

Chapter 16

Kewaunee County Shoreland Zoning Ordinance

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16.01 Title, Finding Of Fact, Purpose And Intent, And Statutory Authorization.

- (1) Title. Kewaunee County Shoreland Zoning Ordinance.
- (2) Finding Of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Kewaunee County will adversely affect the public health, safety, convenience, general welfare, and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Kewaunee County, Wisconsin.
- (3) Purpose And Intent. (NR 115.01) For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has been established to:

- (a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 2. Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 3. Controlling filling and grading to prevent soil erosion problems.
 4. Limiting impervious surfaces to control runoff which carries pollutants.
 - (b) Protect spawning grounds, fish and aquatic life through:
 1. Preserving wetlands and other fish and aquatic habitat.
 2. Regulating pollution sources.
 3. Controlling shoreland alterations, dredging, and lagooning.
 - (c) Control building sites, placement of structures and land uses through:
 1. Prohibiting certain uses detrimental to the shoreland-wetlands.
 2. Setting minimum lot sizes and widths.
 3. Setting minimum building setbacks from waterways.
 4. Setting the maximum height of near shore structures.
 - (d) Preserve and restore shoreland vegetation and natural scenic beauty through:
 1. Restricting the removal of natural shoreland cover.
 2. Preventing shoreline encroachment by structures.
 3. Controlling shoreland excavation and other earth moving activities.
 4. Regulating the use and placement of boathouses and other structures.
- (4) Statutory Authorization. This ordinance is adopted pursuant to the authorization in s. 59.692, Wis. Stats., to implement ss. 59.692 and 281.31, Wis. Stats.

16.02 Definitions. For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word “shall” is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally. The following terms used in this ordinance mean:

- (1) “Access and viewing corridor” (NR 115.03(1d)) means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
- (2) “Accessory structure” means a detached subordinate structure which is clearly incidental to, and customarily found in connection with, the

principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.

- (3) “Boathouse” (NR 115.03(1h)) means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls, or any combination of these structural parts.
- (4) “Building” means a structure.
- (5) “Building envelope” (NR 115.03(1p)) means the three dimensional space within which a structure is built.
- (6) “County Zoning Agency” (NR 115.03(2)) means that committee or commission created or designated by the county board under s. 59.9769(2)(a), Wis. Stats., to act in all matters pertaining to county planning and zoning.
- (7) “Department” (NR 115.03(3)) means the Department of Natural Resources.
- (8) “Development” (NR 116.03(5)) means any artificial change to improved or unimproved real estate, including but not limited to: the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition or extraction of materials.
- (9) “Disabled” means having a physical or mental impairment that substantially limits one or more major life activities.
- (10) “Drainage system” means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (11) “Existing development pattern” (NR 115.03(3m)) means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (12) “Floodplain” means the land which has been or may be hereafter covered by flood water during the regional flood as shown on the county’s official floodplain zoning maps. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region, or both. The flood frequency of the regional flood is once in every 100

years. In any given year, there is a 1% chance that the regional flood may occur.

NOTE: “Floodway” is defined in s. NR 116.03(22) to mean “the channel of a river or stream, and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.”

- (13) “Footprint” means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports)-a single horizontal plane bounded by the furthest portion of the structure projected to natural grade.

NOTE: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05(1)(g)5.

- (14) “Generally accepted forestry management practices” (NR 1.25(2)(b)) means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (15) “Habitable rooms” means any room or portion thereof used or designed for living, sleeping, eating or cooking, or combinations thereof. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry and utility spaces, basement recreation rooms, and similar areas are not considered habitable rooms.
- (16) “Habitable structure” means any structure or portion thereof used or designed for human habitation.
- (17) “Human habitation” means the use of a structure for living for any period of time for activities such as sleeping, eating or cooking, or combinations thereof.
- (18) “Impervious surface” (NR 115.03(4g)) means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54) or

sidewalks as defined in s. 340.01(58) are not considered impervious surfaces.

- (19) “Lot” means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.
- (20) “Lot area” means the area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.
- (21) “Lot of record” means any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.
- (22) “Maintenance and repair” (NR 115.05(1)(g)4.) includes such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components; and the repair of cracks in foundations, sidewalks, walkways, and the application of waterproof coatings to foundations.
- (23) “Mitigation” (NR 115.03(4r)) means balancing measures that are designed, implemented, and function to restore natural functions and values that are otherwise lost through development and human activities.
- (24) “Navigable waters” (NR 115.03(5)) means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d) and 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692971, Wis. Stats., and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:
 - (a) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river, and such lands that were not navigable streams before ditching.
 - (b) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- (25) “Ordinary high-water mark” or “OHWM” (NR 115.03(6)) means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion,

destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

- (26) “Principal structure” means a structure that is designed for human habitation and includes sanitary and food preparation facilities whether such structure is attached to another structure or stands alone.
- (27) “Recreational vehicle” means any camping trailer, truck camper, houseboat, boat, or motor home.
- (28) “Regional flood” (NR 115.03(7)) means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
- (29) “Routine maintenance of vegetation” (NR 115.03(7m)) means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (30) “Shore bluff” means the lakeward edge of land, generally greater than 10 feet high, that is high enough to contain complex, multiple layers of soil and groundwater.
- (31) “Shoreland” (NR 115.03(8)) means lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (32) “Shoreland setback” also known as the “Shoreland setback area” in s. 59.692(1)(bn) means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.
- (33) “Shoreland-wetland district” (NR 115.03(9)) means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.
- (34) “Special exception (conditional use)” (NR 115.03(10)) means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.

- (35) “Structure” (s. 59.692(1)(e), Wis. Stats.) means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.
- (36) “Substandard lots” means a legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements for a new lot.
- (37) “Unnecessary hardship” (NR 115.03(11)) means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
- (38) “Variance” means an authorization granted by the board of adjustment to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.
- (39) “Wetlands” (NR 115.03(13)) means those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

16.03 General Provisions.

- (1) Areas To Be Regulated. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Kewaunee County which are:
 - (a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds, or flowages. (NR 115.03(8)) Lakes, ponds, or flowages in Kewaunee 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 website: <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. **This shall be designated as the Recreational-Residential District.**
 - (b) Within 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 Kewaunee 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. This shall be designated as the General Purpose District.

