

Title 20

SHORELAND PROTECTION OVERLAY DISTRICT

Chapters:

<a href="#"><u>20.01</u></a>	<u>Statutory Authorization, Finding of Fact, Statement of Purpose and Title</u>
<a href="#"><u>20.02</u></a>	<u>General Provisions</u>
<a href="#"><u>20.03</u></a>	<u>Shoreland-Wetland District</u>
<a href="#"><u>20.04</u></a>	<u>Land Division Review and Sanitary Regulations</u>
<a href="#"><u>20.05</u></a>	<u>Minimum Lot Size</u>
<a href="#"><u>20.06</u></a>	<u>Building Setbacks</u>
<a href="#"><u>20.07</u></a>	<u>Vegetation</u>
<a href="#"><u>20.08</u></a>	<u>Filling, Grading, Lagooning, Dredging, Ditching and Excavating</u>
<a href="#"><u>20.09</u></a>	<u>Impervious Surfaces</u>
<a href="#"><u>20.10</u></a>	<u>Height</u>
<a href="#"><u>20.11</u></a>	<u>Nonconforming Uses and Structures</u>
<a href="#"><u>20.12</u></a>	<u>Structures Authorized by Variance</u>
<a href="#"><u>20.13</u></a>	<u>Mitigation</u>
<a href="#"><u>20.14</u></a>	<u>Administrative Provisions</u>
<a href="#"><u>20.15</u></a>	<u>Definitions</u>

Chapter 20.01

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND  
TITLE

Sections:

<a href="#">20.01.001</a>	Statutory Authorization.
<a href="#">20.01.002</a>	Finding of Fact.
<a href="#">20.01.003</a>	Purpose and Intent.
<a href="#">20.01.004</a>	Title.

20.01.001 Statutory authorization. This ordinance is adopted pursuant to the authorization in Wis. Stat. § 59.692, to effectuate the policies and purpose(s) outlined in Wis. Stat. § 281.31. (Ord. 160-23, Sec. 22, 2017)

20.01.002 Finding of fact. Uncontrolled use of the shorelands and pollution of the navigable waters of Eau Claire County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Eau Claire County, Wisconsin. (Ord. 160-23, Sec. 22, 2017)

20.01.003 Purpose and intent. This ordinance has been established for the purpose of promoting the public health, safety, convenience and welfare, and to promote and protect the public trust in navigable waters. Further, this ordinance has been established to: (Wis. Admin. Code Ch. § NR 115.01).

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

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

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

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

- C. Control building sites, placement of structures and land uses through:
    - 1. Prohibiting certain uses detrimental to the shoreland-wetlands.
    - 2. Setting minimum lot sizes and widths.
    - 3. Setting minimum building setbacks from waterways.
    - 4. Setting the maximum height of near shore structures.
  - 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.
- (Ord. 160-23, Sec. 22, 2017)

20.01.004 Title. Shoreland Overlay Protection Ordinance for Eau Claire County, Wisconsin. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.02

### GENERAL PROVISIONS.

Sections:

- [20.02.001](#) Areas to be regulated.
- [20.02.002](#) Shoreland-wetland maps.
- [20.02.003](#) Compliance.
- [20.02.004](#) Municipalities and state agencies regulated.
- [20.02.005](#) Abrogation and greater restrictions.
- [20.02.006](#) Interpretation.
- [20.02.007](#) Severability.
- [20.02.008](#) General shoreland standards.

20.02.001 Areas to regulated. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Eau Claire County which are:

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

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. Rivers and streams in Eau Claire County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas. (See Wis. Admin. Code § NR 115.03 (8)).

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 Wis. Stat. § 13.48 (13) 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 Wis. Stat. § 30.2022 applies. Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stat. § 61.353 and Wis. Stat. § 62.233. (Wis. Admin. Code § NR 115.02).

D. Determinations of navigability and ordinary high-water mark location shall initially be made by the Land Use Manager. When questions arise, the Land Use Manager shall contact the appropriate office of the WDNR for a final determination of navigability or ordinary high-water mark. The county may work with surveyors with regard to Wis. Stat. § 59.692 (1h).

E. Under Wis. Stat. § 281.31(2m), 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 storm water retention basins that are not hydrologically connected to a natural navigable water body.

F. Comprehensive / General Zoning [Wis. Stat. § 59.69] and Regulation of Matters that are Not Shoreland Zoning Standards [Wis. Stat. § 59.692 (1d)(b)].

1. In any town where the Eau Claire County Comprehensive Zoning Ordinance is effective:

a. The Eau Claire County Comprehensive Zoning Ordinance, TITLE 18 is incorporated herein by reference as if set forth in full.

b. The provisions of the Eau Claire County Comprehensive Zoning Ordinance apply and may be enforced in “shorelands” to the extent that its provisions do not regulate a “shoreland zoning standard” as specified in Wis. Stat. §§ 59.692(1)(c) & (1d).

2. In any town where the Eau Claire County Comprehensive Zoning Ordinance is not in effect, the regulation of matters that are not shoreland zoning standards consistent with Wis. Stat. §§ 59.692(1)(c) & (1d) is as follows:

a. Setback Requirements and Related Restrictions.

i. Road. No structure shall be placed within a road right-of-way or easement.

ii. Property / Parcel Boundaries. No structure shall be placed across a parcel boundary.

iii. Wetland. No structure shall be placed closer than the provisions of chapter 17.06.085 Protective Areas A. 2. allow.

iv. Height. No structure located 75 feet or further from the ordinary high-water mark shall be taller than 35 feet. (Ord. 160-23, Sec. 22, 2017)

20.02.002 Shoreland-wetland maps. The most recent version of the Wisconsin Wetland Inventory as depicted on the WDNR Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at:  
<http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>  
(Ord. 160-23, Sec. 22, 2017)

20.02.003 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, and dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance. (Ord. 160-23, Sec. 22, 2017)

20.02.004 Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when Wis. Stat. §13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stat. § 30.2022 applies. (Ord. 160-23, Sec. 22, 2017)

20.02.005 Abrogation and greater restrictions.

A. The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than Wis. Stat. § 59.692 does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions. (See Wis. Stat. § 59.692 (5)).

