

ORDINANCE NO. -2026

ORDINANCE AMENDING CHAPTER 338, SHORELAND ZONING

The County Board of Supervisors of Green Lake County, Green Lake Wisconsin, duly assembled at its regular meeting begun on the ____ day of _____, 2026, does ordain as follows:

NOW, THEREFORE, BE IT ORDAINED, that the Green Lake County Code, Chapter 338, Shoreland Zoning, shall be amended as follows:

ARTICLE I
Introduction

§ 338-1. Statutory authorization.

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

§ 338-2. Finding of fact.

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

Roll Call on Resolution No. -2026

Submitted by Land Use Planning & Committee:

Ayes , Nays , Absent , Abstain 0

Passed and Enacted/Rejected this ____ day of _____, 2026.

Charles Buss, Chair

William Boutwell, Vice Chair

County Board Chairman

Brian Floeter

ATTEST: County Clerk
Approve as to Form:

Gene Thom

Corporation Counsel

LuAnn Mirr-Frank

18 **§ 338-3. Purpose and intent.** (§ 281.31(1), Wis. Stats., § 59.692(1c), Wis. Stats., NR 115.01)

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20 To promote and protect the public trust in navigable waters and to effect the purposes of § 281.31, Wis.
21 Stats., by aiding in the fulfillment of the state's role as trustee of its navigable waters; limiting the direct
22 and cumulative impacts of shoreland development; and promoting the public health, safety, convenience
23 and general welfare, this chapter has been established to: ~~For the purpose of promoting the public~~
24 ~~health, safety, convenience and welfare, and promote and protect the public trust in navigable~~
25 ~~waters, this chapter has been established to:~~

26 A. Further the maintenance of safe and healthful conditions and prevent and control water pollution
27 through:

28 (1) Limiting structures to those areas where soil and geological conditions will provide a safe
29 foundation.

30 (2) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment
31 systems.

32 (3) Controlling filling and grading to prevent soil erosion problems.

33 (4) Limiting impervious surfaces to control runoff which carries pollutants.

34 B. Protect spawning grounds, fish, and aquatic life through:

35 (1) Preserving wetlands and other fish and aquatic habitat.

36 (2) Regulating pollution sources.

37 (3) Controlling shoreline alterations, dredging, and lagooning.

38 C. Control building sites, placement of structures and land uses through:

39 (1) Prohibiting certain uses detrimental to the shoreland-wetlands.

40 (2) Setting minimum lot sizes and widths.

41 (3) Setting minimum building setbacks from property boundary lines and waterways.

42 (4) Setting the maximum height of near shore structures.

43 D. Preserve ~~and restore~~ shoreland vegetation and natural scenic beauty through:

44 (1) Restricting the removal of natural shoreland cover.

45 (2) Preventing shoreline encroachment by structures.

46 (3) Controlling shoreland excavation and other earth-moving activities.

47 (4) Regulating the use and placement of boathouses and other structures.

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50 **§ 338-4. Title.**

51 This chapter shall be known, cited, and referred to as the "Shoreland Zoning Ordinance for Green Lake
52 County, Wisconsin."

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54 **§ 338-5. When effective; repealer.**

55 A. This chapter shall be effective upon final adoption by the Green Lake County Board and publication

56 as provided for in the Wisconsin Statutes. **The Department issues a certificate of compliance after the**
57 **ordinance has been adopted and all final documents are received.** ~~Prior to final adoption of this chapter,~~
58 ~~the County must receive a certificate of compliance from the Department.~~

- 59 B. Any previously adopted versions of Chapter 338 shall be replaced with this chapter in its entirety upon
60 the effective date of this chapter. **The Green Lake County Board shall repeal any previous versions of**
61 **this chapter and replace with the current chapter simultaneously.**

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63 **ARTICLE II**
64 **General Provisions**

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66 **§ 338-6. Areas to be regulated. (NR 115.02)**

67 Areas regulated by this chapter shall include all the lands, referred to herein as "shorelands," in the
68 unincorporated areas of Green Lake County which are:

- 69 A. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds, or flowages (NR
70 115.03(8)) or within 1,000 feet of the high-water mark of navigable glacial pothole lakes
71 (59.692(1)(b)1). Navigability of lakes, ponds, or flowages in Green Lake County shall be determined
72 based on criteria established in Appendix A of this chapter and revisions thereto.

73
74 (1) **Glacial till lakes are glacial depressions filled with water – typically isolated from one another**
75 **with respect to surface drainage. They accumulate water from precipitation, overland runoff,**
76 **groundwater and lose water through evaporation and seepage to groundwater. Glacial till lakes**
77 **are also known commonly as kettle lakes.**

78
79 (2) **Kettles are distinct, steep sided depressions left in an outwash plain or ground moraine resulting**
80 **from the later melting of ice blocks buried by the outwash or till during deposition. Kettles can**
81 **range in size from small bowls less than 100 feet across to large pits encompassing several acres.**
82 **This definition is from the Wisconsin DOT Geotechnical Manual March 1, 2017.**

- 83 B. Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward
84 side of the floodplain, whichever distance is greater (NR 115.03(8)). Navigability of rivers and streams
85 in Green Lake County shall be determined based on criteria established in Appendix A of this chapter
86 and revisions thereto.

- 87 C. The provisions of this chapter apply to regulation of the use and development of unincorporated
88 shoreland areas unless specifically exempted by law. ~~All cities, villages, towns, counties, and, when~~
89 ~~§ 13.48(13), Wis. Stats., applies, state agencies, all cities, villages, towns, and counties~~ are required to
90 comply with, and obtain all necessary permits under, this chapter. The construction, reconstruction,
91 maintenance or repair of state highways and bridges carried out under the direction and supervision of
92 the Wisconsin Department of Transportation are not subject to this chapter if § 30.2022(1m), Wis.
93 Stats., applies. Shoreland zoning requirements in annexed or incorporated areas are provided in §§
94 61.353 and 62.233, Wis. Stats.

- 95 D. Determinations of navigability and ordinary high-water mark location shall initially be made by the
96 Land Use Planning and Zoning Department. When questions arise, the Land Use Planning and Zoning
97 Department shall contact the appropriate office of the Department for a final determination of
98 navigability or ordinary high-water mark. The County may work with surveyors in regard to
99 § 59.692(1h), Wis. Stats.

- 100 E. Under § 281.31(2m), Wis. Stats., notwithstanding, any other provision of law or administrative rule
101 promulgated thereunder, this chapter does not apply to:

- 102 (1) Lands adjacent to farm drainage ditches if:
- 103 (a) Such lands are not adjacent to a natural navigable stream or river;
- 104 (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams
- 105 before ditching; and
- 106 (2) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins
- 107 that are not hydrologically connected to a natural navigable water body.
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§ 338-7. Shoreland-Wetland maps.

110 The most recent version of the Wisconsin Wetland Inventory, as depicted on the Department of Natural

111 Resources Surface Water Data Viewer, is made part of this chapter. These maps may be viewed at:

112 <https://dnr.wi.gov/>, keyword search "Surface water data." These maps may also be viewed from the GIS

113 Viewer at the County's website: <http://gis.co.green-lake.wi.us/>.

114 <https://dnrmaps.wi.gov/H5/?Viewer=SWDV>

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§ 338-8. Compliance.

116 The use of any land; the size, shape, and placement of lots and parcels; the use, size, type, and location

117 of structures on lots and parcels; the installation and maintenance of water supply and ~~waste disposal~~

118 ~~facilities~~ private onsite wastewater treatment systems and public sanitary district waste facilities; the filling,

119 grading, lagooning, dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots

120 and parcels, shall be in full compliance with the terms of this chapter and other applicable local, state, or

121 federal regulations. Buildings, ~~and~~ other structures, and land disturbances (including filling and grading,

122 etc.) shall require a permit unless otherwise expressly excluded by a provision of this chapter. The property

123 owner(s), or the contractor(s), under the direction of the property owner(s), are responsible for compliance

124 with the terms of this chapter.

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§ 338-9. Municipalities and state agencies regulated.

127 Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with

128 this chapter and obtain all necessary permits. ~~State agencies are required to comply when § 13.48(13), Wis.~~

129 ~~Stats., applies.~~ The construction, reconstruction, maintenance and repair of state highways and bridges by

130 the Wisconsin Department of Transportation are exempt when § 30.2022(1m), Wis. Stats., applies.

131

§ 338-10. Abrogation and greater restrictions. (§ 59.692(5), Wis. Stats.)

133 When more restrictive, the provisions of this chapter supersede any provisions in a County zoning ordinance

134 that solely relate to shorelands. Therefore, if a zoning standard of another ordinance only applies to lands

135 that lie within the shoreland and applies because the lands are in shoreland, then this chapter supersedes

136 those provisions. However, where another ordinance adopted under a statute other than

137 § 59.692, Wis. Stats., does not solely relate to shorelands and is more restrictive than this chapter, that

138 ordinance shall continue in full force and effect to the extent of the greater restrictions.

- 139 A. (§ 59.692(2)(a), Wis. Stats.) This chapter shall not require approval or be subject to disapproval by any
- 140 town or town board.
- 141 B. (§ 59.692(2)(b), Wis. Stats.) If an existing town ordinance relating to shorelands is more restrictive
- 142 than this chapter or any amendments thereto, the town ordinance continues in all respects to the extent
- 143 of the greater restrictions but not otherwise.
- 144 C. This chapter is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or
- 145 easements. However, where this chapter imposes greater restrictions, the provisions of this chapter
- 146 shall prevail.

- 147 D. (§ 59.692(2)(c), Wis. Stats.) This chapter shall accord and be consistent with any comprehensive
148 zoning plan or general zoning ordinance applicable, so far as practicable.
- 149 E. (§ 59.692(1d)(b), Wis. Stats.) This chapter may establish standards to regulate matters that are not
150 regulated by a shoreland zoning standard in Ch. NR 115, Wis. Adm. Code, but that further the purposes
151 of shoreland zoning as described in § 338-3 of this chapter.
- 152 F. (§ 59.692(1k)(a)3, Wis. Stats.) Counties may not establish shoreland zoning standards in a shoreland
153 zoning ordinance that requires any of the following:
- 154 (1) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation
155 requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibit or
156 regulate outdoor lighting in shorelands, if the lighting is designed or intended for residential use.
- 157 (2) Requires any inspection or upgrade of a structure before the sale or other transfer of the structure
158 may be made.
- 159 G. The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland
160 zoning ordinance if:
- 161 (1) The Department issued all required permits or approvals authorizing the construction or
162 maintenance under Ch. 30, 31, 281 or 283, Wis. Stats.
- 163 (a) Note: A "facility" means any property or equipment of a public utility, as defined in
164 § 196.01(5), Wis. Stats., or a cooperative association organized under Ch. 185, Wis. Stats.,
165 for the purpose of producing or furnishing heat, light, or power to its members only, that is
166 used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.
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169 **§ 338-11. Interpretation.**

170 ~~In their interpretation and application, the provisions of this chapter shall be liberally construed in favor of~~
171 ~~the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin~~
172 ~~Statutes. Where a provision of this chapter is required by statute and a standard in Ch. NR 115, Wis. Adm.~~
173 ~~Code, and where the chapter provision is unclear, the provision shall be interpreted in light of the statute~~
174 ~~and Chapter NR 115 standards in effect on the date of the adoption of this chapter or in effect on the date~~
175 ~~of the most recent text amendment to this chapter.~~

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177 **§ 338-1211. Severability.**

178 If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction,
179 the remainder of this chapter shall not be affected.

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181 **§ 338-13338-12. through § 338-15. (Reserved)**

182
183 **ARTICLE III**
184 **Shoreland-Wetland**
185 **District**

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187 **§ 338-16. Purpose.**

188 This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish
189 spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building
190 and development in wetlands within the shoreland zone. When development is permitted in a wetland, the
191 development should occur in a manner that minimizes adverse impacts upon the wetland.

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§ 338-17. Designation.

This district shall include all wetlands on the most recent version of the Wisconsin Wetland Inventory as referenced in § 338-7.

- A. Locating Shoreland-Wetland boundaries. (NR 115.04(2)(b)2.note) Where an apparent discrepancy exists between the Shoreland-Wetland District 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 land use 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.

