

**RESOLUTION
ROCK COUNTY BOARD OF SUPERVISORS**

PLANNING & DEVELOPMENT
COMMITTEE
INITIATED BY



JEFFREY S. KUGLITSCH
DRAFTED BY

PLANNING & DEVELOPMENT
COMMITTEE
SUBMITTED BY

SEPTEMBER 21, 2016
DATE DRAFTED

**REPEALING AND RECREATING ROCK COUNTY ORDINANCE 4.2 ZONING OF
SHORELANDS AND COUNTY-OWNED LANDS**

1 The Rock County Board of Supervisors at its regular meeting this 21th day of October
2 2016, does ordain as follows:

3
4 I. Ordinance 4.2, Zoning of Shorelands and County-Owned Lands is hereby repealed and
5 recreated to read as follows:

6
7 **Part 2 – Zoning of Shorelands and County-Owned Lands**

8
9 **Subpart 1: Zoning of Shorelands**

10
11 **4.201 Statutory Authorization, Finding of Fact, Statement of Purpose And Title**

12
13 (1) Statutory Authorization. This ordinance is adopted pursuant to the authorization in ss.
14 59.692 Wis. Stats to implement 59.69, 59.692, 59.694, 87.30, 236.45, and 281.31 and to
15 parallel as closely as possible the regulatory provisions of ch. NR 115 Wis. Adm. Code and the
16 statutory language reflected in Act 55, 167 and 391 (2015).

17
18 (2) Finding of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters
19 of Rock County will adversely affect the public health, safety, convenience, and general welfare
20 and impair the tax base. The legislature of Wisconsin has delegated responsibility to the
21 counties to further the maintenance of safe and healthful conditions; prevent and control water
22 pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of
23 structures and land uses; and to preserve shore cover and natural beauty. This responsibility is
24 hereby recognized by the County of Rock, Wisconsin.

25
26 (3) Purpose and Intent. For the purpose of promoting the public health, safety, convenience
27 and welfare, and promote and protect the public trust in navigable waters this ordinance has
28 been established to:

29
30 (A) Further the Maintenance of Safe and Healthful Conditions and Prevent and Control
31 Water Pollution Through:

- 32 1. Limiting structures to those areas where soil and geological conditions will
33 provide a safe foundation.
34 2. Establishing minimum lot sizes to provide adequate area for private on-site
35 waste treatment systems.
36 3. Controlling filling and grading to prevent soil erosion problems.
37 4. Limiting impervious surfaces to control runoff which carries pollutants.

38
39 (B) Protect Spawning Grounds, Fish and Aquatic Life Through:

- 40 1. Preserving wetlands and other fish and aquatic habitat.
41 2. Regulating pollution sources.
42 3. Controlling shoreline alterations, dredging and lagooning.

43
44 (C) Control Building Sites, Placement of Structures and Land Uses Through:

16-10A-126

1. Prohibiting certain uses detrimental to the shoreland-wetlands.
2. Setting minimum lot sizes and widths.
3. Setting minimum building setbacks from waterways.
4. Setting the maximum height of near shore structures.

(D) Preserve and Restore Shoreland Vegetation and Natural Scenic Beauty Through:

1. Restricting the removal of natural shoreland cover.
2. Preventing shoreline encroachment by structures.
3. Controlling shoreland excavation and other earth moving activities.
4. Regulating the use and placement of boathouses and other structures.

(4) Title. The Rock County Shoreland Zoning Ordinance.

4.202 General Provisions

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

- (A) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. The Rock River is considered a flowage within Rock County.
- (B) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater.
- (C) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when s. 13.48 (13), 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. Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Stats.
- (D) Determinations of navigability and ordinary high-water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark. The County may work with surveyors in regard to s. 59.692(1h).
- (E) Under s. 281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 1. Lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river;
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 2. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

(2) Shoreland-Wetland Maps. The most recent version of the Wisconsin Wetland Inventory maps (available at <http://dnrm.wisconsin.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>) are made part of this ordinance along with other maps and images that can be readily used to help the Zoning Administrator and landowners evaluate the presence or absence and likely extent of wetlands on the property, as further defined in section 4.203(1)(A) of this ordinance.

(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

108 ordinance and other applicable local, state or federal regulations. Buildings and other structures
 109 shall require a permit unless otherwise expressly excluded by a provision of this ordinance.
 110 Property owners, builders and contractors are responsible for compliance with the terms of this
 111 ordinance.

112
 113 (4) Municipalities and State Agencies Regulated. Unless specifically exempted by law, all
 114 cities, villages, towns, and counties are required to comply with this ordinance and obtain all
 115 necessary permits. State agencies are required to comply when s. 13.48(13), Wis. Stats.,
 116 applies. The construction, reconstruction, maintenance and repair of state highways and bridges
 117 carried out under the direction and supervision of the Wisconsin Department of Transportation
 118 are exempt when s. 30.2022 Wis. Stats., applies.

119
 120 (5) Abrogation and Greater Restrictions. The provisions of this ordinance supersede all the
 121 provisions of any county zoning ordinance adopted under s. 59.692, Wis. Stats., which relate to
 122 shorelands. In other words if a zoning standard only applies to lands that lie within the
 123 shoreland and applies because the lands are in shoreland, then this ordinance supersedes those
 124 provisions. However, where an ordinance adopted under a statute other than s. 59.692, Wis.
 125 Stats., is more restrictive than this ordinance, for example the Floodplain Zoning Ordinance,
 126 that ordinance shall continue in full force and effect to the extent of the greater restrictions, but
 127 not otherwise.

128
 129 (A) Pursuant to s. 59.692(2)(a), Wis. Stats., this ordinance shall not require approval or
 130 be subject to disapproval by any town or town board.

131
 132 (B) Pursuant to s. 59.692(2)(b), Wis. Stats., if an existing town ordinance relating to
 133 shorelands is more restrictive than this ordinance or any amendments thereto, the
 134 town ordinance continues in all respects to the extent of the greater restrictions but
 135 not otherwise.

136
 137 (C) This ordinance is not intended to repeal, abrogate or impair any existing deed
 138 restrictions, covenants or easements. However, where this ordinance imposes
 139 greater restrictions, the provisions of this ordinance shall prevail.

140
 141 (D) This ordinance may establish standards to regulate matters that are not regulated in
 142 NR 115, but that further the purposes of shoreland zoning as described in section
 143 4.201(3) of this ordinance.

144
 145 (E) Counties may not establish shoreland zoning standards in a shoreland zoning
 146 ordinance that requires any of the following:

147 1. Approval to install or maintain outdoor lighting in shorelands, impose any fee or
 148 mitigation requirement to install or maintain outdoor lighting in shorelands, or
 149 otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is
 150 designed or intended for residential use.

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

153
 154 (F) (s.59.692(7), Stats) The construction and maintenance of a facility is considered to
 155 satisfy the requirements of a shoreland zoning ordinance if:

156 1. The department has issued all required permits or approvals authorizing the
 157 construction or maintenance under ch. 30, 31, 281, or 283.

158
 159 A "facility" means any property or equipment of a public utility, as defined in s.
 160 196.01 (5), or a cooperative association organized under ch. 185 for the purpose
 161 of producing or furnishing heat, light, or power to its members only, that is used
 162 for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

163
 164 (6) Interpretation. In their interpretation and application, the provisions of this ordinance shall
 165 be held to be minimum requirements and shall be liberally construed in favor of the County of
 166 Rock and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin
 167 Statutes. Where a provision of this ordinance is required by statute and a standard in ch. NR
 168 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be
 169 interpreted in light of the statute and ch. NR 115 standards in effect on the date of the adoption
 170 of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

171
 172 (7) Severability. If any portion of this ordinance is adjudged unconstitutional or invalid by a
 173 court of competent jurisdiction, the remainder of this ordinance shall not be affected.
 174

175 **4.203 Shoreland-Wetland District**

176
 177 (1) Designation. This district shall include all shorelands within the jurisdiction of this
 178 ordinance which are designated as wetlands on the most recent version of the Wisconsin
 179 Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data
 180 Viewer.
 181

182 (2) Locating Shoreland-Wetland Boundaries. Where an apparent discrepancy exists between
 183 the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and
 184 actual field conditions, the County shall contact the Department to determine if the map is in
 185 error. If the Department determines that a particular area was incorrectly mapped as wetland or
 186 meets the wetland definition but was not shown as wetland on the map, the county shall have
 187 the authority to immediately grant or deny a shoreland zoning permit in accordance with the
 188 applicable regulations based on the Department determination as to whether the area is wetland.
 189 Depending on the scope of the proposed activity, a third-party wetland delineation may be
 190 required by the Department or the County and all costs shall be assumed by the applicant.
 191 Maps do not represent the definitive presence and boundaries of wetlands and cannot serve as a
 192 substitute for a delineation of wetland boundaries. In order to correct wetland mapping errors
 193 on the official zoning map, an official zoning map amendment must be initiated within a
 194 reasonable period of time.
 195

196 (3) Purpose. This district is created to maintain safe and healthful conditions, to prevent
 197 water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover
 198 and natural beauty and to control building and development in wetlands whenever possible.
 199 When development is permitted in a wetland, the development should occur in a manner that
 200 minimizes adverse impacts upon the wetland.
 201

202 (4) Permitted Uses. The following uses shall be allowed, subject to general shoreland zoning
 203 regulations contained in this ordinance, the provisions of chs. 30, 31 and 281.36, Wis. Stats.
 204 and the provisions of other applicable local, state and federal laws:
 205

206 (A) Activities and uses which do not require the issuance of a zoning permit, but which
 207 must be carried out without any filling, flooding, draining, dredging, ditching, tiling
 208 or excavating.

- 209 1. Hiking, fishing, trapping, hunting, swimming, and boating;
- 210 2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries,
 211 tree fruits, and tree seeds, in a manner that is not injurious to the natural
 212 reproduction of such crops;
- 213 3. The pasturing of livestock;
- 214 4. The cultivation of agricultural crops;
- 215 5. The practice of silviculture, including the planting, thinning, and harvesting of
 216 timber; and
- 217 6. The construction or maintenance of duck blinds.
 218

219 (B) Uses which do not require the issuance of a zoning permit and which may include
 220 limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only
 221 to the extent specifically provided below:

- 222 1. Temporary water level stabilization measures necessary to alleviate abnormally
 223 wet or dry conditions that would have an adverse impact on silvicultural
 224 activities if not corrected;
- 225 2. The cultivation of cranberries including flooding, dike and dam construction or
 226 ditching necessary for the growing and harvesting of cranberries,
- 227 3. The maintenance and repair of existing agricultural drainage systems including
 228 ditching, tiling, dredging, excavating and filling necessary to maintain the level
 229 of drainage required to continue the existing agricultural use. This includes the
 230 minimum filling necessary for disposal of dredged spoil adjacent to the drainage
 231 system provided that dredged spoil is placed on existing spoil banks where
 232 possible;

- 233 4. The construction or maintenance of fences for the pasturing of livestock,
 234 including limited excavating and filling necessary for such construction or
 235 maintenance; and
 236 5. The maintenance, repair, replacement or reconstruction of existing town and
 237 county highways and bridges, including limited excavating and filling necessary
 238 for such maintenance, repair, replacement or reconstruction.
 239

240 (C) Uses which require the issuance of a zoning permit and which may include limited
 241 filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the
 242 extent specifically provided below. These uses may also require a Shoreland
 243 Conditional Use Permit under this ordinance.

