

CHAPTER 14 – SHORELAND ZONING

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CHAPTER 14 – SHORELAND ZONING

14.01 AUTHORIZATION; FINDINGS; PURPOSE; TITLE.

(1) Statutory Authorization. This Chapter is adopted pursuant to the authorization in s.59.692, Stats., to implement sections 59.69, 59.692, 59.694, 87.30, 236.45 and 281.31, Wis. Stats.

(2) Findings of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Dunn 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 Dunn County, Wisconsin.

(3) Purpose and Intent. For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this chapter has been established to:

- (a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - 1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - 2. Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 - 3. Controlling filling and grading to prevent soil erosion problems.
 - 4. Limiting impervious surfaces to control runoff which carries pollutants.
 - 5. Preserving wetlands to minimize runoff and soil erosion.
- (b) Protect spawning grounds, fish and aquatic life through:
 - 1. Preserving wetlands and other fish and aquatic habitat.
 - 2. Regulating pollution sources.
 - 3. Controlling shoreline alterations, dredging and lagooning.
- (c) Control building sites, placement of structures and land uses through:
 - 1. Prohibiting certain uses detrimental to the shoreland-wetlands.
 - 2. Setting minimum lot sizes and widths.
 - 3. Setting minimum building setbacks from waterways.
 - 4. Setting the maximum height of near shore structures.
 - 5. Regulating side yards and building setbacks from waterways.
- (d) Preserve and restore shoreland vegetation and natural scenic beauty through:
 - 1. Restricting the removal of natural shoreland cover.
 - 2. Preventing shoreline encroachment by structures.
 - 3. Controlling shoreland excavation and other earth moving activities.
 - 4. Regulating the use and placement of boathouses and other structures.
 - 5. Preventing the destruction and degradation of wetlands.
 - 6. Preserving native wetland plant/tree communities.
- (e) Protect and Preserve Wetlands Through:
 - 1. Restricting the placement of fill material in wetlands.
 - 2. Encouraging avoidance and minimization of wetland impacts.
 - 3. Preserving native wetland plant/tree communities.

- (f) Prevent Flood Damages Through:
 - 1. Restricting filling, grading and the placement of buildings and structures in floodplains and wetlands.
 - 2. Preserving the ecological integrity of floodplains and wetlands.
 - 3. Restoring floodplains and wetlands to increase floodwater storage.

(4) Title. This Chapter may be cited as the Dunn County Shoreland Zoning Ordinance.

(History: Repealed & Recreated 06/17/2015)

14.02 GENERAL PROVISIONS.

(1) Areas to be Regulated. Areas regulated by this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Dunn County which are:

- (a) Within one thousand (1,000) feet of the ordinary high water mark (OHWM) of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Dunn County shall be presumed to be navigable if they are listed in the Wisconsin Dept. of Natural Resources publication FH-800 2009 “Wisconsin Lakes” or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.
- (b) Within three hundred (300) feet of the ordinary high water mark (OHWM) of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Dunn County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.
- (c) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in s. 61.353 and 62.233, Stats. Unless specifically exempted by law, all cities, villages, towns, counties and, when s. 13.48 (13), Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if s. 30.2022, Stats., applies.
- (d) Determinations of navigability and ordinary high water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the Regional Office of the Department of Natural Resources (DNR) for a final determination of navigability or ordinary high water mark (OHWM). The County may work with surveyors with regard to s. 59.692(1h), Stats.
- (e) Under s. 281.31(2m), Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this chapter does not apply to lands adjacent to farm drainage ditches if:
 - 1. Such lands are not adjacent to a natural navigable stream or river;
 - 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - 3. Such lands are maintained in nonstructural agricultural use.
 - 4. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

(2) Shoreland-Wetland Maps and Other Official Maps. The following maps, including successor and updated maps, are adopted and made part of this chapter and are on file in the Office of the Zoning Administrator and can be viewed at

<http://dnrm.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>:

- (a) Flood Insurance Study and Flood Insurance Rate Maps
- (b) Tainter Lake Floodplain Maps
- (c) Wisconsin Wetland Inventory Maps
- (d) Hydrologic, Hydraulic and Dam Breach Analysis Maps

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

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

(5) Abrogation and Greater Restrictions. The provisions of this chapter supersede all the provisions of any county zoning ordinance that solely relates to shorelands. If a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions adopted under s. 59.69, Stats., which relate to shorelands. Where an ordinance adopted pursuant to authority of a statute other than s. 59.692, Stats., applies and is more restrictive than this chapter, that ordinance shall control to the extent of the greater restriction, but not otherwise. In addition:

- (a) This chapter shall not require approval or be subject to disapproval by any town or town board.
- (b) If an existing town ordinance relating to shorelands is more restrictive than this chapter or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- (c) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (d) The Dunn County Zoning Ordinance is hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
- (e) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 14.1.3 of this ordinance.
- (f) This ordinance does not require any of the following:
 - 1. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirements to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.

2. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (g) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance, if:
 1. The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.

(6) Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin law. Where a provision of this chapter is required by statute and a standard in Ch. NR 115, Wis. Adm. Code, and where the provision is unclear, the provision shall be interpreted in light of the statute and Ch. NR 115 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter. All distances shall be measured horizontally unless otherwise specified.

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

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.03 SHORELAND-WETLAND DISTRICT.

(1) Designation. The Shoreland-Wetland district includes all shorelands within the jurisdiction of this chapter which are designated as wetlands on the wetlands maps that have been adopted and made a part of this chapter pursuant to section 14.02(2).

(2) Locating Shoreland-Wetland Boundaries. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory Maps and actual field conditions, the Zoning Administrator shall contact the DNR to determine if the map is in error. If the DNR 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 Zoning Administrator shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the DNR determination as to whether the area is wetland. In order to correct wetland mapping errors on the official Wisconsin Wetland Inventory map, an official map amendment must be initiated by the Zoning Administrator within a reasonable period of time.