~~§ 338-16. Designation.~~

~~This district shall include all shorelands within the jurisdiction of this chapter which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as referenced in § 338-7.~~

- ~~B. Locating Shoreland Wetland boundaries. Where an apparent discrepancy exists between the Shoreland Wetland District 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 land use 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.~~

~~§ 338-17. 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.~~

§ 338-18. Permitted Uses. (NR 115.04(3))

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

The following uses shall be allowed subject to general shoreland protection regulations contained in this chapter, the provisions of Chs. 30 and 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 land use permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating ~~except as allowed under Subsections 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

- 237 tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
- 238 (3) The pasturing of livestock **and the construction and maintenance of livestock fences**;
- 239 (4) The cultivation of agricultural crops;
- 240 (5) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
- 241 (6) The construction or maintenance of ~~hunting~~ **duck** blinds.
- 242 B. Uses which do not require the issuance of a land use permit and which may include limited filling,
243 flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided
244 below:
- 245 ~~(1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry~~
246 ~~conditions that would have an adverse impact on silvicultural activities if not corrected;~~
- 247 (1) The cultivation of cranberries including flooding, dike, and dam construction or ditching
248 necessary for the growing and harvesting of cranberries;
- 249 (2) The maintenance and repair of existing agricultural drainage systems, including ditching, tiling,
250 dredging, excavating, and filling necessary to maintain the level of drainage required to continue
251 the existing agricultural use. This includes the minimum filling necessary for disposal of dredged
252 spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil
253 banks where possible;
- 254 ~~(4) The construction or maintenance of fences for the pasturing of livestock, including limited~~
255 ~~excavating and filling necessary for such construction or maintenance;~~
- 256 ~~(5) The construction or maintenance of piers, docks, or walkways built on pilings, including limited~~
257 ~~excavating and filling necessary for such construction and maintenance; and~~
- 258 (3) The maintenance, repair, replacement, or reconstruction of existing town and County highways
259 and bridges, including limited excavating and filling necessary for such maintenance, repair,
260 replacement or reconstruction.
- 261 C. Uses which require the issuance of a land use permit and which ~~may include limited~~ **must be carried**
262 **out without any** filling, flooding, draining, dredging, ditching, tiling, or excavating, ~~but only to the~~
263 ~~extent specifically provided below:~~
- 264 (1) **The construction or maintenance of piers, docks, or walkways built on pilings.**
- 265 ~~(2) The construction and maintenance of roads which are necessary to conduct silvicultural activities~~
266 ~~or agricultural cultivation, provided that:~~
- 267 ~~(a) The road cannot as a practical matter be located outside the wetland;~~
- 268 ~~(b) The road is designed and constructed to minimize adverse impact upon the natural~~
269 ~~functions of the wetland enumerated in § 338-20B;~~
- 270 ~~(c) The road is designed and constructed with the minimum cross-sectional area practical to~~
271 ~~serve the intended use;~~
- 272 ~~(d) Road construction activities are carried out in the immediate area of the roadbed only.~~
- 273 (2) The construction or maintenance of nonresidential buildings, provided that:
- 274 (a) The building is essential for and used solely in conjunction with the raising of waterfowl,
275 minnows, or other wetland or aquatic animals; or ~~some other use permitted in the~~

276 ~~Shoreland Wetland District;~~ used solely for a purpose which is compatible for wetland
277 preservation

- 278 (b) The building cannot, as a practical matter, be located outside the wetland;
- 279 (c) Such building is not designed for human habitation and does not exceed 500 square feet in
280 floor area; and
- 281 ~~(d) Only limited filling or excavating necessary to provide structural support for the building
282 is authorized.~~

283 (3) The establishment of public and private parks and recreation areas, boat access sites, natural and
284 outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal
285 farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access
286 roads, provided that:

- 287
- 288 ~~(a) Any private development is used exclusively for the permitted use and the applicant has
289 received a permit or license under Ch. 29, Wis. Stats., where applicable;~~
- 290 ~~(b) Filling or excavating necessary for the construction or maintenance of public boat
291 launching ramps or attendant access roads is allowed only where such construction or
292 maintenance meets the criteria in § 338-18C(1)(a) through (d) and;~~
- 293 ~~(c) Ditching, excavating, dredging, or dike and dam construction in public and private parks
294 and recreation areas, natural and outdoor education areas, historic and scientific areas,
295 wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is
296 allowed only for the purpose of improving wildlife habitat and to otherwise enhance
297 wetland values.~~

- 298 (a) No filling is done
- 299 (b) Any private wildlife habitat area is used exclusively for that purpose.
- 300 (c) Any ditching, excavating, dredging, dike and dam construction shall be allowed in wildlife
301 refuges, game preserves, and private wildlife habitat areas for the purpose of improving
302 wildlife habitat or to otherwise enhance wetland values. Any of these activities shall
303 comply with the floodplain ordinance and secure all other required permits related to dike
304 and dam construction.

305 D. Uses which require the issuance of a land use permit and which may include limited filling, flooding,
306 draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below

307 (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities
308 or agricultural cultivation, provided that:

- 309 (a) The road cannot as a practical matter be located outside the wetland;
- 310 (b) The road is designed and constructed to minimize adverse impact upon the natural
311 functions of the wetland enumerated in § 338-20B;
- 312 (c) The road is designed and constructed with the minimum cross-sectional area practical to
313 serve the intended use;
- 314 (d) Road construction activities are carried out in the immediate area of the roadbed only.
- 315 (e) The construction of a road for silvicultural activities for temporary water level stabilization
316 measures necessary to alleviate abnormally wet or dry conditions that would have an adverse
317 impact on silvicultural activities if not corrected.

318 (2) The construction or maintenance of electric, gas, telephone, water and sewer transmission, and
319 distribution facilities, by public utilities and cooperative associations organized for the purpose
320 of producing or furnishing heat, light, power, or water to their members **provided that** ~~and the~~
321 ~~construction or maintenance of railroad lines provided that:~~

322 ~~(a) The transmission and distribution facilities and railroad lines cannot, as a practical matter,~~
323 ~~be located outside the wetland;~~

324 (a) Such construction or maintenance is done in a manner designed to minimize adverse impact
325 upon the natural functions of the wetland enumerated in § 338-20B.

326 (3) **The construction or maintenance of railroad line provided that:**

327 (a) **The railroad lines cannot, as a practical matter, be located outside the wetland;**

328 (b) **Such construction or maintenance is done in a manner designed to minimize flooding and**
329 **adverse impact upon the natural functions of the wetland enumerated in § 338-20B.**

330

331 **§ 338-19. Prohibited uses. (NR 115.04(4))**

332 Any **activity** or use not listed in § 338-18A, ~~B or C~~ is prohibited, unless the wetland or portion of the wetland
333 has been rezoned by amendment of this chapter in accordance with § 338-20 of this chapter and §
334 59.69(5)(e), Wis. Stats.

335

336 **§ 338-20. Rezoning of lands in the Shoreland-Wetland District. (NR 115.04(2))**

337 A. ~~For all proposed text and map amendments to the shoreland-wetland provisions~~ **shoreland wetland**
338 **rezoning requests** of this chapter, the appropriate office with the Department shall be provided with
339 the following:

340 (1) A copy of every petition for a ~~text or map amendment to the shoreland-wetland provisions~~
341 **shoreland wetland rezoning request** of this chapter, within five days of the filing of such petition
342 with the County Clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory
343 map adopted as part of this chapter describing any proposed rezoning of a shoreland-wetland;

344 (2) Written notice of the public hearing to be held on a proposed ~~amendment~~ **shoreland wetland**
345 **rezoning request** at least 10 days prior to such hearing;

346 (3) A copy of the Land Use Planning and Zoning Committee's findings and recommendations on
347 each proposed ~~amendment~~ **shoreland wetland rezoning request** within 10 days after the
348 submission of those findings and recommendations to the County Board; and

349 (4) Written notice of the County Board's decision on the proposed ~~amendment~~ **shoreland wetland**
350 **rezoning request** within 10 days after it is issued.

351 B. **(NR 115.04(2)(c)4)** A wetland, or a portion thereof in the Shoreland-Wetland District, shall not be
352 rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

353 (1) Storm and flood water storage capacity;

354 (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge
355 of groundwater from a wetland to another area, or the flow of groundwater through a wetland;

356 (3) Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would
357 otherwise drain into navigable waters;

358 (4) Shoreline protection against soil erosion;

359 (5) Fish spawning, breeding, nursery, or feeding grounds;

- 360 (6) Wildlife habitat; or
- 361 (7) ~~Wetlands both within the boundary of designated areas of special natural resource interest and~~
 362 ~~those wetlands which are in proximity to or have a direct hydrologic connection to such~~
 363 ~~designated areas as defined in § NR 103.04, Wis. Adm. Code, which can be accessed at the~~
 364 ~~following website: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.~~ **Areas of special**
 365 **recreational, scenic, or scientific interest, including scarce wetland types.**
- 366 C. **(NR 115.04(2)(c)9)** If the Department notifies the Land Use Planning and Zoning Committee that a
 367 proposed ~~text or map amendment to the shoreland wetland provisions~~ **shoreland wetland rezoning**
 368 **request** of this chapter may have a significant adverse impact upon any of the criteria listed in § 338-
 369 20B of this chapter, that **shoreland wetland rezone request** ~~amendment~~, if approved by the County
 370 Board, shall contain the following provision: "This **shoreland wetland rezoning** ~~amendment~~ shall not
 371 take effect until more than 30 days have elapsed after written notice of the County Board's approval
 372 of this **shoreland wetland request** ~~amendment~~ is mailed to the Department of Natural Resources.
 373 During that thirty-day period the Department of Natural Resources may notify the County Board that
 374 it will adopt a superseding shoreland ordinance for the County under § 59.692(6), Wis. Stats. If the
 375 Department does so notify the County Board, the effect of this amendment shall be stayed until the §
 376 59.692(6) adoption procedure is completed or otherwise terminated."

377
 378 **§ 338-21. (Reserved)**

379
 380 **ARTICLE IV**

381 **Land Division, Planned Unit Development and Sanitary Regulations**

382
 383 **§ 338-22. Land division review. (NR 115.05(2))**

384 The County shall review, pursuant to § 236.45, Wis. Stats., all land divisions in shoreland areas which
 385 create three or more lots or parcels or building sites of five acres each or less within a five-year period. In
 386 such review all of the following factors shall be considered:

- 387 A. Hazards to the health, safety, or welfare of future residents.
- 388 B. Proper relationship to adjoining areas.
- 389 C. Public access to navigable waters, as required by law.
- 390 D. Adequate stormwater drainage facilities.
- 391 E. Conformity to state law and administrative code provisions.

392
 393 **§ 338-23. Planned unit development (PUD). (NR 115.05(1)(a)4)**

- 394 A. Purpose. The planned unit development is intended to permit smaller nonriparian lots and parcels
 395 where the physical layout of the lots and parcels is so arranged as to better assure the control of
 396 pollution and preservation of ground cover than would be expected if the lots and parcels were
 397 developed with the normal lot sizes and setbacks and without special conditions placed upon the
 398 planned unit development at the time of its approval. A condition of all Planned Residential Unit
 399 Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.
- 400 B. Requirements for planned unit development. The County Board may at its discretion, upon its own
 401 motion or upon petition, approve a planned unit development overlay district upon finding, after a
 402 public hearing, that all of the following facts exist:
- 403 (1) Area. The area proposed for the planned unit development shall be at least two acres in size or
 404 have a minimum of 200 feet of frontage on a navigable water.

- 405 (2) Lots and parcels. Riparian lots need to meet the minimum size standards of § 338-27 and 338-28.
406 Any proposed lot or parcel in the planned unit development that does not meet the minimum size
407 standards of § 338-27 and 338-28 shall be a nonriparian lot or parcel. The Land Use Planning &
408 Zoning Committee shall consider whether the proposed lot sizes and widths provide adequate
409 building area after considerations of all setbacks and required impervious surface percentages
410 are met as well as reviewing potential impacts to prevent pollution, erosion and impacts to
411 natural scenic beauty.
- 412 (3) Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a planned
413 unit development the governing body shall consider whether proposed lot or parcel sizes, widths,
414 and setbacks are of adequate size and distance to prevent pollution or erosion along streets or
415 other public ways and waterways. In exchange for the allowance of reduced non-riparian lots, the
416 shoreland setback shall be greater than 75 feet from the ordinary high-water mark. Recommended
417 setbacks of 100 – 150 feet from the ordinary highwater mark shall help offset the impacts of the reduced
418 lots on habitat, water quality and natural scenic beauty. Increased shoreland setbacks shall be a
419 condition of approval as a way of minimizing adverse impacts of development. ~~Vegetative shore~~
420 ~~cover provisions in § 338-37 shall apply except that maximum width of a lake frontage opening~~
421 ~~shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of~~
422 ~~the proposed development. The vegetative buffer on a lot within a proposed planned unit~~
423 ~~development shall be greater than 35 feet landward of the ordinary high-water mark.~~
424 Recommended buffers of 50 -70 feet shall help offset the impacts of the reduced loss on habitat,
425 water quality and natural scenic beauty. An increased vegetative buffer shall be a condition of
426 approval. A condition of all planned residential unit development is the preservation of certain
427 open space, preferably on the shoreland, in perpetuity. All impervious surface requirements shall
428 be met. There is no relaxation for required impervious surface ratio maximums.
- 429 (4) Note: Counties should be aware that the planned unit development standards, as written, grant
430 back lot access (key holing) without applying frontage requirement standards to determine
431 overall density. This comports to NR115.05(1)(a)4. Counties may optionally include
432 requirements to limit overall density based upon minimum frontage standards as well. These
433 types of developments may also be known as conservation subdivisions or planned residential
434 development. The provisions of NR 115.05(1)(a)4 apply to these types of developments where
435 there may be a combination of a density bonus, smaller lot size, and preservation of open space.
- 436 C. The procedure for establishing a Planned Residential Unit Development district shall be as follows:
- 437 (1) Petition. A petition setting forth all of the facts required in § 338-23B shall be submitted to the
438 County Clerk with sufficient copies to provide for distribution by the County Clerk as required
439 by § 338-62H.
- 440 (2) Review and Hearing: The petition shall be submitted to the County Land Use Planning and
441 Zoning Committee established as required by § 59.69(3)(d), Wis. Stats., which shall hold a
442 public hearing and report to the County Board as required by law. Copies of the petition and
443 notice of the hearing shall also be sent to the appropriate office of the Department as described
444 in § 338-65A, of this chapter. The Land Use Planning and Zoning Committee's report to the
445 County Board shall reflect the recommendations of any federal, state, or local agency with which
446 the Land Use Planning and Zoning Committee consults.
- 447 (3) Findings and Conditions of Approval. The County Board shall make written findings as to the
448 compliance or noncompliance of the proposed overlay district with each of the applicable
449 requirements set forth in § 338-23B. If the petition is granted in whole or part, the County Board
450 shall attach such written conditions to the approval as are required by and consistent with
451 § 338-23B. The conditions of approval shall in all cases establish the specific restrictions
452 applicable with regard to minimum lot sizes, width, setbacks, dimensions of vegetative buffer
453 zone, and open space requirements.