- 244 1. The construction and maintenance of roads which are necessary to conduct
 245 silvicultural activities or agricultural cultivation, provided that:
 246 (a) The road cannot as a practical matter be located outside the wetland;
 247 (b) The road is designed and constructed to minimize adverse impact upon the
 248 natural functions of the wetland enumerated in section 4.203(6)(B);
 249 (c) The road is designed and constructed with the minimum cross-sectional
 250 area practical to serve the intended use;
 251 (d) Road construction activities are carried out in the immediate area of the
 252 roadbed only.
 253 2. The construction or maintenance of nonresidential buildings, provided that:
 254 (a) The building is essential for and used solely in conjunction with the raising
 255 of waterfowl, minnows or other wetland or aquatic animals; or some other
 256 use permitted in the shoreland-wetland district;
 257 (b) The building cannot, as a practical matter, be located outside the wetland;
 258 (c) Such building is not designed for human habitation and does not exceed
 259 500 sq. ft. in floor area; and
 260 (d) Only limited filling or excavating necessary to provide structural support
 261 for the building is authorized.
 262 3. The establishment of public and private parks and recreation areas, natural and
 263 outdoor education areas, historic and scientific areas, wildlife refuges, game bird
 264 and animal farms, fur animal farms, fish hatcheries, and public boat launching
 265 ramps and attendant access roads, provided that:
 266 (a) Any private development is used exclusively for the permitted use and the
 267 applicant has received a permit or license under ch. 29, Wis. Stats., where
 268 applicable;
 269 (b) Filling or excavating necessary for the construction or maintenance of
 270 public boat launching ramps or attendant access roads is allowed only
 271 where such construction or maintenance meets the criteria in section
 272 4.203(3)(C)1. (a)-(d) and;
 273 (c) Ditching, excavating, dredging, or dike and dam construction in public and
 274 private parks and recreation areas, natural and outdoor education areas,
 275 historic and scientific areas, wildlife refuges, game bird and animal farms,
 276 fur animal farms, and fish hatcheries is allowed only for the purpose of
 277 improving wildlife habitat and to otherwise enhance wetland values.
 278 4. The construction or maintenance of electric, gas, telephone, water and sewer
 279 transmission and distribution facilities, by public utilities and cooperative
 280 associations organized for the purpose of producing or furnishing heat, light,
 281 power or water to their members and the construction or maintenance of railroad
 282 lines provided that:
 283 (a) The transmission and distribution facilities and railroad lines cannot, as a
 284 practical matter, be located outside the wetland;
 285 (b) Such construction or maintenance is done in a manner designed to
 286 minimize adverse impact upon the natural functions of the wetland
 287 enumerated in section 4.203(6)(B).
 288 5. The construction or maintenance of piers, docks or walkways built on pilings,
 289 including limited excavating and filling necessary for such construction and
 290 maintenance.
 291

292 (5) Prohibited Uses. Any use not listed in sections 4.203(3)(A),(B) or (C) is prohibited,
 293 unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance
 294 in accordance with section 4.203(6) of this ordinance and s. 59.69(5)(e), Wis. Stats.
 295

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

297
298 (A) For all proposed text and map amendments to the shoreland-wetland provisions of
299 this ordinance, the appropriate office with the Department shall be provided with the
300 following:

- 301 1. A copy of every petition for a text or map amendment to the shoreland-wetland
302 provisions of this ordinance, within 5 days of the filing of such petition with the
303 county clerk. Such petition shall include a copy of the Wisconsin Wetland
304 Inventory map adopted as part of this ordinance describing any proposed
305 rezoning of a shoreland-wetland;
- 306 2. Written notice of the public hearing to be held on a proposed amendment at least
307 10 days prior to such hearing;
- 308 3. A copy of the Rock County Planning and Development Agency's findings and
309 recommendations on each proposed amendment within 10 days after the
310 submission of those findings and recommendations to the Rock County Board of
311 Supervisors (County Board); and
- 312 4. Written notice of the County Board's decision on the proposed amendment
313 within 10 days after it is issued.

314
315 (B) A wetland, or a portion thereof, in the shoreland-wetland district shall not be
316 rezoned if the proposed rezoning may result in a significant adverse impact upon any
317 of the following:

- 318 1. Storm and flood water storage capacity;
- 319 2. Maintenance of dry season stream flow, the discharge of groundwater to a
320 wetland, the recharge of groundwater from a wetland to another area, or the flow
321 of groundwater through a wetland;
- 322 3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds
323 that would otherwise drain into navigable waters;
- 324 4. Shoreline protection against soil erosion;
- 325 5. Fish spawning, breeding, nursery or feeding grounds;
- 326 6. Wildlife habitat; or
- 327 7. Wetlands both within the boundary of designated areas of special natural
328 resource interest and those wetlands which are in proximity to or have a direct
329 hydrologic connection to such designated areas as defined in NR 103.04 which
330 can be accessed at the following web site: [http://www.legis.state.wi.us/
331 rsb/code/nr/nr103.pdf](http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf).

332
333 (C) If the Department notifies the Rock County Planning And Development Agency that
334 a proposed text or map amendment to the shoreland-wetland provisions of this
335 ordinance may have a significant adverse impact upon any of the criteria listed in
336 section 4.203(6)(B) of this ordinance, that amendment, if approved by the County
337 Board, shall contain the following provision:

338
339 "This amendment shall not take effect until more than 30 days have elapsed after
340 written notice of the County Board's approval of this amendment is mailed to the
341 Department of Natural Resources. During that 30-day period the Department of
342 Natural Resources may notify the County Board that it will adopt a superseding
343 shoreland ordinance for the county under s. 59.692(6), Wis. Stats. If the
344 Department does so notify the County Board, the effect of this amendment shall
345 be stayed until the s. 59.692(6) adoption procedure is completed or otherwise
346 terminated."

347
348 **4.204 Land Division Review and Sanitary Regulations**

349
350 (1) Land Division Review.

351
352 (A) The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in
353 shoreland areas which create 3 or more parcels or building sites of 5 acres each or
354 less within a 5-year period. In such review all of the following factors shall be
355 considered:

- 356 1. Hazards to the health, safety or welfare of future residents.
- 357 2. Proper relationship to adjoining areas.
- 358 3. Public access to navigable waters, as required by law.

- 359 4. Adequate stormwater drainage facilities.
 360 5. Conformity to state law and administrative code provisions.

361
 362 (B) Land Division review under this section is separate from land divisions review
 363 authorized by the Rock County Land Division and Development Ordinance.

364
 365 (2) Planned Residential Unit Development (PUD).

366
 367 (A) Purpose. The Planned Residential Unit Development is intended to permit smaller
 368 non-riparian lots where the physical layout of the lots is so arranged as to better
 369 assure the control of pollution and preservation of ground cover than would be
 370 expected if the lots were developed with the normal lot sizes and setbacks and
 371 without special conditions placed upon the Planned Residential Unit Development
 372 at the time of its approval. A condition of all Planned Residential Unit
 373 Development is the preservation of certain open space, preferably on the shoreland,
 374 in perpetuity.

375
 376 (B) Requirements for Planned Residential Unit Development. The Committee may at
 377 its discretion, upon its own motion or upon petition, approve a Planned Residential
 378 Unit Development Overlay District upon finding, after a public hearing, that all of
 379 the following facts exist:

380 1. Area. The area proposed for the Planned Residential Unit Development shall be
 381 at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable
 382 water.

383 2. Lots. Any proposed lot in the Planned Residential Unit Development that does
 384 not meet the minimum size standards of Section 4.205 shall be a non-riparian
 385 lot.

386 3. Vegetative buffer zone and preservation of ground cover. The location of lots
 387 and the dedication of part of the land for use by the public or residents of the
 388 Planned Residential Unit Development shall preserve the vegetative buffer zone
 389 and ground cover of the shoreland to enhance scenic beauty of the navigable
 390 water, prevent erosion, and provide wildlife habitat. All lands not used for lots
 391 and streets shall be dedicated in perpetuity to remain in open space. This may be
 392 accomplished by conveyance in common to each of the owners of lots in the
 393 development or to a corporation formed by them, or by dedication to the county,
 394 town or municipality. Lands dedicated to the public must be accepted by action
 395 of the governing body of the accepting unit of government. If the land is to be
 396 conveyed to owners of lots in the development, a homeowner's association or
 397 similar legally constituted body shall be created to maintain the open space land.
 398 Any restriction placed on platted land by covenant, grant of easement or any
 399 other manner which was required by a public body or which names a public
 400 body as grantee, promisee or beneficiary, shall vest in the public body the right
 401 to enforce the restriction at law or in equity against anyone who has or acquires
 402 an interest in the land subject to the restriction.

403 4. Density. The number of platted lots shall not exceed those which would have
 404 been possible if the same land were platted in accordance with the minimum lot
 405 sizes and widths provided by the applicable provisions of the zoning ordinance.
 406 This figure shall be determined by dividing the total developable area of the
 407 subdivision by the minimum lot size required by Section 4.205 of this ordinance.

408 5. Lot sizes, widths, setbacks, and vegetation removal. When considering approval
 409 of a Planned Residential Unit Development the Committee shall consider
 410 whether proposed lot sizes, widths, and setbacks are of adequate size and
 411 distance to prevent pollution or erosion along streets or other public ways and
 412 waterways. Increased shoreland setbacks shall be a condition of approval as a
 413 way of minimizing adverse impacts of development. Shore cover provisions in
 414 Section 4.207 (2) shall apply except that maximum width of a lake frontage
 415 opening shall be 100 feet and minimum vegetative buffer depth shall be
 416 increased to offset the impact of the proposed development.