(3) Purpose. The purpose of the Shoreland-Wetland district is 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 shall occur in a manner that minimizes adverse impacts upon the wetland.

(4) Permitted Uses. Permitted uses within the Shoreland-Wetland district are specifically enumerated in this subsection and subject to the regulations contained in this chapter, the provisions of Chs. 30 and 31, Stats., and sections 281.36 and 281.37, Stats., and the provisions of other applicable local, state and federal laws.

- (a) The following activities and uses are permitted without the issuance of a zoning permit, so long as they are carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 14.09(3)(a) or 14.09(3)(b):

1. Hiking, fishing, trapping, hunting, swimming, and boating.
 2. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 3. The pasturing of livestock.
 4. The cultivation of agriculture crops.
 5. The practice of silviculture, including the planting, thinning, and harvesting of timber.
 6. The construction or maintenance of duck blinds.
- (b) The following activities and uses are permitted without the issuance of a zoning permit, and may involve limited filling, flooding, draining, dredging, ditching, tiling, or excavating, subject to the specifically provided limitations:
1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.
 3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
 4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 5. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
 6. The maintenance, repair, replacement or reconstruction of existing town and county highways, dams and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) The following activities and uses are permitted only with a zoning permit, and may involve limited filling, flooding, draining, dredging, ditching, tiling, or excavating, subject to the specifically provided limitations:
1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - a. The road cannot as a practical matter be located outside the wetland;
 - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 14.03(6)(b);
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
 - d. Road construction activities are carried out in the immediate area of the roadbed only.
 2. The construction or maintenance of nonresidential buildings, provided that:
 - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the Shoreland-Wetland district;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - d. Only limited filling or excavating necessary to provide structural support for the building is authorized.

3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Stats., where applicable;
 - b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 14.03(4)(c)1. and;
 - c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
 - a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 14.03(6)(b).

(5) Prohibited Uses. Any use not listed in subsection (4) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with s. 59.69(5)(e), Stats, and this chapter.

(6) Rezoning of Lands in the Shoreland-Wetland District

- (a) For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the Regional Office of the DNR shall be provided with the following:
 1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this chapter, within 5 days of the filing of such petition with the Zoning Administrator. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this chapter describing any proposed rezoning of a shoreland-wetland;
 2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
 3. A copy of the findings and recommendations of the Planning, Resources and Development Committee on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board; and
 4. Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.
- (b) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 1. Storm and flood water storage capacity;
 2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;

3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 4. Shoreline protection against soil erosion;
 5. Fish spawning, breeding, nursery or feeding grounds;
 6. Wildlife habitat; or
 7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in s. NR 103.04, Wis. Admin. Code.
- (c) If the DNR notifies the Zoning Administrator that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in subsection (b) of this section, that amendment, if approved by the county board, shall contain the following provision:

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

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.04 LAND DIVISION REVIEW AND SANITARY REGULATIONS.

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

- (a) Hazards to the health, safety or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters, as required by law.
- (d) Adequate stormwater drainage facilities.
- (e) Conformity to state law and administrative code provisions.

(2) Sanitary Regulations. The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (a) Where public water supply systems are not available, private well construction shall be required to conform to Ch. NR 812, Wis. Adm. Code.
- (b) Where a public sewage collection and treatment system is not available, design and construction of private on-site wastewater treatment system shall, prior to July 1, 1980, be required to comply with Ch. SPS 383, Wis. Admin. Code, and after June 30, 1980 be governed by a private onsite wastewater treatment system ordinance adopted by the county under s. 59.70(5), Stats.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.05 LOT REGULATIONS.

(1) Purpose. Minimum lot dimensions in the Shoreland-Wetland district are established to afford

protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

(2) General Provisions.

- (a) In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included.
- (b) When a building or structure is proposed to be constructed or created across a property line, within a required setback, or on a contiguous substandard lot, the 2 parcels must be resurveyed as one lot by a certified survey map prior to the issuance of any permits.

(3) Lots Served by Public Sanitary Sewer (Sewered Lots). For sewered lots:

- (a) Area. The minimum lot area for single family dwellings shall be 10,000 square feet.
- (b) Width. Minimum lot width shall be 65 feet at the OHWM. Width shall be calculated by averaging the measurements at the following locations:
 - 1. The ordinary high water mark (OHWM);
 - 2. The building setback line; and
 - 3. The rear lot line.

(4) Lots Not Served by Public Sanitary Sewer (Unsewered Lots). For unsewered lots:

- (a) Area. The minimum lot area for single family dwellings shall be 20,000 square feet.
- (b) Width. Minimum lot width shall be 100 feet with at least 100 feet of frontage at the OHWM. Width shall be calculated by averaging the measurements at the following locations:
 - 1. The ordinary high water mark (OHWM);
 - 2. The building setback line; and
 - 3. The rear lot line.

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

- (a) Such use is permitted in the zoning district.
- (b) The substandard lot or parcel has never been reconfigured or combined with another lot or parcel by plat or certified survey map.
- (c) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- (d) The substandard lot or parcel is developed to comply with all other ordinance requirements.
- (e) Except for lots that meet the above requirements of this subsection (5), a zoning, shoreland-wetland, or floodplain permit for the improvement of a lot having lesser dimensions than those stated in subsections (3) and (4) of this section shall be issued only if a variance is granted by the Board of Adjustment.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.06 SETBACKS.

(1) Purpose. Minimum setbacks in the Shoreland-Wetland district are established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

(2) Shoreland Setback. Unless exempt under section 14.06(3) [or] increased under section 14.06(4), a setback of 75 feet (measured on a horizontal plane) from the OHWM of any navigable waters to the nearest part of a building or structure shall be required for all buildings

and structures.