454 (4) Planning studies. A landowner or petitioner may, at his own expense, develop the facts required
455 to establish compliance with the provisions of § 338-23B or may be required to contribute funds
456 to the County to defray all or part of the cost of such studies being undertaken by the County or
457 any agency or person with whom the County contracts for such work.

458 **D. Application and Permit Requirements**

- 459 (1) An application for a conditional use permit shall be required.
- 460 (2) Information on the total area of the lot, to-scale map showing location and size of all proposed
461 lots, any preserved open space, number and type of dwelling units, other buildings and other
462 requested information to describe the project.
- 463 (3) Proposed greater shoreland setback and greater vegetative buffer that offsets the development
464 impacts for Committee consideration.
- 465 (4) Location of shoreland-wetlands.
- 466 (5) A recorded plat or certified survey map is required prior to any construction activities.
- 467 (6) No construction activities shall commence without the issuance of a regular zoning permit for
468 each structure.

469
470 **§ 338-24. Sanitary regulations. (NR 115.05(3))**

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

- 473 A. Where public water supply systems are not available, private well construction shall be required to
474 conform to Ch. NR 812, Wis. Adm. Code.
- 475 B. Where a public sewage collection and treatment system is not available, design and construction of a
476 private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Ch. SPS
477 383, Wis. Adm. Code and after June 30, 1980, be governed by a private sewage system ordinance
478 adopted by the County under § 59.70(5), Wis. Stats.

479
480 **§ 338-25. (Reserved)**

481
482 **ARTICLE V**
483 **Lot and Parcel Size**

484
485 **§ 338-26. Purpose. (NR 115.05(1)(a))**

486 Minimum lot and parcel sizes in the shoreland area are established to afford protection against danger to
487 health, safety and welfare, and protection against pollution of the adjacent body of water.

- 488 A. In calculating the minimum area or width of a lot or parcel, the beds of navigable waters shall not be
489 included.

490
491 **§ 338-27. Sewered lots and parcels. (NR 115.05(1)(a)1)**

492 Minimum area and width for each lot or parcel.

- 493 A. The minimum area shall be 10,000 square feet and the minimum average width shall be 65 feet **with at**
494 **least 65 feet of frontage width at the ordinary high-water mark.**

- 495 (1) The width shall be calculated by averaging the shortest horizontal measurements at the

496 following locations:

497 (a) The landward distance at the ordinary high-water mark between the side boundary lines.

498 (b) Distances at any angle point along the side boundary line.

499 (c) The street/access boundary line.

500 (d) The rear boundary line, where applicable.

501

502 **§ 338-28. Unsewered lots and parcels. (NR 115.05(1)(a)2)**

503 Minimum area and width for each lot or parcel.

504 A. The minimum area shall be 20,000 square feet and the minimum average width shall be 100 feet **with at**
505 **least 100 feet of frontage width at the ordinary high-water mark.**

506 (1) The width shall be calculated by averaging the shortest horizontal measurements at the
507 following locations:

508 (a) The landward distance at the ordinary high-water mark between the side boundary lines.

509 (b) Distances at any angle point along the side boundary line.

510 (c) The street/access boundary line.

511 (d) The rear boundary line, where applicable.

512

513 **§ 338-29. Substandard lots and parcels. (NR 115.05(1)(a)3)**

514 A. A legally created lot or parcel that met minimum area and minimum average width requirements when
515 created, but does not meet current size requirements, may be used as a building site if all of the
516 following apply:

517 (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by
518 plat, survey, or consolidation by the owner into one property tax parcel.

519 (2) The substandard lot or parcel has never been developed with one or more of its structures placed
520 partly upon an adjacent lot or parcel.

521 (3) The substandard lot or parcel is developed to comply with all other requirements of this chapter.

522

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

533

534 **§ 338-30. Other substandard lots and parcels.**

535

536 Except for lots which meet the requirements of § 338-29, a land use permit for the improvement of a lot or
537 parcel having lesser dimensions than those stated in §§ 338-27 and 338-28 shall be issued only if a variance
538 is granted by the Board of Adjustment.

539
540 **§ 338-31. (Reserved) Illegally created lots.**

541
542 An illegally created lot is one that was created in violation of the required minimum area and minimum
543 average width requirements of the County's shoreland zoning ordinance at the time of creation. Illegally
544 created lots shall not be used for construction purposes without the granting of a variance.

545
546
547 **ARTICLE VI**
548 **Building and Other**
549 **Structure Setbacks**

550
551 **§ 338-32. Building and other structure setbacks. (NR 115.05(1)(b))**

552 Permitted building setbacks ~~within the shoreland area have been~~ shall be established to conform to health,
553 safety and welfare requirements, preserve natural beauty, reduce flood hazards, ~~and avoid~~ protect against
554 water pollution, ~~and otherwise limit the direct and cumulative impacts of shoreland development of the~~
555 adjacent water body.

556 A. Shoreland setbacks. (~~§ 59.692(1n)(am), Wis. Stats. and NR 115.05(1)(b)1~~ Unless exempt under ~~§ 338-~~
557 ~~32A(1), or reduced under § 338-32B~~, a setback of 75 feet from the ordinary high-water mark of any
558 navigable waters to the nearest part of a building or structure shall be required for all buildings and
559 structures.

560 (1) Exempt structures. Per § 59.692(1n)(d), Wis. Stats., **§ 59.692(1k)(a)(6), Wis. Stats., NR**
561 **115.05(1)(b)(1m)** all of the following structures are exempt from the shoreland setback standards
562 in § 338-32A:

563 (a) Boathouses located entirely above the ordinary high-water mark and entirely within the
564 access and viewing corridor that do not contain plumbing and are not used for human
565 habitation. All boathouses shall adhere to the following conditions:

566 ~~[1] The construction or placement of boathouses below the ordinary high water mark of~~
567 ~~any navigable waters shall be prohibited.~~

568 [1] Boathouses shall be designed and constructed solely for the storage of watercraft and
569 related equipment.

570 [2] One boathouse is permitted on a lot or parcel as an accessory structure.

571 [3] Boathouses shall be designed and constructed to not destabilize the existing slope.
572 Final grades must be at a slope that is naturally stable, depending on soil type. All
573 boathouse construction projects that require land disturbing activities shall be
574 authorized in accordance with § 338-41 of this chapter.

575 [4] Boathouses shall be constructed in conformity with local floodplain zoning standards.
576 Fill, elevation surveys, or other documentation may be required within 180 days of
577 permit issuance, per § 300-38B(4).

578 [5] Boathouses shall be one story with sidewalls not exceeding 10 feet in height and a
579 footprint entirely within the access and viewing corridor of the vegetative buffer. The
580 footprint is not to exceed 16 feet in width by 24 feet in depth, with the width running

- 581 parallel to the shore.
- 582 [6] Boathouse roofs shall be designed with a pitched roof having a minimum slope of 2/
583 12, a maximum slope of 6/12, and in no case shall be designed for use as a deck,
584 observation platform, or for other similar uses. Dormers are allowed so long as the
585 dormer's height does not exceed the height of the main ridge line of the boathouse.
586 One cupola, no greater than 30 inches in length and width, is allowed on the main
587 ridge line. Parapet walls are not allowed.
- 588 [7] Earth-toned color shall be required for all exterior surfaces of a boathouse. For the
589 purpose of this chapter, the color white is an earth-toned color.
590
- 591 [8] The boathouse's main door shall face the water and shall be at least 50% of the width
592 (measured running parallel to the shore) of the boathouse.
- 593 [9] Any features the Department considers inconsistent with the use of the structure
594 exclusively as a boathouse are not permitted. Examples may include but not be
595 limited to patio doors, fireplaces, decks, and living quarters.
- 596 [10] Per § 59.692(1o), Wis. Stats., the roof of an existing boathouse may be used as a deck,
597 provided that the boathouse has a flat roof, has no side walls or screened walls, and
598 has a railing that meets Department of Safety and Professional Services standards.
- 599 [11] No boathouse wall, door, or access opening shall be more than 1/3 transparent or
600 translucent.
- 601 [12] Boathouse roof overhangs shall not project more than 24 inches out from the
602 boathouse side wall.
- 603 (b) **No side.** Open-sided and screened structures, such as gazebos, decks, patios, and screen
604 houses in the shoreland setback area that satisfy the following requirements in §
605 59.692(1v), Wis. Stats.
- 606 [1] The part of the structure that is nearest to the water is located at least 35 feet landward
607 from the ordinary high-water mark.
- 608 [2] The floor area of all the structures in the shoreland setback area will not exceed 200
609 square feet. In calculating this square footage, boathouses shall be excluded.
- 610 [3] The structure that is the subject of the request for special zoning permission has no
611 sides or has open or screened sides.
- 612 [4] The County must approve a plan that will be implemented by the owner of the
613 property to preserve or establish a vegetative buffer zone that covers at least 70% of
614 the half of the shoreland setback area that is nearest to the water. Note: The statutory
615 requirements under § 59.692(1v), Wis. Stats., which require the establishment of a
616 vegetative buffer for the construction of open-sided structures are not superseded by
617 § 59.692(1f)(a).
- 618 [a] Note: Where reference is made to a shoreland vegetative buffer zone, the buffer
619 shall be designed in accordance with NRCS Interim Standard No. 643A and
620 NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat. In cases where
621 these standards provide options, the Land Use Planning and Zoning Department
622 shall make the determination which option is most appropriate in the design and
623 execution of the project.

- 624 [5] An enforceable obligation shall be evidenced by an instrument recorded with the
625 Register of Deeds prior to the issuance of a land use permit. This instrument shall
626 include an implementation schedule and enforceable obligation on the
627 property owner to establish and maintain the shoreland vegetative buffer zone.
- 628 (c) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less
629 in diameter and satellite earth station antennas that are two meters or less in diameter.
- 630 (d) Utility transmission and distribution lines, poles, towers, water towers, pumping stations,
631 well pump house covers, private on-site wastewater treatment systems that comply with
632 ~~Ch.~~ SPS 383, Wis. Admin. Code, and other utility structures that have no feasible
633 alternative location outside of the minimum setback and that employ best management
634 practices to infiltrate or otherwise control stormwater runoff from the structure.
- 635 (e) One walkway, stairway or rail system is allowed per lot or parcel to provide pedestrian
636 access to the shoreline. Walkways, stairways or rail systems are exempt from § 338-41F
637 through H of this chapter. A walkway, stairway or rail system shall be permitted, provided:
- 638 [1] The structure shall be located within the access and viewing corridor and within the
639 same width extending 75 feet through the shoreland setback and designed so as to
640 minimize earth disturbing activities and shoreline vegetation removal.
- 641 [2] The structure shall not exceed a maximum of 60 inches in width, including railings,
642 and shall not branch out within the shoreland setback. Landings, as part of the
643 shoreline access system, shall be limited to a maximum of 40 square feet and no more
644 than 60 inches wide. Landings are only allowed when necessary, as part of the
645 shoreline access system.
- 646 [3] Railings are permitted only where required by safety concerns, state statutes, or state
647 regulations.
- 648 [4] Canopies and/or roofs on such structures are prohibited.
- 649 [5] A stairway shall be supported on piles or footings rather than being excavated from
650 erodible soils, steep slopes, or similar conditions of concern.
- 651 [6] A walkway and associated stairs, excavated from underlying soils, is allowed on
652 slopes no greater than 25% to provide pedestrian access to the shoreline.
- 653 [7] Standards for removal of shoreline vegetation shall be complied with, per Article VII.
- 654 [8] In cases of steep slopes, a rail system (i.e., tram or lift) in addition to a stairway, shall
655 be permitted as long as the rail system is mounted to or immediately adjacent to the
656 existing stairway and can be located entirely within the access and viewing corridor
657 per § 338-37B.
- 658 (f) Devices or systems used to treat runoff from impervious surfaces, provided the requirements of
659 § 59.692(1k)(a)6, Wis. Stats. and § 59.692(1k)(am)1, Wis. Stats., are met.
- 660 (g) A fence along a roadway that meets all of the following requirements:
- 661 [1] Is not taller than 15 feet.
- 662 [2] Is located not less than 2 feet landward of the ordinary high-water mark.
- 663 [3] Is located entirely outside of a highway right-of-way.
- 664 [4] Is located not less than 10 feet from the edge of a roadway and not more than 40 feet from

665 the edge of a roadway or highway right-of-way, whichever is greater.