417 6. Consistency with other development ordinances. Planned Residential Unit
 418 Development shall be consistent with standards in other development ordinances
 419 administered by the County of Rock.

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

423
 424 (A) Where public water supply systems are not available, private well construction shall
 425 be required to conform to ch. NR 812, Wis. Adm. Code.

426
 427 (B) Where a public sewage collection and treatment system is not available, design and
 428 construction of private on-site waste treatment system shall, prior to July 1, 1980, be
 429 required to comply with ch. SPS 383, and after June 30, 1980 be governed by a
 430 private sewage system ordinance adopted by the county under s. 59.70(5), Wis.
 431 Stats.

432
 433 **4.205 Minimum Lot Size and Setbacks**

434
 435 (1) Purpose. Minimum lot sizes and setbacks in the shoreland area shall be established to
 436 afford protection against danger to health, safety and welfare, preserve natural beauty, reduce
 437 flood hazards and protect against pollution of the adjacent body of water. Shoreland setback
 438 standards are addressed in Section 4.206 of this Ordinance.

439
 440 In calculating the minimum area or width of a lot, the beds of navigable waters shall not
 441 be included.

442
 443 (2) Sewered Lots

444
 445 (A) Minimum Area and Width for Each New Lot. The minimum lot area shall be
 446 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

447
 448 1. The width shall be calculated by averaging measurements at the following 4
 449 locations:

450 (a) The ordinary high water mark.

451 (b) The building setback line.

452 (c) One other location on the lot within 300 feet of the ordinary highwater mark.

453 (d) The rear lot line

454
 455 (B) Setbacks (Applicable to New and Existing Lots)

456
 457 1. There shall be a side yard for each principal structure or building. The minimum
 458 width of one side yard shall be 8 feet. The minimum combined width of both
 459 principal side yards shall be 20 feet. There shall be a side yard of 5 feet for
 460 accessory structures excluding fences.

461
 462 2. The rear yard setback for all structures shall be 25 feet.

463
 464 3. The front yard setback for all structures shall be 25 feet.

465
 466 (3) Unsewered Lots

467
 468 (A) Minimum Area and Width for Each New Lot. The minimum lot area shall be
 469 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100
 470 feet of frontage at the ordinary high-water mark.

471
 472 1. The width shall be calculated by averaging measurements at the following 4
 473 locations:

474 (a) The ordinary high water mark.

475 (b) The building setback line.

476 (c) One other location on the lot within 300 feet of the ordinary highwater mark.

477 (d) The rear lot line.

478
 479 (B) Setbacks (Applicable to New and Existing Lots)

480
 481 1. There shall be a side yard for each principal structure or building. The minimum
 482 width of one side yard shall be 15 feet. The minimum combined width of both

- 483 principal side yards shall be 40 feet. There shall be a side yard of 5 feet for
 484 accessory structures excluding fences
 485 2. The rear yard setback for all structures shall be 25 feet.
 486 3. The front yard setback for all structures shall be 50 feet.
 487

488 (4) Substandard Lots
 489

490 (A) A legally created lot or parcel that met minimum area and minimum average width
 491 requirements when created, but does not meet current lot size requirements, may be
 492 used as a building site if all of the following apply:
 493

- 494 1. The substandard lot or parcel was never reconfigured or combined with another
 495 lot or parcel by plat, survey, or consolidation by the owner into one property tax
 496 parcel.
 497 2. The substandard lot or parcel has never been developed with one or more of its
 498 structures placed partly upon an adjacent lot or parcel.
 499 3. The substandard lot or parcel is developed to comply with all other ordinance
 500 requirements, including setbacks.
 501

502 (B) Other Substandard Lots. Except for lots which meet the requirements of sections
 503 4.205(4)(A) a building permit for the improvement of a lot having lesser dimensions
 504 than those stated in sections 4.205(2)(A) and 4.205(3)(A) shall be issued only if a
 505 variance is granted by the Rock County Board of Adjustment.
 506

507 **4.206 Setbacks.** Permitted setbacks shall be established to conform to health, safety and welfare
 508 requirements, preserve natural beauty, reduce flood hazards and avoid water pollution. Additional
 509 setback standards are established in Section 4.205 of this ordinance.
 510

511 (1) Shoreland Setback. Unless exempt under section 4.206(1)(A), or reduced under section
 512 4.206(2), a setback of 75 feet from the ordinary high-water mark of any navigable waters to the
 513 nearest part of a building or structure shall be required for all buildings and structures.
 514

515 (A) Exempt Structures. All of the following structures are exempt from the shoreland
 516 setback standards in section 4.206(1):
 517

- 518 1. Boathouses located entirely above the ordinary high-water mark and entirely
 519 within the access and viewing corridor that do not contain plumbing and are not
 520 used for human habitation.
 521 (a) The use of boathouses for human habitation and the construction or placing
 522 of boathouses beyond the ordinary highwater mark of any navigable waters
 523 shall be prohibited.
 524 (b) Boathouses shall be designed and constructed solely for the storage of boats
 525 and related equipment and shall not be used for human habitation. The main
 526 door shall face the water.
 527 (c) One boathouse is permitted on a lot as an accessory structure.
 528 (d) Boathouses shall be set back a minimum 10 feet from the ordinary highwater
 529 mark and shall be constructed in conformity with local floodplain zoning
 530 standards.
 531 (e) Boathouses shall not exceed one story and 500 square feet in floor area.
 532 (f) Boathouses permitted after October 1, 2016 shall have a pitched roof of no
 533 flatter than 4/12 pitch.
 534 (g) The roof of an existing boathouse may be used as a deck provided that:
 535 1. The boathouse has a flat roof and was built prior to October 1, 2016
 536 2. The roof has no side walls or screens.
 537 3. The roof may have a railing that meets the Department of Safety and
 538 Professional Services standards.
 539 (h) All other ordinance requirements shall be met, including impervious surface
 540 standards.
 541
 542 2. Open sided and screened structures such as gazebos, decks, patios and screen
 543 houses in the shoreland setback area that satisfy the requirements in s.
 544 59.692(1v), Stats.

- 545 (a) The part of the structure that is nearest to the water is located at least 35 feet
546 landward from the ordinary-high water mark.
- 547 (b) The floor area of all the structures in the shoreland setback area (excluding
548 boathouses) will not exceed 200 square feet.
- 549 (c) The structure that is the subject of the request for special zoning permission
550 has no sides or has open or screened sides.
- 551 (d) The county must approve a plan that will be implemented by the owner of
552 the property to preserve or establish a vegetative buffer zone that covers at
553 least 70% of the half of the shoreland setback area that is nearest to the
554 water.
- 555 (e) An enforceable affidavit must be filed with the register of deeds prior to
556 construction acknowledging the limitations on vegetation.
- 557
- 558 3. Broadcast signal receivers, including satellite dishes or antennas that are one
559 meter or less in diameter and satellite earth station antennas that are 2 meters or
560 less in diameter.
- 561
- 562 4. Utility transmission and distribution lines, poles, towers, water towers, pumping
563 stations, well pumphouse covers, private on-site wastewater treatment systems
564 that comply with ch. SPS 383, and other utility structures that have no feasible
565 alternative location outside of the minimum setback and that employ best
566 management practices to infiltrate or otherwise control storm water runoff from
567 the structure.
- 568
- 569 5. Walkways, stairways or rail systems that are necessary to provide pedestrian
570 access to the shoreline and are a maximum of 60-inches in width.
- 571
- 572 6. Devices or systems used to treat runoff from impervious surfaces.
- 573
- 574 (B) Existing Exempt Structures. Existing exempt structures may be maintained,
575 repaired, replaced, restored, rebuilt and remodeled provided the activity does not
576 expand the footprint and does not go beyond the three-dimensional building
577 envelope of the existing structure. Counties may allow expansion of a structure
578 beyond the existing footprint if the expansion is necessary to comply with applicable
579 state or federal requirements.
- 580
- 581 (2) Reduced Principal Structure Setback. A setback less than the 75' required setback from
582 the ordinary high water mark shall be permitted for a proposed principal structure and
583 shall be determined as follows:
- 584
- 585 (A) Where there are existing principal structures in both directions, the setback shall
586 equal the average of the distances the two existing principal structures are set back
587 from the ordinary high water mark provided all of the following are met:
- 588 1. Both of the existing principal structures are located on adjacent lot to the
589 proposed principal structure.
- 590 2. Both of the existing principal structures are located within 250' of the proposed
591 principal structure and are the closest structure.
- 592 3. Both of the existing principal structures are located less than 75' from the
593 ordinary high water mark.
- 594 4. The average setback shall not be reduced to less than 35' from the ordinary high
595 water mark of any navigable water.
- 596
- 597 (3) Floodplain Structures. Buildings and structures to be constructed or placed in a
598 floodplain shall be required to comply with any applicable floodplain zoning ordinance.
- 599

600 4.207 Vegetation

- 601
- 602 (1) Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, the
603 county shall regulate removal of vegetation in shoreland areas, consistent with sound forestry
604 and soil conservation practices and considering the effect of vegetation removal on water
605 quality, including soil erosion, and the flow of effluents, sediments and nutrients.
- 606

607 (2) Activities allowed within Vegetative Buffer. To protect water quality, fish and wildlife
 608 habitat and natural scenic beauty, and to promote preservation and restoration of native
 609 vegetation, this ordinance shall designate land that extends from the ordinary high water mark
 610 to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation
 611 in the vegetative buffer zone except as follows.

612
 613 (A) The county may allow routine maintenance of vegetation.

614
 615 (B) The county may allow removal of trees and shrubs in the vegetative buffer zone to
 616 create access and viewing corridors.

617
 618 Per s. 59.692(1f)(b), Stats. the viewing corridor may be at least 35 feet wide for
 619 every 100 feet of shoreline frontage. The viewing corridor may run contiguously for
 620 the entire maximum width of shoreline frontage owned.

621
 622 (C) The county may allow removal of trees and shrubs in the vegetative buffer zone on a
 623 parcel with 10 or more acres of forested land consistent with “generally accepted
 624 forestry management practices” as defined in s. NR 1.25 (2) (b), and described in
 625 Department publication “Wisconsin Forest Management Guidelines” (publication
 626 FR-226), provided that vegetation removal be consistent with these practices.

627
 628 (D) The county may allow removal of vegetation within the vegetative buffer zone to
 629 manage exotic or invasive species, damaged vegetation, vegetation that must be
 630 removed to control disease, or vegetation creating an imminent safety hazard,
 631 provided that any vegetation removed under the permit be replaced by replanting in
 632 the same area as soon as practicable.

