the natural features of the land  
44 are maintained to the greatest extent possible. (Also known as a conservation subdivision).

45  
46 ~~(55)~~ (57) "Previously developed" means a lot or parcel that was developed with a structure legally  
47 placed upon it.

48  
49 ~~(56)~~ (58) "Principal structure" means a building or structure in which the principal use of the lot on  
50 which it is located is conducted.

51  
52 ~~(57)~~ (59) "Reconstruction" means replacement of all, or substantially all (more than 50%) of the  
53 components of a structure ~~other than the foundation~~, or to the point when reconstruction of a  
54 principal structure will require the construction to be done in accordance with the Uniform Dwelling  
55 Code, SPS 320-325 Wis. Adm. Code, or the Commercial Building Code SPS 361 Wis. Adm. Code.

1 ~~(58)~~ (60) "Regional flood" (NR 115.03(7)) means a flood determined to be representative of large  
2 floods known to have generally occurred in Wisconsin and which may be expected to occur on a  
3 particular lake, pond, flowage, river or stream because of like physical characteristics, once in every  
4 100 years.

5  
6 ~~(59)~~ (61) "Renovation of a principle structure" means the process of improving a structure by  
7 alteration, refurbishment and /or restoration, including the replacement of no more than 50% of the  
8 structural members, but not to the point of requiring compliance as a new structure under the  
9 Uniform Dwelling Code, SPS 320-325 Wis. Adm. Code, or the Commercial Building Code, SPS 361  
10 Wis. Adm. Code.

11 ~~(60)~~ (62) "Riparian Lot" – A lot or parcel of land that abuts navigable water.

12  
13 ~~(61)~~ (63) "Riparian Owner" – A riparian owner is someone who owns land which abuts navigable  
14 water.

15  
16 ~~(62)~~ (64) "Routine maintenance of vegetation" (NR 115.03(7m)) means normally accepted  
17 horticultural practices that do not result in the loss of any layer of existing vegetation and do not  
18 require earth disturbance.

19  
20 ~~(63)~~ (65) "Shoreland" (NR 115.03(8)) means lands within the following distances from the ordinary  
21 highwater high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300  
22 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

23  
24 ~~(64)~~ (66) "Shoreland setback" also known as the "Shoreland setback area" in s. 59.692(1)(bn), Stats,  
25 means an area in a shoreland that is within a certain distance of the ordinary high water mark in  
26 which the construction or placement of structures has been limited or prohibited under an ordinance  
27 enacted under section 59.692, Stats.

28  
29 ~~(65)~~ (67) "Shoreland-wetland district" (NR 115.03(9)) means a zoning district, created as a part of a  
30 county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin  
31 wetland inventory maps prepared by the department.

32  
33 ~~(66)~~ (68) "Special exception" see definition of "Conditional use". ~~(NR 115.03(10)) means a use which~~  
34 ~~is permitted by this ordinance provided that certain conditions specified in the ordinance are met and~~  
35 ~~that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning~~  
36 ~~committee or county board.~~

37  
38 ~~(67)~~ (69) "Structure" (s.59.692(1)(e), Stats) means a principal structure or any accessory structure  
39 including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit  
40 either permanently or temporarily attached to, placed upon, or set onto or into the ground, lakebed,  
41 streambed, or upon another structure.

42  
43 ~~(68)~~ (70) "Structural alteration" means the replacement of or alteration of one or more of the  
44 structural components of any nonconforming structure. Adding solar panels is not considered a  
45 structural alteration if all above grade components are within 3 feet of the existing three-dimensional  
46 building envelope and the height limit is not exceeded. Adding other utilities and their components  
47 such as a gas meter, propane tank, electric meter, air conditioning unit, furnace, chimney, etc is not  
48 considered a structural expansion if all above grade components are within 3 feet of the existing  
49 three-dimensional building envelope and the height limit is not exceeded.

50 ~~(69)~~ (71) "Structural component" means any part of the framework of a building or other structure. A  
51 structural component may be non-load bearing, such as the gable end of a one-story house. Wall  
52 coverings, such as siding on the exterior or drywall on the interior, are not included in the definition of  
53 structural component.

1 • The structural components of a building's exterior walls include the vertical studs, top and bottom  
2 plates, sheathing and window and door sills and headers.

3 • The structural components of a building's roof include the ridge board, rafters, rafter ties, or roof  
4 trusses, and roof sheathing.

5 • The structural components of a building's floors and ceilings include girder(s), joist, bridging,  
6 subfloor(s), and posts.

7 • The structural components of a building's foundation include footings, foundation walls and  
8 concrete slabs.

9 ~~(70)~~ (72) "Structure Height" see section 14 of this ordinance for how this is determined.

10  
11 ~~(71)~~ (73) "Substandard Lots" means a legally created lot or parcel that met the minimum area and  
12 minimum width requirements when created, but does not meet current requirements for a new lot.

13  
14 ~~(72)~~ (74) "Unnecessary hardship" (NR 115.03(11)) means that circumstance where special  
15 conditions, which were not self-created, affect a particular property and make strict conformity with  
16 restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or  
17 unreasonable in light of the purposes of this ordinance.

18  
19 ~~(73)~~ (75) "Use" means the specific purpose for which land or a building is designed, arranged,  
20 intended, or for which it is or may be occupied or maintained. The term "Permitted Use" or its  
21 equivalent shall not be deemed to include any nonconforming use.

22 ~~(74)~~ (76) "Variance" means an authorization granted by the board of adjustment for land use  
23 variances or the land use and information committee for subdivision variances to construct, alter or  
24 use a building or structure, or reconfigure a parcel in a manner that deviates from the dimensional  
25 standards of this ordinance.

26  
27 ~~(75)~~ (77) "Vegetative buffer zone" means an area that contains three layers of native vegetation:  
28 trees, shrubs and groundcover. Under the shoreland habitat standard in 643A NRCS, which provides  
29 that shoreland habitat means an "area adjacent to a water body or water course in a non-agricultural  
30 setting that is vegetated with a diverse mixture of native species that can include grasses, grass-like  
31 species, forbs, shrubs and trees." The vegetated buffer zone contains the area between the ordinary  
32 high water mark and ~~50~~ 35 feet inland from the ordinary high water mark.

33  
34 (78) "Vegetation protection area" means an area that contains three layers of native vegetation:  
35 trees, shrubs and groundcover. Vegetated with a diverse mixture of native species that can include  
36 grasses, grass-like species, forbs, shrubs and trees. The vegetation protection area contains the  
37 area between 35 feet inland from the ordinary high water mark and 50 feet inland from the ordinary  
38 high water mark.

39  
40 ~~(76)~~ (79) "Wetlands" (NR 115.03(13)) means those areas where water is at, near or above the land  
41 surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have  
42 soils indicative of wet conditions.

43  
44 ~~(77)~~ (80) "Yard, front" means an open, unoccupied space on the same lot with the building between  
45 the front line of the building and the front line of the lot and extending the full width of the lot.

46 ~~(78)~~ (81) "Yard, rear" means an open, unoccupied space on the same lot with the building between  
47 the rear line of the building and the rear line of the lot and extending the full width of the lot.

48 ~~(79)~~ (82) "Yard, side" means an open, unoccupied space on the same lot with the building situated  
49 between the building and the side line of the lot and extending from the front yard to the rear yard.

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## Appendix A

### Background Information Regarding Impervious Surfaces and General Suggestions for Implementing Impervious Surface Standards

The recodification of Chapter NR 115, Wis. Adm. Code in 2010 and again in 2014, creates impervious surface limits for riparian lots or parcels and lots or parcels that are entirely within the first 300 feet of the shoreland zone.