666 [5] Is generally perpendicular to the shoreline.

667
668 (h) A bridge for which the department has issued a permit under § 30.123, Wis. Stats.

- 669
670 (2) **Maintenance, repair, or replacement of an existing exempt structure in the shoreland**
671 **setback area.** ~~Existing Exempt Structures.~~ (§ 59.692(1k)(a)2m, § 59.692(1k)(a)6, §
672 59.692(1k)(b), and § 59.692(1k)(bm), Wis. Stats.) ~~Per § 59.692(1k)(a)2m, Wis. Stats.,~~ existing
673 Exempt structures may be maintained, repaired, replaced, restored, rebuilt, and remodeled
674 provided the activity does not expand the footprint and does not go beyond the three-dimensional
675 building envelope of the existing structure. The expansion of a structure beyond the existing
676 footprint may be permitted if the expansion is necessary to comply with applicable state and
677 federal requirements. Note: Section 59.692(1k)(a)2m, Wis. Stats., prohibits counties from
678 requiring any approval or imposing any fee or mitigation requirement for the activities
679 specified in § 338-32A(2).
680 However, it is important to note that property owners may be required to obtain permits or
681 approvals and counties may impose fees under ordinances adopted pursuant to other statutory
682 requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even
683 stormwater erosion control.

684 B. Reduced principal structure setback **for a new principal structure** (§ 59.692(1n)(b), Wis. Stats.). A
685 setback less than the seventy-five-foot required setback from the ordinary high-water mark shall be
686 permitted for a **new** proposed principal structure and shall be determined as follows:

- 687 (1) Where there are existing principal structures in both directions **of the new proposed structure,**
688 the setback shall equal the average of the distances the two existing principal structures are set
689 back from the ordinary high-water mark, provided that all of the following are met:
- 690 (a) Both of the existing principal structures are located on an **immediately** adjacent lot to
691 the **new** proposed principal structure.
 - 692 (b) Both of the existing principal structures are located within 250 feet of the **new**
693 proposed principal structure and are the closest **principal structure on their respective lots**
694 **to the new proposed principal structure.**
 - 695 (c) Both of the existing principal structures are located less than 75 feet from the ordinary
696 high-water mark.
 - 697 (d) The ~~average~~ **reduced principal** setback shall not be reduced to less than 35 feet from the
698 ordinary high-water mark of any navigable water.
 - 699 (e) Note: § 59.692(1d)(a), Wis. Stats., requires counties to adopt the standards consistent with
700 § 338-32B(1) for reducing the shoreland setback.
- 701 (2) Functional appurtenances that are accessory structures, such as open porches or decks, that are
702 attached to the proposed principal structure and proposed at time of permit application, must
703 comply with the reduced principal structure setback but shall not be used in the calculation of
704 the reduced principal structure setback.

705 C. In addition to the shoreland setback ~~standards in Subsections A and B above,~~ buildings and structures
706 shall comply with the following setback standards.

- 707 (1) Side yard: twelve-foot minimum for lots at least 85 feet wide.

- 708 (2) Side yard: ten-foot minimum for lots less than 85 feet wide.
- 709 (3) Street yard: twenty-five-foot minimum.
- 710 (4) Rear yard: None. In the case of corner lots, the rear yard shall be the opposite the shorter of the
- 711 two street frontages.
- 712 (5) Walkways no more than 36 inches wide **in total width** and driveways shall be exempt from §
- 713 338-32C(1) through (3). This does not exempt these structures from § 338-32A, or other
- 714 standards of this chapter.
- 715 D. In addition to the shoreland setback ~~standard in Subsections A and B above~~, fences shall comply with
- 716 the following **unless exempted in § 338-32A**:
- 717 (1) All fences, no greater than eight feet in height, may be allowed along any lot line excluding the
- 718 street right-of-way line and the side lot lines within the street-yard setback.
- 719 (2) Open style fences (greater than 50% open space), no greater than four feet in height, may be
- 720 allowed along the street right-of-way line and alongside lot lines within the street-yard setback.
- 721 (3) Open style agricultural fences, no greater than eight feet in height, are allowed without a land
- 722 use permit.
- 723 E. In addition to the shoreland setback ~~standard in Subsections A and B above~~, retaining walls shall
- 724 comply with the following:
- 725 (1) Retaining and decorative/landscape walls may be allowed in the street-yard, side-yard and rear-
- 726 yard with a minimum zero setback.
- 727 (2) Retaining walls, greater than six feet in height, shall be designed by a professional engineer.
- 728 Stamped engineered plans shall be submitted to the Land Use Planning and Zoning Department
- 729 as part of the land use permit application.
- 730 F. In addition to the shoreland setback ~~standard in Subsection A and B above~~, roof overhangs may project
- 731 no more than 12 inches into a required side and/or street setback. No projections are allowed into the
- 732 setback as required in Subsection A.
- 733 **G. Boat lifts, piers, docks, and other water dependent structures may be stored on undeveloped lots during**
- 734 **months when weather conditions make the use and keeping of water dependent structures within water**
- 735 **unconducive and detrimental to aforementioned structures.**

736

737 **§ 338-33. Floodplain structures. (NR 115.05(1)(b)2)**

738 Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any

739 applicable floodplain zoning ordinance. Fill, elevation surveys, or other documentation may be required

740 within 180 days of land use permit issuance, per § 300-38B(4).

741

742 **§ 338-34. through § 338-35. (Reserved)**

743

744 **ARTICLE VII**

745 **Vegetation**

746

747 **§ 338-36. Purpose. (NR 115.05(1)(c)1)**

748 To protect natural scenic beauty, fish and wildlife habitat, and water quality, this article shall regulate

749 removal of vegetation in shoreland areas, consistent with the following: The standards of this chapter shall

750 consider sound forestry and soil conservation practices and the effect of vegetation removal on water

751 quality, including soil erosion, and the flow of effluents, sediments, and nutrients.

752

753 **§ 338-37. Vegetative buffer zone. (§ 59.692(1f)(b), Wis. Stats., NR 115.05(1)(c)2)**

754 To protect water quality, fish and wildlife habitat, and natural scenic beauty, and to promote preservation
755 and restoration of native vegetation, there shall be designated land that extends from the ordinary high-
756 water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation
757 in the vegetative buffer zone except as follows.

758 A. Routine maintenance of vegetation **which means normally accepted horticultural practices that do not result**
759 **in the loss of any layer of existing vegetation and do not require earth disturbance.**

760 B. Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. **Provided**
761 **that the access and viewing corridor remains a strip of vegetated land for the purpose of providing safe**
762 **pedestrian access to the shore through the vegetative buffer zone. The access and viewing corridor may**
763 **be no more than 35% of the shoreline frontage but in no case, may it be less than 10 feet or greater than**
764 **200 feet of the shoreline frontage in its entirety. Per § 59.692(1f)(b), Wis. Stats., the viewing corridor may**
765 **be at least 35 feet wide for every 100 feet of shoreline frontage.** The viewing corridor may run contiguously
766 for the entire maximum width of shoreline frontage owned.

767 (1) **Note: Regarding section 338-37B there is no prohibition for the establishment of an access and**
768 **viewing corridor of less than 10 feet in width. The county may require a property owner to maintain**
769 **a vegetative buffer zone that existed on July 14, 2015, in concert with the provisions of 338-37B.**

770 C. Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested
771 land consistent with "generally accepted forestry management practices" as defined in § NR
772 1.25(2)(b), Wis. Adm. Code, and described in Department publication "Wisconsin Forest
773 Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with
774 these practices.

775 D. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species,
776 damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an
777 imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same
778 area **with native species** as soon as practicable, not to exceed nine months from date of vegetation
779 removal.

780 (1) A site visit by the Department or photos of the site provided by an owner or agent must be
781 received by the Department prior to vegetation removal. A site visit or photos from an owner or
782 agent must be provided after the vegetation has been replanted, within the timeframe specified
783 above. Submitted photos must be digitally date stamped.

784 E. Additional vegetation management activities in the vegetative buffer zone may be allowed by permit.
785 The permit issued under this subsection shall require that all management activities comply with
786 detailed plans approved by the County and designed to control erosion by limiting sedimentation into
787 the waterbody, to improve the plant community by replanting in the same area, and to maintain and
788 monitor the newly restored area. The permit also shall require an enforceable restriction to preserve
789 the newly restored area, as evidenced by an instrument recorded in the Office of the Register of Deeds
790 prior to land use permit issuance.

791 Note: § 59.692(1f)(a), Wis. Stats., prohibits counties from requiring a property owner to establish a vegetative
792 buffer zone on previously developed land or expand an existing vegetative buffer zone. However, as part of a
793 counties shoreland mitigation standards, the establishment or expansion of the vegetative buffer may remain an
794 option.

795

796 **§ 338-38. through § 338-39. (Reserved)**

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ARTICLE VIII
Land Disturbing Activity

§ 338-40. Land disturbing activity. (NR 115.05(1)(d))

To protect natural scenic beauty, fish and wildlife habitat, and water quality, filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in accordance with the provisions of § NR 115.04, Wis. Adm. Code, the requirements of Ch. 30, Wis. Stats., and other state and federal laws where applicable, and only if done in a manner designed to improve natural scenic beauty and minimize erosion, sedimentation, and impairment of fish and wildlife habitat. Filling, grading, lagooning, dredging, ditching, and excavating may be authorized by permit according to § 338-41 and 338-42, and only if done in a manner that meets the purpose of this section.

§ 338-41. General standards.

The filling, grading, lagooning, dredging, ditching, or excavating of any lands in the shoreland area within 300 feet of the ordinary high-water mark requires a land use permit, unless otherwise exempt in this chapter. A project may be permitted in the shoreland area provided that:

- A. It is not done within the shoreland vegetative buffer zone unless necessary for allowed vegetative activities, establishing or expanding the vegetative buffer, the construction of an exempt structure, to remove retaining walls to re-establish natural grade, or to repair natural shoreline damage. Natural shoreline damage must be repaired within one year of the damaging event.
- B. It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
- C. Filling, grading, lagooning, dredging, ditching, or excavating in a Shoreland-Wetland District meets the requirements of § 338-18B and C of this chapter.
- D. All applicable federal, state, and local authority is obtained in addition to a permit under this chapter.
- E. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover, ~~or a bulkhead,~~ or stabilized in another acceptable and approved manner.
- F. The slopes for the project site are less than 50% (1:2). Land disturbing activities in the shoreland area where the slope is equal to or greater than 50% (1:2) are prohibited.
- G. For land disturbing activities that are on slopes less than 50% but greater than 12%, the land use permit shall not be issued until a construction site erosion control permit, designed in accordance with §§ 284-8B and 284-9B through D of the County's Construction Site Erosion Control and Stormwater Management Ordinance, is obtained by the property owner from the Land Conservation Department.]
- H. For land disturbing activities that are on slopes less than 12%, the land use permit shall not be issued until a construction site erosion control permit, designed in accordance with §§ 284-8B(1) through (5) and 284-9A of the County's Construction Site Erosion Control and Stormwater Management Ordinance, is obtained by the property owner from the Land Conservation Department.

§ 338-42. Permit required.

- A. For any land disturbing activity of any area which is within 300 feet landward of the ordinary high-water mark of navigable water, a land use permit is required. Land disturbing activity includes but is not limited to filling, grading, lagooning, dredging, ditching, and excavating.
 - (1) A land use permit may be approved based upon:

- 841 (a) A stormwater management, erosion control, grading, and revegetation plan.
- 842 (b) Findings that the land disturbing activity will not result in:
- 843 [1] Impairment of natural wetland functions.
- 844 [2] Erosion or sedimentation to navigable water.
- 845 [3] Impairment of aquatic life.
- 846 [4] Unnecessary loss of native appearance or natural beauty of the shoreland.
- 847 [5] Restricting flood flows.
- 848 [6] Reducing the storage capacity of the floodplain.

849 ~~B. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond,~~
850 ~~lake, or similar waterway which is within 300 feet landward of the ordinary high water mark of a~~
851 ~~navigable body of water or where the purpose is the ultimate connection with a navigable body of~~
852 ~~water.~~

853 ~~(1) Where a DNR permit has been issued which meets the substantial concerns of this article, no~~
854 ~~land use permit will be required, unless this article is more restrictive.~~

855 **B. Driveways greater than 300 feet from the ordinary high-water mark are exempt from a land use permit.**
856 **If a driveway starts in a location greater than 300 feet from the ordinary high-water mark and ends in**
857 **a location closer to the ordinary high-water mark than 300 feet a land use permit is still required.**

858 **§ 338-43. Permit conditions.**

860 In granting a permit under § 338-42, the County shall attach the following conditions, where appropriate,
861 in addition to those provisions specified in § 338-63 or 338-64.