633
 634 (E) The county may authorize by permit additional vegetation management activities in
 635 the vegetative buffer zone. The permit issued under this subparagraph shall require
 636 that all management activities comply with detailed plans approved by the county
 637 and designed to control erosion by limiting sedimentation into the waterbody, to
 638 improve the plant community by replanting in the same area, and to maintain and
 639 monitor the newly restored area. The permit also shall require an enforceable
 640 restriction to preserve the newly restored area.

641
 642 (3) Cutting More Than 35 Feet Inland. From the inland edge of the 35 foot area to the outer
 643 limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using
 644 accepted forest management and soil conservation practices which protect water quality.

645
 646 **4.208 Filling, Grading, Lagooning, Dredging, Ditching and Excavating.** Filling, grading,
 647 lagooning, dredging, ditching and excavating may be permitted only in accordance with the provisions
 648 of s. NR 115.04, the requirements of ch. 30, Stats., and other local, state and federal laws where
 649 applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment
 650 of fish and wildlife habitat and natural scenic beauty in compliance with the standards below:

651
 652 (1) General Standards. Filling, grading, lagooning, dredging, ditching or excavating which
 653 does not require a permit under section 4.208 may be permitted in the shoreland area provided
 654 that:

655
 656 (A) It is done in a manner designed to minimize erosion, sedimentation and impairment
 657 of fish and wildlife habitat.

658
 659 (B) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland
 660 district meets the requirements of sections 4.203(4)(B) and 4.203(4)(c) of this
 661 ordinance.

662
 663 (C) All applicable federal, state and local authority is obtained in addition to a permit
 664 under this ordinance.

665
 666 (D) Any fill placed in the shoreland area is protected against erosion by the use of riprap,
 667 vegetative cover or a bulkhead.

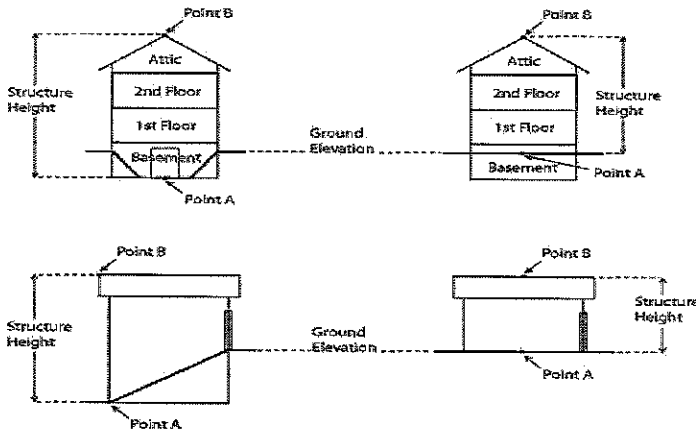
- 669 (E) No filling or grading shall be done from the ordinary high water mark to 35 feet
670 landward unless necessary to establish or re-establish the vegetative buffer or for the
671 construction of a boathouse.
672
- 673 (2) Conditional Use Permit Required. Except as provided in section 4.208(3) conditional use
674 permit is required:
675
- 676 (A) For any filling or grading of any area which is within the Shoreland Zoning District
677 which consists of:
678 1. A single area of more than 1,000 sq. ft. exposed or the cumulative exposed area
679 exceeds 1,000 sq. ft. or
680 2. More than 40 cubic yards of fill is deposited
681
- 682 (B) For any construction or dredging commenced on any existing artificial waterway,
683 canal, ditch, lagoon, pond, lake or similar waterway which is within the jurisdiction
684 of this ordinance or where the purpose is the ultimate connection with a navigable
685 body of water.
686
- 687 (3) Soil Conservation Practices and Agricultural Drainage Maintenance.
688
- 689 (A) Soil conservation practices such as tiled terraces, runoff diversions and grassed
690 waterways used for erosion control shall not require a permit under section 4.208(2)
691 when designed and constructed to Natural Resources Conservation Service technical
692 standards.
693
- 694 (B) The maintenance of existing agricultural drainage systems shall be allowed in
695 conformity with the following construction standards:
696 1. The maintenance dredging of farm drainage ditches is limited to reestablishing
697 the original ditch cross section unless a conditional use permit under section
698 8.22 is obtained.
699 2. Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50%
700 grade) or flatter.
701 3. Ditch banks shall be maintained in a sod cover and free of woody vegetation.
702 4. A 35 foot wide buffer strip of untilled, ungrazed sod cover shall be maintained
703 adjacent to the ditch bank.
704
- 705 (4) Permit Conditions. In granting a permit under section 4.208(2), the County shall attach
706 the following conditions, where appropriate, in addition to other appropriate conditions and
707 provisions resulting in permit review specified in sections 4.214(2) or 4.214(3).
708
- 709 (A) The smallest amount of bare ground shall be exposed for as short a time as feasible.
710
- 711 (B) Temporary ground cover (such as mulch or jute netting) shall be used and
712 permanent vegetative cover shall be established.
713
- 714 (C) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other
715 methods shall be used to prevent erosion.
716
- 717 (D) Lagoons shall be constructed to avoid fish trap conditions.
718
- 719 (E) Fill shall be stabilized according to accepted engineering standards.
720
- 721 (F) Filling shall comply with any local floodplain zoning ordinance and shall not restrict
722 a floodway or destroy the flood storage capacity of a floodplain.
723
- 724 (G) Consideration and care shall be taken to inhibit transfer of invasive species when fill
725 material is relocated to or from a site as part of construction project.
726
- 727 (H) Channels or artificial watercourses shall be constructed with side slopes of two (2)
728 units horizontal distance to one (1) unit vertical or flatter (50% slope or less) which
729 shall be promptly vegetated, unless bulkheads or riprap are provided.
730

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794
- (1) Purpose. Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
- (2) Calculation 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 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 4.209(6) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.
- (3) Impervious Surface Standard. Except as otherwise allowed in sections (4)-(6) below, the County shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 of the ordinary high-water mark
- (4) Maximum Impervious Surface. More than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark shall be permitted with a mitigation plan that meets the standards found in section 4.213.
- (5) Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in section 4.209(3) or the maximum impervious surface standard in section 4.209(4), the property owner may do any of the following:
- (A) maintain and repair the existing impervious surfaces;
 - (B) replace existing impervious surfaces with similar surfaces within the existing building envelope;
 - (C) relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements of this ordinance.
- (6) Treated Impervious Sufaces. Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under section 4.209(2) :
- (A) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
 - (B) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.
 - (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; and 3) an implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices, or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.
- (7) This section of the ordinance shall not be construed to supersede other provisions in this ordinance. Maintenance, reconstruction, relocation and expansion of existing structures must

795 comply with other provisions including the shoreland setback standards in sections 4.206(1) or
 796 4.206(2) and the nonconforming structure provisions of sections 4.11(1) through 4.211(8).

797
 798 **4.210 Heights.** To protect and preserve wildlife habitat and natural scenic beauty, on or after
 799 February 1, 2010, no construction that results in a structure taller than 35 feet shall be permitted within
 800 the Shoreland Zoning District.

801
 802 Structure height is the measurement of the vertical line segment starting at the lowest point of any
 803 exposed wall and it's intersect with the ground (Point A Below) to a line horizontal to the highest point
 804 of a structure (Point B Below) unless specified under other sections of this code. This includes
 805 partially exposed basements.



807
 808
 809
 810 **4.211 Nonconforming Uses and Structures.**

811
 812 (1) Purpose. To protect water quality, fish and wildlife habitat, and natural scenic beauty,
 813 some control is needed over the modification and reconstruction of these structures.

814
 815 (2) Discontinued Nonconforming Use. If a nonconforming use is discontinued for a period of
 816 12 months, any future use of the building, structure or property shall conform to this ordinance.

817
 818 (3) Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures.
 819 An existing structure that was lawfully placed when constructed but that does not comply with
 820 the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or
 821 remodeled if the activity does not expand the footprint of the nonconforming structure. Further,
 822 an existing structure that was lawfully placed when constructed but that does not comply with
 823 the required shoreland setback may be vertically expanded unless the vertical expansion would
 824 extend more than 35 feet above grade level. Counties may allow expansion of a structure
 825 beyond the existing footprint if the expansion is necessary to comply with applicable state or
 826 federal requirements.

827
 828 Pursuant to s. 59.692(1k)(a)1.b. and d. Stats., the County may not require any approval or
 829 impose any fee or mitigation requirement for the activities specified in section 4.211(3) if the
 830 activity does not expand the footprint of the nonconforming structure or extend the height more
 831 than 35 feet above grade level.

832
 833 (4) Lateral Expansion of Nonconforming Principal Structure Within the Setback. An existing
 834 principal structure that was lawfully placed when constructed but that does not comply with the
 835 required building setback per sections 4.205 and 4.206(1) may be expanded laterally, provided
 836 that all of the following requirements are met:

837
 838 (A) The use of the structure has not been discontinued for a period of 12 months or
 839 more if a nonconforming use.

840
 841 (B) The existing principal structure is at least 35 feet from the ordinary high-water
 842 mark.

843
 844 (C) Lateral expansions are limited to a maximum of 200 square feet over the life of the
 845 structure. No portion of the expansion may be any closer to the ordinary high-water
 846 mark than the closest point of the existing principal structure.