(3) Structures Exempt From Setback.

(a) Exempt Structures – Permit Required. The following structures are permitted uses and exempt from shoreland setback. A permit pursuant to section 14.14(2) is required, subject to the following standards:

1. Boathouses located entirely above the OHWM and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.
 - a. One boathouse is permitted on a lot as an accessory structure.
 - b. Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - c. Boathouses shall not exceed one story and 360 square feet in floor area.
 - d. A boat house may not be visually intrusive as viewed against the shoreline. “Visually intrusive” means clearly standing out from the shoreline background because of color or reflectivity when viewed from out on the water during the time when leaves are on deciduous trees. All visible parts shall be painted or finished in natural or earth tones.
 - e. The main door shall face the water.
 - f. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
 - g. The roof of a boathouse may be used as a deck provided that:
 1. The boathouse has a flat roof.
 2. The roof has no side walls or screens.
 3. The roof may have a railing that meets the Department of Safety and Professional Services standards.
2. Structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the following requirements:
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward (measured on a horizontal plane) from the OHWM.
 - b. The total floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In calculating this square footage, boathouses are excluded.
 - c. The structure has no sides or has open or screened sides.
 - d. The county has approved a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
3. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
 - a. Landings may not exceed 30 square feet in area.
 - b. Shall be painted or stained in earth or natural tones or may be left unfinished if constructed of wood materials.
 - c. Canopies or roofs are not permitted.
 - d. Shall be located in the viewing corridor.
4. Devices or systems used to treat runoff from impervious surfaces.

(b) Exempt Structures – No Permit Required. The following structures are permitted uses exempt from the shoreland setback standards in section 14.06(2). A permit is not required, subject to the following standards:

1. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
2. Utility transmission and distribution lines, poles, towers, water towers, pumping stations,

well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. SPS 383, Wis. Admin. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.

3. Existing Exempt Structures. May be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Expansion of a structure beyond the existing footprint if the expansion may be allowed provided, is necessary to comply with applicable state or federal requirements.

(4) Building Setbacks.

(a) Side Yard

1. The minimum side yard setback shall be 10 feet for principal structures.
2. The minimum side yard setback shall be 5 feet for accessory structures.

(b) Highway/Front Yard: The minimum highway and front yard setbacks shall be:

1. Class A, Principal arterial highways (interstate), 50 feet from Right of Way.
2. Class B, Minor arterial highways (state highways) 50 feet from Right of Way.
3. Class C, Major collector highways, and all state trunk highways not in Class A or Class B (county highway), 50 feet from Right of Way.
4. Class D, Minor collector highways, local highways, town roads, and all county trunk highways not in Class A, B or C (town highways), 42 feet from Right of Way.
5. Class E, Town roads located within subdivisions (platted streets), 30 feet from Right of Way.

(5) Reduced Structure Setback. Where there is a development pattern of existing structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all the following are met:

- (a) Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
- (b) Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
- (c) Both of the existing principal structures are located less than 75' from the ordinary high water mark.
- (d) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
- (e) All other provisions of this chapter are met.

(6) Floodplain Structures. Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable Floodplain zoning ordinance.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.07 VEGETATION.

(1) Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, and to promote preservation and restoration of native vegetation, removal of vegetation in shoreland areas shall be regulated, consistent with sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

(2) Establishment of a Vegetative Buffer Zone. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, land that extends from the OHWM to a minimum of 35 feet inland (measured on a horizontal plane) may be designated as a vegetative buffer zone. Prior to issuance of a zoning permit, only those riparian lands, which are undeveloped at the date of adoption of this ordinance will be required to establish a vegetative buffer zone. Where a 35[-foot] vegetative buffer is not practical, a buffer of 1/3 the distance available from the ordinary high water mark to the limiting factor shall be maintained.

(a) Publicly-owned lands within the vegetative buffer zone may be exempt from some or all of the restrictions of this section if the Zoning Administrator determines such lands to have been routinely maintained and/or where a vegetative buffer strip or reduced vegetative buffer strip is not practical. A report and approved plan describing the areas affected and modified restrictions, if any, shall be maintained in the Office of the Zoning Administrator.

(3) Special Cutting Plan. A special cutting plan may be permitted by the Board of Adjustment by issuance of a special exception permit, pursuant to section 14.14(4). The board may grant such a permit only if it finds that such special cutting plans:

- (a) Will not cause undue erosion or destruction of natural scenic beauty, and
- (b) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the board may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.

(4) Cutting More Than 35 Feet Inland. From the inland edge of the 35 foot vegetative buffer zone to the outer limits of the shoreland (within 300' of water), the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

(5) Activities Allowed Within a Vegetative Buffer Zone. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, Dunn County prohibits removal of vegetation in the vegetative buffer zone, except as follows:

- (a) Routine maintenance of vegetation.
- (b) Removal of trees and shrubs in the vegetative bugger zone to create access and viewing corridors is permitted. The viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run continuously for the entire maximum width of shoreline frontage owned.
- (c) Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), and described in DNR publication “Wisconsin Forest Management Guidelines” (Publication FR-226), provided that vegetation removal be consistent with these practices.
- (d) Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that nay vegetation removed be replaced by replanting in the same area as soon as practicable.
- (e) Additional vegetation management activities in the vegetative buffer zone may be allowed by permit. The permit issued shall require that all management activities comply with detailed

plans approved by the Dunn County Land Use Control Division and/or Land and Water Conservation Division. Detailed plans shall include:

1. Measures to control erosion by limiting sedimentation into the waterbody.
2. Measures to improve the plant community by replanting in the same area.
3. Measures to maintain and monitor the newly restored area.
4. An enforceable affidavit shall be filed with the Register of Deeds prior to construction acknowledging the limitations on vegetation.