- 862 A. The smallest amount of bare ground shall be exposed for as short a time as feasible.
- 863 B. Temporary ground cover (such as mulch or jute netting) shall be used continually until permanent
864 vegetative cover shall be established.
- 865 C. Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be
866 used to contain soil and sediment and prevent it from leaving the project site **and prevent erosion.**
- 867 D. Lagoons shall be constructed to avoid fish trap conditions.
- 868 E. Fill and excavations shall be stabilized according to soil type and accepted nonengineered and
869 engineering standards as required by the Land Use Planning and Zoning Department.
- 870 F. Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or
871 destroy the flood storage capacity of a floodplain.
- 872 G. Channels or artificial watercourses shall be constructed with side slopes of two units horizontal
873 distance to one unit vertical or flatter. The side slopes shall be promptly vegetated, unless bulkheads
874 or riprap are provided.
- 875 H. On-site inspections may be required prior to excavation, during construction, and upon project
876 completion. A completed application for land use permit authorizes the Department to visit and inspect
877 the project site prior to permit issuance, during permit validity, and up to six months after permit
878 expiration for compliance with the conditions of the permit and terms of this chapter.
- 879 I. Any other conditions intended to protect shorelines and minimize erosion, sedimentation, and the
880 impairment of fish and wildlife habitat.

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~~§ 338-44. Permit not required.~~ **Reserved**

- ~~A. Shoreline protection projects, which include land disturbing activities, authorized by a state permit~~
- ~~B. Nonstructural projects, which include land disturbing activities, approved by County Land Conservation Department to remedy significant existing erosion problems may be allowed without a land use permit.~~

ARTICLE IX
Impervious Surfaces

§ 338-45. Purpose. (NR 115.05(1)(e))

Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. Impervious surface standards of this chapter shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface **that is or will be located within 300 feet of the ordinary high water-mark of any navigable waterway** on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high- water mark of any navigable waterway.

§ 338-46. Impervious surface calculation. (NR 115.05(1)(e)1m and § 59.692(1k)(am)1, Wis. Stats.)

- A. 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 § 338-49 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.
- B. Note: § NR 115.05(1)(e)1m, Wis. Adm. Code, clarifies that, if an outlot lies between the OHWM and the developed lot or parcel and both are in common ownership, then the lot or parcel should be considered one property for the purposes of calculating the percentage of impervious surfaces. If there is an outlot, parcel or road that is owned by some other entity, for example a hydroelectric facility, town, or County, then the County should determine what level of control the property owner has over that portion of the lot. Can the property owner place structures, such as shoreline protection, piers, stairs, boathouses etc. on that portion of the lot, or does some other entity have control over development? If a property owner has no or little say over construction on that portion of the lot, then impervious surfaces on that portion of the lot should be calculated separately. For properties that have condominium ownership, the impervious surface calculations apply to the entire property. The property is still under one legal description and the proposed expansion to a unit is not the only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be important to remember also that mitigation applies to the property as a whole and not just to the portion of the frontage that might be in front of the unit impacted.
- C. **Roadways defined in § 34.01(54), Wis. Stats, and sidewalks defined in § 340.01(58), Wis. Stats, shall be excluded from the impervious surface calculation under this section. The roadways and sidewalks of this section are only those as defined. The exclusion from the impervious surface calculation does not apply to all driveways and sidewalks.**

§ 338-47. Impervious surface standard. (NR 115.05(1)(e)2)

Except as allowed in §§ 338-48 and 338-49, allow up to 15% impervious surface on the portion of a lot or

928 parcel that is within 300 feet of the ordinary high-water mark.

929
930 **§ 338-48. Maximum impervious surface. (NR 115.05(1)(e)3)**

931 A property may exceed the impervious surface standard under § 338-47, provided the following standards
932 are met:

- 933 A. For properties where the general impervious surface standard applies under § 338-47, a property
934 owner may have more than 15% impervious surface but not more than 30% impervious surface on the
935 portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- 936 B. For properties that exceed the standard under § 338-47 but do not exceed the maximum standard
937 under § 338-48A, a permit can be issued for development with a mitigation plan that meets the
938 standards found in Article XII.

939
940 **§ 338-49. Treated impervious surfaces. (NR 115.05(1)(e)3m and § 59.692(1k)(am)1, Wis. Stats.)**

941 A. Impervious surfaces that can be documented to show they meet either of the following standards shall
942 be excluded from the impervious surface calculations under § 338-46.

943 (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands,
944 infiltration basins, rain gardens, bioswales, or other engineered systems.

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

947 B. Note: The provisions in § 338-49 are an exemption from the impervious surface standards and, as
948 such, should be construed narrowly. As such, a property owner is entitled to this exemption only when
949 the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment
950 system, treatment device, or internally drained. Property owners that can demonstrate that the runoff
951 from an impervious surface is being treated consistent with § 338-49 will be considered pervious for
952 the purposes of implementing the impervious surface standards in this ordinance. If a property owner
953 or subsequent property owner fails to maintain the treatment system, treatment device, or internally
954 drained area, the impervious surface is no longer exempt under § 338-49.

955 C. To qualify for the statutory exemption, property owners shall submit a complete land use permit
956 application that is reviewed and approved by the Land Use Planning and Zoning Department. The
957 application shall include the following:

958 (1) Calculations showing how much runoff is coming from the impervious surface area.

959 (2) Documentation that the runoff from the impervious surface is being treated by a proposed
960 treatment system, treatment device, or internally drained area.

961 (3) An implementation schedule and enforceable obligation on the property owner to establish and
962 maintain the treatment system, treatment devices, or internally drained area.

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

965 D. Where reference is made to a rain garden, the rain garden shall be designed, installed, and maintained
966 in accordance with Wisconsin DNR Publication, PUB-WT-776-2018, "Rain Gardens: A Guide for
967 Homeowners and Landscapers."

968
969 **§ 338-50. Existing impervious surfaces. (NR 115.05(1)(e)4)**

970 For existing impervious surfaces that were lawfully placed when constructed but do not comply with the

971 impervious surface standard in § 338-47 or the maximum impervious surface standard in § 338-48, the
972 property owner may do any of the following:

- 973 A. Maintain and repair the existing impervious surfaces;
- 974 B. Replace existing impervious surfaces with similar surfaces within the ~~three-dimensional space~~ **existing**
975 **building envelope** of the structure;
- 976
- 977 C. Relocate or modify an existing impervious surface with similar or different impervious surface,
978 provided that the relocation or modification does not result in an increase in the percentage of
979 impervious surface that existed on the effective date of the County Shoreland Zoning Ordinance, and
980 the impervious surface meets the applicable setback requirements in this chapter.
- 981 D. Note: The impervious surface standards in this section (changed to reflect Ch. NR 115, Wis. Adm.
982 Code) shall not be construed to supersede other provisions in the County Shoreland Zoning Ordinance.
- 983 (1) All of the provisions of the County Shoreland Zoning Ordinance still apply to new or existing
984 development.
- 985

986 **§ 338-51. (Reserved)**

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988 **ARTICLE X**

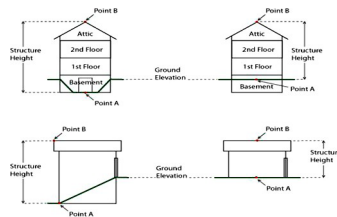
989 **Height**

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991 **§ 338-52. Height. (NR 115.05(1)(f))**

992 To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a land use
993 permit may not be granted for any construction that results in a structure taller than 35 feet within 75 feet
994 of the ordinary high-water mark of any navigable waters.

- 995 A. The structure height for structures at or greater than 75 feet from the ordinary high-water mark shall
996 comply with the provisions of other applicable ordinance standards, if any.
- 997 B. Structure height within 75 feet of the ordinary high-water mark of any navigable water is the
998 measurement of the vertical line segment starting at the lowest point of any exposed wall and its
999 intersect with the ground (Point A in the diagram below) to a line horizontal to the highest point of a
1000 structure excluding items attached to a structure such as, but not limited to, chimneys, ornamental
1001 towers, vents, television towers, and mechanical appurtenances (Point B in the diagram below), unless
1002 specified under other sections of this chapter.
- 1003
- 1004



1005

1006 **§ 338-53. (Reserved)**

1007

1008 **ARTICLE XI**

1009 **Nonconforming Uses and Structures**

1010

1011 **§ 338-54. ~~Discontinued nonconforming use.~~ Nonconforming Uses.** (NR 115.05(1)(g)1-3 and §
1012 59.69(10), Wis. Stats.)
1013

1014 A. This section applies to a use of a dwelling, building, or parcel of land that existed lawfully before the
1015 existing zoning ordinance was enacted or amended, but that does not conform to the allowed uses in the
1016 current ordinance. (§ 59.69(10)(ab), Wis. Stats.)

1017 (4) The continuance of the lawful use of any building, premises, structure, or fixture for any trade of
1018 industry for which such building, premises, structure, or fixture is used at the time that the ordinance
1019 takes effect may not be prohibited. (§ 59.69(10)(am), Wis. Stats. and NR 115.05(1)(g)1)

1020 (5) The alteration of, or addition to, or repair in excess of 50 percent of its assessed value of any existing
1021 building, premises, structure, or fixture for the purpose of carrying on any prohibited trade or new
1022 industry within the district where such buildings premises, structures, or fixtures are located may be
1023 prohibited. (§ 59.69(10)(am), Wis. Stats.)

1024 (6) The county may prohibit the continuance of the nonconforming use of a temporary structure. (NR
1025 115.05(1)(g)2)

1026 (7) If a nonconforming use is discontinued for a period of 12 months, any future use of the building,
1027 structure, or property shall conform to this chapter. (NR 115.05(1)(g)3)

1028 (8) A manufactured home community licensed under § 101.935, Wis. Stats., that is a nonconforming
1029 use continues to be a nonconforming use notwithstanding the occurrence of any of the following
1030 activities within the community: (§59.69(10)(at), Wis. Stats.)

1031 (a) Repair or replacement of homes.

1032 (b) Repair or replacement of infrastructure.
1033

1034 **§ 338-55. ~~Maintenance, repair, replacement, or vertical expansion of a~~ Nonconforming
1035 sStructures.** (§ 59.692(1k)(a)2, 4, and (b), Wis. Stats.)
1036

1037 This section applies to an existing principal or accessory structure that was lawfully placed when
1038 constructed but that does not comply with the current required ordinary high water mark setback of a
1039 navigable waterway, street yard setback, or side yard setback.

1040 A. An existing structure that was lawfully placed when constructed but does not comply with the required
1041 shoreland setbacks, per §§ 338-32 and 338-33, may be maintained, repaired, replaced, restored, rebuilt,
1042 or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an
1043 existing structure that was lawfully placed when constructed but does not comply with the required
1044 shoreland setback, may be vertically expanded unless the vertical expansion would extend more than
1045 35 feet above grade level, as provided in § 338-52B. Expansion of a structure may be allowed beyond
1046 the existing footprint if the expansion is necessary to comply with applicable state or federal
1047 requirements.

1048 B. Note:

1049 (1) Section 59.692(1k)(a) ~~1, b, and d~~ 2, 4 and (b), Wis. Stats., prohibits counties from requiring any
1050 approval or imposing any fee or mitigation requirement for the activities specified in § 338-55.
1051 However, it is important to note that property owners may be required to obtain permits or
1052 approvals and counties may impose fees under ordinances adopted pursuant to other statutory
1053 requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even
1054 stormwater erosion control.

1055 (2) Section NR 115.05(1)(b)1m, Wis. Adm. Code, lists structures that are exempt from the shoreland

1056 setback. These structures are considered conforming structures and are not considered
1057 nonconforming structures. Structures that were granted variances or illegally constructed
1058 structures are not considered nonconforming structures.
1059

1060 **§ 338-56. Lateral expansion of nonconforming principal structure within the setback. (NR**
1061 **115.05(1)(g)5)**

1062 An existing principal structure that was lawfully placed when constructed but does not comply with
1063 the required building setback per §§ 338-32A and 338-33 may expand laterally, provided that all of the
1064 following requirements are met:

- 1065 A. The use of the structure has not been discontinued for a period of 12 months or more if a
1066 nonconforming use.
- 1067 B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- 1068 C. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No
1069 portion of the expansion may be any closer to the ordinary high-water mark than the closest point of
1070 the existing principal structure.
- 1071 D. The Land Use Planning and Zoning Department shall issue a permit that requires a mitigation plan
1072 that shall be approved by the Land Use Planning and Zoning Department and implemented by the
1073 property owner by the date specified in the land use permit. The mitigation plan shall meet the
1074 standards found in Article XII.
- 1075 E. All other provisions of this chapter shall be met.