- 847
848 (D) The county shall issue a permit that requires a mitigation plan that shall be
849 approved by the county and implemented by the property owner by the date
850 specified in the permit. The mitigation plan shall meet the standards found in
851 section 4.213.
852
- 853 (E) All other provisions of the shoreland ordinance shall be met.
854
- 855 (5) Expansion of a Nonconforming Principal Structure Beyond Setback. An existing
856 principal structure that was lawfully placed when constructed but that does not comply with the
857 required building setbacks may be expanded horizontally, landward or vertically provided that
858 the expanded area meets the building setback requirements per sections 4.205 and 4.206(1) and
859 that all other provisions of the shoreland ordinance are met. A mitigation plan is not required
860 solely for expansion under this paragraph, but may be required under the impervious surface
861 standards of this ordinance.
862
- 863 (6) Relocation of Nonconforming Principal Structure. An existing principal structure that
864 was lawfully placed when constructed but that does not comply with the required building
865 setbacks may be relocated on the property provided all of the following requirements are met:
866
- 867 (A) The use of the structure has not been discontinued for a period of 12 months or
868 more.
869
- 870 (B) The existing principal structure is at least 35 feet from the ordinary high-water mark.
871
- 872 (C) No portion of the relocated structure is located any closer to the ordinary high-water
873 mark than the closest point of the existing principal structure.
874
- 875 (D) The county determines that no other location is available on the property to build a
876 principal structure of a comparable size to the structure proposed for relocation that
877 will result in compliance with the shoreland setback requirements.
878
- 879 (E) The county shall issue a permit that requires a mitigation plan that shall be approved
880 by the county and implemented by the property owner by the date specified in the
881 permit. The mitigation plan shall meet the standards found in section 4.213
882 including enforceable obligations of the property owner to establish or maintain
883 measures that the county determines are adequate to offset the impacts of the
884 permitted expansion on water quality, near-shore aquatic habitat, upland wildlife
885 habitat and natural scenic beauty. The mitigation measures shall be proportional to
886 the amount and impacts of the replaced or relocated structure being permitted. The
887 obligations of the property owner under the mitigation plan shall be evidenced by an
888 instrument recorded in the office of the County Register of Deeds.
889
- 890 (F) All other provisions of the shoreland ordinance shall be met.
891
- 892 (7) Wet Boathouses. The maintenance and repair of nonconforming boathouses which extend
893 beyond the ordinary high-water mark of any navigable waters shall be required to comply with
894 s. 30.121, Stats.
895

896 **4.212 Maintenance, repair, replacement or vertical expansion of a structures that were**
897 **authorized by a variance.**
898

899 A structure of which any part has been authorized to be located within the shoreland setback
900 area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored,
901 rebuilt or remodeled if the activity does not expand the footprint of the authorized structure.
902 Additionally, the structure may be vertically expanded unless the vertical expansion would
903 extend more than 35 feet above grade level. Counties may allow expansion of a structure
904 beyond the existing footprint if the expansion is necessary to comply with applicable state or
905 federal requirements.
906

907 **4.213 Mitigation.**
908

909 (1) Application for Mitigation Permit Requirements. When the county issues a permit
 910 requiring mitigation under sections 4.206(1)(A)2, 4.209(2), 4.211(5) and 4.211(7), the property
 911 owner must submit a complete permit application that is reviewed and approved by the county.
 912 The application shall include the following:

913
 914 (A) A mitigation plan shall be submitted on forms provided by the Zoning Administrator
 915 for review and approval. The mitigation measures shall be proportional in scope to
 916 the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and
 917 natural scenic beauty. The site plan shall be designed and implemented to restore
 918 natural functions lost through development and human activities. Plan review will
 919 be based on current guidance from sources such as the Wisconsin Department of
 920 Natural Resources, the USDA-Natural Resources Conservation Service, University
 921 of Wisconsin-Extension or other appropriate sources. The plan shall be signed by
 922 the property owner and filed with the Zoning Administrator prior to issuance of the
 923 zoning permit. The plan shall include, at a minimum:

- 924
- 925 1. Name and Address of property owner
- 926 2. Property address and legal description
- 927 3. Extent of the shoreland buffer
- 928 4. Scale (e.g. 1 inch = 10 feet)
- 929 5. Existing and planned topography
- 930 6. Ordinary high water mark (OHWM) location
- 931 7. Location of all structures on the property including those planned as part of
 932 mitigation
- 933 8. Viewing and access corridor
- 934 9. Boundary of the shoreland buffer zone
- 935 10. Existing trees, shrubs, and native ground cover
- 936 11. Areas to be planted with trees, shrubs, and groundcovers
- 937 12. Implementation schedule (see detail below)
- 938 13. A plant species list and potential substitutions if availability is an issue (see
 939 restoration standards and specifications below)
- 940 14. Erosion control practices (to be installed prior to and during buffer
 941 establishment)
- 942 15. Water diversions and channelized flow areas
- 943 16. Buffer Maintenance (watering, weeding, replanting, etc)
- 944

945 (B) Implementation schedule. The approved mitigation plan must be started within one
 946 year from the issue date of applicable permit. All plantings and any other required
 947 activities in the mitigation plan must be completed within two years of the permit
 948 issue date.

949
 950 (C) The mitigation measures shall be maintained in perpetuity, unless the property
 951 owner receives approval of a new, approved mitigation plan meeting the same point
 952 requirements. The maintenance obligations shall be evidenced by an instrument,
 953 provided by the Agency, recorded in the office of the Register of Deeds prior to
 954 issuance of the permit.

955
 956 (D) Certification of Completion. Within two years of issuance of the related zoning
 957 permit, the property owner shall complete the mitigation practices and shall certify
 958 in writing to the Zoning Administrator that the required mitigation has been
 959 completed. As part of the certification, the property owner shall submit photos
 960 documenting the mitigation measures.

961
 962 (E) Subsequent Development. Subsequent zoning permit applications in compliance
 963 with all new development standards of this ordinance shall not require additional
 964 mitigation provided the mitigation measures are maintained.

965
 966 (2) Determination of Level or Required Mitigation. A plan to mitigate for the adverse effects
 967 of construction on a waterfront property is required under other sections of this Ordinance and
 968 will be based on a point system. The number of mitigation points necessary for a zoning permit
 969 depends on the type, size and location of the construction activity. Similarly, the various
 970 mitigation practices have been assigned point values to be accumulated to an amount equal or
 971 greater than the point value of the adverse construction activity. The Zoning Administrator

972 shall determine the number of points necessary and the landowner shall choose mitigation
 973 options in consideration the impact of the project based on the following:

974
 975 (A) Points are required for developing property under the following conditions and shall
 976 be cumulative when more than one condition applies:

- 977 1. Installation of impervious surfaces on greater than 15% (but less than 30%) of
 978 the portion of the lot within 300' of the ordinary high water mark (section
 979 4.209(4) – 2 points.
- 980 2. Lateral expansion of a non conforming principal structure (section 4.211(4)) ---
 981 2 points.
- 982 3. Relocation of a non conforming principal structure (section 4.211(6) – 6 points.
- 983 4. Building or excavating on slopes greater than or equal to 20 % - 1 additional
 984 point

985
 986 (B) Approved Mitigation Practices. Property owners may choose among the following
 987 mitigation practices to achieve the number mitigation points chosen. Practices shall
 988 be chosen in consideration of the project impact on the purposes and intent of this
 989 ordinance.

- 990 1. The associated privately owned wastewater treatment system must be evaluated
 991 and upgraded as appropriate in compliance with SPS 383, Wis. Administrative
 992 Code. Replacement of failing septic system due to setbacks or sizing - 2 points.
 993 Replacement of failing septic system due to surface water or groundwater
 994 impacts - 3 points
- 995 2. Native vegetation and water quality protection functions of the shore buffer area
 996 must be restored to the extent practicable following the standards in Section
 997 4.213(3). Points may be obtained for maintaining existing buffer zones or for
 998 creating and maintaining new buffer zones as set forth below.
 999 When a shoreland buffer restoration is required as part of the mitigation plan, the
 1000 buffer type shall be either woodland, prairie, wetland or a combination if the site
 1001 characteristics permit. The woodland and prairie buffers shall comply with the
 1002 standards set forth in Sec. 4.213(3). Wetland buffers will also be permitted
 1003 where deemed appropriate by the Zoning Administrator.
 - 1004 a. Primary Active Buffer Zone: Shore buffer zone within thirty-five feet (35')
 1005 of the OHWM, including trees, shrubbery, underbrush and other natural
 1006 vegetation, and subject to the standards in Sec. 4.213(3) - 3 points.
 - 1007 b. Secondary Active Buffer Zone: An additional fifteen feet (15') of buffer
 1008 zone depth inland from the OHWM beyond the thirty-five feet (35') of buffer
 1009 zone already established, providing a total of fifty feet (50') of buffer zone
 1010 depth, subject to Sec. 4.213(3) - 2 points.
 - 1011 c. Increasing buffer depths - ½ point for each rounded 5 ft increment beyond
 1012 the secondary active buffer zone.
 - 1013 d. Passive Buffer Zone: Shoreland vegetation buffer area within thirty-five feet
 1014 (35') of the OHWM, including un-mowed, grass or other under story
 1015 vegetation, but without the tree and shrub layers required to meet the three-
 1016 point mitigation standard - 1 point.
 - 1017 e. Side lot Buffer Zone: A ten foot (10') wide side lot buffer zone including
 1018 trees, shrubbery, underbrush and other natural vegetation extending along a
 1019 side lot line for a depth of at least one hundred feet (100') from the OHWM.
 1020 One point. The side lot buffer area is subject to the same standards and
 1021 conditions as the active buffer zone. Points for side lot line buffers may be
 1022 additive, for a maximum of two (2) points, if buffer areas exist and are
 1023 maintained along both side lot lines.
- 1024 3. Nonconforming structures removed from the shore setback area. Points may be
 1025 obtained for the removal of structures as set forth below.
 - 1026 a. Removal of a principal structure located within seventy-five feet (75') of the
 1027 OHWM to a site that meets the OHWM set back requirements for new
 1028 development on that water body - 3 points.
 - 1029 b. Removal of all non-principal, accessory structures located within thirty-five
 1030 feet (35') of the OHWM, with the result that all such structures, including
 1031 boathouses, are set back at least thirty-five feet (35') from the ordinary high
 1032 water mark - 2 points.
 - 1033 c. Removal of all non-principal, accessory structures located between thirty-
 1034 five feet (35') and seventy-five feet (75') from the ordinary high water mark,

- 1035 with the result that all such structures, including boathouses, are set back at
 1036 least seventy-five feet (75') from the ordinary high water mark - 1 point.
 1037 d. No non-principal, accessory structures are located less than seventy-five feet
 1038 (75') from the ordinary high water mark. This point is not added to points
 1039 awarded for removal of structures from para. ii and iii above - 1 point.
 1040 e. Removal of non-structural impervious surfaces - ½ point for each rounded
 1041 500 sq.ft. of pavement or hardpacked gravel.
 1042 4. Exterior building materials shall blend with the natural ground cover in the
 1043 vicinity of the construction - 1 point
 1044 5. Having percentages of the parcel in a natural state. 25-49% - 1 point. 50-74% - 2
 1045 points. >74% - 3 points
 1046 6. Other Practices. At the discretion of the Zoning Administrator, up to three (3)
 1047 additional mitigation points may be approved for restoration or protection
 1048 activities that are likely to provide significant benefits to meet the objectives of
 1049 this ordinance. Examples may include construction of a storm water detention
 1050 basin or implementation of other storm water management plan activities,
 1051 replacement of seawalls with bio-engineered structures, installation of rain
 1052 barrels, compaction mitigation or removal of artificial sand beaches.