- (c) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas unless specifically exempted by law; all cities, villages, towns, counties, and when s. 13.48(13), Wis. Stats., applies, state agencies are required to comply with, and obtain all necessary permits under local shoreland ordinances. The construction, reconstruction, maintenance, or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1), Wis. Stats., applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Wis. Stats.
 - (d) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark. The county may work with surveyors with regard to s. 59.692(1h).
 - (e) Under s. 281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, this shoreland zoning ordinance does not apply to:
 - 1. Lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river.
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.
 - 2. Lands adjacent to artificially constructed drainage ditches, ponds, or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- (2) Shoreland-Wetland Maps. The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at:
<http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>
- (3) Compliance. (NR 115.04) The use of any land, the size, shape, and placement of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and water disposal facilities; the filling, grading, lagooning, dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this

ordinance. Property owners, builders, and contractors are responsible for compliance with the terms of this ordinance.

- (4) Municipalities And State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.2022(1) Wis. Stats., applies.
- (5) Abrogation And Greater Restrictions. (s. 59.692(5) Wis. Stats.) The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words, if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than s. 59.692, Wis. Stats., does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.
- (a) (s. 59.692(2)(a), Wis. Stats.) This ordinance shall not require approval or be subject to disapproval by any town or town board.
 - (b) (s. 59.692(2)(b), Wis. Stats.) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
 - (c) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants, or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
 - (d) The following provisions of the Kewaunee County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
 - (e) (s. 59.692(1d)(b), Wis. Stats.) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in s. 16.01(3) of this ordinance.
 - (f) (s. 59.692(1k)(a)1., Wis. Stats.) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
 - 1. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or

regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.

2. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

(g) (s. 59.692(7), Wis. Stats.) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.

1. A “facility” means any property or equipment of a public utility, as defined in s. 196.05(5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

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

(7) Severability. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

16.04 Shoreland Zoning District Boundaries. The shorelands of Kewaunee County are hereby divided in the following districts:

- (1) Shoreland-Wetland District.
- (2) Recreational-Residential District.
- (3) General Purpose District.

16.05 Shoreland-Wetland District.

(1) Designation. This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

- (a) *Locating Shoreland-Wetland Boundaries.* (NR 115.04(b)2.note) Where an apparent discrepancy exists between the shoreland-wetland boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.
- (2) Purpose. This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.
- (3) Permitted Uses. (NR 115.04(3)) The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31 and 281.36, Wis. Stats., and the provisions of other applicable local, state and federal laws.
- (a) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating except as allowed under s. 16.05(3)(a) or (b).
1. Hiking, fishing, trapping, hunting, swimming, and boating.
 2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds in a manner that is not injurious to the natural reproduction of such crops.
 3. The pasturing of livestock.
 4. The cultivation of agricultural crops.
 5. The practice of silviculture, including the planting, thinning, and harvesting of timber.
 6. The construction or maintenance of duck blinds.
- (b) Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

2. The cultivation of cranberries including flooding, dike and dam construction, or ditching necessary for the growing and harvesting of cranberries.
 3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating, and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
 4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 5. The construction or maintenance of piers, docks, or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
 6. The maintenance, repair, replacement, or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
- (c) Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - a. The road cannot, as a practical matter, be located outside the wetland.
 - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 16.05(5)(b).
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
 - d. Road construction activities are carried out in the immediate area of the roadbed only.
 2. The construction or maintenance of nonresidential buildings, provided that:
 - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district.
 - b. The building cannot, as a practical matter, be located outside the wetland.
 - c. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area.

- d. Only limited filling or excavating necessary to provide structural support for the building is authorized.
 - 3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, public boat launching ramps, and attendant access roads, provided that:
 - a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable.
 - b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in s. 16.05(3)(a)1.-6.
 - c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
 - 4. The construction or maintenance of electric, gas, telephone, water and sewer transmission, and distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to their members and the construction or maintenance of railroad lines, provided that:
 - a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
 - b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 16.05(5)(b).
- (4) Prohibited Uses. (NR 115.04(4)) Any use not listed in s. 16.05(3)(a), (b) or (c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with s. 16.05(5) of this ordinance and s. 59.69(5)(e), Wis. Stats.
- (5) Rezoning Of Lands In The Shoreland-Wetland District. (NR 115.04(2))
 - (a) For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:
 - 1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such

petition shall include a copy of the Wisconsin Wetland Inventory Map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland.

2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.
 3. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board.
 4. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.
- (b) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
1. Storm and flood water storage capacity.
 2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
 3. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters.
 4. Shoreline protection against soil erosion.
 5. Fish spawning, breeding, nursery or feeding grounds.
 6. Wildlife habitat.
 7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following website:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>

- (c) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in s. 16.05(5)(b) of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

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

amendment shall be stayed until the s. 59.692(6) adoption procedure is completed or otherwise terminated.”