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1077
1078 **§ 338-57. Expansion of a nonconforming principal structure beyond setback. (NR**
1079 **115.05(1)(g)5m)**

1080 An existing principal structure that was lawfully placed when constructed but does not comply with
1081 the required building setback under §§ 338-32 and 338-33, may be expanded landward of the shoreland
1082 setback area horizontally or vertically, provided that the expanded area meets the building setback
1083 requirements per § 338-32 or 338-33 and that all other provisions of this chapter are met. A mitigation plan
1084 is not required solely for expansion under this section, but may be required per Article IX.
1085

1086 **§ 338-58. Relocation of nonconforming principal structure. (NR 115.05(1)(g)6)**

1087 An existing principal structure that was lawfully placed when constructed but does not comply with the
1088 required ~~building~~ shoreland setback per §§ 338-32A and 338-33, may be relocated on the property provided
1089 all of the following requirements are met:

- 1090 A. The use of the structure has not been discontinued for a period of 12 months or more if a
1091 nonconforming use.
- 1092 B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- 1093 C. No portion of the relocated structure is located any closer to the ordinary high-water mark than the
1094 closest point of the existing principal structure.
- 1095 D. The Land Use Planning and Zoning Department determines that no other location is available on the
1096 property to build a principal structure of a comparable size to the structure proposed for relocation
1097 that will result in compliance with the shoreland setback requirement per § 338-32A.
- 1098 E. The Land Use Planning and Zoning Department shall issue a permit that requires a mitigation plan
1099 that shall be approved by the Land Use Planning and Zoning Department and implemented by the

property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Article XII and include enforceable obligations of the property owner to establish or maintain measures that the Land Use Planning and Zoning Department 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 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 this chapter shall be met.

§ 338-59. Maintenance, repair, replacement or vertical expansion of structures authorized by variance. (§ 59.692(1k)(a)2, 4, and (b), Wis. Stats.)

A. A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

B. Note: § 59.692(1k)(a)2, Wis. Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in § 338-59. 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. **Any conditions placed on a previously granted variance remain binding and thus may override allowances in § 338-59 in part or in whole depending on the specific details of the condition(s).**

§ 338-60. Maintenance, repair, replacement of a building or structure in violation of a county shoreland zoning ordinance that may not be enforced. ((§ 59.692(1t), Wis. Stats. and § 59.692(1k)(a)2.c, Wis. Stats.)

A. **An enforcement action may not commence against a person who owns a building or structure that is in violation of a shoreland zoning standard or this shoreland zoning ordinance if it has been in place for more than ten years.**

B. **A building or structure that is in violation of a shoreland zoning standard or this shoreland zoning ordinance but has been in place for more than ten years may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the structure that is in violation. However, the structure may not be vertically or laterally expanded.**

**ARTICLE XII
Mitigation**

§ 338-601. Mitigation. (NR 115.05 (1)(e)3c, (g)5d, (g)6e)

The purpose of mitigation is to establish and maintain measures adequate to offset the impacts of development on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty. When a land use permit, issued under this chapter, requires mitigation according to § 338-32A(2) and §§ 338-48 and 338-58, the property owner must submit a complete permit application that includes a mitigation plan.

- 1148 A. The application shall be reviewed and approved by the County Land Use Planning and Zoning
1149 Department. The application shall include the following:
- 1150 (1) A scaled site plan that describes with images and notations the proposed mitigation measures:
- 1151 (a) The mitigation site plan shall be designed and implemented to restore natural functions lost
1152 through development and human activities.
- 1153 (b) The mitigation measures of the plan shall be proportional in scope to the impacts of
1154 development on water quality, near-shore aquatic habitat, upland wildlife habitat, and
1155 natural scenic beauty.
- 1156 (2) An implementation schedule stating the completion date of the mitigation measures. Also, there
1157 shall be an enforceable obligation on the property owner to establish and maintain the mitigation
1158 measures.
- 1159 (a) The enforceable obligations shall be evidenced by an instrument, shoreland mitigation
1160 agreement, recorded in the office of the Register of Deeds, prior to issuance of a land use
1161 permit.
- 1162 B. The various types of development projects that require mitigation measures based on this chapter shall
1163 have options to mitigate the impacts of those development projects as provided herein. In cases where
1164 a development project impacts more than one type of development requiring mitigation, mitigation
1165 measures shall provide the total points for all affected types of development. The mitigation measures
1166 with corresponding mitigation points applicable to development projects requiring mitigation are as
1167 follows:
- 1168 (1) Three points: Creation or restoration of the primary shoreland vegetative buffer zone, which is
1169 the area from the ordinary high-water mark to 35 feet landward. The mitigation points and buffer
1170 depth may be modified if a lesser buffer depth is approved by the Land Use Planning and Zoning
1171 Department, based on the scope of the development project.
- 1172 (2) One point: Each additional 500 square feet of native secondary vegetative shoreland buffer; after
1173 the shoreland vegetative buffer zone has been created or restored.
- 1174 (3) Removal of building structures: Removal area(s) landward of the shoreland vegetative buffer
1175 zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer
1176 zone shall be in accordance with Subsection D below.
- 1177 (a) Two points: Removal of each building structure having 200 square feet or more of
1178 impervious surface within the seventy-five-foot shoreland setback area.
- 1179 (b) One point: Removal of each building structure having less than 200 square feet of
1180 impervious surface within the seventy-five-foot shoreland setback area.
- 1181
- 1182 (4) One point: Removal of each 200 square feet of impervious surface within 300 feet of the ordinary
1183 high-water mark of navigable waters. Removal area(s) landward of the shoreland vegetative
1184 buffer zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative
1185 buffer zone shall be in accordance with Subsection D below.
- 1186 (5) One point: Removal of seawalls/bulkheads.
- 1187 (6) One point: Relocate access and viewing corridor to include boathouse. Vacated area(s) landward
1188 of the shoreland vegetative buffer zone shall be restored and vegetated. Vacated area(s) within
1189 the shoreland vegetative buffer zone shall be vegetated in accordance with Subsection D below.
- 1190 (7) Stormwater management that will infiltrate the peak flow discharge of stormwater runoff on a

1191 lot or parcel, for a two-year rainfall event, into a rain garden(s) for conditions stated below. Other
1192 infiltration methods may be used as approved by the Land Use Planning and Zoning Department.

1193 (a) Two points: Stormwater management practice that will infiltrate all the stormwater runoff
1194 from the impervious surface of principal building structure(s).

1195 (b) Three points: Stormwater management practice that will infiltrate all the stormwater runoff
1196 from the impervious surface of principal building structure(s) and any accessory building
1197 structure(s).

1198 (c) Four points: Stormwater management practice that will infiltrate the stormwater runoff
1199 from all the impervious surface(s).

1200 C. Types of development requiring mitigation measures are as follows:

1201 (1) Impervious surface development. Any of the following levels of impervious surface area, based
1202 on the standards of Article IX, shall provide mitigation measures having the following number
1203 of mitigation points.

1204 (a) Three mitigation measure points shall be included in a mitigation plan on a lot or parcel
1205 where the percentage of impervious surface is greater than 15% and up to and including
1206 20%.

1207 (b) Four mitigation measure points shall be included in a mitigation plan on a lot or parcel
1208 where the percentage of impervious surface is greater than 20% and up to and including
1209 25%.

1210 (c) Five mitigation measure points shall be included in a mitigation plan on a lot or parcel
1211 where the percentage of impervious surface is greater than 25% and up to and including
1212 30%.

1213 (2) Lateral expansion of a nonconforming principal structure per § 338-56 shall require a mitigation
1214 plan that includes any mitigation measures listed in § 338-60B having a minimum of one point.

1215 (3) Replacement or relocation of a nonconforming principal structure per § 338-58 shall require a
1216 mitigation plan that includes any mitigation measures listed in § 338-60B having a minimum of
1217 two points.

- 1218
1219 D. Where reference is made to a shoreland vegetative buffer zone, the buffer shall be designed in
1220 accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1:
1221 Shoreland Habitat. In cases where these standards provide options, the Land Use Planning and Zoning
1222 Department shall make the determination which option is most appropriate in the design and execution
1223 of the project.
- 1224 E. Where reference is made to a rain garden, the rain garden shall be designed, installed, and maintained
1225 in accordance with Wisconsin DNR Publication, PUB-WT-776-2018, "Rain Gardens: A Guide for
1226 Homeowners and Landscapers."
- 1227 F. Where the Land Use Planning and Zoning Department determines a lot or parcel has excessive
1228 navigable water frontage for the purpose of a shoreland vegetative buffer installation, the Land Use
1229 Planning and Zoning Department may reduce the width of the shoreland vegetative buffer to no less
1230 than 100 feet.
- 1231 G. All development projects requiring mitigation measures on a lot or parcel having a POWTS (private
1232 onsite wastewater treatment system) shall be required to have the POWTS evaluated by a licensed
1233 plumber to determine condition and sizing compliance; and, if needed, the POWTS shall be upgraded
1234 to comply with current applicable standards.

1235
1236 **§ 338-61. (Reserved)**

1237
1238 **ARTICLE XIII**
1239 **Administration**

1240
1241 **§ 338-62. Administrative provisions. (NR 115.05(4))**

1242 **In order to establish, maintain, implement, and enforce this shoreland zoning ordinance each of the**
1243 **following shall be required: The appointment of an administrator and such additional staff as the workload**
1244 **may require. The creation of a zoning agency as authorized by s. 59.69(2), Stats, a board of adjustment as**
1245 **authorized by s. 59.694, Stat., and a county planning agency as defined in s. 236.02(3), Stats, and required**
1246 **by s. 59.692(3), Stats.**

1247 Given the County has created a Land Use Planning and Zoning Department, and Land Use Planning and
1248 Zoning Committee, and Board of Adjustment to administer and enforce land use ordinances, these same
1249 officials shall also administer and enforce this chapter. These officials, for the purpose of this shoreland
1250 zoning ordinance, shall be responsible for all of the following:

- 1251 A. A system of permits for ~~all~~ **establishing uses, land disturbances**, new construction, development,
1252 reconstruction, structural alteration, or moving of buildings and structures. A copy of applications
1253 shall be required to be filed in the Land Use Planning and Zoning Department, unless prohibited by §
1254 59.692(1k), Wis. Stats.
- 1255 B. Perform regular inspection of permitted work in progress to ~~insure~~ **ensure** conformity of the finished
1256 structures **or completed land disturbing activities** with the terms of this chapter.
- 1257 C. Establish a variance procedure which authorizes the Board of Adjustment to grant such variance from
1258 the terms of this chapter as will not be contrary to the public interest where, owing to special conditions
1259 and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of this
1260 chapter will result in unnecessary hardship as long as the granting of a variance does not have the
1261 effect of granting or increasing any use of property which is prohibited in that zoning district by the
1262 shoreland zoning ordinance.
- 1263 D. ~~Establish a special exception (conditional use permit) procedure for uses presenting special problems.~~

1264 A conditional use permit (special exception permit) procedure in which a permit states that a use
1265 permitted as a conditional use (special exception) may be established, expanded, or enlarged subject to
1266 any conditions placed on the authorization and the provisions of this ordinance. The conditions
1267 (exceptions) should not be contradictory to the purposes of this ordinance as identified in section

1268 E. The County shall keep a complete record of all proceedings before the Board of Adjustment, and Land
1269 Use Planning and Zoning Committee.

1270 F. Written notice to the appropriate office of the Department at least 10 days prior to any hearing on a
1271 proposed variance, special exception, or conditional use permit, appeal for a map or text interpretation,
1272 map or text amendment, and copies of all proposed land divisions submitted to the County for review
1273 under Article IV.

1274 G. Submission to the appropriate office of the Department, within 10 days after grant or denial, copies
1275 of any decision on a variance, special exception, or conditional use permit, or appeal for a map or text
1276 interpretation, and any decision to amend a map or text of this chapter.

1277 H. ~~Mapped zoning districts and the recording, on an official copy of such map, of all district boundary~~
1278 ~~amendments.~~ Development and maintenance of an official map of all mapped zoning district boundaries,
1279 amendments, and recordings. The official map for the shoreland-wetland zoning district is the Wisconsin
1280 Wetland Inventory found on the Department's Surface Water Data Viewer.

1281 I. The establishment of appropriate penalties for violations of various provisions of this chapter,
1282 including forfeitures. Compliance with this chapter shall be enforceable by the use of injunctions to
1283 prevent or abate a violation, as provided in § 59.69 (11), Wis. Stats.

1284 J. Investigate and report violations of this chapter for enforcement and/or prosecution.

1285
1286 **§ 338-63. Permits.**

1287 A. When required. Except where another section of this chapter specifically exempts certain types of
1288 development from this requirement, a land use permit shall be obtained from the Land Use Planning
1289 and Zoning Department, or Board of Adjustment, or Land Use Planning and Zoning Committee before
1290 any new development.