1054 Factors to be considered in making the determination of number of points and
 1055 approval of alternative mitigation practices include, but are not limited to:

- 1056 a. Cost of implementation;
 1057 b. Runoff diversion and/or retention;
 1058 c. Lot configuration;
 1059 d. Parcel size;
 1060 e. Location of impervious areas;
 1061 f. Sensitivity and level of development of the water body; and
 1062 g. Significance toward meeting ordinance objectives.
 1063

1064 (3) Restoration Standards and Specifications. All shoreland restoration projects shall be
 1065 designed based on the following standards and specifications:

- 1066 (A) Natural Recovery. Shoreland buffer areas that are suited for natural recovery will be
 1067 allowed only after Zoning Administrator approval.
 1068
 1069 (B) Accelerated recovery. Areas not suited to natural recovery will require plantings to
 1070 establish native vegetation. Areas such as lawns or eroded sites with no seed source
 1071 will require plantings following site preparation including turf removal. Planted
 1072 buffers must meet the required plant densities based on square footage of buffer area
 1073 and the type of buffer (Table 1).
 1074
 1075 (C) Planting credits will be allowed for the viewing corridor, areas of existing native
 1076 vegetation, and areas suited for natural recovery.
 1077
 1078 (D) Viewing Corridor. Sod, mulch, or other approved non-erodeable natural material is
 1079 allowed in the view corridor to the minimum extent necessary for access and
 1080 recreation as stipulated below:
 1081 1. Wherever feasible, grass species used shall be no-mow/low-grow grasses which
 1082 do not require cutting.
 1083 2. One path with a maximum width of 4 feet as allowed by this ordinance.
 1084 (E) Vegetation used in any restoration shall be native to the state of Wisconsin and shall
 1085 be installed at densities that are adequate to reestablish the water quality, habitat and
 1086 natural beauty protection functions of a shoreline buffer area.
 1087
 1088 (F) Planting densities are based on the total area of the required buffer. Area credits
 1089 calculated are subtracted from the total required density on an equal square footage
 1090 of coverage basis. Trees must be at least 2 years old and greater than 1 foot tall to
 1091 qualify as a credit or planting.
 1092
 1093 (G) Pre-existing structures. For lots with legal pre-existing structures, restoration is not
 1094 required within 15 feet of the principal structure.
 1095
 1096

1097 (H) Once the shoreline buffer has been reestablished, vegetation removal and land
 1098 disturbing activities are generally prohibited as outlined in the recorded maintenance
 1099 agreement.
 1100
 1101

<i>Woodland Buffer</i>			<i>Prairie Buffer</i>		
Layer	Minimum number of species	Density per 100 square feet	Minimum number of species	Density per 100 square feet	Area Credits
Tree Canopy	3	1	2	0.2	Existing tree canopy
Shrub Understory	4	1.5	2	0.5	Existing shrub understory
Groundcover Plant Plugs	3	70	5	70	Existing well vegetated native ground cover
Groundcover seeding	3	Varies	5	Varies	Existing well vegetated native ground cover

1102 **Table 1**

1103
 1104

1105 **4.214 Administrative Provisions.**

1106

1107 (1) Zoning Administrator. The Zoning Administrator shall have the following duties and
 1108 powers:

1109

1110 (A) System of permits for new construction, development, reconstruction, structural
 1111 alteration or moving of buildings and structures. A copy of applications shall be
 1112 required to be filed in the office of the County Zoning Administrator, unless
 1113 prohibited by s. 59.692(1k), Stats.

1114

1115 (B) Regular inspection of permitted work in progress to insure conformity of the
 1116 finished structures with the terms of the ordinance.

1117

1118 (C) A variance procedure which authorizes the board of adjustment to grant such
 1119 variance from the terms of the ordinance as will not be contrary to the public interest
 1120 where, owing to special conditions and the adoption of the shoreland zoning
 1121 ordinance, a literal enforcement of the provisions of the ordinance will result in
 1122 unnecessary hardship.

1123

1124 (D) A conditional use procedure.

1125

1126 (E) The county shall keep a complete record of all proceedings before the Board of
 1127 Adjustment, and Planning and Development Agency.

1128

1129 (F) Written notice to the appropriate office of the Department at least 10 days prior to
 1130 any hearing on a proposed variance, special exception or conditional use permit,
 1131 appeal for a map or text interpretation, map or text amendment, and copies of all
 1132 proposed land divisions submitted to the county for review under section 4.204.
 1133 Upon request of the Department a county shall provide to the appropriate office a
 1134 copy of any permit issued under section 4.214.

1135

1136 (G) Submission to the appropriate office of the Department, within 10 days after grant or
 1137 denial, copies of any permit related to a nonconforming structure, any decision on a
 1138 variance, special exception or conditional use permit, or appeal for a map or text
 1139 interpretation, and any decision to amend a map or text of an ordinance.

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(H) Mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments.

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

(J) The prosecution of violations of the shoreland ordinance.

(2) Permits

(A) When Required. Except where another section of this ordinance specifically exempts certain types of development from this requirement, a permit shall be obtained from the Zoning Administrator before any new development.

(B) Application. 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:

1. Name and address of applicant and property owner.
2. Legal description of the property and type of proposed use.
3. 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, the ordinary high water mark and floodplain of any abutting waterways.
4. Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
5. Plans for appropriate mitigation when required.
6. Payment of the appropriate fee established by the Rock County Board of Supervisors.
7. Additional information required by the Zoning Administrator.

(C) Expiration of Permit. Zoning permits shall expire 12 months from date issued.

(D) Certificates of Compliance of Mitigation. For permitted projects that require mitigation under this ordinance, no land or building shall be occupied or used until a certificate of compliance is issued by the Zoning Administrator.

1. The certificate of compliance shall certify that the building or premises or part thereof, and the proposed use thereof, and associated mitigation practices conform to the provisions of this ordinance and the approved permit.
2. The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit and mitigation plan, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.
3. The Zoning Administrator may issue a temporary certificate of compliance for part of a building, pursuant to rules and regulations established by the County Board.

(3) Conditional Use Permits.

(A) Application for a Conditional Use Permit. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Committee. To secure information upon which to base its determination, the Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. Name and address of applicant and property owner.
2. Legal description of the property and type of proposed use.
3. A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.
4. 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

- 1203 of abutting highways, the ordinary high-water mark and floodplain of any
 1204 abutting waterways.
- 1205 5. Location and description of any existing private water supply or sewage system
 1206 or notification of plans for any such installation.
- 1207 6. Plans for appropriate mitigation when required.
- 1208 7. Specifications for areas of proposed filling, grading, lagooning or dredging.
- 1209 8. Rationale for why the proposed conditional use meets all of the conditional use
 1210 permit criteria listed in the ordinance
- 1211 9. Other pertinent information necessary to determine if the proposed use meets the
 1212 requirements of this ordinance as required by the Zoning Administrator.
 1213
- 1214 (B) Notice, Public Hearing and Decision. Before deciding whether to grant or deny an
 1215 application for a conditional use permit, the Committee shall hold a public hearing.
 1216 Notice of such public hearing, specifying the time, place and matters to come before
 1217 the Committee, shall be given as a Class 2 notice under ch. 985, Wis. Stats and via
 1218 mail to surrounding landowners (those within 1000 feet in areas not served by
 1219 sanitary sewer and those landowners within 500 feet in areas served by sanitary
 1220 sewer). Such notice shall be provided to the appropriate office of the Department at
 1221 least 10 days prior to the hearing. The Committee shall state in writing the grounds
 1222 for granting or denying a conditional use permit.
 1223
- 1224 (C) Standards Applicable to All Conditional Uses. In deciding a conditional use permit
 1225 application, the Committee shall evaluate the effect of the proposed use upon:
 1226 1. The maintenance of safe and healthful conditions.
 1227 2. The prevention and control of water pollution including sedimentation.
 1228 3. Compliance with local floodplain zoning ordinances and opportunity for damage
 1229 to adjacent properties due to altered surface water drainage.
 1230 4. The erosion potential of the site based upon degree and direction of slope, soil
 1231 type and vegetative cover.
 1232 5. The location of the site with respect to existing or future access roads.
 1233 6. The need of the proposed use in a shoreland location.
 1234 7. Its compatibility with uses on adjacent land.
 1235 8. The amount of liquid and solid wastes to be generated and the adequacy of the
 1236 proposed disposal systems.
 1237 9. Location factors under which:
 1238 a. Domestic uses shall be generally preferred;
 1239 b. Uses not inherently a source of pollution within an area shall be preferred
 1240 over uses that are or may be a pollution source;
 1241 c. Use locations within an area tending to minimize the possibility of pollution
 1242 shall be preferred over use locations tending to increase that possibility.
 1243
- 1244 (D) Conditions Attached to Conditional Use Permits.
 1245
- 1246 1. Such conditions may include specifications for, without limitation because of
 1247 specific enumeration: type of shore cover; specific sewage disposal and water
 1248 supply facilities; landscaping and planting screens; period of operation;
 1249 operational control; sureties; deed restrictions; location of piers, docks, parking
 1250 and signs; and type of construction. Upon consideration of the factors listed
 1251 above, the Committee shall attach such conditions, in addition to those required
 1252 elsewhere in this ordinance, as are necessary to further the purposes of this
 1253 ordinance. Violations of any of these conditions shall be deemed a violation of
 1254 this ordinance.
 1255
- 1256 2. In granting a conditional use permit, the Committee may not impose conditions
 1257 which are more restrictive than any of the specific standards in the ordinance.
 1258 Where the ordinance is silent as to the extent of restriction, the Committee may
 1259 impose any reasonable permit conditions to affect the purpose of this ordinance.
 1260 Minimum conditions of approval are found in section 4.208.
 1261
- 1262 (E) Recording. When a conditional use permit is approved, an appropriate record shall
 1263 be made of the land use and structures permitted. Such permit shall be applicable
 1264 solely to the structures, use and property so described. A copy of any decision on a

1265 conditional use permit shall be provided to the appropriate office of the Department
 1266 within 10 days after it is granted or denied.

1267
 1268 (F) Revocation. Where the conditions of a conditional use permit are violated, the
 1269 permit may be revoked.

1270
 1271 (4) Variances. The Board of Adjustment may grant upon appeal a variance from the
 1272 standards of this ordinance where an applicant convincingly demonstrates that:

1273 (A) Power to Grant.
 1274
 1275 1. literal enforcement of the provisions of the ordinance will result in unnecessary
 1276 hardship on the applicant;
 1277 2. the hardship is due to special conditions unique to the property; and
 1278 3. is not contrary to the public interest.