B. Wis. Stat. § 59.692, and Wis. Admin. Code ch. NR 115.

1. Wis. Stat. § 59.692, and Wis. Admin. Code ch. NR 115, are incorporated herein by reference.

2. A particular provision of this ordinance does not apply and may not be enforced if said provision is inconsistent with Wis. Stat. § 59.692 and/or Wis. Admin Code Ch. NR 115. In such situations, the state statute or administrative code provision controls, but only to the extent of the inconsistency.

C. If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.

D. This ordinance may establish standards to regulate matters that are not regulated in Wis. Admin. Code ch. NR 115, but that further the purposes of shoreland zoning as described in 20.01.003 of this ordinance.

E. This ordinance shall not require approval or be subject to disapproval by any town or town board.

F. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

G. Eau Claire County may not establish shoreland zoning standards that requires any of the following:

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

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

H. Consistent with Wis. Stat. § 59.692(1t), the county may not commence an enforcement action against a person who owns a building or structure that is in violation of this ordinance if the person can establish that the building or structure has been in place for more than 10 years.

I. The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:

1. The WDNR has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stats. §§ 30, 31, 281, or 283. (Ord. 160-23, Sec. 22, 2017)

20.02.006 Interpretation. The provisions of this ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by statute and a standard in Wis. Admin. Code Ch. NR 115, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and Wis. Admin. Code ch. NR 115, standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance. (See Wis. Stat. § 59.69 (13)). (Ord. 160-23, Sec. 22, 2017)

20.02.007 Severability. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected. (Ord. 160-23, Sec. 22, 2017)

20.02.008 General shoreland standards. The following provisions of this chapter apply to the shoreland jurisdictional area as defined by 20.02.001 A. and B.

A. Agriculture Fence:

1. Agriculture fences consisting of post and wire require no setback from the property line and can be constructed up to the OHWM;

2. Property must be actively used for agriculture pasturing of livestock on one side of the fence;

3. Maximum height of 4 feet from the adjacent grade within 75 feet from the OHWM.

B. Reasonable accommodation of persons with disabilities.

1. The department may issue a special permit that waives specific requirements of this ordinance if it is determined that the requested accommodation:

a. Is necessary to afford accommodations of persons with disabilities equal housing opportunities or equal access to public accommodations as required by provisions of federal and state law;

b. Is the minimum accommodation that will give persons with disabilities adequate relief; and

c. Will not unreasonably undermine the basic purposes of this ordinance.

2. If the department issues a special permit that waives specified zoning provisions pursuant to this section, the permit will include a condition that the structure authorized by the permit (such as an entrance ramp) shall be removed not more than 30 days after the handicapped or disabled person vacates the property or the structure ceases to be a public accommodation.

3. The special permit will not become effective until the property owner records a deed restriction with the register of deeds setting forth the condition that the structure authorized by the permit shall be removed as required in subpar. b. above.

4. If the department denies a permit requesting an accommodation under this subsection, the denial may be appealed to the board of land use appeals pursuant to 20.14.004.

C. Livestock facilities housing animals, manure storage areas, barnyards, or feedlots shall meet the following requirements:

1. Such facility shall be 300 feet or more from the ordinary high water mark; or

2. May be located 100 to 300 feet from the ordinary high water mark, provided that:

a. A plan for manure storage, barnyard and feedlot drainage that effectively prevents pollutants from entering the water be reviewed by the land conservation commission or its designee and implemented before use of the facility begins;

b. The area between the facility and the water shall be fenced to prevent access to the water by animals. The fenced area shall parallel the water in both directions for a sufficient distance to prevent concentration of animals or manure or destruction of ground cover that would result in an increased probability for pollutants to reach the water;

c. Construction and location of these facilities will be by permit issued by the department. The department shall inspect the facility before it is put to use to determine that the site and facility meet all requirements of this subtitle;

d. All existing and future barnyards, feedlots or manure storage areas located within the shoreland area are subject to periodic inspection and review for possible pollution of water bodies. Waste collection and disposal systems may be required to prevent pollutants from reaching the water.

D. Sawdust Storage. Sawdust storage shall be at least 100 feet from the ordinary high water mark of navigable waters.

E. Dumps and Sanitary Landfills. Dumps, sanitary landfills, junkyards, and salvage yards are prohibited within the shoreland protection overlay district. (Ord. 162-015, Sec. 1, 2018; Ord. 160-23, Sec. 22, 2017)

## Chapter 20.03

### SHORELAND-WETLAND DISTRICT.

#### Sections:

<a href="#">20.03.001</a>	Designation.
<a href="#">20.03.002</a>	Purpose.
<a href="#">20.03.003</a>	Permitted Uses.
<a href="#">20.03.004</a>	Prohibited Uses.
<a href="#">20.03.005</a>	Rezoning of Lands in the Shoreland-Wetland District.

20.03.001 Designation. This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the WDNR Surface Water Data Viewer.

A. Locating shoreland-wetland boundaries. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the WDNR to determine if the map is in error. If the WDNR determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland permit in accordance with the applicable regulations based on the WDNR determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time. (See Wis. Admin. § NR 115.04 (b) 2.). (Ord. 160-23, Sec. 22, 2017)

20.03.002 Purpose. This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland. (Ord. 160-23, Sec. 22, 2017)

20.03.003 Permitted uses. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Wis. Stat. chs. 30 and 31, and Wis. Stat. § 281.36, and the provisions of other applicable local, state and federal laws: (See Wis. Admin. § NR 115.04 (3)).

A. Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:

1. Hiking, fishing, trapping, hunting, swimming, and boating;
2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;

3. The pasturing of livestock;
4. The cultivation of agricultural crops;
5. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
6. The construction or maintenance of duck blinds.