1291 B. Application. An application for a land use permit shall be made to the Land Use Planning and Zoning
1292 Department upon forms furnished by the Land Use Planning and Zoning Department and shall include
1293 for the purpose of proper enforcement of these regulations, the following information:
1294

1295 (1) Name and address of applicant and property owner.

1296 (2) Legal description of the property and type of proposed use.

1297 (3) A "to scale" drawing of the dimensions of the lot and location of all existing and proposed
1298 structures and impervious surfaces relative to the lot lines, center line of abutting highways, and
1299 the ordinary high-water mark of any abutting waterways.

1300 (4) Location and description of any existing private water supply or sewage system or notification
1301 of plans for any such installation.

1302 (5) Plans for appropriate mitigation when required.

1303 (6) Payment of the appropriate fee.

1304 (7) Additional information required by the Land Use Planning and Zoning Department.

1305 C. Expiration of permit. A land use permit shall expire 12 months from date issued.

1306
1307 **§ 338-64. Special exception permits (conditional use permits).**

- 1308 A. Application for a special exception permit. Any use listed as a special exception in this chapter shall
1309 be permitted only after an application has been submitted to the Land Use Planning and Zoning
1310 Department and a special exception permit has been granted by the Board of Adjustment. To secure
1311 information upon which to base its determination, the Board of Adjustment may require the applicant
1312 to furnish, in addition to the information required for a land use permit, the following information:
- 1313 (1) A plan of the area showing surface contours, soil types, ordinary high-water marks, ground
1314 water conditions, subsurface geology, and vegetative cover.
- 1315 (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space, and
1316 landscaping.
- 1317 (3) Plans of buildings, sewage disposal facilities, water supply systems, and arrangement of
1318 operations.
- 1319 (4) Specifications for areas of proposed filling, grading, lagooning or dredging.
- 1320 (5) Other pertinent information necessary to determine if the proposed use meets the requirements
1321 of this chapter.
- 1322 (6) Rationale for why the proposed special exception meets all of the special exception criteria
1323 listed in this chapter.
- 1324
- 1325 B. Notice, public hearing and decision. Before deciding whether to grant or deny an application for a
1326 special exception permit, the Board of Adjustment shall hold a public hearing. Notice of such public
1327 hearing, specifying the time, place and matters to come before the Board of Adjustment, shall be
1328 given as a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate
1329 office of the Department at least 10 days prior to the hearing. The Board of Adjustment shall state in
1330 writing the grounds for granting or denying a special exception permit.
- 1331 C. Standards applicable to all special exceptions. In deciding a special exception application, the Board
1332 of Adjustment shall evaluate the effect of the proposed use upon:
- 1333 (1) The maintenance of safe and healthful conditions.
- 1334 (2) The prevention and control of water pollution including sedimentation.
- 1335 (3) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent
1336 properties due to altered surface water drainage.
- 1337 (4) The erosion potential of the site based upon degree and direction of slope, soil type, and
1338 vegetative cover.
- 1339 (5) The location of the site with respect to existing or future access roads.
- 1340 (6) The need of the proposed use for a shoreland location.
- 1341 (7) Its compatibility with uses on adjacent land.
- 1342 (8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal
1343 systems.
- 1344 (9) Location factors under which:
- 1345 (a) Domestic uses shall be generally preferred;

1346 (b) Uses not inherently a source of pollution within an area shall be preferred over uses that
1347 are or may be a pollution source;

1348 (c) Use locations within an area tending to minimize the possibility of pollution shall be
1349 preferred over use locations tending to increase that possibility. Additional standards, such
1350 as parking, noise, etc., may be referred to the applicable part of their ordinance.

1351 D. Conditions attached to special exception. Such conditions may include specifications for, without
1352 limitation because of specific enumeration: type of shore cover; specific sewage disposal and water
1353 supply facilities; landscaping and planting screens; period of operation; operational control; sureties;
1354 deed restrictions; location of piers, docks, parking, and signs; and type of construction.

1355 (1) Upon consideration of the factors listed above, the Board of Adjustment shall attach such
1356 conditions, in addition to those required elsewhere in this chapter, as are necessary to further the
1357 purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this
1358 chapter.

1359 (2) In granting a special exception permit, the Board of Adjustment may not impose conditions
1360 which are more restrictive than any of the specific standards in this chapter. Where this chapter
1361 is silent as to the extent of restriction, the Board of Adjustment may impose any reasonable
1362 permit conditions to affect the purpose of this chapter.

1363 E. Recording. When a special exception permit is approved, an appropriate record shall be made of the
1364 land use and structures permitted. Such permit shall be applicable solely to the structures, use, and
1365 property so described. A copy of any decision on a special exception permit shall be provided to the
1366 appropriate office of the Department within 10 days after it is granted or denied.

1367 F. Revocation. Where the conditions of a special exception permit are violated, the special exception
1368 permit may be revoked.

1369 **§ 338-65. Variances.**

1371 A. The Board of Adjustment may grant upon appeal a variance from the standards of this chapter where
1372 an applicant convincingly demonstrates that:

1373 (1) Literal enforcement of the provisions of this chapter will result in unnecessary hardship on the
1374 applicant; and

1375 (2) The hardship is due to special conditions unique to the property; and

1376 (3) Is not contrary to the public interest.

1377 B. Notice, hearing, and decision. Before deciding on an application for a variance, the Board of
1378 Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place, and matters
1379 of concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to
1380 the appropriate office of the Department at least 10 days prior to the hearing. The Board of Adjustment
1381 shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such
1382 decision to the appropriate Department office within 10 days of the decision.

1383 **§ 338-66. Board of Adjustment.**

1384 The chair of the County Board shall appoint a Board of Adjustment consisting of three members and two
1385 alternate members under § 59.694, Wis. Stats. The County Board shall adopt such rules for the conduct of
1386 the business of the Board of Adjustment as required by § 59.694(3), Wis. Stats.

1388 A. Powers and duties (§ 59.694 Wis. Stats.).

- 1389 (1) The Board of Adjustment shall adopt such additional rules as it deems necessary and may
1390 exercise all of the powers conferred on such boards by § 59.694, Wis. Stats.
- 1391 (2) It shall hear and decide appeals where it is alleged there is error in any order, requirement,
1392 decision, or determination made by an administrative official in the enforcement or
1393 administration of this chapter.
- 1394 (3) It shall hear and decide applications for special exception permits pursuant to Section 338-64.
- 1395 (4) It may grant a variance from the standards of this chapter pursuant to Section 338-65.
- 1396 (5) In granting a variance, the board may not impose conditions which are more restrictive than any
1397 of the specific standards in this chapter. Where this chapter is silent as to the extent of restriction,
1398 the board may impose any reasonable permit conditions to affect the purpose of this chapter.
- 1399 B. Appeals to the Board. Appeals to the Board of Adjustment may be made by any person aggrieved of
1400 by an officer, department, board, or bureau of the County affected by any decision of the Land Use
1401 Planning and Zoning Department or other administrative officer. Such appeal shall be made within 30
1402 days, as provided by the rules of the County Board, by filing with the officer whose decision is in
1403 question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal.
1404 The Land Use Planning and Zoning Department, or other officer whose decision is in question, shall
1405 promptly transmit to the Board of Adjustment all the papers constituting the record concerning the
1406 matter appealed.
- 1407 C. Hearing Appeals and Applications for Variances and Special Exception Permits. (§ 59.694(6), Wis.
1408 Stats.)
- 1409 (1) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application.
1410 The Board of Adjustment shall give public notice thereof by publishing a Class 2 notice under
1411 Chapter 985, Wis. Stats, specifying the date, time, and place of the hearing and the matters to
1412 come before the Board of Adjustment. Notice shall be mailed to the parties in interest. Written
1413 notice shall be given to the appropriate office of the Department at least 10 days prior to hearings
1414 on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or
1415 text interpretations.
- 1416 (2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all
1417 decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or
1418 text interpretations shall be submitted to the appropriate office of the Department within 10 days
1419 after they are granted or denied.
- 1420 (3) The final disposition of an appeal or application to the Board of Adjustment shall be in the form
1421 of a written resolution or order signed by the chairman and secretary of the Board of Adjustment.
1422 Such resolution shall state the specific facts which are the basis of the Board of Adjustment
1423 determination and shall either affirm, reverse, vary, or modify the order, requirement, decision,
1424 or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or
1425 prosecution or grant the application.
- 1426 (4) At the public hearing, any party may appear in person or by agent or by attorney.

1427
1428 **§ 338-67. (Reserved)**
1429
1430
1431
1432

1433 **ARTICLE XIV**
1434 **Amendments**

1435
1436 **§ 338-68. Changes and amendments.**

1437 The County Board may, from time to time, alter, supplement, or change the regulations contained in this
1438 chapter in accordance with the requirements of § 59.69(5)(e), Wis. Stats, Ch. NR 115, Wis. Adm. Code and
1439 this chapter where applicable.

1440 A. Amendments. Amendments to this chapter may be made on petition of any interested party as provided
1441 in § 59.69(5), Wis. Stats.

1442 B. Shoreland-Wetland map amendments. Every petition for a Shoreland-Wetland map amendment filed
1443 with the County Clerk shall be referred to the Land Use Planning and Zoning Committee. A copy of
1444 each petition shall be provided to the appropriate office of the Department within five days of the
1445 filing of the petition with the County Clerk. Written notice of the public hearing to be held on a
1446 proposed amendment shall be provided to the appropriate office of the Department at least 10 days
1447 prior to the hearing.

1448 (1) A copy of the County Board's decision on each proposed amendment shall be forwarded to the
1449 appropriate office of the Department within 10 days after the decision is issued.

1450
1451 **§ 338-69. (Reserved)**

1452
1453 **ARTICLE XV**
1454 **Enforcement**

1455
1456 **§ 338-70. Investigation of alleged violations.**

1457 Any violation of the provisions of this chapter shall be deemed unlawful. When necessary, to determine
1458 compliance with this chapter, the Land Use Planning and Zoning Department shall investigate alleged
1459 violations. After confirmation that a violation exists, the Land Use Planning and Zoning Department shall
1460 pursue compliance of the violation and enforce the provisions of this chapter.

1461
1462 **§ 338-71. Violations and penalties; citations.**

1463 A. Any violation of the provisions of this chapter by or under the direction of the landowner shall be
1464 brought into compliance upon notification by the Land Use Planning and Zoning Department or the
1465 Land Use Planning and Zoning Committee or the County Corporation Counsel.

1466 B. The County Corporation Counsel shall have the authority to use all legal remedies necessary to enforce
1467 the provisions of this chapter. After consultation with the Land Use Planning and Zoning Department
1468 and/or the Land Use Planning and Zoning Committee, the Corporation Counsel shall determine which
1469 legal remedy or legal remedies are in order to enforce the provisions of this chapter.

1470 C. Each day that the violation exists, after receiving notice of the violation from the Land Use Planning
1471 and Zoning Department by certified or registered mail, or personal service per § 801.11, Wis. Stats.,
1472 shall constitute a separate offense.

1473 (1) Any landowner who violates or refuses to comply with any of the provisions of this chapter shall
1474 be subject to a forfeiture of not less than \$50 nor more than \$500 per offense, together with the
1475 taxable costs of action.

1476 (2) A landowner may request an extension to a deadline for compliance as set by the Department.
1477 The request for extension must be made in writing and include the following information: parcel
1478 number, address, current owner information, reference within the ordinance(s) of existing
1479 violations, number of days the extension is being requested for, enforceable compliance

1480 schedule/time frame, if any, other existing violations on the property have been resolved, and
1481 other pertinent information.

- 1482 D. In addition to the Corporation Counsel having the authority to enforce the provisions of this chapter
1483 per Subsection B above, the designated staff of the Land Use Planning and Zoning Department shall
1484 have the authority to and may prepare, sign, and issue citations in order to commence action to achieve
1485 compliance with the provisions of this chapter.

1486
1487 **§ 338-72. Stop-work orders.**

- 1488 A. No land use permit obtained. When the Land Use Planning and Zoning Department is notified or
1489 becomes aware of any activity in violation of the provisions of this chapter by or under the direction
1490 of the landowner that requires issuance of a land use permit pursuant to this chapter, and such a permit
1491 has not been obtained, the Land Use Planning and Zoning Department may issue a stop-work order
1492 requiring any such activity to be immediately stopped and enjoined.
- 1493 B. Land use permit obtained. When the Land Use Planning and Zoning Department is notified or
1494 becomes aware of any activity in violation of the provisions of this chapter by or under the direction
1495 of the landowner for which a land use permit was issued and the actual activity deviates from that
1496 land use permit, the Land Use Planning and Zoning Department may issue a stop-work order
1497 requiring the activity to be immediately stopped and enjoined.
- 1498 C. The stop-work order shall be mailed to the subject landowner's property tax bill mailing address or
1499 the mailing address as stated on the land use permit application and/or to any person signing the land
1500 use permit application.
- 1501 D. The stop-work order card issued and posted by the Land Use Planning and Zoning Department shall
1502 be posted at the subject site in plain view from a nontrespass location off the subject property. A stop-
1503 work order card shall remain posted until compliance of the violation occurs. In the event that a stop-
1504 work order has been removed from its posted location by persons other than Department staff, the
1505 property owner(s) and/or other agents, upon conviction, shall be subject to a \$300 fine plus court costs.
1506 The fine shall increase by \$300 after each offense and be cumulative. For example: \$300 first offense,
1507 \$600 for second offense, \$900 for third offense, and so on. If a property owner removes a stop work
1508 order sign three times they shall be subject to \$1,800 (\$300 + \$600 + \$900) in fines plus court costs.
- 1509 E. An action filed pursuant to the Board of Adjustment or to any court shall stop work during and until
1510 the final outcome of the action has been reached or until so ordered by a Court of appropriate
1511 jurisdiction.