1279
 1280 (B) Notice, Hearing and Decision. Before deciding on an application for a variance, the
 1281 Board of Adjustment shall hold a public hearing. Notice of such hearing specifying
 1282 the time, place and matters of concern, shall be given a Class 2 notice under ch. 985,
 1283 Wis. Stats and via mail to surrounding landowners (those within 1000 feet in areas
 1284 not served by sanitary sewer and those landowners within 500 feet in areas served by
 1285 sanitary sewer). Such notice shall be provided to the appropriate office of the
 1286 Department at least 10 days prior to the hearing. The Board shall state in writing the
 1287 reasons for granting or refusing a variance and shall provide a copy of such decision
 1288 to the appropriate Department office within 10 days of the decision.

1289
 1290 (5) Board of Adjustment.

1291 (A) The Rock County Board of Adjustment created by the Rock County Board of
 1292 Supervisors in accordance with s. 59.694, Wis. Stats., as provided in Chapter 4 Part
 1293 12 of the Rock County Code, shall serve as the board of adjustment provided for in
 1294 this ordinance and all provisions of Part 12 consistent with the terms of this
 1295 ordinance shall apply to the Board of Adjustment and its proceedings under this
 1296 ordinance.

1297 (B) Powers and Duties
 1298
 1299 1. The board of adjustment shall adopt such additional rules as it deems necessary
 1300 and may exercise all of the powers conferred on such boards by s. 59.694, Wis.
 1301 Stats. The County Board has adopted such rules for the conduct of the business
 1302 of the board of adjustment as required by s. 59.694(3), Wis. Stats known as the
 1303 "Rock County Board of Adjustment Rules and Procedures."
 1304 2. It shall hear and decide appeals where it is alleged there is error in any order,
 1305 requirements, decision or determination made by an administrative official in the
 1306 enforcement or administration of this ordinance.
 1307 3. It may grant a variance from the standards of this ordinance pursuant to section
 1308 4.214(4).
 1309 4. In granting a variance, the board may impose any reasonable permit conditions
 1310 to effect the purpose of this ordinance.

1311 (C) Appeals to the Board. Appeals to the board of adjustment may be made by any
 1312 person aggrieved or by an officer, department, board or bureau of the county
 1313 affected by any decision of the Zoning Administrator or other administrative officer.
 1314 Such appeal shall be made within 30 days, as provided by the rules of the board, by
 1315 filing with the officer whose decision is in question, and with the board of
 1316 adjustment, a notice of appeal specifying the reasons for the appeal. The Zoning
 1317 Administrator or other officer whose decision is in question shall promptly transmit
 1318 to the board all the papers constituting the record concerning the matter appealed.

1319 (D) Hearing Appeals and Applications for Variances.
 1320
 1321 1. The board of adjustment shall fix a reasonable time for a hearing on the appeal
 1322 or application. The board shall give public notice thereof by publishing a Class
 1323

1328 2 notice under ch. 985, Wis. Stats, specifying the date, time and place of the
 1329 hearing and the matters to come before the board. Notice shall be mailed to the
 1330 parties in interest. Written notice shall be given to the appropriate office of the
 1331 Department at least 10 days prior to hearings on proposed shoreland variances
 1332 and appeals for map or text interpretations.

1333 2. A decision regarding the appeal or application shall be made as soon as
 1334 practical. Copies of all decisions on shoreland variances and appeals for map or
 1335 text interpretations shall be submitted to the appropriate office of the
 1336 Department within 10 days after they are granted or denied.

1337 3. The final disposition of an appeal or application to the board of adjustment shall
 1338 be in the form of a written resolution or order signed by the chairman and
 1339 secretary of the board. Such resolution shall state the specific facts which are
 1340 the basis of the board's determination and shall either affirm, reverse, vary or
 1341 modify the order, requirement, decision or determination appealed, in whole or
 1342 in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the
 1343 application.

1344 4. At the public hearing, any party may appear in person or by agent or by attorney.
 1345

1346 (6) Fees. The County Board may, by resolution, adopt fees for the following:
 1347

1348 (A) Zoning permits.

1349 (B) Certificates of compliance.

1350 (C) Planned Unit Development reviews.

1351 (D) Public hearings.

1352 (E) Legal notice publications.

1353 (F) Conditional use permits.

1354 (G) Variances.

1355 (H) Administrative appeals.

1356 (I) Other duties as determined by the County Board.
 1357

1358 **4.215 Changes and Amendments.** The County Board may from time to time, alter, supplement or
 1359 change the regulations contained in this ordinance in accordance with the requirements of
 1360 s. 59.69(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and this ordinance where applicable.
 1361

1362 (1) Amendments to this ordinance may be made on petition of any interested party as
 1363 provided in s. 59.69(5), Wis. Stats.
 1364

1365 (2) Shoreland Wetland Map Amendments
 1366

1367 (A) Every petition for a shoreland-wetland map amendment shall be referred to the Rock
 1368 County Planning and Development Agency. A copy of each petition shall be
 1369 provided to the appropriate office of the Department within 5 days of the filing of
 1370 the petition with the Planning and Development Agency. Written notice of the
 1371 public hearing to be held on a proposed amendment shall be provided to the
 1372 appropriate office of the Department at least 10 days prior to the hearing.
 1373

1374 (B) A copy of the County Board's decision on each proposed amendment shall be
 1375 forwarded to the appropriate office of the Department within 10 days after the
 1376 decision is issued.
 1377

1378 **4.216 Enforcement and Penalties**
 1379

1380 (1) Forfeitures. Any person, firm or corporation who fails to comply with, or violates, the
 1381 provisions of this Ordinance shall, upon conviction thereof, forfeit those amounts as established
 1382 by reference in Resolution 08-8A-054 and any subsequent amendments thereto. Each day a
 1383 violation exists or continues shall constitute a separate offense and is considered a public
 1384 nuisance.
 1385

1386 (2) Enforcement. It shall be unlawful to construct or use any structure, land, or water in
 1387 violation of any of the provisions of this Ordinance. In case of any violation, the Zoning
 1388 Administrator, the County Planning and Development Committee, or any neighboring property
 1389 owner may institute appropriate action or proceeding to enjoin a violation of this Ordinance or
 1390 cause a structure or use to be vacated or removed.

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- (A) The Planning & Development Agency Director or Zoning Administrator or their designee, are authorized to issue an ordinance citation, pursuant to Chapter 21 of the County Code of Ordinances to any person, firm, association or corporation for engaging in activities that are in violation of this ordinance. Each day of violation, and each section violated, shall be considered a separate offense and subject to additional enforcement action, including, but not limited to the issuance of additional ordinance citations. Issuing a citation shall not release the applicant from full compliance with this ordinance nor from prosecution for violation of this ordinance.
- (B) The Planning & Development Agency shall notify the landowner/permit holder by certified mail of any non-complying activity or structure. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- (C) Upon receipt of written notification from the Planning & Development Agency under paragraph (2) the landowner/permit holder shall comply with the remedial actions described in the notice.
- (D) If a landowner/permit holder does not comply with the provisions of a notice of non-compliance, the Planning & Development Agency may issue a citation(s) and/or revoke the permit.
- (E) If non-compliance with this ordinance is determined by the Planning & Development Agency as likely to result in damage to adjacent property, public facilities, or waters of the state, the Planning & Development Agency may post a stop-work order at the time of notification.
- (F) If the landowner/permit holder does not comply with the provisions of a notice of non-compliance, or violates a stop-work order, the Planning & Development Agency may request the Corporation Counsel to obtain a cease and desist order in any court with jurisdiction.
- (G) Any permit revocation, stop-work order, or cease and desist order shall remain in effect unless retracted by the Planning and Development Agency, Board of Adjustment, or by a court with jurisdiction.

1429 (3) Civil Enforcement
1430

1431 Appropriate actions and proceeding may be taken by Law or in equity to prevent any violation
1432 of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct,
1433 or abate a violation, and to prevent illegal occupancy of a building, structure, premises or use.
1434 These remedies shall be in addition to the Penalties described above.
1435

1436 **4.217 Definitions**
1437

1438 (1) For the purpose of administering and enforcing this ordinance, the terms or words used
1439 herein shall be interpreted as follows: Words used in the present tense include the future;
1440 words in the singular number include the plural number; and words in the plural number
1441 include the singular number. The word "shall" is mandatory, not permissive. All distances
1442 unless otherwise specified shall be measured horizontally.
1443

1444 (2) The following terms used in this ordinance mean:
1445

1446 ACCESS AND VIEWING CORRIDOR means a strip of vegetated land that allows safe
1447 pedestrian access to the shore through the vegetative buffer zone.
1448

1449 ACCESSORY STRUCTURE means a subordinate structure which is clearly incidental
1450 to, and customarily found in connection with, the principal structure or use to which it is
1451 related, and which is located on the same lot as the principal structure or use.
1452

- 1453 BOATHOUSE means a permanent structure used for the storage of watercraft and
 1454 associated materials and includes all structures which are totally enclosed, have roofs or
 1455 walls or any combination of these structural parts.
 1456
- 1457 BUILDING ENVELOPE means the three dimensional space within which a structure is
 1458 built.
 1459
- 1460 COUNTY ZONING AGENCY means that committee or commission created or
 1461 designated by the County Board under s. 59.69(2)(a), Wis. Stats, to act in all matters
 1462 pertaining to county planning and zoning. In Rock County, it is referred to as the Rock
 1463 County P&D Agency.
 1464
- 1465 CONDITIONAL USE means a use which is permitted by this ordinance provided that
 1466 certain conditions specified in the ordinance are met and that a permit is granted by the
 1467 Planning and Development Committee.
 1468
- 1469 DEPARTMENT means the Department of Natural Resources.
 1470
- 1471 DEVELOPMENT means any artificial change to improved or unimproved real estate,
 1472 including but not limited to, the construction of buildings, structures or accessory
 1473 structures; the construction of additions or substantial improvements to buildings,
 1474 structures or accessory structures; the placement of buildings or structures; mining,
 1475 dredging, filling, grading, paving, excavation, or drilling operations; and the storage,
 1476 deposition or extraction of materials.
 1477
- 1478 EXISTING DEVELOPMENT PATTERN means that principal structures exist within 250
 1479 feet of a proposed principal structure in both directions along the shoreline.
 1480
- 1481 FLOODPLAIN means the land which has been or may be hereafter covered by flood
 1482 water during the regional flood. The floodplain includes the floodway and the flood
 1483 fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.
 1484
- 1485 FOOTPRINT means the land area covered by a structure at ground level measured on a
 1486 horizontal plane. The footprint of a residence or building includes the horizontal plane
 1487 bounded by the furthest exterior wall and eave if present, projected to natural grade. For
 1488 structures without walls (decks, stairways, patios, carports) – a single horizontal plane
 1489 bounded by the furthest portion of the structure projected to natural grade. Note: For the
 1490 purposes of replacing or reconstructing a nonconforming building with walls, the footprint
 1491 shall not be expanded by enclosing the area that is located within the horizontal plane
 1492 from the exterior wall to the eaves projected to natural grade. This constitutes a lateral
 1493 expansion under NR 115 and would need to follow NR 115.05 (1)(g)5 and provision of
 1494 this Ordinance.
 1495
- 1496 GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES means forestry
 1497 management practices that promote sound management of a forest. Generally accepted
 1498 forestry management practices include those practices contained in the most recent
 1499 version of the department publication known as Wisconsin Forest Management
 1500 Guidelines and identified as PUB FR-226.
 1501
- 1502 IMPERVIOUS SURFACE means an area that releases as runoff all or a majority of the
 1503 precipitation that falls on it. "Impervious surface" excludes frozen soil but includes and is
 1504 not limited by enumeration to rooftops, sidewalks, driveways, parking lots, and streets
 1505 unless specifically designed, constructed, and maintained to be pervious. Roadways as
 1506 defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis.
 1507 Adm. Code, are not considered impervious surfaces.
 1508
- 1509 MAINTENANCE AND REPAIR includes such activities as interior remodeling, painting,
 1510 decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring,
 1511 siding, roof and other nonstructural components; and the repair of cracks in foundations,
 1512 sidewalks, walkways and the application of waterproof coatings to foundations.
 1513