16.06 Recreational-Residential District.

- (1) Designation. This district includes all shorelands under s. 16.03(1)(a) which are adjacent to lakes, ponds, or flowages excluding those shorelands in the Shoreland-Wetland District.
- (2) Purpose. The purpose of the Recreation-Residential District is to protect waters by providing for safe and orderly shoreland development. Recreational-residential shorelands are particularly suited for residential and recreational uses. In this district residential, recreational, and conservancy uses are permitted, and a limited number of commercial uses serving recreational uses serving recreational needs are allowed as special exceptions. These uses are consistent with maximum recreational use of the water and its shorelands. All permitted uses or special exceptions are subject to the general provisions of this ordinance and all other applicable laws and regulations. **Uses not identified as Permitted Uses or Special Exceptions are prohibited in the Recreational-Residential District.**
- (3) Permitted Uses.
 - (a) Any use permitted under s. 16.05(3).
 - (b) Year-round single-family dwellings for owner occupancy, rent, or lease.
 - (c) Seasonal single-family dwellings for owner occupancy, rent, or lease.
 - (d) **Any existing non-conforming agricultural use.**
- (4) Special Exceptions.
 - (a) Hotels, resorts (including 2 or more seasonal single-family dwellings for rent or lease), motels, restaurants, dinner clubs, taverns, and other private clubs.
 - (b) **Short-term rental units/tourist rooming units.**
 - (c) Institutions of philanthropic or educational nature.
 - (d) Gift and specialty shops customarily found in recreational areas.
 - (e) Marinas, boat liveries, sale of bait, fishing equipment, boats and motors, fish farms, forest industries.
 - (f) **Places of Worship.**

16.07 General Purpose District.

- (1) Designation. This district includes all shorelands subject to regulation under s. 16.03(1) which have not been addressed and are adjacent to any solid or intermittent blue lines on USGS Topographic Maps on the

shoreland zoning maps listed in s. 16.03(2), excluding those shorelands in the Shoreland-Wetland District.

- (2) Purpose. Areas other than those contained in the Shoreland-Wetland District and the Recreational-Residential District are potentially suited to a wide range of uses including industrial, commercial, agricultural, residential, forestry, and recreational uses. Selecting prospective locations for these uses and designating specific zones for each of them along navigable waters will require detailed county-wide comprehensive planning. Until such planning is undertaken and more detailed amendments to this ordinance can be enacted, a General Purpose District shall be used to allow a wide range of uses subject to the general provisions of this ordinance which are designed to further the maintenance of safe and healthful conditions; protect spawning grounds, fish and aquatic life; and preserve shore cover and natural beauty. Minimum separating distances are provided to reduce conflicting land uses between potentially incompatible uses.
- (3) Permitted Uses. Commercial, agricultural, residential, forestry, recreational uses, and signs in accordance with s. 16.10(7)(c) are permitted, provided that they comply with the general provisions of this ordinance.
- (4) Special Exceptions.
 - (a) Industrial uses may be permitted upon issuance of a special exception permit by the board of adjustment as provided in s. 16.16(4).

16.08 Land Division Review, Planned Unit Development, And Sanitary Regulations.

- (1) Land Division Review. (NR 115.05(2)) The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5 year period. In such review the following factors shall be considered:
 - (a) Hazards to the health, safety or welfare of future residents.
 - (b) Proper relationship to adjoining areas.
 - (c) Public access to navigable waters, as required by law.
 - (d) Adequate storm water drainage facilities.
 - (e) Conformity to state law and administrative code provisions.
- (2) Planned Unit Development (PUD). (NR 115.05(1)(a)4.)
 - (a) *Purpose.* The Planned Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lots sizes and setbacks and

without special conditions placed upon the Planned Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

(b) *Requirements for Planned Residential Unit Development.* The county board may at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:

1. Area. The area proposed for the Planned Residential Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on navigable water.
2. Lots. Any proposed lot in the Planned Residential Unit Development that does not meet the minimum size standards of s. 16.09(2) and (3) shall be a non-riparian lot.
3. Lot sizes, widths, setbacks, and vegetation removal. When considering approval of Planned Residential Unit Development the governing body shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in s. 16.12(2) shall apply and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.

(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 s. 16.08(2) shall be submitted to the county clerk with sufficient copies to provide for distribution by the clerk as required by s. 16.08(3)(b).

(b) *Review and Hearing.* The petition shall be submitted to the county zoning agency established as required by s. 59.69(3)(d), Wis. Stats., which shall hold a public hearing and report to the county board as required by law. Copies of the petition and notice of the hearing shall also be sent to the appropriate office of the Department as described in s. 16.16(6) 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 s. 16.08(2). If the petition is granted in whole or part, the county board shall attach such written conditions to the approval as are required by and consistent with s. 16.08(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 s. 16.08(2) or may be required to contribute funds to the county to defray all or part of the cost of such studies being undertaken by the county or any agency or person with whom the county contracts for such work.

(4) Sanitary Regulations. (NR 115.05(3)) Each county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

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

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

16.09 Minimum Lot Size.

(1) Purpose. (NR 115.05(1)(a)) Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

(2) Sewered Lots. (NR 115.05(1)(a)1.) The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet at the ordinary high-water mark.

(3) Unsewered Lots. (NR 115.05(1)(a)2.) The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet at the ordinary high-water mark.

(4) Substandard Lots. (NR 115.05(1)(a)3.) A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

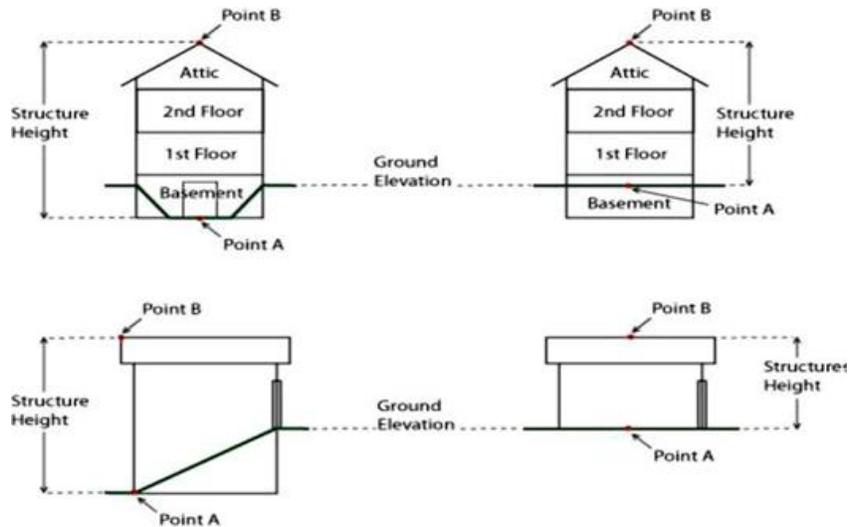
- (a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
- (b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- (c) The substandard lot or parcel is developed to comply with all other ordinance requirements.