(6) Vegetative Buffer Zone Exceptions.

- (a) Property developed prior the adoption of this ordinance shall not be required to establish a vegetative buffer zone.
- (b) Vegetative buffer zones in existence on the date of adoption of this ordinance shall not be required to expand.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.08 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING.

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

(1) General Standards. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 14.09(2) may be permitted in the shoreland area with review and approval of the Zoning Division and the Land Conservation Division and provided that:

- (a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- (b) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 14.03(4)(b) and 14.03 (4)(c).
- (c) All applicable federal, state and local authority is obtained in addition to a permit under this chapter.
- (d) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.
- (e) It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer.

(2) Permit Required.

A permit is required under Ch. 30, Stats., for any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water and for any filling or grading of an area within 300 feet landward of the OHWM of navigable water and has surface drainage toward the water and on which there is either:

- (a) any filling or grading on slopes of more than 20%;
- (b) filling or grading of more than 1,000 s.f. on slopes of 12% - 20%; or
- (c) filling or grading of more than 2,000 s.f. on slopes less than 12%.

(3) Soil Conservation Practices and Agricultural Drainage Maintenance.

- (a) Soil conservation practices such as cattle and machinery crossings, terraces, diversions and grassed waterways used for erosion control shall not require a permit when designed and constructed to Natural Resource Conservation Service technical standards.
- (b) The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:
 - 1. The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under section 14.09(2) is obtained.
 - 2. Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
 - 3. Ditch banks shall be maintained in a sod cover and free of woody vegetation.
 - 4. A 10-foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

(4) Permit Conditions. In granting a permit under this section, the following conditions shall be attached, where appropriate, in addition to those provisions specified in sections 14.14(2) and 14.14(9).

- (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
- (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (d) Lagoons shall be constructed to avoid fish trap conditions.
- (e) Fill shall be stabilized according to accepted engineering standards.
- (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (g) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.09 IMPERVIOUS SURFACES.

(1) Purpose. To protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters within three hundred (300) feet of the OHWM of any navigable waterway, construction, reconstruction, expansion, replacement or relocation of any impervious surface shall comply with the requirements of this section.

(2) Impervious surface percentage limits. Unless excepted under subsection (4) below, no more than fifteen percent (15%) of the portion of a lot or parcel that is within three hundred (300) feet of the OHWM may be covered with an impervious surface.

(3) Calculation of percentage of impervious surface. Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within three hundred (300) feet of the OHWM by the total surface area of the lot or parcel and multiply the result by one hundred (100). 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.

(4) Exception with shoreland mitigation permit. If the Zoning Administrator has approved a shoreland mitigation permit under section 14.13 no more than thirty percent (30%) of the portion of a lot or parcel that is within three hundred (300) feet of the OHWM may be covered with an impervious surface.

(5) Shoreland Erosion Control and Shoreland Mitigation Permits.

(a) A shoreland erosion control permit must be issued by the Zoning Administrator before any activity shall occur or a shoreland zoning permit is issued for such activity.

(b) A shoreland mitigation permit must be issued by the Zoning Administrator for any development which exceeds 15% impervious surface but not greater than 30% impervious surfaces. The mitigation permit shall meet the standards found in section 14.13.

(6) Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in sections 14.10 and the property owner may do any of the following:

(a) maintain and repair the existing impervious surfaces.

(b) replace existing impervious surfaces with similar surfaces, if needed that meet applicable setbacks;

(c) relocate or modify existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and meets the applicable setback requirements in section 16.06(2) and 10.06(5).

(7) Treated Impervious Surfaces. Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under section 14.10(3):

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

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

(c) To qualify for the statutory exemption, property owners shall submit a complete permit application, that is reviewed and approved by the county. The application shall include:

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

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

3. An implementation schedule and enforceable affidavit shall be filed with the register of deeds prior to construction, acknowledging the obligation on the property owner to establish and maintain the treatment system, treatment devices, or internally drained area prior to the issuance of the permit.

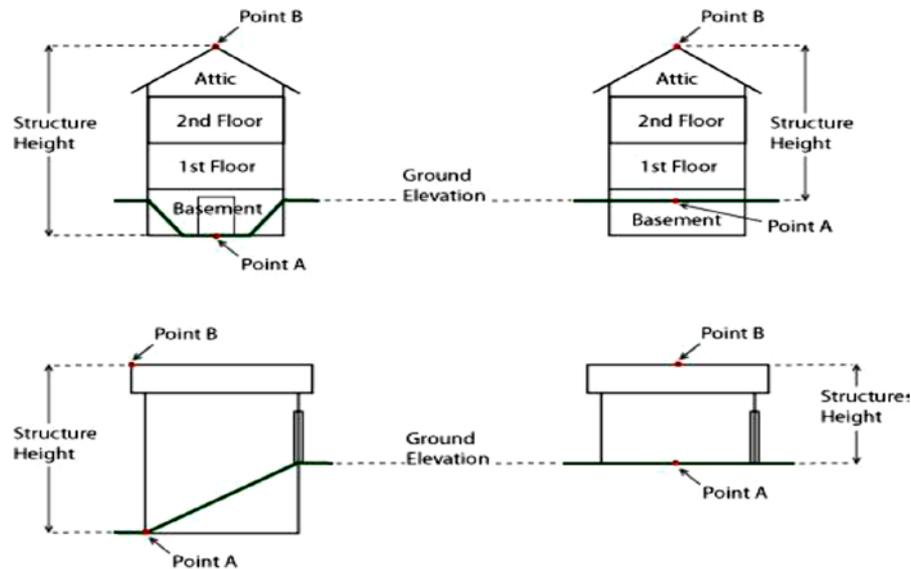
(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.10 HEIGHT.