In that impervious surface standards will be new to many counties, the following information is being provided to help 1) better understand the reason and need for impervious surface standards and 2) shape policy options, ordinance revisions and hopefully ease some implementation concerns. In addition to reviewing this information the department also recommends each county, particularly those that have not had impervious surface limits in the past, to contact one or more of the 21 counties that currently limit impervious surfaces on shoreland lots. These counties could provide advice and insight on how their impervious surface limits were incorporated into their permitting system, impacts on staff workload and public outreach tools. To see which counties had impervious surfaces limits as of 2010 and the language in each ordinance, see

<http://www.wisconsinlakes.org/attachments/article/16/CountyImpvSurfaceMitigationOrdinanceExamples.pdf>

#### Background Information

Impervious surfaces are hard surfaces, such as roofs, concrete, and asphalt that increase the amount and velocity of runoff to our lakes and rivers. The increase in runoff results in greater fluctuations in water levels, causes erosion, and transports sediment and pollution to our waterways.<sup>1</sup> It has been shown that a one acre parking lot generates sixteen times the runoff produced by one acre of undeveloped land.<sup>2</sup> Studies have shown that the consequences of impervious surfaces are degradation of aquatic habitat and an overall reduction in fish diversity.<sup>3</sup>

Over 20 years ago researchers found that aquatic insect diversity drops sharply in streams where the impervious surfaces in a watershed exceeded 10 to 15%.<sup>4</sup> Fine sediments from impervious surfaces have negatively impacted fish spawning, egg incubation and fry rearing in a study of 47 warm water streams in southeast Wisconsin.<sup>5</sup> The study found that fish and insect populations declined dramatically when impervious surfaces exceed about 8-10% of the watershed, and streams with more than 12% imperviousness were shown to have consistently poor fish communities.<sup>6</sup> The last page of this document

<sup>1</sup> Center for Watershed Protection. 2003. Impacts of Impervious Cover on Aquatic Systems: Watershed Protection Research Monograph. Center for Watershed Protection, Ellicott City, MD. Pages 1-158.

<sup>2</sup> Schueler, T.R. 1994. The importance of imperviousness. *Watershed Protection Techniques*. 1:100-11. 1994a. Available at <http://stormwatercenter.net/Practice/1-Importance%20of%20Imperviousness.pdf>. Masterson, J. P., Bannerman, R. T., Impacts of stormwater runoff on urban streams in Milwaukee County, Wisconsin. *National Symposium on Water Quality-American Water Resources Association*. 1994. The importance of imperviousness. *Watershed Protection Techniques* 1:100-11, available at <http://stormwatercenter.net/Practice/1-Importance%20of%20Imperviousness.pdf>.

<sup>3</sup> Center for Watershed Protection. 2003. Impacts of Impervious Cover on Aquatic Systems: Watershed Protection Research Monograph. Center for Watershed Protection, Ellicott City, MD. Pages 1-158.

<sup>4</sup> Klein, R. 1979. Urbanization and Stream Quality Impairment. *Water Resources Bulletin*. 15(4):948-963.

<sup>5</sup> Wang, L., J. Lyons, P. Kanehl, R. Bannerman, and E. Emmons 2000. Watershed Urbanization and Changes in Fish Communities in Southeastern Wisconsin Streams. *Journal of the American Water Resources Association*. 36:5(1173-1187); Wang, L., J. Lyons, and P. Kanehl 2001. Impacts of Urbanization on Stream Habitat and Fish Across Multiple Spatial Scales. *Environmental Management*. 28(2):255-266.

<sup>6</sup> Id. .

1 contains a diagram, which further illustrates the negative impacts of impervious surfaces on fish  
2 communities. Other studies have also shown that urban development, including the impervious surfaces  
3 associated with it, results in declines of pollution-sensitive invertebrate groups such as mayflies, stoneflies,  
4 and caddisflies and a pronounced increase in pollution-tolerant groups, such as midges and oligochaetes,  
5 in other words aquatic worms.<sup>7</sup>  
6

7 Additional studies have shown that while the shift from agricultural to residential land uses reduces the rate  
8 of erosion into a lake, nutrient loading can actually increase with the development of the lakeshore.<sup>8</sup> It is  
9 significant to note that a study of Lac La Belle, in Waukesha County, showed that the water quality benefits  
10 associated with installation of sewer service to lakefront subdivisions were offset by increases in nutrient  
11 loading and habitat degradation from lakefront development, resulting in a decline in water quality.<sup>9</sup>  
12 Research over the past 15 years shows a strong correlation between the amount of impervious surface in  
13 a watershed and the health of the receiving stream,<sup>10</sup> with degradation of stream water quality and habitat  
14 as watersheds become more densely developed.<sup>11</sup>  
15

16 Therefore, to offset the impacts from impervious surfaces and prevent further impacts from development of  
17 Wisconsin's shoreland zones, the statewide minimum standards under NR 115 contain provisions to  
18 protect our waterways and require the implementation of a shoreland mitigation plan.  
19  
20

## 21 PROVISIONS IN NR 115

### 22 23 APPLICABILITY & DEFINITION

24  
25 While statutorily shoreland zoning applies to any land within 1000 feet of the a lake and 300 feet of a  
26 navigable stream or river, the impervious surface standards in NR 115.05(1)(e), Wis. Adm. Code are only  
27 applicable to riparian lots and parcels or lots and parcels that are located entirely within 300 feet of the  
28 ordinary high water mark. Further, the definition of an impervious surface in NR 115.03(4g) identifies areas  
29 that release as runoff "all or a majority of the precipitation that falls on it" and the typical structures located  
30 on shoreland lots that would be considered impervious. However, while the definition lists such things as  
31 "rooftops, sidewalks, driveways, parking lots and streets" as impervious, it does provide that even these  
32 typical impervious surfaces could be considered pervious if the areas are "specifically designed,  
33 constructed and maintained to be pervious." Pervious surfaces are those that are designed, constructed  
34 and maintained to infiltrate a majority of the precipitation that falls on it. Pervious surfaces are further  
35 discussed later in this appendix.  
36  
37

### 38 39 GENERAL IMPERVIOUS SURFACE STANDARD

40 The general impervious surface standard in NR 115.05(1)(e)2. and 3.a., Wis. Adm. Code, is the standard  
41 that will apply to most shoreland areas in the state, unless a county develops an ordinance incorporating  
42 the highly developed shoreland standards as described below. The general impervious surface standard in  
43 NR 115 would allow a property owner to increase the impervious surfaces on the property up to 15%.  
44 However, if the property owner proposes to exceed 15% and add more impervious surface to the property,

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<sup>7</sup> Jones, R.C. and Clark, C.C., Impact of watershed urbanization on stream insect communities. *Water Resources Bulletin* 23:1047-55. 1987. Lenat, D.R., Crawford, J.K., Effects of land use on water quality and aquatic biota of three North Carolina Piedmont streams. *Hydrobiologia*. 194: 185-99. 1994).

<sup>8</sup> Garrison, P. Lake Ripley paleoecological study. Wisconsin Department of Natural Resources. 1993

<sup>9</sup>Garrison, P. Wisconsin Department of Natural Resources, letter to L. Conley, Sept. 6, 1995

<sup>10</sup> Arnold, C. L., Gibbons, C. J., Impervious Surface Coverage: The emergence of a key environmental indicator. *Journal of American Planning Association*. 62(2): 243-258.1996

<sup>11</sup> Schueler, T. R., The importance of imperviousness. *Watershed Protection Techniques*.1:100-11.1994a. Available at <http://stormwatercenter.net/Practice/1-Importance%20of%20Imperviousness.pdf>. Masterson, J. P., Bannerman, R. T., Impacts of stormwater runoff on urban streams in Milwaukee County, Wisconsin. *National Symposium on Water Quality-American Water Resources Association*. 1994.

1 then the property owner must obtain a permit that includes a mitigation plan. Property owners may  
2 increase their impervious surfaces on their property up to 30%, unless the impervious surfaces are treated,  
3 which will be described below, or the property owner obtains a variance from the Board of Adjustment or  
4 Board of Appeal.

### 6 HIGHLY DEVELOPED SHORELINE IMPERVIOUS SURFACE STANDARD

8 An option exists for a county to designate highly developed shorelines in regard to impervious surface  
9 standards. The highly developed shoreline (HDS) impervious surface standards in NR 115.05(1)(e)2m,  
10 and 3.b., Wis. Adm. Code, were established to reduce the administrative burden of implementing and the  
11 need for variances from the general impervious surface standard for shorelines that are already highly  
12 developed and would struggle to meet the general impervious surface standard.

14 The HDS impervious surface standard in NR 115 would allow a property owner to increase the impervious  
15 surfaces on the property up to 30% for residential lots and 40% for commercial, industrial or business land  
16 uses without obtaining a permit. However, if the property owner proposes to exceed the 30% or 40% limit  
17 and increase the impervious surfaces on the property, then the property owner would have to obtain a  
18 permit from the county and submit and implement a shoreland mitigation plan.