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

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
5. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
6. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

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

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
  - a. The road cannot as a practical matter be located outside the wetland;
  - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in 20.03.005 B.;
  - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
  - d. Road construction activities are carried out in the immediate area of the roadbed only.
2. The construction or maintenance of nonresidential buildings, provided that:
  - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;

b. The building cannot, as a practical matter, be located outside the wetland;

c. Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and

d. Only limited filling or excavating necessary to provide structural support for the building is authorized.

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

a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Wis. Stat. ch. 29, where applicable;

b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in 20.03.003 C. 1.; and

c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in 20.03.005 B. (Ord. 160-23, Sec. 22, 2017)

20.03.004 Prohibited uses. Any use not listed in 20.03.003 A., B. and C. is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with 20.03.005 of this ordinance and Wis. Stat. § 59.69(5)(e). (See Wis. Admin. Code § NR 115.04 (4)). (Ord. 160-23, Sec. 22, 2017)

20.03.005 Rezoning of land in Shoreland-Wetland District.

A. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the WDNR shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;

2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;

3. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and

4. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.(See Wis. Admin. Code § NR 115.04(2)).

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

1. Storm and flood water storage capacity;

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

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

4. Shoreline protection against soil erosion;

5. Fish spawning, breeding, nursery or feeding grounds;

6. Wildlife habitat; or

7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Wis. Admin. Code § NR 103.04, which can be accessed at the following web site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

C. If the Department Natural Resources notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in 20.3.005 B. of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the WDNR. During that 30-day period the WDNR may notify the county board that it will adopt a superseding shoreland ordinance for the county under Wis. Stat. § 59.692(6). If the WDNR does so notify the county board, the effect of this amendment shall be stayed until the Wis. Stat. § 59.692(6), adoption procedure is completed or otherwise terminated." (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.04

### LAND DIVISION REVIEW AND SANITARY REGULATIONS.

#### Sections:

[20.04.001](#) Land division review

[20.04.002](#) Sanitary regulations

20.04.001 Land review. Eau Claire County has enacted local subdivision regulations under Wis. Stat. § 236.45. (See Eau Claire County Subdivision Control Ordinance). The Eau Claire County Subdivision Control Ordinance, Subtitle III of Title 18, applies to shorelands without regard to Wis. Stat. § 59.692(1d)(a), and Wis. Admin. Code Ch. § NR 115.05, (See Wis. Admin. Code § NR 115.05 (2)). In such review all of the following factors shall be considered:

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

(Ord. 160-23, Sec. 22, 2017)

20.04.002 Sanitary regulations. The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality. (See Wis. Admin. Code § NR 115.05 (3)).

A. Where public water supply systems are not available, private well construction shall be required to conform to Wis. Admin. Code Ch. NR 812.

B. Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Wis. Admin Code Ch. SPS 383, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under Wis. Stat. § 59.70(5). (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.05

### MINIMUM LOT SIZE.

#### Sections:

<a href="#">20.05.001</a>	Purpose.
<a href="#">20.05.002</a>	Sewered lots.
<a href="#">20.05.003</a>	Unsewered lots.
<a href="#">20.05.004</a>	Substandard lots.
<a href="#">20.05.005</a>	Other substandard lots.

20.05.001 Purpose. Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included. (See Wis. Admin. Code § NR 115.05 (1)(a)). (Ord. 160-23, Sec. 22, 2017)

20.05.002 Sewered lots. Minimum area and width for each lot. The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet. (See Wis. Admin. Code § NR 115.05 (1)(a)1).

A. The width shall be calculated by averaging measurements at the following 3 locations:

1. The ordinary high water mark.
2. The building setback line.
3. One other location on the lot within 300 feet of the ordinary high water mark. (Ord. 160-23, Sec. 22, 2017)

20.05.003 Unsewered lots. Minimum area and width for each lot. The minimum lot area shall be 20,000 square feet. and the minimum average lot width shall be 100 feet. (See Wis. Admin. § NR 115.05 (1)(a)2).

A. The width shall be calculated by averaging measurements at the following 3 locations:

1. The ordinary high water mark.
2. The building setback line.
3. One other location on the lot within 300 feet of the ordinary high water mark. (Ord. 160-23, Sec. 22, 2017)

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

- A. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
- B. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- C. The substandard lot or parcel is developed to comply with all other ordinance requirements. (Ord. 160-23, Sec. 22, 2017)

20.05.005 Other substandard lots. Except for lots which meet the requirements of 20.05.004 a shoreland permit for the improvement of a lot having lesser dimensions than those stated in 20.05.002 and 20.05.003 can only be used if a variance is granted by the Eau Claire County Board of Land Use Appeals. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.06

### BUILDING SETBACKS

#### Sections:

- [20.06.001](#) Shoreland Setbacks.
- [20.06.002](#) Reduced principal structure setback.
- [20.06.003](#) Floodplain structures.

20.06.001 Shoreland setbacks. Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution. Unless exempt under 20.06.001(1), or reduced under 20.06.002, a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a building or structure shall be required for all buildings and structures. (See Wis. Admin. Code § NR 115.05 (1)(b)1).

- A. Exempt structures. All of the following structures are exempt from the shoreland setback standards in 20.06.001: (See Wis. Admin. Code §NR 115.05 (1)(b)1m).
  - 1. Existing boathouses, constructed before the effective date of this ordinance, located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation. The roof of a boathouse may be used as a deck provided that:
    - a. The boathouse has a flat roof.
    - b. The roof has no side walls or screens.
    - c. The roof may have a railing that meets the Department of Safety and Professional Services standards. (See Wis. Stat. § 59.692 (1k)(a) (6)).

2. Boathouses, constructed after the effective date of this ordinance, located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.

a. The construction or placement of boathouses below the ordinary high-water mark of any navigable waters shall be prohibited.

b. Boathouses shall be designed and constructed solely for the storage of boats and related equipment.

c. One boathouse is permitted on a lot as an accessory structure.

d. The boathouse shall be setback ten feet from the ordinary high water mark.

e. Boathouses shall be constructed in conformity with local floodplain zoning standards.

f. Boathouses shall not exceed one story, with a maximum side wall height of ten feet.

g. The maximum square footage of a boathouse shall be 364 square feet, measured outside wall to outside wall, and a maximum width parallel to the shoreline of 14 feet.

h. Boathouse roofs shall have a pitched roof that is no flatter than 4/12 pitch, and shall not be designed or used as decks, observation platforms or for other similar uses.

i. Earth toned color shall be required for all exterior surfaces of a boathouse.

j. The main door shall face the water.

k. The side yard setback for a boat house is 5 feet.

l. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.

3. Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in Wis. Stat. § 59.692(1v):

a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.

b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.

c. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

4. A fishing raft for which the WDNR has issued a permit under Wis. Stat. § 30.126.

5. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.

6. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with Wis. Admin. Code Ch. SPS 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

7. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.

8. Devices or systems used to treat runoff from impervious surfaces.

B. Existing exempt structures. Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. (See Wis. Stat. § 59.692 (1k)(a)2m). (Ord. 160-23, Sec. 22, 2017)

20.06.002 Reduced principal structure setback. A setback less than the 75 feet required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows: (See Wis. Stat. § 59.692 (1n))

A. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:

1. Both of the existing principal structures are located on adjacent lots to the proposed principal structure.

2. Both of the existing principal structures are located within 250 feet of the proposed principal structure and are the closest structure.

3. Both of the existing principal structures are located less than 75 feet from the ordinary high water mark.

4. The average setback shall not be reduced to less than 35 feet from the ordinary high water mark of any navigable water.

B. Where there is an existing principal structure in only one direction, the setback shall equal the average of the distances of the existing principal structure set back from the ordinary high water mark and the required setback of 75 feet from the ordinary high water mark provided all of the following are met:

1. The existing principal structure is located on an adjacent lot to the proposed principal structure.

2. The existing principal structure is located within 250 feet of the proposed principal structure and is the closest structure.

3. The existing principal structure is located less than 75 feet from the ordinary high water mark.

4. The average setback shall not be reduced to less than 35 feet from the ordinary high water mark of any navigable water. (Ord. 160-23, Sec. 22, 2017)

20.06.003 Floodplain structures. Buildings and structures to be constructed or placed in a floodplain shall be required to comply with the County's floodplain zoning ordinance. (See Wis. Admin. §Code NR 115.05 (1)(b)2). (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.07

### VEGETATION.

#### Sections:

- [20.07.001](#) Purpose.
- [20.07.002](#) Activities allowed within a vegetative buffer zone.
- [20.07.003](#) Cutting more than 35 feet inland.

20.07.001 Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients. (See Wis. Admin. §NR 115.05 (1)(c)1). (Ord. 160-23, Sec. 22, 2017)

20.07.002 Activities allowed within a vegetative buffer zone. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows: (See Wis. Admin Code § NR 115.05(1)(c)2).

- A. Routine maintenance of vegetation is allowed.
- B. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, dead diseased or damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
- C. Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors is allowed. The access or viewing corridor may be up to 35% of the shoreline frontage. The access or viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
- D. Timber harvest is allowed on a parcel with 10 or more acres of forested land, provided that the vegetative removal activity is consistent and follows “generally accepted forestry management practices” as defined in Wis. Admin. Code § NR 1.25 (2) (b), and described in WDNR publication “Wisconsin Forest Management Guidelines” (publication FR-226).

E. The department may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subdivision paragraph shall require that all management activities comply with detailed plans approved by the department and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area. (Ord. 162-15, Sec. 2, 2018; Ord. 160-23, Sec. 22, 2017)

20.07.003 Cutting more than 35 feet inland. From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.08

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

#### Sections:

<a href="#">20.08.001</a>	Filling, Grading, Lagooning, Dredging, Ditching and Excavating.
<a href="#">20.08.002</a>	General Standards.
<a href="#">20.08.003</a>	Permit Required.
<a href="#">20.08.004</a>	Permit Conditions.

20.08.001 Filling grading, lagooning, dredging, ditching and excavating. Filling, grading, lagooning, dredging, ditching and excavating may be permitted only in accordance with the provisions of Wis. Admin. Code § NR 115.04, the requirements of Wis. Stat. § 30, and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty. (See Wis. Admin. Code NR 115.05 (1)(d)). (Ord. 160-23, Sec. 22, 2017)

20.08.002 General standards. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under 20.08.003 may be permitted in the shoreland area provided that:

A. It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer.

B. It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

C. Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of 20.03.003 B. and 20.03.003 C. of this ordinance.

D. All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.

E. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead. (Ord. 160-23, Sec. 22, 2017)

20.08.003 Permit required. Except as provided in 20.08.002, a permit is required:

A. For any filling or grading of any area which is within 300 feet landward of the ordinary high water mark of navigable water and which has surface drainage toward the water and on which there is either:

1. Any filling or grading on slopes of more than 20%.
2. Filling or grading of more than 1,000 square feet on slopes of 12%-20%.
3. Filling or grading of more than 2,000 square feet on slopes less than 12%.

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

C. Permits required under this section, may consider items listed under 17.05.100 B. of the County Code to protect the site against erosion. (Ord. 160-23, Sec. 22, 2017)

20.08.004 Permit conditions. In granting a permit under 20.08.003, the County shall attach the following conditions, where appropriate, in addition to those provisions specified in 20.13.002 or 20.13.004.

A. If bare ground must be exposed, it shall be exposed for as short a time as feasible.

B. Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

C. Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods deemed acceptable by the County shall be used to prevent erosion.