(1) Purpose. To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, construction that results in a structure taller than 35 feet within 75 feet of the OHWM of any navigable waters shall be prohibited.

(2) Measurement. Structure height is the measurement of the vertical line segment starting at

the lowest point of any exposed wall and its intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.



(3) To protect and preserve wildlife habitat and natural scenic beauty, and construction that results in a structure outside the 75 foot shoreland setback taller than 35 feet shall be prohibited.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.11 NONCONFORMING USES AND STRUCTURES.

(1) **Purpose.** To protect water quality, fish and wildlife habitat, and natural scenic beauty, it is necessary to regulate the modification and reconstruction of nonconforming uses and structures.

(2) General Rules For Nonconforming Uses.

- (a) A property owner claiming a legal pre-existing (nonconforming) use and exemption from applicable regulations has the burden of proof, by a preponderance of the evidence, that such use was legally established, predated the zoning provisions with which it does not comply, and that such use was actual and active prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property.
- (b) A nonconforming use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a structure which, on the date the use became legal pre-existing, was only partially devoted to such use.
- (c) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall meet the requirements of this chapter.
- (d) Nonconforming uses that are or have become nuisances shall not be permitted to continue.

(3) **Restoration and Replacement of Damaged or Destroyed Structures** As required by Section 59.692(1s), Wis. Stats., if an existing structure has been destroyed or damaged after October 14, 1997 by violent wind, fire, flood, vandalism, ice, snow, mold and infestation, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:

- (a) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or

her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this chapter.

- (b) The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged structure had immediately before the destruction or damage occurred.
- (c) Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire or flood, and only that portion of the structure that has been destroyed may be reconstructed.
- (d) The private onsite wastewater treatment (septic) system serving the principal structure shall meet current standards for new construction.
- (e) The size of a replaced or reconstructed structure may be increased to a larger than the size it was immediately before the damage or destruction only to the extent necessary for the structure to comply with applicable state or federal requirements.

(4) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. The expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.

(5) Lateral Expansion of Nonconforming Principal Structures with the Setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 14.06 may be expanded laterally, provided that all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- (b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- (c) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- (d) The county shall issue a permit which requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 14.13.
- (e) All other provisions of the shoreland ordinance shall be met.

(6) Expansion of a Nonconforming Principal Structure Beyond Setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under section 14.06 may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per section 14.06 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 14.10.

(7) Relocation of Nonconforming Principal Structure. A nonconforming principal structure that does not comply with the required building setback per section 14.06 may be relocated on the property provided all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more.
- (b) The existing principal structure is at least 35 feet from the OHWM.

- (c) No portion of the relocated structure is located any closer to the OHWM than the closest point of the existing principal structure.
- (d) The county determines that no other location is available on the property to build a principal structure with the same footprint to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 14.06.
- (e) A mitigation plan that which has been approved by the Zoning Administrator and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 14.13.
- (f) All other provisions of this chapter shall be met.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.12 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE.

(1) A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.13 MITIGATION.

(1) When mitigation is required, the property owner shall submit a complete permit application. The application shall include the following:

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

(2) **Shoreland Mitigation Plan.** When required by sections 14.06(3)(a)3., 14.10, 14.12(5) and 14.12(7) the landowner shall submit a mitigation plan for review and approval by the Zoning Administrator.

(3) **Purpose.** To protect water quality, fish and wildlife habitat, and natural scenic beauty, some control is needed to compensate for adverse environmental effects when development is permitted within designated shoreline setback areas. Mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

(4) **Applicability.** Prior to issuing a permit requiring mitigation, a complete permit application from the property owner shall be submitted for review and approval by the Land Use Control and/or Land and Water Conservation Division for:

- (a) New impervious surfaces greater than 15% of the lot area
- (b) Lateral expansion of a non-conforming principal structure
- (c) Relocation of non-conforming principal structure

[(5)] Standards. A complete permit application shall include:

- (a) Mitigation Plan. The plan shall describe the proposed mitigation measures and shall be designed and implemented to restore natural functions lost through development and human activities and shall include:
 - 1. Name and address of property owner
 - 2. Property address and legal description
 - 3. Scale (e.g. 1 inch = 10 feet)
 - 4. North arrow
 - 5. Ordinary high water mark (OHWM) location
 - 6. Location of all structures in the shoreland buffer zone
 - 7. Viewing and access corridor
 - 8. Existing trees, shrubs and native ground cover
 - 9. If there [are] areas to be planted with trees, shrubs and groundcovers, species of plants can be selected from the WISCONSIN BOTANICAL INFORMATION SYSTEM list at <http://www.botany.wisc.edu/cgi-bin/SearchResults.cgi?County=Dunn> or from the following website <http://www.Iwipa.net/resources/plant-lists> and approved for shoreline buffers by the Zoning and/or Land Conservationist. Substitutions must be approved by the Zoning and/or Land Conservationist. Substitutions to the lists will be allowed in the event of lack of plant stock or seed availability on a case-by-case basis.
 - 10. Implementation schedule – The approved Mitigation Plan must be started within one year from the issue of date of applicable permit. All plantings and any other required activities in the Shoreland Buffer Restoration Site Plan must be completed within two years of the permit issue date.
 - 11. A plant species list
 - 12. The vegetation density in the buffer zone shall reference NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat found at the following website <http://www.wi.nrcs.usda.gov/technical/technotes.html>.
 - 13. Water diversions and channelized flow areas (if applicable)
 - 14. Buffer Maintenance (weeding, replanting)
 - 15. The structure meets the height and street, side and rear yard setback requirements for the zoning district in which it is located. Such structure shall be colored in earth tones to decrease the visual intrusion near the natural shoreline.