1512
1513 **§ 338-73. Injunctions.**

1514 Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined and the
1515 maintenance thereof abated pursuant to § 59.69(11), Wis. Stats.

1516
1517 **§ 338-74. Emergency conditions.**

1518 Whenever the Land Use Planning and Zoning Department finds that an emergency exists such as sudden,
1519 unexpected occurrences, or combinations thereof, unforeseen conditions or circumstances at the time
1520 beyond a landowner's control, adverse weather conditions, meeting a timetable which requires immediate
1521 action to protect the public health, safety, and welfare, the Land Use Planning and Zoning Department may,
1522 without notice or hearing, issue an order citing the existence of such emergency and may require that such
1523 action be taken as may be deemed necessary to meet the emergency. The Land Use Planning and Zoning
1524 Department shall notify the Chairperson of the Land Use Planning and Zoning Committee within 24 hours
1525 of such situations. Notwithstanding any other provisions of this chapter, such order shall become effective
1526 immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or

1527 challenges to emergency orders may be brought to the Board of Adjustment after emergency conditions
1528 have ceased.

1529
1530 **§ 338-75. (Reserved)**

1531
1532 **ARTICLE XVI**
1533 **Fees**

1534
1535 **§ 338-76. Fees.**

1536 A. The following fees shall be paid to Green Lake County at the Land Use Planning and Zoning
1537 Department at the time of application for each service requested as listed below to defray the cost of
1538 administration, investigation, advertising, and processing. Land use permit fee is based on
1539 construction value of project:

1540 (1) Fee.

1541

| Value of Project | Fee |
|-------------------------|------------|
| \$0 to \$999 | \$50 |
| \$1,000 to \$99,999 | \$150 |
| \$100,000 to \$199,999 | \$300 |
| \$200,000 to \$299,999 | \$400 |
| \$300,000 to \$399,999 | \$500 |
| \$400,000 to \$499,999 | \$600 |
| \$500,000 to \$599,999 | \$700 |
| \$600,000 to \$699,999 | \$800 |
| \$700,000 to \$799,999 | \$900 |
| \$800,000 to \$899,999 | \$1,000 |
| \$900,000 or more | \$1,250 |

1542 (2) Permit renewals are the same as the original fee.

1543 (3) After-the-fact permit is double the above-stated fee.

1544 (4) Permit fees may be waived in cases where the Land Use Planning and Zoning Department
1545 determines the project(s) to be funded or conducted by federal, state, or local governmental
1546 bodies.

1547 B. All public hearing items such as a variance, rezone, appeal, conditional use permit, ordinance
1548 amendment, planned unit development, or special exception permit: \$375.

1549 C. All public hearing items listed above, postponed at the request of the applicant prior to public hearing:
1550 \$250.

1551
1552 **§ 338-77. (Reserved)**

ARTICLE XVII
Definitions

§ 338-78. Definitions.

A. For the purpose of administering and enforcing this chapter, 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.

B. The following terms or words used in this chapter mean:

ACCESS AND VIEWING CORRIDOR (NR 115.03(1d)) — A strip of vegetated land that allows safe pedestrian access to the shore ~~extending waterward from the seventy-five foot shoreland building setback~~ through the vegetative buffer zone.

AFTER-THE-FACT PERMIT — A land use permit that was issued for a development on a date after the development had already commenced, was under construction, or was completed. The fee for an after-the-fact permit is double the standard land use permit fee [see § 338-76A(1)].

BOATHOUSE (NR 115.03(1h)) — 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.

BUILDING ENVELOPE (NR 115.03(1p)) — The three-dimensional space within which a structure is built.

COUNTY ZONING AGENCY (NR 115.03(2)) — That committee or commission created or designated by the County Board under § 59.69(2)(a), Wis. Stats, to act in all matters pertaining to County planning and zoning. In Green Lake County, this body shall be known as the Land Use Planning and Zoning Committee.

DEER STAND — Open or enclosed platforms used by hunters. The platforms are secured to trees (or free standing) in order to elevate the hunter and give him (or her) a better vantage point.

DEPARTMENT (NR 115.03(3)) — The Department of Natural Resources.

DEVELOPMENT — Any man-made 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 alterations 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.

DRAINAGE SYSTEM — One or more artificial ditches, tile drains, or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

EXISTING DEVELOPMENT PATTERN (NR 115.03(3m)) — That principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

FLOODPLAIN (NR 115.03(4)) — The land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Ch. NR 116, Wis. Adm. Code.

FOOTPRINT — The land covered by a structure at ground level measured on a horizontal plane. The footprint of a structure includes the horizontal plane bounded by the furthest exterior wall **and eave if present, projected to natural grade.** For

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structures without walls (decks, stairways, patios, carports) having a single-horizontal plane, the footprint is 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 Ch. NR 115, Wis. Adm. Code, and would need to follow Ch. NR 115.05(1)(g)5, Wis. Adm. Code.

GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES (NR 1.25(2)(b), Wis. Adm. Code) — 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.

HUNTING BLIND — A hunting blind (or hide) is an easily portable, cover device for hunters, designed to reduce the chance of detection. Not including deer stands.

IMPERVIOUS SURFACE (NR 115.03(4g)) — 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 § 340.01(54), Wis. Stats., or sidewalks as defined in § 340.01(58), Wis. Stats., are not considered impervious surfaces.

Note: "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively. "Sidewalk" means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, constructed for use of pedestrians.

LAND DISTURBING ACTIVITY — Any man-made change of the land surface, the effect of which may alter the currently existing topography, or may expose soil and result in soil erosion from water or wind and the movement of sediments, including but not limited to filling, grading, lagooning, dredging, ditching, and excavating. Agricultural land uses, such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, and harvesting of trees are not considered land disturbing activity if conducted outside the vegetative buffer zone. This definition applies to those lands outside of the designated Shoreland-Wetland District; see Article III for permitted uses of those designated lands.

LOT — An area of land that is ~~part of a recorded subdivision plat, certified survey map, or other document using the platting process, that is identified by an assigned number or letter~~ 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.

LOT OR PARCEL AREA — The total square footage lying within the peripheral boundaries of a recorded lot or parcel boundary description, including the land over which easements have been granted. The area of a lot or parcel is measured on a horizontal plane and is bounded by the front, side, and real lot lines but does not include the area of any land below the ordinary high- water mark of navigable waters.

LOT OR PARCEL OF RECORD — An area of land, the description of which is properly recorded with the County Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations. The act of recording is the time at which a lot or parcel is created.

LOT OR PARCEL, SUBSTANDARD — 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

1645 for a new lot or parcel.

1646 MITIGATION (NR 115.03(4r)) — Balancing measures that are designed, implemented, and function
1647 to restore natural functions and values that are otherwise lost through development and human
1648 activities.

1649 NAVIGABLE WATERS (NR 115.03(5)) — Lake Superior, Lake Michigan, all natural inland lakes
1650 within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial
1651 limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the
1652 laws of this state. Under § 281.31(2)(~~d~~m), Wis. Stats., notwithstanding any other provision of law or
1653 administrative rule promulgated thereunder, shoreland ordinances required under § 59.692, Wis.
1654 Stats., and Ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

1655 (1) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or
1656 river and such lands were not navigable streams before ditching; and

1657 (2) Artificially constructed drainage ditches, ponds, or stormwater retention basins that are not
1658 hydrologically connected to a natural navigable water body.

1659 ORDINARY HIGH-WATER MARK (NR 115.03(6)) — The point on the bank or shore up to which
1660 the presence and action of surface water is so continuous as to leave a distinctive mark such as by
1661 erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or
1662 other easily recognized characteristics.

1663 PARCEL — An area of contiguous land having a boundary description duly recorded in the Register
1664 of Deeds office that identifies the boundaries of that specific parcel.

1665 PATIO — A residential accessory structure, used as an outdoor space for leisure, dining, cooking, or
1666 similar use, that consists of a surface layer, including but not limited to concrete, pavers, bricks, tiles,
1667 asphalt or stone (e.g. flagstone, limestone, bluestone, slate, granite, gravel, stone screenings) and the
1668 supporting base layers extending subgrade to the underlying soil.

1669 PLUMBING — A system of pipes, drains, fittings, valves, valve assemblies, and devices installed in
1670 a building for the distribution of water for drinking, heating and washing, and the removal of
1671 waterborne wastes and the skilled trade of working with pipes, tubing and plumbing fixtures in
1672 such systems. For the purpose of this chapter, plumbing includes piping, and associated fixtures that
1673 convey gases as well as liquids.

1674 PREVIOUSLY DEVELOPED — A lot or parcel that was developed with a structure legally placed
1675 upon it.

1676 REGIONAL FLOOD (NR 115.03(7)) — A flood determined to be representative of large floods
1677 known to have generally occurred in Wisconsin and which may be expected to occur on a particular
1678 stream because of like physical characteristics, once in every 100 years.

1679 REMODEL — The process where an existing structure undergoes structural reorganization, alteration
1680 or renewal without increasing the existing structure's footprint.

1681 ROUTINE MAINTENANCE OF VEGETATION (NR 115.03(7m)) — Normally accepted
1682 horticultural practices that do not result in the loss of any layer of existing vegetation and do not
1683 require earth disturbance.

1684 SETBACK — The horizontal distance between a structure and an established lot line.

1685 (1) SETBACK, SHORELAND — See "shoreland area."

1686 (2) SETBACK, SIDE — The open land area between the adjacent side lot line and the nearest
1687 point of the structure and extending from the street yard to the rear or shore yard.

1688 (3) SETBACK, STREET — The open land area across the full width of the property between

1689 the street lot line and the nearest point of the structure.

1690 SHORELAND (NR 115.03(8)) — Lands within the following distances from the ordinary high-water
1691 mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream
1692 or to the landward side of the floodplain, whichever distance is greater.

1693 SHORELAND AREA/SHORELAND SETBACK — Also known as the "shoreland setback area" in
1694 § 59.692(1)(bn), Wis. Stats., means an area in a shoreland that is within a certain distance of the
1695 ordinary high-water mark in which the construction or placement of structures has been limited or
1696 prohibited under an ordinance enacted under § 59.692, Wis. Stats.

1697 SHORELAND-WETLAND DISTRICT — A zoning district, created as a part of a County zoning
1698 ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland
1699 inventory maps prepared by the Department as depicted on the Department of Natural Resources
1700 Surface Water Data Viewer.

1701 SPECIAL EXCEPTION (CONDITIONAL USE) (NR 115.03(10)) — A use which is permitted by
1702 this chapter provided that certain conditions specified in this chapter are met and that a permit is
1703 granted by the Board of Adjustment or, where appropriate, the Land Use Planning and Zoning
1704 Committee or County Board.

1705 STRUCTURE (§59.692(1)(e) Wis. Stats.) — A principal structure or any accessory structure
1706 including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.

1707 STRUCTURE, ACCESSORY (§59.692(1)(e) Wis. Stats.) — A subordinate structure on the same
1708 property as the principal structure which is devoted to a use incidental to the principal use of the
1709 property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos,
1710 patios, decks, swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks,
1711 detached stairways, and lifts.

1712 SUBSTANDARD LOTS — A legally created lot or parcel that met minimum area and minimum
1713 average width requirements when created but does not meet current requirements for a new lot or
1714 parcel.

1715 UNNECESSARY HARDSHIP (NR 115.03(11)) — That circumstance where special conditions,
1716 which were not self- created, affect a particular property and make strict conformity with restrictions
1717 governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in
1718 light of the purposes of this chapter.

1719 VARIANCE — An authorization granted by the Board of Adjustment to construct, alter, or use a
1720 building, structure, or land in a manner that deviates from the dimensional standards of this chapter.

1721 VEGETATED BUFFER ZONE, SHORELAND — That nearshore area that extends 35 feet landward
1722 from the OHWM of navigable waters. This area contains a diverse mixture of native species that may
1723 include grasses, grass-like species, forbs, shrubs, and trees. It is either natural or is constructed in
1724 accordance with § 338-60D, and functions to attenuate, absorb and filter stormwater runoff prior to
1725 being introduced into navigable waters.

1726 WETLANDS (NR 115.03(13)) — Those areas where water is at, near, or above the land
1727 surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have
1728 soils indicative of wet conditions.

1729

1730 **BE IT FURTHER ORDAINED**, that this ordinance shall become effective upon passage and
1731 publication.