D. Lagoons shall be constructed to avoid fish trap conditions.

E. Fill shall be stabilized according to accepted engineering standards.

F. Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

G. Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.9

### IMPERVIOUS SURFACE STANDARDS.

#### Sections:

<a href="#">20.09.001</a>	Purpose
<a href="#">20.09.002</a>	Calculation of percentage of impervious surfaces
<a href="#">20.09.003</a>	General impervious standard
<a href="#">20.09.004</a>	Impervious surface standard for highly developed shorelines
<a href="#">20.09.005</a>	Maximum impervious surface standard
<a href="#">20.09.006</a>	Treated impervious surfaces
<a href="#">20.09.007</a>	Existing Impervious surfaces

20.09.001 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. (Ord. 160-23, Sec. 22, 2017)

20.09.002 Calculation of percentage of impervious surface. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in 20.09.006 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. (See Wis. Admin. Code § NR 115.05 (1)(e)1). (Ord. 160-23, Sec. 22, 2017)

20.09.003 General impervious surface standard. Except as otherwise allowed in 20.09.004 through 20.09.006, the county shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark. (See Wis. Admin. Code § NR 115.05 (1)(e)2). (Ord. 160-23, Sec. 22, 2017)

20.09.004 Impervious surface standard for highly developed shorelines. The county at its discretion may adopt an ordinance for highly developed shorelines allowing up to 30% for residential land use and up to 40% for commercial, industrial or business land uses for lands that meet one of the following standards: (See Wis. Admin. Code § NR 115.05 (1)(e)2m, and Wis. Stat. 59.692 (1k)(am)2).

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

B. After conducting a hearing and receiving approval by the WDNR, the county has mapped additional areas of highly developed shorelines that are at least 500 feet in length and meet one of the following criteria:

1. The majority of the lots are developed with more than 30% of impervious surface area.
2. Located on a lake served by a sewerage system as defined in Wis. Admin. Code § NR 110.03(30).
3. The majority of the lots contain less than 20,000 square feet in area. (Ord. 160-23, Sec. 22, 2017)

20.09.005 Maximum impervious surface standard. A property may exceed the impervious surface standard under 20.09.003 or 20.09.004 provided the following standards are met: (See Wis. Admin. Code § NR 115.05 (1)(e)3).

A. For properties where the general impervious surface standard applies under 20.09.003, a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

B. For properties on shorelands where the impervious surface standard for highly developed shorelines applies under 20.9.4, a property owner may have more than 30% impervious surface but not more than 40% impervious surface for residential land uses. For commercial, industrial or business land uses a property owner may have more than 40% impervious surface but not more than 60% impervious surface.

C. For properties that exceed the standard under 20.09.003 or 20.09.004 but do not exceed the maximum standard under 20.09.005 A. or 20.09.005 B., a shoreland permit can be issued for development with a mitigation plan that meets the standards found in 20.13. (Ord. 160-23, Sec. 22, 2017)

20.09.006 Treated impervious surfaces. Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under 20.09.002: (See Wis. Admin. Code § NR 115.05(1)(e)3m, and Wis. Stat. 59.692(1k)(am)1.

A. The impervious surface is treated by devices such as storm water 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 shoreland permit application that is reviewed and approved by the department. The application shall include:

1. The required runoff volume of the impervious surface (IS) must use a rainfall depth derived from the current NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2 year 24 hour rainfall event;

2. A calculation showing how much runoff is coming from the impervious surface area. The calculation of the runoff volume to treat or infiltrate is the area of the impervious surface (IS) multiplied by the runoff depth (2.80 inch or 0.23 feet);

Example: (1,000 square feet IS) x (0.23 ft. runoff depth) = 230 cubic feet (total volume to infiltrate/treat).

3. Documentation by a professional engineer that the runoff from the impervious surface is being treated by devices such as storm water pond, rain gardens other engineered system to standards, and for storm volumes exceeding the PFDS 2 year 24 hour rainfall event will require a stable outlet; or documentation that 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;

4. Documentation that all applicable storm water BMP technical standards are met;

5. 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.

Note: The provisions in this subsection are an exemption from the impervious surface standards and as such should be read and construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device or internally drained. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with this subsection will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt. (Ord. 161-7, Sec. 3, 2017; Ord. 160-23, Sec. 22, 2017)

20.09.007 Existing impervious surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in 20.09.003 or the maximum impervious surface standard in 20.09.005, the property owner may do any of the following: (See Wis. Admin. Code § NR 115.05 (1)(e)4).

- A. Maintain and repair the existing impervious surfaces;
- B. Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
- C. Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in 20.06.001 or 20.06.002. A. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.10

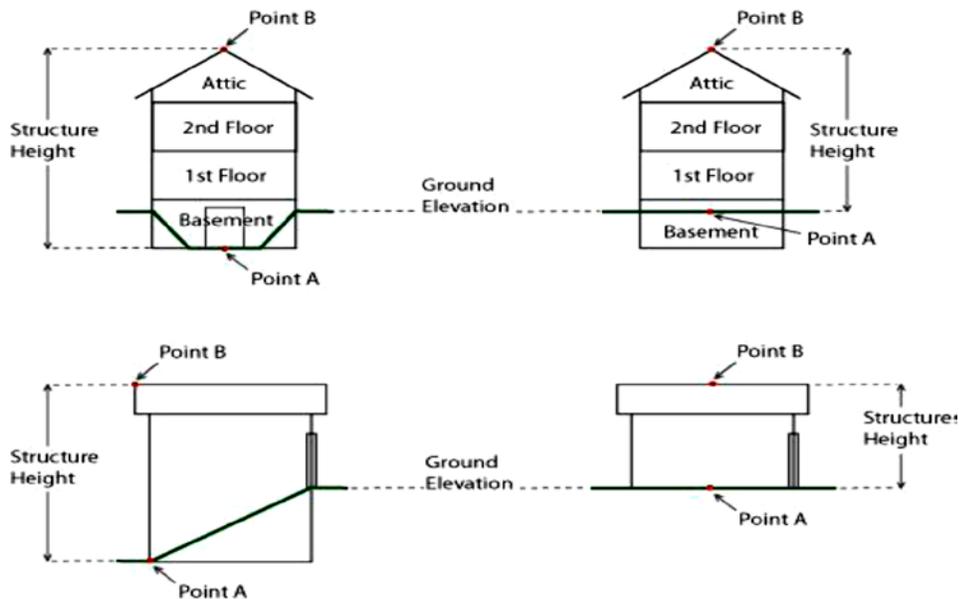
### HEIGHT

#### Sections:

- [20.10.001](#) Structure Height
- [20.10.002](#) Structure Height Measurement

20.10.001 Height. To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that results in a structure taller than 35 feet in the shoreland overlay protection district. (See Wis. Admin. Code § NR 115.05(1)(f)). A. (Ord. 160-23, Sec. 22, 2017)

20.10.002 Structure height measurement. Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code. A. (Ord. 160-23, Sec. 22, 2017)



## Chapter 20.11

### NONCONFORMING USES AND STRUCTURES.

#### Sections:

- [20.11.001](#) Discontinued nonconforming use.
- [20.11.002](#) Maintenance, repair, replacement or vertical expansion of nonconforming structures.
- [20.11.003](#) Lateral expansion of nonconforming principal structure within the setback.
- [20.11.004](#) Expansion of nonconforming principal structures beyond the setback.
- [20.11.005](#) Relocation of nonconforming principal structures.