[(6)] Optional Mitigation Measurers shall accumulate a minimum of four (4) points from the following:

- (a) Development, restoration or maintenance of a shoreline vegetative buffer zone within twenty-five (25) feet of the ordinary high water mark (OHWM) (2points).
- (b) Development, restoration or maintenance of a shoreline vegetative buffer zone within thirty-five (35) feet of the OHWM (3 points).
- (c) Development, restoration or maintenance of a shoreline vegetative buffer zone within seventy-five (75) feet of the OHWM (4 points).
- (d) Restoration of native vegetation along both side yards to a minimum depth of 10 feet (1 point for every 10 feet of side yard restoration).
- (e) Removal of nonconforming accessory buildings from the shore setback area. (Up to 500

- square feet = 1 point, greater than 500 square feet = 2 points)
- (f) Relocating nonconforming structure to a conforming location. (Up to 500 square feet = 1 point, greater than 500 square feet = 2 points)
 - (g) Use of exterior building materials or treatments that are inconspicuous and blend with the natural setting the site (1 point).
 - (h) Reduction of the width of the viewing corridor (1 point/10 feet of reduction).
 - (i) Installation of runoff infiltration measures (2 points). Runoff infiltration measures shall accommodate a runoff volume of water, based on a 5-year storm event at a 5-minute duration and may include measures such as:
 1. Rain garden
 2. Infiltration structures
 3. French drains
 4. Retention/detention basin
 5. Diverting overland flows away from or parallel to the shore
 6. Installation of pervious pavers
 - (j) Removal of other shoreland structures/items such as fire rings, benches, beaches, gazebos, decks, etc. (2 points)
 - (k) Other practices agreed upon by the Zoning Department (removal of excessive dockage and mooring, etc.) (Points as determined by the Zoning Administrator).

[(7)] Implementation schedule and enforceable obligation. Measures to establish and maintain the mitigation plan shall be recorded in the Office of the Register of Deeds.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.14 ADMINISTRATIVE PROVISIONS.

(1) Zoning Administrator. The Zoning Administrator shall have the following responsibilities and authority:

- (a) Administer permits for new construction, development, reconstruction, structural alteration or moving of buildings and structures. Copies of all applications shall be required to be filed in the Office of the Zoning Administrator.
- (b) Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of this chapter.
- (c) Administer a variance procedure which authorizes the Board of Adjustment to grant such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions and the adoption of this chapter, a literal enforcement of the provisions of this chapter will result in unnecessary hardship.
- (d) Administer a special exception procedure.
- (e) Providing written notice to the Regional Office of the DNR at least 10 days prior to any hearing on a proposed variance or special exception permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under section 14.04. Upon request of the DNR the county shall provide to the Regional Office of the DNR a copy of any permit issued under section 14.14(2).
- (f) Submission to the Regional Office of the DNR, within 10 days after grant or denial, of copies of any permit granted on a variance or special exception permit, or appeal for a map or text interpretation, and any decision to amend a map or the text of this chapter.
- (g) Maintain maps of zoning districts and the recording, on an official copy of such map, of all district boundary amendments.

(h) Prosecution of violations of this chapter, including actions for penalties, forfeitures, injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats., and all other appropriate relief.

(2) Permits. Except where another section of this chapter specifically exempts certain types of development from this requirement, a permit shall be obtained from the Zoning Administrator or Board of Adjustment before any development. An application for a permit shall be made to the Zoning Administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following information:

- (a) Name and address of applicant and property owner.
- (b) Legal description of the property and type of proposed use.
- (c) A scaled drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary high water mark of any abutting waterways.
- (d) Location and description of any existing private water supply or private onsite wastewater treatment system or notification of plans for any such installation.
- (e) Plans for appropriate mitigation when required.
- (f) Payment of the appropriate fee.
- (g) Additional information required by the Zoning Administrator.

(3) Expiration of Shoreland/Wetland/Floodplain Permit. Zoning permits shall expire 12 months from date issued if no substantial work has commenced or within 24 months after issuance if substantial work has commenced.

(4) Application For a Special Exception Permit. Any use listed as a special exception in this chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a special exception permit has been granted by the Board of Adjustment. To secure information upon which to base its determination, the Zoning Administrator may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

- (a) A plan of the area showing surface contours, soil types, ordinary high water marks, groundwater conditions, subsurface geology and vegetative cover.
- (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- (c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
- (d) Specifications for areas of proposed filling, grading, lagooning or dredging.
- (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.
- (f) Rationale for why the proposed special exception meets all of the special exception criteria listed in this chapter shall submit an application under section 14.14(2).

(5) Standards Applicable to all Special Exceptions. In deciding a special exception application, the Board of Adjustment shall evaluate the effect of the proposed use upon:

- (a) The maintenance of safe and healthful conditions.
- (b) The prevention and control of water pollution including sedimentation.
- (c) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
- (d) The erosion potential of the site based upon degree and direction of slope, soil type and

vegetative cover.

- (e) The location of the site with respect to existing or future access roads.
- (f) The need of the proposed use for a shoreland location.
- (g) Its compatibility with uses on adjacent land.
- (h) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
- (i) Location factors under which:
 - 1. Domestic uses shall be generally preferred;
 - 2. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - 3. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility. Additional factors such as parking, noise, etc. may also be considered.

(6) Conditions Attached to Special Exceptions. The Board of Adjustment may attach conditions that include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction, and any other conditions as are necessary to further the purposes of this chapter. The Board of Adjustment may not impose conditions which are more restrictive than any of the specific standards in this chapter. Where this chapter is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter.

(7) Recording. When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a special exception permit shall be provided to the Regional Office of the DNR within 10 days after it is granted or denied.

(8) Revocation. Where the conditions of a special exception permit are violated, the special exception permit shall be revoked.