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

- (5) Other Substandard Lots. Except for lots which meet the requirements of s. 16.10(5), a building permit for the improvement of a lot having lesser dimensions than those stated in s. 16.09(2) and (3) shall be issued only if a variance is granted by the board of adjustment.

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

- (a) Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.
- (b) Height for structure outside of the 75 foot shoreland setback, to protect and preserve wildlife habitat and natural scenic beauty, a county may not permit any construction that result in a structure taller than 35 feet.



16.10 Setbacks.

- (1) Building Setbacks. (NR 115.051(1)(b)) Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards, and avoid water pollution.
- (2) Side Yard Setback For Lots Not Served By Public Sanitary Sewer. There shall be a side yard for each main building. The minimum width of one main side yard shall be 10 feet. The minimum combined width for both main side yards shall be 25 feet. There shall be a side yard of 5 feet for accessory structures excluding fences.
- (3) Side Yard Setback For Lots Served By Public Sanitary Sewer. The minimum width of one main side yard shall be 8 feet. The minimum combined width of both main side yards shall be 20 feet. There shall be a side yard of 4 feet for accessory structures excluding fences.
- (4) Highway Setbacks. For the purpose of determining the distance that buildings and other structures shall be set back from streets and highways, the highways of the county are divided into the following classes:
 - (a) *Class A Highways.*
 1. All state and federal highways are designated as Class A Highways.
 2. The setback from Class A Highways shall be 110 feet from the center line of a highway.
 - (b) *Class B Highways.*
 1. All county trunks are hereby designated as Class B Highways. For the purpose of this ordinance, any road shall be considered a county trunk after it has been placed on the county trunk system by the county board and approved by the Division of Highways.

2. The setback from Class B Highways shall be 75 feet from the center line of such highway.
- (c) *Class C Highways.*
1. All town roads, public streets, and highways not otherwise classified are designated Class C Highways.
 2. The setback from Class C Highways shall be 63 feet from the center line of such highway.
- (5) Shoreland Structures. (NR 115.05(1)(b)1.) Unless exempt under s. 16.10(6) and (7) or reduced under s. 16.10(8), a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.
- (a) *Exempt Structures.* (NR 115.05(1)(b)1m) and s. 59.692(1k)(a)(6). All of the following structures are exempt from the shoreland setback standards in s. 16.10(5):
1. Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.
 - a. The construction or placement of boathouses below the ordinary high-water mark of any navigable waters shall be prohibited.
 - b. Boathouses shall be designed and constructed solely for the storage of boats and related equipment
 - c. One boathouse is permitted on a lot as an accessory structure.
 - d. Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - e. Boathouses shall not exceed one story and 500 sq. ft. in floor area. Height of side wall can be no higher than 10 feet.
 - f. The roof of a boathouse may be used as a deck provided that:
 - i. The boathouse has a flat roof.
 - ii. The roof has no side walls or screens.
 - iii. The roof may have a railing that meets the Department of Safety and Professional Services standards.
 - g. Earth toned color shall be required for all exterior surfaces of a boathouse.
 - h. The main door shall face the water.
 - i. Patio doors, fireplaces, and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
 2. Open sided and screened structures such as gazebos, decks, patios, and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Wis. Stats.

- a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
 - b. The floor area of all the structures in the shoreland setback area will not exceed 200 sq. ft.
 - c. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
 - e. An enforceable agreement must be filed with the Register of Deeds prior to construction acknowledging the limitations on vegetation.
3. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
 4. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with ch. SPS 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
 5. Devices or systems used to treat runoff from impervious surfaces.
 6. Walkways, stairways, or rail systems that are necessary to provide pedestrian access to the shoreline may according to the following standards:
 - a. The walkway or stairway shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction and to be visually inconspicuous as viewed from the adjacent waterway and public roads.
 - b. The structure shall be located entirely within the access and viewing corridor.
 - c. The structure shall be no more than 60 inches wide.
 - d. Open railings not exceeding 42 inches in height are permitted only where required by safety concerns.
 - e. Canopies, roofs, and closed railings/walls on such structures are prohibited.
 - f. Stairways shall be supported on piles or footings rather than being excavated from erodible soils on steep slopes or bluff faces.

g. Landings for stairways or docks are permitted only where required by safety concerns and shall not exceed 25 sq. ft. in area.

(b) *Existing Exempt Structures.* Existing exempt structures that were legally constructed may be maintained, repaired, restored, rebuilt, and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

NOTE: Section 59.692(1k)(a)2m prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in s. 16.10(7). However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

(6) Reduced Principal Structure Setback. (s.59.692(1n)) A setback less than the 75 feet required setback from the ordinary high-water mark shall be permitted for a proposed principal structure and shall be determined as follows:

(a) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the 2 existing principal structures are set back from the ordinary high-water mark provided all of the following are met:

1. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
2. Both of the existing principal structures are located within 250 feet of the proposed principal structure.
3. Both of the existing principal structures are located less than 75 feet from the ordinary high-water mark.
4. The average setback shall not be reduced to less than 35 feet from the ordinary high-water mark of any navigable water.

(7) Other Shoreland Requirements:

(a) *Fences.*

1. Beyond the building setback area, fences may be installed. They shall not exceed 4 feet in height in the shore yard side and shall not exceed 6 feet in height in the side yard and rear yard. They can be of chain link, split rail, or solid wood construction.
2. They are located entirely on the owner's property and are maintained by the owner.