### 20 IDENTIFICATION OF HIGHLY DEVELOPED SHORELINES

22 In developing a shoreland ordinance that incorporates the standards for a highly developed shoreline, the  
23 county will have to establish a map showing those shorelines determined to be highly developed. The  
24 simplest areas to designate as highly developed shorelines are those areas within a county that are shown  
25 to be an Urbanized Area or Urban Cluster in the 2010 US Census. The 2010 US Census maps, with the  
26 Urbanized Area and Urban Cluster layers are available at <http://tigerweb.geo.census.gov/TIGERweb2010/>.

28 Other areas that will require little effort for the counties to designate as highly developed are those  
29 shorelines where the county has land use maps that show shorelines are currently developed in  
30 commercial, business or industrial land uses and lakes that are served by a sewerage system. It is  
31 important to note that a sewage system does not include the plumbing inside of the building or the  
32 plumbing connecting the building to a private sewage treatment system but it means a system of pipes,  
33 conduits and other structures whose purpose is to collect, treat, and dispose of sewage, typically  
34 constructed by a public entity. If there are additional areas that a county would like to classify as highly  
35 developed and that do not meet any of the previously mentioned options, counties could still classify those  
36 areas as highly developed if the shoreline is at least 500 feet in length and a majority (>50%) of its lots are  
37 already developed with more than 30% of impervious or the majority of the lots are 20,000 square feet or  
38 less.

### 41 EXISTING IMPERVIOUS SURFACE STANDARD

43 Recognizing that many shoreland properties are currently developed, the existing impervious surface  
44 provisions under NR 115.05(1)(e)4, allow property owners to maintain and repair existing areas of  
45 impervious surface. Property owners may also replace existing impervious surfaces with a similar  
46 impervious surface of the same three dimensional size or relocate or modify an existing impervious  
47 surface, as long as it does not result in an increase in impervious surfaces on the property and the  
48 structure meets the shoreland setbacks. It is important to note that the provisions for existing impervious  
49 surfaces under NR 115 are not stand alone provisions and any structure, which is maintained, replaced, or  
50 otherwise modified, must comply with all other provisions in the county ordinance.

### 53 TREATED IMPERVIOUS SURFACE STANDARD

55 When calculating the impervious surfaces on a lot, counties shall also exclude impervious surfaces where

1 the property owner can show that the runoff from the impervious surface is being treated via a stormwater  
2 pond, constructed wetland, infiltration basin, rain garden, bioswale, or other engineered system.  
3 Additionally if the runoff from the impervious surface discharges to an internally drained pervious area that  
4 retains the runoff on or off the parcel to allow infiltration into the soil, counties may exclude those areas  
5 from the impervious surface limits. A property owner is entitled to this exemption only when the runoff from  
6 the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment  
7 device or internally drained. Property owners can demonstrate that the runoff from an impervious surface is  
8 being treated consistent with the exemption will be considered pervious for the purposes of implementing  
9 the impervious surface standards. If a property owner or subsequent property owner fails to maintain the  
10 treatment system, treatment device or internally drained area, the impervious surface is no longer exempt.  
11 The property will then need to be brought into compliance or mitigation will be necessary if the percentage  
12 of impervious surfaces does not exceed the maximum percentage allowed. Counties may require  
13 documentation by a certified engineer, soil and water conservation department and/or other quality person  
14 that these devices are designed and constructed to treat the runoff from an impervious surface.  
15 Additionally counties can require maintenance plans for those treatment systems, treatment devices or  
16 internally drained areas and may consider requiring recorded agreements to notify subsequent property  
17 owners of maintenance conditions.

### 20 SURFACES DESIGNED, CONSTRUCTED AND MAINTAINED TO BE PERVIOUS

22 In order for a surface to be considered pervious, it would have to infiltrate a majority of the precipitation that  
23 falls on it. There are a couple of ways a county could figure out if the proposed product meets the  
24 standards in NR 115. Whatever method is used, it should be clearly identified and explained in the  
25 ordinance.

27 The first is to require that an engineering analysis be completed using stormwater models. According to  
28 stormwater staff, this method might be the most accurate method of determining whether a proposed  
29 pervious product is infiltrating all or a majority of the runoff. This method would be expensive and quite  
30 rigorous for small areas such as patios. If interested in this method, the department can provide a link to  
31 appropriate guidance.

32 The second method to is to figure out how much average precipitation the county gets each year and then  
33 tell the contractor that the product must infiltrate either all of that precipitation or at least more than 50% of  
34 the precipitation. The contractor or property owner must provide proof of product claim and the conditions  
35 that must exist for the product to be effective. The soils that are present will also make a difference with  
36 regard to infiltration rate. Once a county determines the infiltration rate for that particular site, the county  
37 would merely compare the infiltration rate for that pervious product with the infiltration rate for the native  
38 soil. As long as the pervious product infiltrated as much as what the soil would have been capable of, then  
39 the product meets the intent of NR 115.

40 Websites that could be used to assist in utilizing this method are:

41 <http://www.crh.noaa.gov/mkx/climate/wipcpn.gif>

42 <http://pubs.usgs.gov/wri/wri034250/pdf/wrir-03-4250-plate2.pdf>

43 <http://websoilsurvey.nrcs.usda.gov/app/>

44 Surfaces that are designed to be pervious must be installed and maintained to manufacturer specifications,  
45 otherwise they are assumed not to function as pervious surfaces. The department highly recommends the  
46 county require a maintenance agreement in the ordinance to help ensure the surfaces remain pervious.

1  
2  
3 **SUGGESTIONS FOR IMPLEMENTATION**

4  
5 **REVIEW CURRENT PERMITTING SYSTEM**

6  
7 In the process of amending a county's shoreland zoning ordinance to incorporate the impervious surface  
8 standards, the department suggests that each county review its ordinance to identify when permits are  
9 currently required, the informational requirements for each permit and whether modification of the  
10 permitting system will be necessary to implement the impervious surface standards. Counties should  
11 evaluate whether there are foreseeable activities that would increase the impervious surfaces on a  
12 property, but would not currently require a permit from the County. A concern that has been expressed is  
13 that current ordinances often do not require a permit for the paving an existing driveway. Existing  
14 impervious surfaces, within the same footprint, can be resurfaced as long as all other ordinance provisions  
15 are met. For properties that do not currently have a driveway, a county may want to require a permit,  
16 especially if there is a concern that more than 15% of the property would be in impervious surfaces.  
17 Typically, if the property is vacant and construction is proposed, most counties are already require building  
18 permits and the review of the impervious surfaces, including the addition of a driveway, could be  
19 incorporated into the process at the time building permits are issued. In other words, some type of  
20 administrative mechanism will need to be put in place so that the percentage of impervious surface can be  
21 tracked and approved/denied when proposed. This is to the county's benefit so that unintended violations  
22 do not occur based on a "nothing is required" approach.

23  
24 Further, there are many instances where the impervious surface limits can be incorporated into a county's  
25 existing permitting processes or system without substantially modifying it. For example, if the current  
26 ordinance requires the submittal of a plat of survey or a site plan, then the survey or site plan could also be  
27 utilized to calculate the impervious surface limits on the parcel. Certainly, counties may have to modify their  
28 existing forms to allow for documentation of existing and proposed impervious surfaces, or require property  
29 owners to attach a form identifying areas of impervious surfaces and pervious surfaces, as well as  
30 internally drained areas. The WCCA NR 115 Guidebook provides example forms, which counties may  
31 utilize and require for permit submittals.

32  
33 **DETERMINE THE EXTENT OF THE IMPERVIOUS SURFACES LIMITS**

34  
35 As mentioned above the impervious surface standards are applicable to riparian lots or parcels or non-  
36 riparian lots or parcels that are entirely within 300 feet of the ordinary high water mark (OHWM).

37  
38 The WCCA NR 115 Guidebook lists a number of options for counties to determine if the entire lot falls  
39 within 300 feet of the ordinary high water mark, see Chapter 2 starting on page 8. In addition to these  
40 options listed in the Guidebook, the department's surface water data viewer has a tool, which measures  
41 the rough approximate area of an object that counties could utilize in conjunction with the aerial photos to  
42 determine the extent of existing impervious surfaces on the lot. The link to the surface water data viewer is  
43 <http://dnr.wi.gov/topic/surfacewater/swdv/>. Additional websites, such as google maps, allow users to zoom  
44 to search by a property's address and contains tools to allow the measuring of distances, which could then  
45 be utilized to calculate the area of impervious surfaces on the lot. Each county will have to determine which  
46 option(s) would best suit their needs.