(9) Variances. A variance shall represent the minimum relief The Board of Adjustment may grant upon appeal a variance from the standards of this chapter where an applicant convincingly demonstrates that:

- (a) literal enforcement of the provisions of the chapter will result in unnecessary hardship on the applicant;
- (b) the hardship is due to special conditions unique to the property; and
- (c) is not contrary to the public interest.

(10) Conditions Attached to Variances. In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in the chapter. Where this chapter is silent as to the extent of restriction, the board may impose any reasonable permit conditions to effect the purpose of this chapter.

(11) Appeals to the Board of Adjustment. Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose

decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

(12) Public Hearing, Notice and Decision.

- (a) Board of Adjustment shall hold a public hearing on all appeals and applications for special exception permits or variances. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Stats, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the Regional Office of the DNR at least 10 days prior to hearings on proposed shoreland variances, special exceptions and appeals for map or text interpretations.
- (b) At the public hearing, any party may appear in person or by agent or by attorney
- (c) A decision regarding the appeal or application shall be made as soon as practical.
- (d) The final disposition of an appeal or application to the Board of Adjustment shall be in writing and signed in accordance with its Rules. The decision shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
- (e) Copies of all decisions on shoreland variances, special exceptions, and appeals for map or text interpretations shall be submitted to the Regional Office of the DNR within 10 days after they are granted or denied.

(13) Fees. The Committee shall approve and periodically review fees, making adjustments when appropriate. A schedule of fees shall be appended to this chapter as Appendix A.

(History: Repealed & Recreated 06/17/2015)

14.15 CHANGES AND AMENDMENTS.

The County Board may from time to time, alter, supplement or change the regulations contained in this chapter in accordance with the requirements of state law.

- (1)** Amendments to the text or maps of this chapter may be made on petition of any interested party as provided in s. 59.69(5), Stats.
- (2)** A copy of each petition for amendment shall be provided to the Regional Office of the DNR within 5 days of the filing of the petition with the Zoning Administrator. Written notice of the public hearing to be held on a proposed amendment shall be provided to the Regional Office of the DNR at least 10 days prior to the hearing.
- (3)** A copy of the County Board's decision on each proposed amendment shall be forwarded to the Regional Office of the DNR within 10 days after the decision is issued.

(History: Repealed & Recreated 06/17/2015)

14.16 ENFORCEMENT AND PENALTIES.

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, [or] corporation shall be deemed a violation. Violations shall be referred to the Corporation Counsel who shall expeditiously prosecute violations. Any

person, firm, association or corporation who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than one-hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.69(11), Stats.

(1) Penalty. Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this chapter shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this chapter and as such, forfeitures shall apply accordingly. The Zoning Administrator shall refer violations to the Corporation Counsel who shall prosecute violations.

(2) Responsibility for Compliance. It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this chapter. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this chapter will be notified in writing of such violation by the County Zoning Administrator. Each day a violation exists shall constitute a distinct and separate violation of this chapter and, as such, forfeitures shall apply accordingly. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Section 59.69(11), Stats.

(3) Suspension of Permit. Whenever the Zoning Administrator determines there are reasonable grounds for believing there is a violation of any provision of this chapter, the Zoning Administrator shall give notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30 day period, an extension may be granted if reason of hardship prevail and can be verified. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin. The owner of record has the right to appeal any decision by the Zoning Administrator and apply to the Dunn County Board of Adjustment for a variance from the strict rule of the chapter within 30 days of receipt of a notice or order.

(4) Emergency Conditions. Whenever the Zoning Administrator finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Administrator may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The Administrator shall notify the Chairperson of the Planning, Resources and Development Committee within 24 hours of such situations. Notwithstanding any other provisions of this chapter such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Adjustment.

(History: Repealed & Recreated 06/17/2015)

14.17 ACCOMMODATION FOR DISABLED PERSONS.

The Zoning Administrator may issue a special permit to relax the standards of this ordinance in order to provide reasonable accommodations as required by provisions of federal and state law. Such relaxation shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person. A person applying for a permit for consideration under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility. A deed restriction or affidavit for the reasonable accommodation shall be filed with the Register of Deeds.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.18 DEFINITIONS.

As used in this chapter:

- (1) **“Access corridor”** means a strip of vegetated land (15-foot maximum) within the viewing corridor that allows a safe pedestrian approach to the shore through the vegetative buffer zone. Mowing within this corridor is allowed up to the ordinary high water mark but not beyond it to maintain a safe access to the shoreline, dock, pier, boathouse, etc.
- (2) **“Accessory building”** means a detached subordinate building or a portion of a principal building, the use of which is incidental to that of the principal building.
- (3) **“Accessory structure”** or **“accessory use”** means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.
- (4) **“Boathouse”** means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.
- (5) **“Building”** means any structure which is built for the support, shelter or enclosure of animals, chattels or movable property of any kind and which is permanently affixed to the land, does not include a dwelling.
- (6) **“Building envelope”** means the three dimensional space within which a structure is built.
- (7) **“County zoning agency”** means the Planning, Resources and Development Committee created by the county board under s. 59.69(2)(a), Stats, to act in all matters pertaining to county planning and zoning.
- (8) **“Deck”** means an unenclosed roofless, permeable floored structure which allows the infiltration of precipitation, typically with a railing, that adjoins a house.
- (9) **“Department”** means the Department of Natural Resources (DNR).
- (10) **“Development”** means 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 mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.