3. Fencing of agricultural and other open space lands shall comply with the provisions of Wis. Stats. Ch. 90.
- (b) *Travel Trailers or Recreational Vehicles.*
1. Travel trailers and recreational vehicles are permitted in the Recreational-Residential District and General Purpose District. They may be parked on the owners property provided there is not permanent habitation or business use conducted.
 2. Conditions and Restrictions:
 - a. The recreational unit must have a valid registration.
 - b. Only 1 recreational unit per lot in Recreational-Residential District, no more than 3 recreational units in General Purpose District.
 - c. Sanitary waste shall be provided by:
 - i. Connection to an approved POWTS, or
 - ii. Self-contained holding tank with disposal at an approved sanitary dump station, or
 - iii. A portable toilet.
 - d. The recreational units must meet all setback requirements for structures in the ordinance.
 - e. The maximum length of time a recreational unit may remain on the property is 120 calendar days in any given year.
- (c) *Signs.* Signs of the following type, size, and location shall be setback 75 feet from the ordinary high-water mark and should not exceed 32 sq. ft. in gross area. No sign shall be located, erected, moved, extended, enlarged, or structurally altered until a zoning/building permit has been issued.
1. Directory signs advertising a business or activity conducted, an area of interest, or a service available at a specific location with the County. Such signs shall not be more than 32 sq. ft. in gross area. There shall not be more than two such signs relating to any one use in the approaching directions along any highway. The sign shall not be within 300 feet of an existing residence and may not be placed within 20 feet of the right of way of the highway.
 2. Signs attached to commercial and industrial buildings advertising a business conducted or service available on the premises shall not exceed 32 sq. ft. in gross area and not be higher than 4 feet above the top of the roof line.
 3. On premise signs, advertising a public or semi-public use shall not exceed 32 sq. ft. in gross area and may not be placed within 20 feet of the right of way of the highway.
 4. Signs advertising a customary home occupation, sale, or rent of property shall not exceed 12 sq. ft. in gross area. These signs shall not require a permit.

5. Larger signs or a greater number of signs may be permitted upon the issuance of a special exception permit by the board of adjustment.
 6. Conditions and restrictions:
 - a. Signs shall not be designed and installed to imitate or simulate any highway marker, signal, or traffic control sign.
 - b. Signs shall not have any flashing, rotating lights, or animated parts.
 - c. Lighted signs shall not have any light emitted directly onto the roadway. No sign light bulb or lens cover shall be directly visible from the roadway.
 - d. Signs shall not be attached to trees, fence posts, fences, or utility structures and shall not be painted on a rock or other natural object.
 - e. Signs shall be kept in a good state of repair.
- (d) *Accessory Structures.* Any permanent, roofed structure serving as an accessory use if attached to the principal building by an enclosed structure shall be considered a part of the principal building. If an accessory structure is not attached to the principal building as specified above, it shall conform to the setback and other dimensional requirements for accessory buildings within the zoning district. Accessory uses are not permitted until their principal structure is present or under construction. However, the board of adjustment may permit accessory use to be located on a lot prior to the principal structure as special exception in accordance with s. 16.16(4) provided that the applicant provide a site plan, a time schedule for the construction of the principal use, and other information required under s. 16.16(4).
- (e) Structures which require authorization or permits from the Department of Natural Resources pursuant to Wis. Stats. chs. 30 and 31 or which are to be located below the ordinary high-water mark namely bridges, dams, culverts, piers, wharves, navigational aids, and waterway crossings of transmission lines shall comply with all applicable federal, state, county, and local regulations.
- (8) Bluff Setback For Lots That Abut On Lake Michigan.
- (a) *Finding of Fact.* Lake Michigan possesses unique ecological characteristics, water level fluctuations, and erosion hazards not found on other surface waters in Kewaunee County. Storms and record high Great Lake water levels have caused shoreline erosion, flooding, and property damage that have posed a threat to the health, safety, and general welfare of Kewaunee County; therefore, setbacks from Lake Michigan shall be increased from that for inland waters and Green Bay.

- (b) *Required Minimum Setback.* The minimum setback for all buildings and structures except piers, boat hoists, decks, and boathouses which may require a lesser setback shall be set back at least 75 feet from the edge of the bluff where the shore bluff height is 10 feet or less and 125 feet from the edge of the bluff where the shore bluff height is greater than 10 feet. Decks and patios must be behind the principal building setback line.
 - (c) *Reduced Building Setback-Variance.* The board of adjustment, pursuant to s. 16.16(5) of this ordinance, may approve a modification of the setback to no less than 75 feet upon submittal of acceptable engineering studies prepared by a licensed or certified engineer documenting the recession rate and the stable slope distance for the property. The recession rate is the horizontal distance the bank bluff edge is expected to recede from the ordinary high-water mark during the useful life of the structure, and the stable slope distance is the horizontal distance necessary for the bluff face to recede to a stable slope.
- (9) Floodplain Structures. (NR 115.05(1)(b)2.) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with the Kewaunee County Floodplain Ordinance.

16.11 Impervious Surface Standards.

- (1) Purpose. (NR 115.05(1)(e)) Establish impervious surface standards to protect water quality, fish and wildlife habitat, and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
- (2) Calculation Of Percentage Of Impervious Surface. (NR 115.05(1)(e)1.) Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in s. 16.11(6) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high-water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

- (3) Impervious Surface Standard. (NR 115.05(1)(e)2.) Except as allowed in s. 16.11(4) – (6), allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- (4) Impervious Surface Standard For Highly Developed Shorelines. (NR 115.05(1)(e)2m.) The county, at its discretion, may adopt an ordinance for highly developed shorelines allowing up to 30% for residential land use and up to 40% for commercial, industrial, or business land uses for lands that meets one of the following standards:
- (a) The highly developed shoreline is identified as an Urbanized Area or Urban Cluster in the 2010 US Census or has a commercial, industrial, or business land use as of January 31, 2013.
 - (b) After conducting a hearing and receiving approval by the Department of Natural Resources, the county has mapped additional areas of highly developed shorelines that are at least 500 feet in length and meet one of the following criteria:
 - 1. The majority of the lots are developed with more than 30% of impervious surface area.
 - 2. Located on a lake served by a sewerage system as defined in NR 110.03(30), Wis. Adm. Code.
 - a. Property along the Bay of Green Bay in Kewaunee County between the Brown County line and Door County line, within 300 ft. of the ordinary high-water mark. Town of Red River, part of sections 5, 6, 7, and 18. See Appendix A.
 - 3. The majority of the lots are less than 20,000 sq. ft. in area.
- (5) Maximum Impervious Surface. (NR 115.05(1)(e)3.) A property may exceed the impervious surface standard under s. 16.11(3) or (4) provided the following standards are met:
- (a) For properties where the impervious surface standard applies under s. 16.11(3), a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
 - (b) For properties on shorelands where the impervious surface standard for highly developed shorelines applies under s. 16.11(4), a property owner may have more than 30% impervious surface but not more than 40% impervious surface for residential land uses. For commercial, industrial, or business land uses, a property owner may have more than 40% impervious surface but not more than 60% impervious surface.
 - (c) For properties that exceed the standard under s. 16.11(3) or s. 16.11(4) but do not exceed the maximum standard under s. 16.11(5)(a) or (b), a permit can be issued for development with a mitigation plan that meets the standards found in s. 16.15(1).