47  
48  
49 **IDENTIFICATION OF IMPERVIOUS SURFACES**

50  
51 While the definition of an impervious surface in NR 115 provides a list of structures that would be  
52 considered impervious surfaces, it does not identify many of the other common structures that are typically  
53 found in shoreland zones such as retaining walls, children's play structures, decks, stairs, and swimming  
54 pools. In the process of amending a county ordinance to incorporate the impervious surface standards, it

1 will be important for counties to discuss what will be identified as impervious. Reason dictates that certain  
2 minor structures should not be calculated when determining the impervious surfaces on a property. For  
3 example, certain structures such as fences, birdhouses, mailboxes, flagpoles and other such structure  
4 would be difficult for counties and the public to calculate the impervious surface area for each of these  
5 structures and the runoff that occurs from these structures is typically minimal. However, some other  
6 common structures, such as retaining walls, decks, stairs, children's play structures, and gravel driveways,  
7 will require some thought and consideration by the county.

8  
9 Calculating the area of a retaining wall could be difficult depending upon the type of material and how the  
10 wall was constructed. It has been the policy of the shoreland zoning program since the 1980's that  
11 retaining walls are structures, and should only be constructed in the shoreland zone when determined  
12 necessary to reduce or control existing identified erosion or runoff problems. . Consequently, some  
13 counties may choose to exclude retaining walls from the calculations since those walls serve to reduce  
14 erosion and control runoff. Other counties may choose to include retaining walls in calculating impervious  
15 surfaces particularly, when previously built walls serve mainly as an aesthetic feature on the landscape.

16  
17 Similarly, counties will have to determine if children's play structures should be calculated in determining  
18 the impervious surface limits on a property. In deciding whether to include children's play structures in the  
19 impervious surface calculations, the county should perhaps consider whether these structures are currently  
20 allowed within the shoreland setback and whether there is a difference between relatively small residential  
21 children's play structures and the larger more commercial looking children's play structures that are  
22 becoming more popular on the landscape.

## 23 24 MEASURING THE IMPERVIOUS SURFACES ON A PROPERTY

25  
26 The WCCA NR 115 Guidebook lists a number of options for calculating the area of impervious surface, see  
27 Chapter 2 starting on page 8. Quite a few counties require surveys to be included in the application  
28 materials. A survey can continue to be utilized for all future projects by adding the % impervious surface  
29 proposed and authorized. Utilizing a survey option also ensures that all other ordinance requirements are  
30 being met. Sometimes property owners, especially new property owners, don't even realize a survey has  
31 been completed and is on file with Real Property Listing which is another resource that should be checked.  
32 Additionally *most counties now have good GIS tools and sometimes even an impervious surfaces layer.*  
33 Websites, such as google maps, allow users to zoom to search by a property's address and contains tools  
34 to allow the measuring of distances, which could then be utilized to calculate the area of impervious  
35 surfaces on the lot. It will be important to note if the aerial used is current. Each county will have to  
36 determine which option or options would best suit the needs of the county and its residents. In those  
37 counties where dense tree cover may limit the ability to calculate impervious surfaces based upon GIS or  
38 aerial photos, counties may wish to rely on one of the alternative options mentioned in the Guidebook.

## 39 40 CONSIDERATIONS

41  
42 It is important to note that the impervious surface regulations and standards are not stand alone provisions  
43 that trump other regulations in the shoreland ordinance. Nonconforming structure standards, 200 square  
44 foot gazebo law, new construction setbacks and shoreland vegetation standards are all applicable in  
45 concert with impervious surface standards. For example, a lateral expansion might be allowed under the  
46 nonconforming provisions but may not meet the impervious surface standards. .

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## Appendix B

### Policy Options

#### 2.1 AREAS TO BE REGULATED.

##### Policy Option

(1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. (NR 115.03(8)) Lakes, ponds or flowages in \_\_\_\_\_ County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 "Wisconsin Lakes" book available electronically at the following web site: <http://dnr.wi.gov/lakes/lakebook/wilakes2009bma.pdf> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.

(2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. (NR 115.03(8)) Rivers and streams in \_\_\_\_\_ County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas

#### 4.2 PLANNED UNIT DEVELOPMENT (PUD)

##### Policy Option

(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 4.2(2) shall be submitted to the \_\_\_\_\_ 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), 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 Section 13.4(2) of this ordinance.
- The [county zoning agency's] report to the \_\_\_\_\_ 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 4.2(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 4.2(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 4.2(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

1 such work.

2  
3  
4 **5.0 MINIMUM LOT SIZE. (NR 115.05(1))**

5  
6 Policy Option

7  
8 **5.1 PURPOSE. (NR115.05(1)(a))** Minimum lot sizes in the shoreland area shall be established to afford  
9 protection against danger to health, safety and welfare, and protection against pollution of the adjacent  
10 body of water. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be  
11 included.

12  
13 **5.2 SEWERED LOTS. (NR 115.05(1)(a)1) MINIMUM AREA AND WIDTH FOR EACH LOT.** The  
14 minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

15  
16 Policy Option

17  
18 (choose one of the following)

19  
20 (1) The width shall be calculated by averaging measurements at the following 3 locations:

- 21 (a) The ordinary high water mark.  
22 (b) The building setback line.  
23 (c) One other location on the lot within 300 feet of the ordinary high water mark.

24  
25 or

26  
27 (1) The width shall be calculated by averaging the measurements at the following locations:

- 28 (a) The ordinary high water mark  
29 (b) The building setback line  
30 (c) The rear lot line

31  
32 **5.3 Unsewered LOTS. (NR 115.05(1)(a)2) MINIMUM AREA AND WIDTH FOR EACH LOT.** The  
33 minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least  
34 100 feet of frontage at the ordinary high water mark.

35  
36 Policy Option

37  
38 (choose one of the following)

39  
40 (1) The width shall be calculated by averaging measurements at the following 3 locations:

- 41 (a) The ordinary high water mark.  
42 (b) The building setback line.  
43 (c) One other location on the lot within 300 feet of the ordinary high water mark.

44  
45 or

46  
47 (1) The width shall be calculated by averaging the measurements at the following locations:

- 48 (a) The ordinary high water mark  
49 (b) The building setback line  
50 (c) The rear lot line

51  
52  
53 **6.1 SHORELAND SETBACKS.**

54  
55 (1) **EXEMPT STRUCTURES. (NR 115.05(1)(b)1m)** All of the following structures are exempt from the  
56 shoreland setback standards in section 6.1:

1  
2 ~~(a) Boathouses located entirely above the ordinary high water mark and entirely within the~~  
3 ~~access and viewing corridor that do not contain plumbing and are not used for human~~  
4 ~~habitation.~~

5  
6 **Policy Option**

- 7  
8 1. ~~The construction or placement of boathouses below the ordinary high-water mark of~~  
9 ~~any navigable waters shall be prohibited.~~  
10 2. ~~Boathouses shall be designed and constructed solely for the storage of boats and~~  
11 ~~related equipment.~~  
12 3. ~~One boathouse is permitted on a lot as an accessory structure.~~  
13 4. ~~Boathouses shall be constructed in conformity with local floodplain zoning~~  
14 ~~standards.~~  
15 5. ~~Boathouses shall not exceed one story and \_\_\_\_\_ square feet in floor area.~~  
16 6. ~~Boathouse roofs shall have a pitched roof that is no flatter than 4/12 pitch, and shall~~  
17 ~~not be designed or used as decks, observation platforms or for other similar uses.~~  
18 7. ~~Earth toned color shall be required for all exterior surfaces of a boathouse.~~  
19 8. ~~The main door shall face the water.~~  
20 9. ~~Patio doors, fireplaces and other features inconsistent with the use of the structure~~  
21 ~~exclusively as a boathouse are not permitted.~~

22  
23 ~~(b) Open sided and screened structures such as gazebos, decks, patios and screen houses in~~  
24 ~~the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats.~~

25  
26 **Policy Option**

- 27  
28 5. ~~An enforceable affidavit must be filed with the register of deeds prior to construction~~  
29 ~~acknowledging the limitations on vegetation.~~