- (11) "**Drainage system**" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (12) "**Dwelling**" means a residential structure or portion thereof, containing separate and complete living area, for a family, not including boarding houses, camping trailers, hotels, motor homes, or motels.
- (13) "**Existing development pattern**" means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (14) "**Fence**" means a barrier enclosing or bordering a field, yard, etc., usually made of posts and wire or wood, used to prevent entrance, to confine, or to mark a boundary, and includes fences regulated by ch. 90, Stats.
- (15) "**Floodplain**" means 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.
- (16) "**Footprint**" means the land area covered by a structure at ground level measured on a horizontal plan. The footprint of a residence or building includes the horizontal plan bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade.
- (17) "**Generally accepted forestry management practices**" means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (18) "**Impervious surface**" means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways (paved or gravel), parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. [Stats.] or sidewalks as defined in s. 340.01(58), Wis. [Stats.], are not considered impervious surfaces.
- (19) "**Lot**" means a continuous parcel of land, not divided by a public right-of-way, and sufficient in size to meet the lot width and lot area provisions of this ordinance.
- (20) "**Lot area**" means the area of a horizontal plane bounded by the front, side and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.
- (21) "**Lot of record**" means any lot, the description of which is properly recorded with the Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances and regulations.
- (22) "**Maintenance and repair**" includes such activities as interior remodeling, exterior remodeling, and the replacement or enhancement of plumbing or electrical systems, insulation, windows, doors, siding, or roof within the existing building envelope.
- (23) "**Mitigation**" means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities. Natural functions are those listed in s. 281.31, Stats.

(24) "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, included the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 56.692, Stats., and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:

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

(25) "Ordinary high water mark" or "OHWM" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics. Measurements from OHWM are measured horizontally not using slope distance.

(26) Not used.

(27) "Pollution" or "environmental pollution" means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

Nonpoint source pollution can include:

- (a) Excess fertilizers, herbicides and insecticides from agricultural lands and residential areas;
- (b) Oil, grease and toxic chemicals from urban runoff and energy production;
- (c) Sediment from improperly managed construction sites, crop and forest lands, pastures and eroding streambanks;
- (d) Salt from irrigation practices and acid drainage from abandoned mines;
- (e) Bacteria and nutrients from livestock, pet wastes and faulty septic systems;
- (f) Atmospheric deposition and hydromodification,

(28) "Previously developed" means a lot or parcel that was developed with a structure legally placed upon it.

(29) "Principal Building" means the main structure on a lot which is built for the support, shelter or enclosure of animals, chattels or movable property of any kind and which is permanently affixed to the land, intended for primary use as permitted by the regulations of the district in which it is located. A lot on which more than one principal use is located may have more than one principal structure.

(30) "Regional Flood" means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

(31) "Replacement Construction" in which the principle building or portion thereof is torn down and replaced by a new structure or building or portion thereof

(32) "Routine maintenance of vegetation" means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance, and includes removal of exotic and invasive species, damaged vegetation, vegetation that must be removed to control disease or vegetation creating an imminent safety hazard.

(33) "**Shoreland**" means lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(34) "**Shoreland-wetland district**" means a zoning district created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.

(35) "**Shoreland setback**" also known as the "Shoreland setback area" in s. 59.692(1)(bn), Wis. Stats., means the area in a shoreland that is within a certain distance of the ordinary high water mark in which the construction or placement of buildings or structures is limited or prohibited under section 14.06.

(36) "**Special exception**" means a use which is permitted by this chapter provided that certain specified conditions are met and that a permit is granted by the Board of Adjustment or, where appropriate, the Planning, Resources and Development Committee or County Board.

(37) "**Structural alterations**" Any changes in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders, footing and piles or any substantial change in the roof structure, or in the exterior walls.

(38) "**Structure**" Anything constructed or erected, the use of which requires permanent or temporary location on the ground, or attached to something having a permanent or temporary location on the ground, including but not limited to any building, dwelling, manufactured building, manufactured home, mobile home, house trailer, recreational vehicle, boathouse, boat shelter, advertising sign, deck, patios, driveways, retaining walls, or other improvements or any part of such structure. A structure includes any permanent or temporary appurtenance attached thereto.

(39) "**Structure, Accessory**" A subordinate structure on the same property as the principal structure which is devoted to a use incidental to the principal use of the property. Accessory structures include but are not limited to detached garages, decks (both detached and attached), sheds, barns, gazebos, patios, swimming pools, walls, fences, playground apparatus, driveways, parking lots and parking facilities, sidewalks, stairways, lifts, recreational courts and private emergency shelters.

(40) "**Structure, Principal**" The main structure on a lot, intended for primary use as permitted by the regulations of the district in which it is located. A lot on which more than one principal use is located may have more than one principal structure.

(41) "**Structure, Temporary**" A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term.

(42) "**Substandard Lot**" means a legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current requirements for a new lot.

(43) "**Unnecessary hardship**" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

(44) "**Variance**" means an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

(45) "**Vegetative Buffer Zone**" means land designated that extends from the ordinary high water mark (OHWM) to a minimum of 35 feet inland and generally contains three layers of native vegetation: trees, shrubs and ground cover. Reference to the shoreland habitat standard in WI NRCS 643A which provides that shoreland habitat means "area adjacent to a waterbody or watercourse in a non-agricultural setting that is vegetated with a diverse mixture of native species that can include grasses, grass-like species, forbs, shrubs and trees."

(46) "**Viewing corridor**" means a strip of land at least 35 feet wide for every 100 feet of shoreline frontage which allows a field of vision and may include a safe pedestrian access to the shore through the vegetative buffer zone. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.

(47) "**Wetlands**" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(48) "**Zoning Administrator**" means the Dunn County Planning and Zoning Administrator or his or her designee.

(History: Repealed & Recreated 06/17/2015; Amended 10/19/2016)

14.19 APPENDICES.

Appendices attached to this chapter and incorporated by reference include the following:

Appendix A ...Fee Schedule

Appendix B ...Shoreland/Wetland/ Floodplain Checklist

Chapter Repealed and Recreated June 17, 2015; Amended October 19, 2016.