(6) Treated Impervious Surfaces. (NR 115.05(1)(e)3m. and s.59.692(1k)(a)1.e.) Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under s. 16.11(2).

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

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

(7) Existing Impervious Surfaces. (NR 115.05(1)(e)4.) For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in s. 16.11(3) or the maximum impervious surface standard in s. 16.11(5), the property owner may do any of the following:

(a) Maintain and repair the existing impervious surfaces.

(b) Replace existing impervious surfaces with similar surfaces within the existing building envelope.

(c) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance and the impervious surface meets the applicable setback requirements in s. Wis. Adm. Code NR 115.05(1)(b).

NOTE: This section of the ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. Maintenance, reconstruction, relocation, and expansion of existing structures must comply with other provisions in the county shoreland ordinance.

16.12 Vegetation.

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

(2) Activities Allowed In A Vegetative Buffer Zone. (NR 115.05(1)(c)2.) To protect water quality, fish and wildlife habitat, natural scenic beauty, and

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

- (a) The county may allow routine maintenance of vegetation.
- (b) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b), Wis. Stats. The viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width or shoreline frontage owned.
- (c) The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
- (d) The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
- (e) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this paragraph shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the water body, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

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

- (3) Cutting More Than 35 Feet Inland. From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

16.13 Filling, Grading, Lagooning, Dredging, Ditching, Excavating.

- (1) General Standards. (NR 115.05(1)(d)) Filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in accordance with the provisions of s. NR 115.04, the requirements of ch. 30, Wis. Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat, and natural scenic beauty.
 - (a) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
 - (b) Filling, grading, lagooning, dredging, ditching, or excavating in a shoreland-wetland district meets the requirements of s. 16.05(3)(b) and (c) of this ordinance.
 - (c) All applicable federal, state, and local authority is obtained in addition to a permit under this ordinance.
 - (d) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover, or a bulkhead.

- (2) Permit Required. Except as provided in s. 16.13(3), a permit is required:
 - (a) For any filling or grading of any area which is within 300 feet landward of the ordinary high-water mark of navigable water and which has surface drainage toward the water and on which there is either:
 1. Any filling or grading on slopes of more than 20%.
 2. Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
 3. Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
 - (b) *Special Exceptions.* A special exception permit shall be required for the following:
 1. For any filling, grading, and excavating of any area within the shoreland district which is within 300 feet horizontal distance of navigable water and on which there is:
 - a. Filling, grading, and excavating greater than 5,000 sq. ft.
 2. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within 300 feet landward of the ordinary high-water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
 - (c) *Conditions.* In granting a permit under s. 16.13(2), the county shall attach the following conditions, where appropriate, in addition to those provisions specified in s. 16.16(4), that:
 1. The smallest amount of bare ground shall be exposed for as short a time as feasible.

2. Temporary ground cover, such as mulch or jute netting, shall be used and permanent vegetative cover shall be established.
3. Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
4. Lagoons shall be constructed to avoid fish trap conditions.
5. Fill shall be stabilized according to accepted engineering standards.
6. Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
7. Channels or artificial watercourses shall be constructed with side slopes of 2 units horizontal distance to 1 unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
8. In shoreland areas with no floodplain mapped, a minimum 35 ft. no fill area is required from the ordinary high-water mark. If floodplain analysis is submitted and approved by the Department, the 35 foot no fill area may be reduced.

(3) Soil Conservation Practices And Agricultural Drainage Maintenance.

- (a) Soil conservation practices such as tiles terraces, runoff diversions, and grassed waterways used for erosion control shall not require a permit under s. 16.13(2) when designed and constructed to Natural Resources Conservation Service technical standards.
- (b) The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:
 1. The maintenance dredging of farm drainage ditches is limited to re-establishing the original ditch cross section unless a special exception permit under s. 16.13(2)(b) is obtained.
 2. Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade).
 3. Ditch banks shall be maintained in a sod cover and free of woody vegetation.

16.14 Nonconforming Uses And Structures.

- (1) Discontinued Nonconforming Use. (NR 115.05(1)(g)3.) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure, or property shall conform to this ordinance.

- (2) Maintenance, Repair, Replacement Or Vertical Expansion Of Nonconforming Structures. (s. 59.692(1k)(a)1.b. and d.) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was

lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

NOTE: Section 59.692 (1k)(a)1.b. and d.) prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in s. 16.14(4). However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

NOTE: NR 115.05(1)(b)1m lists structures that are exempt from the shoreland setback. These structures are considered conforming structures and are not considered nonconforming structure. Structures that were granted variances or illegally constructed structures are not considered nonconforming structures.

(3) Lateral Expansion Of Nonconforming Principal Structure Within The Setback. (NR 115.05(1)(g)5.) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per s. 16.10(5), (6), (7), and (8) may be expanded laterally, provided that all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- (b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (c) Lateral expansions are limited to a maximum of 200 sq. ft. over the life of the structure. No portion of the expansion may be closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (d) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in s. 16.15.
- (e) All other provisions of the shoreland ordinance shall be met.