30  
31  
32 **7.0 VEGETATION. (NR 115.05(1)(c))**

33  
34 **Policy Option**

35  
36 ~~7.3 CUTTING MORE THAN 35 FEET INLAND. From the inland edge of the 35 foot area to the outer~~  
37 ~~limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest~~  
38 ~~management and soil conservation practices which protect water quality.~~

39  
40  
41 **8.0 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING. (NR115.05(1)(d))**

42  
43 **Policy Option**

44  
45 ~~8.1 GENERAL STANDARDS. Filling, grading, lagooning, dredging, ditching or excavating which does not~~  
46 ~~require a permit under section 8.2 may be permitted in the shoreland area provided that:~~

47  
48 ~~(1) It is not done within the vegetative buffer zone unless necessary for establishing or expanding~~  
49 ~~the vegetative buffer.~~

50  
51 ~~(2) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and~~  
52 ~~wildlife habitat.~~

53  
54 ~~(3) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets~~  
55 ~~the requirements of sections 3.32 and 3.33 of this ordinance.~~

1 ~~(4) All applicable federal, state and local authority is obtained in addition to a permit under this~~  
2 ~~ordinance.~~

3  
4 ~~(5) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative~~  
5 ~~cover or a bulkhead.~~

6  
7 **8.2 PERMIT REQUIRED.** ~~Except as provided in section 8.3, a permit is required:~~

8  
9 ~~(1) For any filling or grading of any area which is within 300 feet landward of the ordinary high water~~  
10 ~~mark of navigable water and which has surface drainage toward the water and on which there is~~  
11 ~~either:~~

12 ~~(a) Any filling or grading on slopes of more than 20%.~~

13 ~~(b) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.~~

14 ~~(c) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.~~

15  
16 ~~(2) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon,~~  
17 ~~pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a~~  
18 ~~navigable body of water or where the purpose is the ultimate connection with a navigable body of~~  
19 ~~water.~~

20  
21 **8.3 PERMIT CONDITIONS.** ~~In granting a permit under section 8.2, the County shall attach the following~~  
22 ~~conditions, where appropriate, in addition to those provisions specified in sections 13.2 or 13.4.~~

23  
24 ~~(1) The smallest amount of bare ground shall be exposed for as short a time as feasible.~~

25  
26 ~~(2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative~~  
27 ~~cover shall be established.~~

28  
29 ~~(3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be~~  
30 ~~used to prevent erosion.~~

31  
32 ~~(4) Lagoons shall be constructed to avoid fish trap conditions.~~

33  
34 ~~(5) Fill shall be stabilized according to accepted engineering standards.~~

35  
36 ~~(6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or~~  
37 ~~destroy the flood storage capacity of a floodplain.~~

38  
39 ~~(7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units~~  
40 ~~horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless~~  
41 ~~bulkheads or riprap are provided.~~

42  
43  
44 **9.0 IMPERVIOUS SURFACE STANDARDS. (NR 115.05(1)(e))**

45  
46 **9.6 TREATED IMPERVIOUS SURFACES.** ~~(NR115.05(1)(e)3m and s. 59.692(1k)(a)1.e) Impervious~~  
47 ~~surfaces that can be documented to show meet either of the following standards shall be excluded from the~~  
48 ~~impervious surface calculations under section 9.2:~~

49  
50 ~~(1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands,~~  
51 ~~infiltration basins, rain gardens, bio-swales or other engineered systems.~~

52  
53 ~~(2) The runoff from the impervious surface discharges to an internally drained pervious area that~~  
54 ~~retains the runoff on or off the parcel and allows infiltration into the soil.~~

55  
56 **Note:** ~~The provisions in section 9.5 are an exemption from the impervious surface standards and as such~~

1 should be read construed narrowly. As such, a property owner is entitled to this exemption only when the  
2 runoff from the impervious surface is being treated by some type of treatment system, treatment device or  
3 internally drained. Property owners can demonstrate that the runoff from an impervious surface is being  
4 treated consistent with section 9.5 will be considered pervious for the purposes of implementing the  
5 impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to  
6 maintain the treatment system, treatment device or internally drained area, the impervious surface is no  
7 longer exempt under section 9.5.

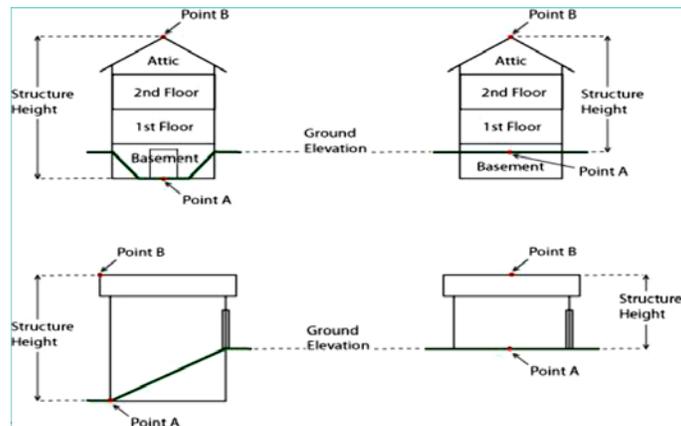
### 8 9 Policy Options

10 To qualify for the statutory exemption, property owners shall submit a complete permit application, that is  
11 reviewed and approved by the county. The application shall include 1) calculations showing how much  
12 runoff is coming from the impervious surface area; 2) documentation that the runoff from the impervious  
13 surface is being treated by a proposed treatment system, treatment device, or internally drained area; and  
14 3) an implementation schedule and enforceable obligation on the property owner to establish and maintain  
15 the treatment system, treatment devices, or internally drained area. The enforceable obligations shall be  
16 evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the  
17 permit.

18  
19  
20  
21 **10.0 HEIGHT. (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty,**  
22 **on or after February 1, 2010, a county may not permit any construction that result in a structure**  
23 **taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.**

### 24 Policy Options

25  
26  
27 10.1 Structure height is the measurement of the vertical line segment starting at the lowest point of any  
28 exposed wall and it's intersect with the ground (Point A in the following diagram) to a line horizontal to the  
29 highest point of a structure (Point B in the following diagram), unless specified under other sections of this  
30 code.



31  
32  
33  
34 10.2 To protect and preserve wildlife habitat and natural scenic beauty, a county may not permit any  
35 construction that results in a structure outside of the 75 foot shoreland setback taller than \_\_\_\_\_  
36 feet.

37  
38  
39 **12.0 MITIGATION. (NR 115.05 (1)(e)3, (g)5, (g)6) When the county issues a permit requiring**  
40 **mitigation under sections 9.4, 11.3, 11.5, the property owner must submit a complete permit**  
41 **application, that is reviewed and approved by the county. The application shall include the**  
42 **following:**

1 Policy Option

2  
3 (2) An implementation schedule and enforceable obligation on the property owner to establish and  
4 maintain the mitigation measures.

5 (a) The enforceable obligations shall be evidenced by an instrument recorded in the office of  
6 the Register of Deeds prior to the issuance of the permit.

7  
8  
9 **13.0 ADMINISTRATIVE PROVISIONS. (NR 115.05(4))**

10 Policy Option

11  
12  
13 **13.1 ZONING ADMINISTRATOR. (NR 115.05(4))** The zoning administrator shall have the following  
14 duties and powers:

15  
16 (1) Develop and maintain a system of permits for new construction, development, reconstruction,  
17 structural alteration or moving of buildings and structures. A copy of applications shall be required to  
18 be filed in the office of the county zoning administrator.

19  
20 (2) Regularly inspect permitted work in progress to insure conformity of the finished structures with  
21 the terms of the ordinance.

22  
23 (3) Develop and maintain a variance procedure which authorizes the board of adjustment to grant  
24 such variance from the terms of the ordinance as will not be contrary to the public interest where,  
25 owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement  
26 of the provisions of the ordinance will result in unnecessary hardship.

27  
28 (4) Develop and maintain a special exception (conditional use) procedure.

29  
30 (5) Keep a complete record of all proceedings before the board of adjustment, zoning agency and  
31 planning agency.

32  
33 (6) Provide written notice to the appropriate office of the Department at least 10 days prior to any  
34 hearing on a requested variance, special exception or conditional use permit, appeal for a map or  
35 text interpretation, map or text amendment, and copies of all proposed land divisions submitted to  
36 the county for review under section 4.0.