1514 MITIGATION means balancing measures that are designed, implemented and function to
 1515 restore natural functions and values that are otherwise lost through development and
 1516 human activities.

1517
 1518 NAVIGABLE WATERS means Lake Superior, Lake Michigan, all natural inland lakes
 1519 within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the
 1520 territorial limits of this state, including the Wisconsin portion of boundary waters, which
 1521 are navigable under the laws of this state. Under s. 281.31(2)(m), Wis. Stats,
 1522 notwithstanding any other provision of law or administrative rule promulgated thereunder,
 1523 shoreland ordinances required under s. 59.692, Wis. Stats, and ch. NR 115, Wis. Adm.
 1524 Code, do not apply to lands adjacent to:

- 1525
 1526 (1) Farm drainage ditches where such lands are not adjacent to a natural navigable
 1527 stream or river and such lands were not navigable streams before ditching: and,
 1528 (2) Artificially constructed drainage ditches, ponds or storm water retention basin that
 1529 are not hydrologically connected to a natural navigable water body.

1530
 1531 ORDINARY HIGH-WATER MARK means the point on the bank or shore up to which
 1532 the presence and action of surface water is so continuous as to leave a distinctive mark
 1533 such as by erosion, destruction or prevention of terrestrial vegetation, predominance of
 1534 aquatic vegetation, or other easily recognized characteristics.

1535
 1536 REGIONAL FLOOD means a flood determined to be representative of large floods
 1537 known to have generally occurred in Wisconsin and which may be expected to occur on a
 1538 particular stream because of like physical characteristics, once in every 100 years.

1539
 1540 REPLACEMENT CONSTRUCTION in which the principal building or portion thereof is
 1541 torn down and replaced by a new structure or building or portion thereof.

1542
 1543 ROUTINE MAINTENANCE OF VEGETATION means normally accepted horticultural
 1544 practices that do not result in the loss of any layer of existing vegetation and do not
 1545 require earth disturbance.

1546
 1547 SHORELAND means lands within the following distances from the ordinary highwater
 1548 mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a
 1549 river or stream or to the landward side of the floodplain, whichever distance is greater.

1550
 1551 SHORELAND SETBACK also known as the "Shoreland setback area" in s.
 1552 59.692(1)(bn) means an area in a shoreland that is within a certain distance of the ordinary
 1553 high-water mark in which the construction or placement of buildings or structures has
 1554 been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.
 1555 In this ordinance, the shoreland setback is seventy-five feet.

1556
 1557 SHORELAND-WETLAND DISTRICT means the zoning district, created as a part of this
 1558 shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on
 1559 the wetland maps which have been adopted and made a part of this ordinance.

1560
 1561 STRUCTURAL ALTERATIONS means any changes in the supporting members of a
 1562 structure such as foundations, bearing walls, columns, beams or girders, footing and piles
 1563 or any substantial change in the roof structure, or in the exterior walls.

1564
 1565 STRUCTURE means a principal structure or any accessory structure including a garage,
 1566 shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

1567
 1568 STRUCTURE, PRINCIPAL means the main structure on a lot, intended for primary use
 1569 as permitted by the regulations of the district in which it is located. A lot on which more
 1570 than one principal use is located may have more than one principal structure.

1571
 1572 STRUCTURE, TEMPORARY A structure which is built of such materials and in such a
 1573 way that it would commonly be expected to have a relatively short useful life, or is built
 1574 for a purpose that would commonly be expected to be relatively short-term.

1575

1576 UNNECESSARY HARDSHIP means that circumstance where special conditions, which
1577 were not self-created, affect a particular property and make strict conformity with
1578 restrictions governing area, setbacks, frontage, height or density unnecessarily
1579 burdensome or unreasonable in light of the purposes of this ordinance.
1580

1581 VARIANCE means an authorization granted by the board of adjustment to construct, alter
1582 or use a building or structure in a manner that deviates from the dimensional standards of
1583 this ordinance.
1584

1585 WETLANDS means those areas where water is at, near or above the land surface long
1586 enough to be capable of supporting aquatic or hydrophytic vegetation and which have
1587 soils indicative of wet conditions.
1588

1589 **Subpart 2: Zoning of County-Owned Lands**

1590
1591 **4.217 Statutory Provisions and Statement of County Policy**
1592

1593 (1) Subsection 59.69(9) of the Wisconsin Statutes provides as follows: with regard to the
1594 Zoning of County-Owned Lands.:

1595
1596 (A) The County Board may by ordinance zone and rezone lands owned by the County
1597 without necessity of securing the approval of the town boards of the towns wherein
1598 such lands are situated and without following the procedure outlined in sec. 59.69(5),
1599 Wis. Stats., provided that the County Board shall give written notice to the town board
1600 of the town wherein such lands are situated of its intent to so rezone and shall hold a
1601 public hearing on the proposed rezoning ordinance and give notice of such hearing by
1602 posting in 5 public places in the town.
1603

1604 (B) This subsection shall not apply to land that is subject to a town zoning ordinance
1605 which is purchased by the county for use as a solid or hazardous waste disposal
1606 facility or hazardous waste storage or treatment facility, as these terms are defined
1607 under sec. 289.01, Wis. Stats.
1608

1609 (2) If current land uses and Town designated zoning do not correspond on County-owned
1610 lands the Planning and Development Committee will seek to zone the property within the
1611 context of Town Zoning Authority.
1612

1613 **4.218 Town Zoning in Shoreland Zoning**
1614

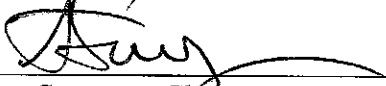
1615 (1) The County Board adopts and incorporates by reference, as if set forth in full, the town
1616 zoning ordinances for each of the 20 respective towns in Rock County, by text and by map as
1617 may be amended from time to time.
1618

1619 (2) The County Board authorizes the creation of an Intergovernmental Agreement with each
1620 town in Rock County, pursuant to Wis. Stat. §§ 59.692(4) and 66.0301 for the purpose of
1621 delegating the administration and enforcement of town zoning, as it relates to shoreland areas,
1622 back to each respective town in Rock County.
1623

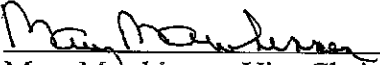
1624 (3) This subsection shall be repealed effective December 31, 2016, along with each
1625 Intergovernmental Agreement, unless earlier repealed or extended upon the agreement of the
1626 parties.

Respectfully submitted:

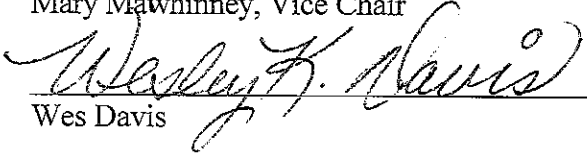
PLANNING & DEVELOPMENT COMMITTEE



Alan Sweeney, Chair

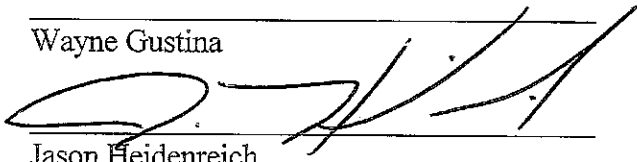


Mary Mawhinney, Vice Chair



Wes Davis

Wayne Gustina



Jason Heidenreich

LEGAL NOTE:

The County Board is authorized to take this action by Wisconsin Statutes section 59.02(2).



Jeffrey S. Kuglitsch
Corporation Counsel

FISCAL NOTE:

No fiscal impact.



Sherry Oja
Finance Director

ADMINISTRATIVE NOTE:

Recommended.



Josh Smith
County Administrator

Executive Summary

REPEALING AND RECREATING ROCK COUNTY ORDINANCE 4.2 ZONING OF SHORELANDS AND COUNTY-OWNED LANDS

The Wisconsin Legislature has recently made changes to the laws implementing Shoreland Zoning in Wisconsin through Wisconsin Acts 55, 167 and 391 (2015). These revisions to State Law require counties to adopt and implement the amendments in the respective local ordinance. Notable revisions pertain to (but are not limited too) the inability of counties to regulate matters more restrictively than the matter is regulated under the state minimum standards, the regulation of nonconforming structures and structures authorized by a variance, shoreland setback averaging, impervious surface limit standards and definitions.

Wisconsin counties are required to adopt and enforce Shoreland Zoning regulations 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 reserve shore cover and natural beauty.” Rock County has enforced a shoreland zoning ordinance in the unincorporated areas of the county, with amendments, since the 1970s.

Planning and Development Agency staff have drafted the necessary revisions based on State Law and the model ordinance created by the DNR. Due to the number of changes proposed, repealing and recreating the ordinance is the most efficient way to complete this process. An underline/strike out version of the draft ordinance (showing all of the revisions) is available for review at the Planning office and on the department’s website. The draft ordinance has been reviewed and approved by the DNR, assuring the ordinance meets the current standards.

A Public Hearing was held Thursday, October 13, 2016 at the regular meeting of the Rock County Planning and Development Committee. Legal Notices were posted and interested parties were invited to attend and/or submit comments prior to the meeting.