20.11.001 Discontinued nonconforming use. If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance. (See Wis. Admin. Code § NR 115.05(1)(g)3). A. (Ord. 160-23, Sec. 22, 2017)

20.11.002 Maintenance, repair, replacement or vertical expansion of nonconforming structures. An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. (See Wis. Stat. § 59.692(1k)(a)2,4 and (b)). A. (Ord. 160-23, Sec. 22, 2017)

20.11.003 Lateral expansion of nonconforming principal structures within the setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per 20.06.001 may be expanded laterally, provided that all of the following requirements are met: (See Wis. Admin. Code § NR 115.05(1)(g)5).

- A. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- C. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- D. The county shall issue a shoreland permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in 20.13.

- E. All other provisions of the shoreland ordinance shall be met. (Ord. 160-23, Sec. 22, 2017)

20.11.004 Expansion of a nonconforming principal structure beyond setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under 20.06.001 may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per 20.06.001 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per 20.09.005. (See Wis. Admin. Code § NR 115.05(1)(g)5m). A. (Ord. 160-23, Sec. 22, 2017)

20.11.005 Relocation of nonconforming principal structures. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per 20.06.001 may be relocated on the property provided all of the following requirements are met: (See Wis. Admin. Code § NR 115.05(1)(g)6).

- A. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
- B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- C. No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- D. The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per 20.06.001.
- E. The county shall issue a shoreland permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in 20.13, and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted relocation on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.
- F. All other provisions of the shoreland ordinance shall be met. A. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.12

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

#### Sections:

[20.12.001](#) Maintenance, repair, replacement, or vertical expansion of structures that were authorized by variance. A. (Ord. 160-23, Sec. 22, 2017)

20.12.001 Maintenance, repair, replacement, or vertical expansion of structures that were authorized by variance. A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. (See Wis. Stat. § 59.692(1k)(a)2. and (a)4). A. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.13

### MITIGATION

#### Sections:

[20.13.001](#) Mitigation

20.13.001 Mitigation. When the county issues a shoreland permit requiring mitigation under 20.09.005 C., 20.11.003 D. and 20.11.005 E. the property owner must submit a complete shoreland permit application that is reviewed and approved by the county. The application shall include the following: (See Wis. Admin. Code §§ NR 115.05 (1)(e)3, (g)5, (g)6).

A. A site plan which is designed and implemented to restore natural functions lost through development and human activities. The site plan shall include a scaled plot plan of the lot, including the following information:

1. Location of all existing and proposed structures, including paths, stairways, retaining walls, decks, patios, vegetative cover, etc. with accurate distances shown between the structures and all property lines.

2. Location of any areas of existing and proposed land disturbance.
  3. Location of septic and well facilities.
  4. Location of the viewing and access corridor.
  5. Location of parking areas and driveways.
  6. Location of ordinary high-water mark and any wetland areas.
  7. Maps showing the existing and proposed topography and slope of the property.
  8. Impervious surface calculations.
  9. A minimum of four photos of the property. These photos shall include a photo taken from the water, along the shoreline and from the principal structure. If necessary, the department may require additional photos and/or a site inspection of the property.
  10. Properties which include flood hazard areas shall be required to submit documentation showing the base flood elevation and its location on the property.
- B. Mitigation plans shall include enforceable obligations of the property owner to establish and/or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
- C. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the register if deeds.
- D. For the purposes of administration, and in order to meet the requirements of this chapter:
1. Mitigation plans submitted to the department shall meet the requirement specified in appendix "A" of this code, which is on file with the department. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.14

### ADMINISTRATION

#### Sections:

<a href="#">20.14.001</a>	Administrative provisions
<a href="#">20.14.002</a>	Shoreland permits
<a href="#">20.14.003</a>	Conditional use permits
<a href="#">20.14.004</a>	Variances
<a href="#">20.14.005</a>	Board of land use appeals
<a href="#">20.14.006</a>	Fees
<a href="#">20.14.007</a>	Changes and amendments
<a href="#">20.14.008</a>	Enforcement and penalties

20.14.001 Administrative provisions. The following administrative shoreland provisions are adopted by Eau Claire County: (See Wis. Admin. Code § NR 115.05 (4)).

- A. The appointment of an administrator and such additional staff as the workload may require.

B. The creation of a zoning agency as authorized by Wis. Stat. § 59.69, a board of land use appeals as authorized by Wis. Stat. § 59.694, and a county planning agency as defined in Wis. Stat. § 236.02(3), and required by Wis. Stat. § 59.692(3).

C. A system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county Land Use Manager, unless prohibited by Wis. Stat. § 59.692(1k).

D. Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.

E. A variance procedure which authorizes the board of land use appeals to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship as long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland zoning ordinance.

F. A conditional use procedure for uses presenting special problems.

G. The county shall keep a complete record of all proceedings before the board of adjustment and the Committee on Planning and Development.

H. Written notice to the appropriate office of the WDNR at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under 20.04.