37  
38 (7) Submit to the appropriate office of the Department, within 10 days after grant or denial, any  
39 decision on a variance, special exception or conditional use permit, or appeal for a map or text  
40 interpretation, and any decision to amend a map or text of an ordinance.

41  
42 (8) Develop and maintain an official map of all mapped zoning district boundaries, amendments, and  
43 recordings.

44  
45 (9) Establish appropriate penalties for violations of various provisions of the ordinance, including  
46 forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent  
47 or abate a violation, as provided in s. 59.69 (11), Stats.

48  
49 (10) Pursue the prosecution of violations of the shoreland ordinance.

50  
51 **13.2 PERMITS.**

52  
53 (1) **WHEN REQUIRED.** Except where another section of this ordinance specifically exempts certain  
54 types of development from this requirement, a permit shall be obtained from the zoning administrator  
55 or board of adjustment/committee before any new development.

1  
2 ~~(2) APPLICATION. An application for a permit shall be made to the zoning administrator upon~~  
3 ~~forms furnished by the county and shall include for the purpose of proper enforcement of these~~  
4 ~~regulations, the following information:~~

5 ~~(a) Name and address of applicant and property owner.~~

6 ~~(b) Legal description of the property and type of proposed use.~~

7 ~~(c) A to scale drawing of the dimensions of the lot and location of all existing and proposed~~  
8 ~~structures and impervious surfaces relative to the lot lines, center line of abutting highways~~  
9 ~~and the ordinary high-water mark of any abutting waterways.~~

10 ~~(d) Location and description of any existing private water supply or sewage system or~~  
11 ~~notification of plans for any such installation.~~

12 ~~(e) Plans for appropriate mitigation when required.~~

13 ~~(f) Payment of the appropriate fee.~~

14 ~~(g) Additional information required by the zoning administrator.~~

15  
16 ~~(3) EXPIRATION OF PERMIT. Zoning permits shall expire (insert time) months from date issued if~~  
17 ~~no substantial work has commenced.~~

18  
19 ~~(4) CERTIFICATES OF COMPLIANCE.~~

20 ~~(a) No land or building shall be occupied or used until a certificate of compliance is issued by~~  
21 ~~the zoning administrator.~~

22 ~~1. The certificate of compliance shall certify that the building or premises or part~~  
23 ~~thereof, and the proposed use thereof, conform to the provisions of this ordinance.~~

24 ~~2. Application for such certificate shall be concurrent with the application for a zoning~~  
25 ~~permit.~~

26 ~~3. The certificate of compliance shall be issued within 10 days after notification of the~~  
27 ~~completion of the work specified in the zoning permit, if the building or premises or~~  
28 ~~proposed use thereof conforms with all the provisions of this ordinance.~~

29 ~~(b) The zoning administrator may issue a temporary certificate of compliance for part of a~~  
30 ~~building, pursuant to rules and regulations established by the county board.~~

31 ~~(c) Upon written request from the owner, the zoning administrator shall issue a certificate of~~  
32 ~~compliance for any building or premises existing at the time of the adoption of this~~  
33 ~~ordinance, certifying after inspection the extent and type of use made of the building or~~  
34 ~~premises and whether or not such use conforms to the provisions of this ordinance.~~

35  
36 ~~13.3 SPECIAL EXCEPTION PERMITS (OR CONDITIONAL USE PERMITS).~~

37  
38 ~~(1) APPLICATION FOR A SPECIAL EXCEPTION PERMIT. Any use listed as a special exception in~~  
39 ~~this ordinance shall be permitted only after an application has been submitted to the zoning~~  
40 ~~administrator and a special exception permit has been granted by the \_\_\_\_\_.~~ To secure  
41 ~~information upon which to base its determination, the \_\_\_\_\_ may require the applicant to~~  
42 ~~furnish, in addition to the information required for a zoning permit, the following information:~~

43 ~~(a) A plan of the area showing surface contours, soil types, ordinary high-water marks, ground~~  
44 ~~water conditions, subsurface geology and vegetative cover.~~

45 ~~(b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open~~  
46 ~~space and landscaping.~~

47 ~~(c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of~~  
48 ~~operations.~~

49 ~~(d) Specifications for areas of proposed filling, grading, lagooning or dredging.~~

50 ~~(e) Other pertinent information necessary to determine if the proposed use meets the~~  
51 ~~requirements of this ordinance.~~

1 ~~(f) Rationale for why the proposed special exception meets all of the special exception criteria~~  
2 ~~listed in the ordinance~~

3  
4 ~~(2) NOTICE, PUBLIC HEARING AND DECISION. Before deciding whether to grant or deny an~~  
5 ~~application for a special exception permit, the board of adjustment shall hold a public hearing. Notice~~  
6 ~~of such public hearing, specifying the time, place and matters to come before the \_\_\_\_\_, shall be~~  
7 ~~given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate~~  
8 ~~office of the Department at least 10 days prior to the hearing. The \_\_\_\_\_ shall state in writing the~~  
9 ~~grounds for granting or denying a special exception permit.~~

10  
11 ~~(3) STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS. In deciding a special exception~~  
12 ~~application, the \_\_\_\_\_ shall evaluate the effect of the proposed use upon:~~

13 ~~(a) The maintenance of safe and healthful conditions.~~

14 ~~(b) The prevention and control of water pollution including sedimentation.~~

15 ~~(c) Compliance with local floodplain zoning ordinances and opportunity for damage to~~  
16 ~~adjacent properties due to altered surface water drainage.~~

17 ~~(d) The erosion potential of the site based upon degree and direction of slope, soil type and~~  
18 ~~vegetative cover.~~

19 ~~(e) The location of the site with respect to existing or future access roads.~~

20 ~~(f) The need of the proposed use for a shoreland location.~~

21 ~~(g) Its compatibility with uses on adjacent land.~~

22 ~~(h) The amount of liquid and solid wastes to be generated and the adequacy of the proposed~~  
23 ~~disposal systems.~~

24 ~~(i) Location factors under which:~~

25 ~~1. Domestic uses shall be generally preferred;~~

26 ~~2. Uses not inherently a source of pollution within an area shall be preferred over uses~~  
27 ~~that are or may be a pollution source; and~~

28 ~~3. Use locations within an area tending to minimize the possibility of pollution shall be~~  
29 ~~preferred over use locations tending to increase that possibility. Additional~~  
30 ~~standards such as parking, noise, etc...maybe refer to the applicable part of their~~  
31 ~~ordinance.~~

32  
33 ~~(4) CONDITIONS ATTACHED TO SPECIAL EXCEPTIONS. Such conditions may include~~  
34 ~~specifications for, without limitation because of specific enumeration: type of shore cover; specific~~  
35 ~~sewage disposal and water supply facilities; landscaping and planting screens; period of operation;~~  
36 ~~operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type~~  
37 ~~of construction. Upon consideration of the factors listed above, the \_\_\_\_\_ shall attach such~~  
38 ~~conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the~~  
39 ~~purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this~~  
40 ~~ordinance.~~

41  
42 ~~In granting a special exception permit, the \_\_\_\_\_ may not impose conditions which are~~  
43 ~~more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as~~  
44 ~~to the extent of restriction, the board may impose any reasonable permit conditions to affect the~~  
45 ~~purpose of this ordinance.~~

46  
47 ~~(5) RECORDING. When a special exception permit is approved, an appropriate record shall be~~  
48 ~~made of the land use and structures permitted. Such permit shall be applicable solely to the~~  
49 ~~structures, use and property so described. A copy of any decision on a special exception permit shall~~  
50 ~~be provided to the appropriate office of the Department within 10 days after it is granted or denied.~~

51  
52 ~~(6) REVOCATION. Where the conditions of a special exception permit are violated, the special~~

1 ~~exception permit shall be revoked.~~

2  
3 13.4 VARIANCES.