(4) Expansion Of A Nonconforming Principal Structure Beyond Setback. (NR 115.05(1)(g)5m.) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under s. 16.10(5), (6), (7), and (8), may be expanded horizontally, landward or vertically provided that the expanded area meets

the building setback requirements per s. 16.10(5), (6), (7), and (8) and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph but may be required per s. 16.11.

- (5) Relocation Of Nonconforming Principal Structure. (NR 115.05(1)(g)6.) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per s. 16.10(5), (6), (7), and (8) may be relocated on the property provided all of the following requirements are met:
- (a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - (b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - (c) No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
 - (d) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per s. 16.10(5).
 - (e) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in s. 16.15 and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner by the date under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.
 - (f) All other provisions of the shoreland ordinance shall be met.
- (6) Maintenance, Repair, Replacement Or Vertical Expansion Of Structures That Were Authorized By Variance. (s. 59.692(1k)(a)2. and (a)4.) A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015 may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the

expansion is necessary to comply with applicable state or federal requirements.

NOTE: Section 59.692(1k)(a)2 prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in s. 16.14(6). However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

- (7) Wet Boathouses. The maintenance and repair of nonconforming boathouses which extend beyond the ordinary high-water mark of any navigable waters shall be required to comply with s. 30.121, Wis. Stats.

16.15 Mitigation

- (1) General Standards. (s. 59.692(1v), Wis. Stats., NR 115.05 (1)(e)3.,(g)5.,(g)6.) When the county issues a permit requiring mitigation under ss. 16.10(5), 16.10(6), 16.11(5), 16.14(3), and 16.14(5), the property owner must submit a mitigation plan application that is reviewed and approved by the county. The application shall include the following:

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

- (2) Mitigation Options.

- (a) Vegetative buffer required as mitigation under open sided provision (s. 16.10(5)(a)2.d.). The property owner shall choose and implement two (2) of the following:
1. Restoration of native primary vegetative buffer to county vegetative buffer standards per s. 16.15(4).
 2. The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with ch. SPS 383, Wis. Administrative Code.
 3. Stormwater management practices (e.g., rain gardens, water diversions of overland flow).

- (b) Horizontal expansion of principal structure located between 35 and 75 feet from the ordinary high-water mark and which is less than 35 feet in height (s. 16.14(3)).
 - 1. Removal of all nonconforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the ordinary high-water mark as the principal structure on the property.
 - 2. The property owner shall choose and implement two (2) of the following:
 - a. Restoration of native primary vegetative buffer to county vegetative buffer standards per s. 16.15(4).
 - b. The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with ch. SPS 383, Wis. Administrative Code.
 - c. Stormwater management practices (e.g., rain gardens, water diversions of overland flow).
- (c) Replacement or relocation of principal structure located between 35 and 75 feet from the ordinary high-water mark and which is less than 35 feet in height.
 - 1. Removal of all nonconforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the ordinary high-water mark as the principal structure on the property.
 - 2. The property owner shall choose and implement two (2) of the following:
 - a. Restoration of native primary vegetative buffer to county vegetative buffer standards per s. 16.15(4).
 - b. The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with ch. SPS 383, Wis. Administrative Code.
 - c. Stormwater management practices (e.g., rain gardens, water diversions of overland flow).
- (d) Impervious surface area greater than 15% and/or less than or equal to 30%, and greater than 30% for highly developed shorelands (s. 16.11(3) and (4)).
 - 1. Removal of all nonconforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage that is in good repair and located at least as far from the ordinary high-water mark as the principal structure on the property.
 - 2. The property owner shall choose and implement two (2) of the following:
 - a. Restoration of native primary vegetative buffer to county vegetative buffer standards per s. 16.15(4).

- b. The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with ch. SPS 383, Wis. Administrative Code.
- c. Stormwater management practices (e.g., rain gardens, water diversions of overland flow).

(3) Implementation Schedule. The approved Shoreland Buffer Restoration Site Plan must be started within 1 year from the issue date of the applicable permit. All plantings and any other activities in the Shoreland Buffer Restoration Site Plan must be completed within 2 years of the permit issue date.

(4) Establishment Of A Vegetation Buffer Zone.

(a) The owner(s) or their agent must submit a plan that will be implemented by the owner of the property to establish, preserve, enhance, and/or restore a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. The plan must be approved by the County Zoning Office.

(b) For the plan to be approved:

1. It must be binding on the owner, his/her heirs, successors, and assignees, and must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan.
2. The agreement shall be written and recordable on forms provided by the County Zoning Office and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.
3. Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the County Zoning Office to revoke the special zoning permit and order the removal of any structure(s) authorized by a special zoning permit.

(c) To be considered for approval a plan to establish, preserve, enhance, and/or restore a vegetative buffer zone shall, at a minimum, contain:

1. A binding agreement with the owner, his/her heirs, successors, and assignees, must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan. The agreement shall be written and recordable on forms provided by the County Zoning Office and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.
2. A description of how the landowner intends to carry out the project, including methods, materials, and equipment to be used.
3. A proposed schedule and sequence of work activities.

4. The names, descriptions, and densities of native species to be utilized in the restoration work, including ground cover, shrubs, and tree layers.
 5. A description of the site before the project begins and a description of the proposed site once the buffer is completed.
 6. The erosion control measures that will be used during construction of the permitted structure and vegetative buffer zone to control sediment, runoff, and protect water quality.
- (d) To be considered for approval a plan to establish, preserve, enhance, and/or restore an existing native vegetative buffer zone shall, at a minimum, contain:
1. A description of how the homeowner intends to maintain the buffer including “no mow” plans.
 2. There shall be supplemental plantings of native species every 100 sq. ft. which at a minimum will result in the following:
 - a. One (1) tree (minimum 3 species).
 - b. Two (2) shrubs (minimum 4 species), and
 - c. Seventy (70) plugs of ground cover or approved seed mix.
 3. Removal of non-native species (e.g. purple loostrife).
 4. The erosion control measures that will be used during construction of the permitted structure and any disturbance in the vegetative buffer zone due to planting or removal of non-natives to control sediment, runoff, and protect water quality.
- (e) The plan must be implemented, the vegetative buffer planted, and the vegetation must be in a viable, growing condition for at least one growing season before a special zoning permit to build a structure is granted.
- (f) A shoreland grading (earth disturbance) permit may be required to implement a vegetative buffer zone plan.
- (g) Removal of the shoreyard structure will not relinquish the recorded agreement or permit the removal, destruction, degradation, and/or reduction in size of the shoreland vegetative buffer.