4  
5 (1) ~~VARIANCE CRITERIA TO BE MET. The board of adjustment may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:~~

- 6  
7 ~~(a) literal enforcement of the provisions of the ordinance will result in unnecessary hardship on~~  
8 ~~the applicant;~~  
9 ~~(b) the hardship is due to special conditions unique to the property;~~  
10 ~~(c) the request is not contrary to the public interest; and~~  
11 ~~(d) the request represents the minimum relief necessary to relieve unnecessary burdens.~~

12  
13 (2) ~~NOTICE, PUBLIC HEARING AND DECISION. (s. 59.694(6), Stats) Before deciding on an~~  
14 ~~application for a variance, the board of adjustment shall hold a public hearing. Notice of such~~  
15 ~~hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under ch.~~  
16 ~~985, Stats. Such notice shall be provided to the appropriate office of the Department at least 10 days~~  
17 ~~prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance~~  
18 ~~and shall provide a copy of such decision to the appropriate office of the Department within 10 days~~  
19 ~~of the decision.~~

20  
21 13.5 BOARD OF ADJUSTMENT. (s. 59.694 Stats) ~~The county executive, county administrator or chair of~~  
22 ~~the county board shall appoint a board of adjustment consisting of 3 or 5 members under s. 59.694, Stats.~~  
23 ~~The county board shall adopt such rules for the conduct of the business of the board of adjustment as~~  
24 ~~required by s. 59.694(3), Stats.~~

25  
26 (1) POWERS AND DUTIES. (s. 59.694 Stats)

- 27 ~~(a) The board of adjustment shall adopt such additional rules as it deems necessary and may~~  
28 ~~exercise all of the powers conferred on such boards by s. 59.694, Stats.~~  
29 ~~(b) It shall hear and decide appeals where it is alleged there is error in any order, requirement,~~  
30 ~~decision, or determination made by an administrative official in the enforcement of~~  
31 ~~administration of this ordinance.~~  
32 ~~(c) It shall hear and decide applications for special exception permits pursuant to section 13.3.~~  
33 ~~(d) It may grant a variance from the dimensional standards of this ordinance pursuant to~~  
34 ~~section 13.4.~~  
35 ~~(e) In granting a variance, the board may not impose conditions which are more restrictive~~  
36 ~~than any of the specific standards in the ordinance. Where the ordinance is silent as to the~~  
37 ~~extent of restriction, the board may impose any reasonable permit conditions to effect the~~  
38 ~~purpose of this ordinance.~~

39  
40 (2) APPEALS TO THE BOARD. (s. 59.694 Stats) ~~Appeals to the board of adjustment may be~~  
41 ~~made by any person aggrieved or by an officer, department, board or bureau of the county affected~~  
42 ~~by any decision of the zoning administrator or other administrative officer. Such appeal shall be~~  
43 ~~made within 30 days, as provided by the rules of the board, by filing with the officer whose decision~~  
44 ~~is in question, and with the board of adjustment, a notice of appeal specifying the reasons for the~~  
45 ~~appeal. The zoning administrator or other officer whose decision is in question shall promptly~~  
46 ~~transmit to the board all the papers constituting the record concerning the matter appealed.~~

47  
48 (3) HEARING APPEALS AND APPLICATIONS FOR VARIANCES AND SPECIAL EXCEPTION  
49 PERMITS. (s. 59.694(6), Stats)

- 50 ~~(a) The board of adjustment shall fix a reasonable time for a hearing on the appeal or~~  
51 ~~application. The board shall give public notice thereof by publishing a Class 2 notice under~~  
52 ~~ch. 985, Stats, specifying the date, time and place of the hearing and the matters to come~~  
53 ~~before the board. Notice shall be mailed to the parties in interest. Written notice shall be~~  
54 ~~provided to the appropriate office of the Department at least 10 days prior to hearings on~~  
55 ~~proposed shoreland variances, special exceptions (conditional uses), and appeals for map~~  
56 ~~or text interpretations.~~

1 ~~(b) A decision regarding the appeal or application shall be made as soon as practical. Copies~~  
2 ~~of all decisions on shoreland variances, special exceptions (conditional uses), and appeals~~  
3 ~~for map or text interpretations shall be provided to the appropriate office of the Department~~  
4 ~~within 10 days after they are granted or denied.~~

5 ~~(c) The final disposition of an appeal or application to the board of adjustment shall be in the~~  
6 ~~form of a written resolution or order signed by the chairman and secretary of the board.~~  
7 ~~The final disposition of an appeal or application to the board of adjustment shall be in the~~  
8 ~~form of a written decision document signed by the chairman and secretary of the board.~~  
9 ~~The decision document shall either affirm, deny, vary or modify the appeal and list the~~  
10 ~~specific reasons for the determination.~~

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

12  
13 ~~13.6 FEES. (ss. 59.69, 59.694, 59.696, 59.697, Stats) The county board may, by resolution, adopt fees~~  
14 ~~for the following:~~

15 ~~(1) Zoning permits.~~

16  
17 ~~(2) Certificates of compliance.~~

18  
19 ~~(3) Planned Unit Development reviews.~~

20  
21 ~~(4) Public hearings.~~

22  
23 ~~(5) Legal notice publications.~~

24  
25 ~~(6) Special exception permits.~~

26  
27 ~~(7) Variances.~~

28  
29 ~~(8) Administrative appeals.~~

30  
31 ~~(9) Other duties as determined by the county board.~~

32  
33 ~~13.7 CHANGES AND AMENDMENTS. The county board may from time to time, alter, supplement or~~  
34 ~~change the regulations contained in this ordinance in accordance with the requirements of s. 59.69(5)(e),~~  
35 ~~Stats., NR 115, and this ordinance where applicable.~~

36  
37 ~~(1) AMENDMENTS. Amendments to this ordinance may be made on petition of any interested party~~  
38 ~~as provided in s. 59.69(5), Stats.~~

39  
40 ~~(2) SHORELAND WETLAND MAP AMENDMENTS. (NR 115.04) Every petition for a shoreland-~~  
41 ~~wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A~~  
42 ~~copy of each petition shall be provided to the appropriate office of the Department within 5 days of~~  
43 ~~the filing of the petition with the county clerk. Written notice of the public hearing to be held on a~~  
44 ~~proposed amendment shall be provided to the appropriate office of the Department at least 10 days~~  
45 ~~prior to the hearing. A copy of the county board's decision on each proposed amendment shall be~~  
46 ~~provided to the appropriate office of the Department within 10 days after the decision is issued.~~

47  
48 ~~13.8 ENFORCEMENT AND PENALTIES. (NR 115.05(4)(j)) Any development, any building or structure~~  
49 ~~constructed, moved or structurally altered, or any use established after the effective date of this ordinance~~  
50 ~~in violation of the provisions of this ordinance, by any person, firm, association, corporation (including~~  
51 ~~building contractors or their agents) shall be deemed a violation. The zoning administrator or the county~~  
52 ~~zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously~~  
53 ~~prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with~~  
54 ~~any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten (\$10.00) dollars~~  
55 ~~nor more than two hundred (\$200.00) dollars per offense, together with the taxable costs of action. Each~~  
56 ~~day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a~~

1 public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated  
2 pursuant to s. 59.69(11), Stats.

3  
4 (1) PENALTY. Any person, firm or corporation, including those doing work for others, who violates  
5 any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$50.00 nor  
6 more than \$500.00 for each violation plus the cost of prosecution. Each day a violation exists shall  
7 constitute a distinct and separate violation of this Ordinance and as such, forfeitures shall apply  
8 accordingly. The Zoning Administrator shall refer violations to the Corporation Counsel who shall  
9 prosecute violations.

10  
11 (2) INJUNCTION. Any use or action which violates the provisions of this Ordinance shall be subject  
12 to a court injunction prohibiting such violation.

13  
14 (3) RESPONSIBILITY FOR COMPLIANCE. It shall be the responsibility of the applicants as well as  
15 their agent or other persons acting on their behalf to comply with the provisions of this Ordinance.  
16 Any person, firm or corporation, causing a violation or refusing to comply with any provision of this  
17 Ordinance will be notified in writing of such violation by the County Zoning Administrator or his  
18 designated Zoning Deputy. Each day a violation exists shall constitute a distinct and separate  
19 violation of this ordinance and, as such, forfeitures shall apply accordingly. Every violation of this  
20 ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance  
21 thereof may be abated pursuant to Section 59.69(11), Stats.

22  
23 (4) SUSPENSION OF PERMIT. Whenever the Zoning Administrator, Assistant Zoning  
24 Administrator or Deputy Zoning Administrator, determines there are reasonable grounds for believing  
25 there is a violation of any provision of this Ordinance, the Zoning Administrator, Assistant Zoning  
26 Administrator or Deputy Zoning Administrator shall give notice to the owner of record as hereinafter  
27 provided. Such notice shall be in writing and shall include a statement of the reason for the  
28 suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work  
29 cannot be completed in the 30 day period, an extension may be granted if reason of hardship prevail  
30 and can be verified. Such notice or order shall be deemed to have been properly served upon such  
31 owner or agent when a copy thereof has been sent by registered mail to owner's last known address  
32 or when the owner has been served by such notice by any method authorized by the laws of  
33 Wisconsin. The owner of record has the right to appeal any decision by the Zoning Administrator,  
34 Assistant Zoning Administrator or Deputy Zoning Administrator or apply to the Vilas County Board of  
35 Adjustment for a Variance from the strict rule of the Ordinance within 30 days of receipt of a notice or  
36 order.

37  
38 (5) EMERGENCY CONDITIONS. Whenever the Zoning Administrator finds that an emergency  
39 exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or  
40 circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable  
41 which requires immediate action to protect the public health, safety and welfare, the Administrator  
42 may, without notice or hearing, issue an order citing the existence of such emergency and may  
43 require that such action be taken as may be deemed necessary to meet the emergency. The  
44 Administrator shall notify the Chairperson of the Zoning Committee within 24 hours of such  
45 situations. Notwithstanding any other provisions of this Ordinance such order shall become effective  
46 immediately. Any person to whom such order is directed shall comply therewith immediately.  
47 Appeals or challenges to emergency orders may be brought after emergency conditions have  
48 ceased, to the Board of Adjustment.

49  
50  
51 **14.0 DEFINITIONS.**

52 **Policy Options**

1 **Although not defined in NR 115 or corresponding statutes, the following terms and suggested**  
2 **definitions are provided by the Department as recommendations for the effective implementation of**  
3 **a shoreland zoning ordinance.**

4  
5 “Accessory structure” means a subordinate structure on the same property as the principal structure  
6 which is devoted to a use incidental to the principal use of the property. Accessory structures  
7 include, but are not limited to, detached garages, sheds, barns, gazebos, patios, decks, swimming  
8 pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways and  
9 lifts.

10  
11 “Drainage system” means one or more artificial ditches, tile drains or similar devices which collect  
12 surface runoff or groundwater and convey it to a point of discharge.

13  
14 “Footprint” means the land area covered by a structure at ground level measured on a horizontal  
15 plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest  
16 exterior wall and eave if present, projected to natural grade. For structures without walls (decks,  
17 stairways, patios, carports) — a single horizontal plane bounded by the furthest portion of the  
18 structure projected to natural grade. Note: For the purposes of replacing or reconstructing a  
19 nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is  
20 located within the horizontal plane from the exterior wall to the eaves projected to natural grade.  
21 This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5..

22  
23 “Lot” means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to  
24 meet the lot width and lot area provisions of this ordinance.

25  
26 “Lot area” means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot,  
27 but not including the area of any land below the ordinary high water mark of navigable waters.

28  
29 “Previously developed” means a lot or parcel that was developed with a structure legally placed upon  
30 it.

31  
32 “Lot of record” means any lot, the description of which is properly recorded with the Register of  
33 Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and  
34 regulations.

35  
36 “Substandard Lots” means a legally created lot or parcel that met minimum area and minimum  
37 average width requirements when created, but does not meet current requirements for a new lot.

38  
39 “Variance” means an authorization granted by the board of adjustment to construct, alter or use a  
40 building or structure in a manner that deviates from the dimensional standards of this ordinance.  
41  
42  
43

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## Appendix C

### Mitigation Methods Being Used by Wisconsin Counties

In developing the mitigation requirements in a shoreland zoning ordinance, counties should keep in mind that mitigation measures must be proportional to the impacts of the permitted activity and must be enforceable under NR 115. Additionally, counties may not solely require vegetative buffer restoration but may include that as an option amongst other practices.

Because many of the mitigation methods that were previously listed in the model ordinance are obsolete due to the requirement of a vegetative buffer they have been omitted from the document.

Please refer to the WCCA NR 115 Guidebook for mitigation options and examples.

1  
2  
3 **Appendix D**  
4

5 **Sample Affidavit Recording For Shoreland Mitigation**  
6  
7

8  
9  
10 **LAND USE PERMIT AFFIDAVIT**  
11

12 Land Use Permit No.	This agreement is made between the Government Unit and the Real Property owner(s)
13 14 Governmental Unit 15 County Zoning Administration	Date:
16 17 Tax Key Nos. : 18 Parcel # 19 PIN #	Real Property owner(s): YYYYY
22 We, the Real Property owner(s) acknowledge that the Land Use Permit applies to the following property (legal description, attach separate sheet if necessary): 23 24 Lot 1 of Certified Survey Map No. 2242; located in part of Government lot 3, T35N-R7E in the Town of *** , ***** County, Wisconsin. 25 26 27 28 29 30 31 32	
33 Return to: 34 ***** County Zoning Administration 35	

36 As an inducement to \*\*\*\*\* County to issue a Land Use Permit for the above described property, we agree to the following:

- 37  
38 (2) Owner(s) agree to conform to the conditions of the aforementioned Land Use Permit. If these conditions are not met \*\*\*\*\* County does have the right to revoke said Permit. Owner(s) agrees that removal of the structures authorized by the Land Use Permit will not void this agreement or the conditions placed hereon.  
39  
40  
41  
42 (3) Said Permit shall remain and be preserved upon this described property in perpetuity.  
43  
44 (4) Owner(s) agree to allow authorized representatives of \*\*\*\*\* County to enter upon the owner's property at the above description to inspect the structure(s) authorized by permit and to determine if agreed conditions are being met.  
45  
46 (5) This agreement shall be binding upon the owner(s), their heirs, successors and assigns. The owner(s) shall submit this agreement & recording fee to the \*\*\*\*\* County Zoning Administration, and the agreement shall be recorded by the Register of Deeds in a manner which will notify any individual referencing the deed to the property as to the existence of this agreement.  
47  
48  
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Land Use Permit # \*\*\*\*\* is conditionally granted for the purpose of \_\_\_\_\_ . Upon inspection the Zoning Department determined that mitigation is required for \*\*\*\*\* . The owners have agreed to the following conditions to authorize the project:

1.) Actively restore and maintain the shoreland buffer to a depth of \*\* feet from the ordinary high water mark for the entire shoreline frontage, mowing, trimming, and raking is not allowed within the shoreland buffer.

**All heirs and assigns of this property are bound and obligated to maintain the aforementioned mitigation.**

<b>Owner's Name(s) — Please Print:</b> YYYYYYYY	<b>Subscribed &amp; sworn to before me on this date:</b>	<b>Governmental Unit Official Name — Please Print:</b>
	<b>Notary Public (Printed or Typed):</b>	<b>Governmental Unit Official Title — Please Print:</b>
<b>Notarized Owner(s) Signature(s):</b>	<b>Notary Public (Signature):</b>	<b>Governmental Unit Official Signature:</b>
	<b>My Commission Expires:</b>	

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**LAND USE PERMIT AFFIDAVIT INSTRUCTIONS:**

**ORIGINAL FORM MUST BE COMPLETED AND SIGNED IN INK OR IT WILL NOT BE ACCEPTED. IT MUST BE LEGIBLE AND COMPLETE OR IT WILL BE RETURNED.**

- The document number space and the box in the top right must be left blank for Register of Deeds use. **ALL OTHER BOXES MUST BE COMPLETED.**
- Be sure the correct tax parcel numbers are referenced.
- The date will be filled in by the Zoning Department.
- Print or type the property owner(s)' name as it appears on the deed. (all owner's listed on this affidavit must sign in the presence of a notary)
- Fill in the legal description exactly as it appears on the most recent deed. If space is insufficient in area provided, you must attach a rider. *If the legal has been filled in by the Zoning Department it is your responsibility to review it completely and make sure that it is correct.*
- Please read through the agreement completely.
- The Governmental Unit Official information must be completed by the Zoning office.

**THE ORIGINAL MUST BE RETURNED TO THE ZONING OFFICE WITH A RECORDING FEE OF \$\*\*\* for the 1<sup>st</sup> page and \$\*\*\* for each additional page.**

**Checks payable to: \*\*\*\*\* County. After this agreement has been recorded, the original will be returned to you for your records/reference.**

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