16.16 Administrative Provisions.

- (1) Zoning Office. There is hereby created the zoning office as authorized by s. 59.69, Wis. Stats., and a board of adjustment as authorized by s. 59.694, Wis. Stats. The appointment of a zoning administrator and such additional staff as the workload may require. The zoning office shall exercise the following duties and powers:
- (a) Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
 - (b) Issue permits and inspect properties for compliance with this ordinance. A system of permits for new construction, development, reconstruction, structural alteration, or moving of buildings and structures. A copy of applications shall be required

to be filed in the office of the county zoning administrator, unless prohibited by s. 59.692(1k), Wis. Stats.

- (c) Keep records of all permits issued, inspections made, work approved, and other official actions.
 - (d) A variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship. Provide copies of variances, special exceptions, and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted or denied to the appropriate office of the Department.
 - (e) Have access to any structure or premises during regular work hours for the purpose of performing his/her duties. Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
 - (f) Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel as necessary.
- (2) Shoreland Permits.
- (a) *When required.* Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in s. 16.05(3)(a) and (b)), a shoreland permit shall be obtained from the zoning office before any new development, as defined in s. 16.02, or any change in the use of the existing building or structure, is initiated.
 - (b) *Application.* An application for a shoreland permit shall be made to the zoning administrator upon forms furnished by the county.
 - 1. Erosion control is required as per Best Management Practices.
 - (c) *Fees.* As established in the Kewaunee County Shoreland Zoning & Sanitary Fee Schedule.
 - (d) *Expiration Of Permit.* Shoreland permits shall expire 24 months from date of issuance.
- (3) Relaxation Of Standards For Persons With Disabilities Applies To All Shoreland Areas. The zoning office may issue a shoreland permit to relax the standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions of federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that

the relaxation requested is the minimum necessary to provide reasonable use of the facility.

(4) Special Exception Permits.

- (a) *Application For A Special Exception Permit.* Any use listed as a special exception permit in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a special exception permit has been granted by the board of adjustment.
- (b) *Standards Applicable To All Special Exceptions.* In passing upon a special exception permit, the board of adjustment shall evaluate the effect of the proposed use upon:
1. The maintenance of safe and healthful conditions.
 2. The prevention and control of water pollution including sedimentation.
 3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
 4. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
 5. The location of the site with respect to existing or future access roads.
 6. The need of the proposed use for a shoreland location.
 7. Its compatibility with uses on adjacent land.
 8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
 9. Location factors under which:
 - a. Domestic uses shall be generally preferred.
 - b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source.
 - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (c) *Conditions Attached To Special Exceptions.* Upon consideration of the factors listed above, the board of adjustment shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking, and signs; and type of construction. To secure information upon which to base its determination, the board

of adjustment may require the applicant to furnish, in addition to the information required for a shoreland permit, the following information:

1. A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology, and vegetative cover.
 2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space, and landscaping.
 3. Plans of buildings, sewage disposal facilities, water supply systems, and arrangement of operations.
 4. Specifications for areas of proposed filling, grading, lagooning, or dredging.
 5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
- (d) *Notice, Public Hearing, And Decision.* Before acting upon an application for a special exception permit, the board of adjustment shall hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the board, shall be given as a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall state in writing the grounds for granting or refusing a special exception permit.
- (e) *Recording.* When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use, and property so described. A copy of any decision on a special exception permit shall be provided to the appropriate district office of the Department within 10 days after it is granted or denied.
- (f) *Revocation.* Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the board of adjustment.
- (5) Variances.
- (a) *Decision.* The board of adjustment may grant upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that:
1. Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant.
 2. The hardship is due to special conditions unique to the property.
 3. Such variance is not contrary to the public interest.
- (b) *Notice, Hearing, And Decision.* Before acting on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place, and matters of

concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department office within 10 days of the decision.

- (6) Board Of Adjustment. The county executive shall appoint a board of adjustment consisting of five members under s. 59.694(3), Wis. Stats. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by s. 59.694(3), Wis. Stats.

(a) *Powers And Duties:*

1. The board of adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.694(3), Wis. Stats.
2. It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official in the enforcement or administration of this ordinance.
3. It shall hear and decide applications for special exception permits pursuant to s. 16.16(4).
4. It may grant a variance from the dimensional standards of this ordinance pursuant to s. 16.16(5).
5. In granting a special exception permit or variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

- (b) *Appeals to the Board of Adjustment.* Appeals to the board of adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be made within a reasonable time, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

(c) *Hearing Appeals And Applications For Variances And Special Exception Permits.*

1. The board of adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time, and place of the

hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.

2. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 10 days after they are granted or denied.
3. The final disposition of an appeal or application to the board of adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary, or modify the order, requirements, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
4. At the public hearing, any party may appear in person or by agent or by attorney.

- (7) Fees. As established in the Kewaunee County Shoreland Zoning & Sanitary Fee Schedule.

16.17 Changes And Amendments. The county board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of s. 59.692, Wis. Stats., ch. NR 115, Wis. Adm. Code and s. 16.05(5) of this ordinance where applicable.

- (1) Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.692, Wis. Stats.
- (2) Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be mailed to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing.
- (3) A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within 10 days after the decision is issued.

- 16.18 Enforcement And Penalties. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.97(11), Wis. Stats. As appropriate, the Kewaunee County Uniform Citation Ordinance shall apply to the enforcement of this ordinance.
- 16.19 Effective Date. This ordinance, upon passage and publication by the County Board of Supervisors of Kewaunee County, Wisconsin, shall be effective in all of the unincorporated areas within Kewaunee County.

APPENDIX A ATTACHED