I. Submission to the appropriate office of the WDNR, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

J. Development and maintenance of an official map of all mapped zoning district boundaries, amendments, and recordings.

K. 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 Wis. Stat. § 59.69 (11).

L. Pursuing the prosecution of violations of the shoreland ordinance.

M. Shoreland wetland map amendments according to Wis. Admin. Code § NR 115.04. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the WDNR within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the WDNR at least 10 days prior to the hearing. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the WDNR within 10 days after the decision is issued. A. (Ord. 160-23, Sec. 22, 2017)

#### 20.14.002 Shoreland permits.

A. When required. A system of permits for all new construction, development, reconstruction, structural alteration, or moving of buildings and structures is hereby established. A copy of all applications shall be required to be filed in the office of the county land use manager. Regular inspection of permitted work in progress shall be required to insure conformity of the finished structures with the terms of the ordinance. (See Wis. Admin. Code § NR 115.05(4)).

1. A shoreland land use permit is required for: all new construction, including additions; development; ditching, dredging, excavating, filling, grading, or lagooning; moving of buildings or structures; reconstruction; or structural alteration.

2. A mitigation permit or permits shall be required as described in 20.09.005 C., 20.11.003 D. and 20.11.005 E.

3. An impervious surface authorization permit shall be required in order to have surfaces designated as treated surfaces, as described in 20.09.006, or to exceed impervious surface ratio allowances.

B. Application. An application for a shoreland permit shall be made to the Land Use Manager upon forms furnished by the department and shall include 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 to scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting waterways.

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.

7. Additional information required by the Land Use Manager.

C. Application acceptance. The land use manager will determine whether a complete application has been submitted and, no later than ten (10) business days after the application is submitted, notify the applicant in writing about the determination of completeness.

1. If the land use manager determines that the application is incomplete, the notice will state the reason for the determination and information necessary to make the application complete.

2. If the land use manager determines that the application is complete, s/he will provide to the applicant a notice of complete application, unless s/he has already issued the permit.

3. Once the applicant receives notice of an incomplete application, the applicant must submit the information requested by the land use manager within one hundred and eighty (180) calendar days. If the additional information is submitted within this time period, the land use manager shall re-initiate the process for a determination of completeness, and notify the applicant within ten (10) business days of the receipt of the additional information whether the application is complete or incomplete.

4. If the applicant fails to submit the information requested by the land use manager within one hundred and eighty (180) days, the land use manager will send a letter to the applicant, informing the applicant that unless the information is received within thirty (30) calendar days from the date of the letter, a decision will be issued that the application has expired for lack of the information necessary to complete review and processing. The decision shall be sent to the applicant, and will also state that the County will take no further action on the application.

5. The land use manager will make a final decision on an application within thirty (30) calendar days of the notice of complete application.

6. The applicant will submit as requested by the land use manager, at any time during the review process, additional information the land use manager finds to be reasonably necessary for review of the application.

7. If the applicant makes any material additions or alterations to the project for which the application has been submitted, any calendar day time limit begins anew.

D. Expiration of a shoreland permit. Shoreland permits are valid for two years to complete the construction. (Ord. 160-23, Sec. 22, 2017)

#### 20.14.003 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 Land Use Manager 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. A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.

2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.

3. Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.

4. Specifications for areas of proposed filling, grading, lagooning or dredging.

5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

6. Rationale for why the proposed special exception meets all of the special exception criteria listed in the ordinance.

B. Notice, public hearing and decision. Before deciding whether to grant or deny an application for a conditional use permit, the board of land use appeals shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Committee, shall be given as a Class 2 notice under Wis. Stat. ch. 985. Such notice shall be provided to the appropriate office of the WDNR at least 10 days prior to the hearing. The Committee shall state in writing the grounds for granting or denying a conditional use permit.

C. Standards applicable to all conditional use permits. In deciding a conditional use permit, the Committee shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.

2. The prevention and control of water pollution including sedimentation.

3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.

4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.

5. The location of the site with respect to existing or future access roads.

6. The need of the proposed use for a shoreland location.

7. Its compatibility with uses on adjacent land.

8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.

9. Location factors under which:
- a. Domestic uses shall be generally preferred;
  - b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source; and
  - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility. Additional standards such as parking, noise, etc. maybe refer to the applicable part of their ordinance.

D. Conditions attached to conditional use permits. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. Upon consideration of the factors listed above, the Committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. In granting a conditional use permit, the Committee may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

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

F. Revocation of conditional use permit. If, in the opinion of the department or a member of the committee, the terms of a conditional use permit have been violated, or that the use is substantially detrimental to persons or property in the shoreland overlay protection district, the committee shall hold a public hearing on the revocation of the permit. If, upon written findings of fact that the terms of the permit have been violated, the committee may revoke, modify or leave the permit unchanged. The permit holder and/or the property owner shall be responsible for the fees associated with the revocation hearing. (Ord. 160-23, Sec. 22, 2017)

#### 20.14.004 Variances.

A. Variance criteria to be met. The board of land use appeals may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:

1. Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
2. The hardship is due to special conditions unique to the property;
3. The request is not contrary to the public interest; and
4. The request represents the minimum relief necessary to relieve unnecessary burdens.

B. Notice, public, hearing and decision. Before deciding on an application for a variance, the board of land use appeals shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under Wis. Stat. § 985. Such notice shall be provided to the appropriate office of the WDNR at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate office of the WDNR within 10 days of the decision. (See Wis. Stat. § 59.694(6)). (Ord. 160-23, Sec. 22, 2017)

20.14.005 Board of land use appeals. The county executive, county administrator or chair of the county board shall appoint a board of land use appeals consisting of 3 or 5 members under Wis. Stat. § 59.694, The county board shall adopt such rules for the conduct of the business of the board of land use appeals as required by Wis. Stat. § 59.694(3).

A. Powers and duties.

1. The board of land use appeals shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by Wis. Stat. § 59.694.

2. It shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this ordinance.

3. It shall hear and decide applications for conditional use permits pursuant to 20.13.003.

4. It may grant a variance from the dimensional standards of this ordinance pursuant to 20.13.004.

5. In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

B. Appeals to the board. Appeals to the board of land use appeals may be made by any person aggrieved or by an officer, department, or board of the county affected by any decision of the Land Use Manager or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of land use appeals, a notice of appeal specifying the reasons for the appeal. The Land Use Manager or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

C. Hearing appeals and applications for variances and conditional use permits.

1. The board of adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under Wis. Stat. § 985, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be provided to the appropriate office of the WDNR at least 10 days prior to hearings on proposed shoreland variances, conditional uses, and appeals for map or text interpretations.

2. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, conditional uses, and appeals for map or text interpretations shall be provided to the appropriate office of the WDNR within 10 days after they are granted or denied.

3. The final disposition of an appeal or application to the board of land use appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the board. The final disposition of an appeal or application to the board of land use appeals shall be in the form of a written decision document signed by the chairman and secretary of the board. The decision document shall either; affirm, deny, vary or modify the appeal and list the specific reasons for the determination.

4. At the public hearing, any party may appear in person or by agent or by attorney. (Ord. 160-23, Sec. 22, 2017)

20.14.006 Fees. A. Application and review fees under this ordinance shall be in accordance with the following:

A. The department will, except where another provision of this ordinance prohibits doing so, charge a fee for permits, approvals, or determinations.

B. The permit, approval, or determination fee must accompany the application or request. Otherwise, the application will not be considered complete and the request will not be considered.

C. Fees charged for permits, approvals, or determinations will be as determined by the Eau Claire County General User Fees Schedule, established by the Eau Claire County Board of Supervisors.

D. If the applicant applies for a permit or requests an approval after a project is begun or after it is completed, the department will charge an amount equal to twice the amount of the fee that it would have charged under this section. Subsequent violations shall be subject to the fees specified in the Eau Claire County Citation Code.

E. The department will only refund a permit, approval, or determination fee when approved by the Director of Planning and Development.

F. Multiple fees may be applicable, and will be charged, to a project. (Ord. 160-23, Sec. 22, 2017)

20.14.007 Changes and amendments. The county board may from time to time, alter, supplement or change the regulations contained in this ordinance in accordance with the requirements of Wis. Stat. § 59.69(5)(e), Wis. Admin. Code § NR 115, and this ordinance where applicable.

A. Amendments. Amendments to this ordinance may be made on petition of any interested party as provided in Wis. Stat. § 59.69(5).

B. Shoreland wetland map amendments. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the WDNR within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department Natural Resources at least 10 days prior to the hearing. A copy of the county board's decision on each proposed amendment shall be provided to the appropriate office of the WDNR within 10 days after the decision is issued. (See Wis. Admin. Code § NR 115.04). (Ord. 160-23, Sec. 22, 2017)

20.14.008 Enforcement and penalties. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Land Use Manager or the county zoning agency shall refer violations to corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of fifty (\$50.00) dollars per offense, together with the applicable costs, penalties, and assessments. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Wis. Stat. § 59.69(11). (See Wis. Admin. Code § NR 115.05(4)(j)).

A. Penalty. Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this Ordinance shall be subject to a forfeiture of fifty (\$50.00) dollars per offense, together with the applicable costs, penalties, and assessments. Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and as such, forfeitures shall apply accordingly. The Land Use Manager shall refer violations to the Corporation Counsel who shall prosecute violations.

B. Injunction. Any use or action which violates the provisions of this Ordinance shall be subject to a court injunction prohibiting such violation.

C. Responsibility for compliance. It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this Ordinance. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this Ordinance will be notified in writing of such violation by the County Land Use Manager or his designated Zoning Deputy. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Wis. Stat. § 59.69(11).

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

E. Emergency conditions. Whenever the Land Use Manager finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Land Use Manager may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The Land Use Manager shall notify the Chairperson of the Committee within 24 hours of such situations. Notwithstanding any other provisions of this Ordinance such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Land Use Appeals. (Ord. 160-23, Sec. 22, 2017)

## Chapter 20.15

### DEFINITIONS

#### Sections:

#### 20.15.001 Definitions

20.15.001 Definitions. For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally. All measured distances shall be to the nearest integral foot or meter and increments of one-half or more of a foot or meter shall cause the next highest foot or meter to be applied. The following terms used in this ordinance mean:

A. "Access and viewing corridor" means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

B. "Alteration" means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

C. "Bed and breakfast establishment" means any place of lodging that provides 8 or fewer rooms for rent for more than 10 nights in a 12 month period, is owner-occupied and in which the only meal served to guest is breakfast.

D. "Boathouse" means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

E. “Building envelope” means the three dimensional space within which a structure is built.

F. “Campground” means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

G. “Committee” means the Eau Claire County Committee on Planning and Development.

H. "Conditional use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the committee.

I. "County zoning agency" means that committee or commission created or designated by the county board under Wis. Stat. § 59.69(2)(a), to act in all matters pertaining to county planning and zoning.

J. "Department" means the department of planning and development.

K. “Drainage system” means one or more artificial ditches, tile drains or similar devices which collects surface runoff or groundwater and convey it to a point of discharge.

L. “Existing development pattern” means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

M. "Floodplain" means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Wis. Admin. Code ch. NR 116.

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

O. “Footprint” means the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under Wis. Admin. Code ch. NR 115 and would need to follow Wis. Admin. Code § NR 115.05 (1)(g)5.

P. “Generally accepted forestry management practices” means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the WDNR publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

Q. “Impervious surface” means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in Wis. Stat. § 340.01(54), or sidewalks as defined in Wis. Stat. § 340.01(58) are not considered impervious surfaces.

R. “Land Use Manager” means the employee of the county officially designated to administer this chapter or an agent designated by the Director of the Eau Claire County Department of Planning and Development.

S. "Lot" means a parcel of land, legally created, which is occupied or designed to provide space for one principal structure and approved uses, including the open spaces required by this subtitle. A lot includes all contiguous property under one owner and may consist of multiple deeds, abstracts, and tax statements.

T. "Lot of record" means a lot which has been legally created prior to the effective date of Title 18.

U. "Mitigation" means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

V. "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stat. § 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 59.692, Stats, and Wis. Admin. Code. ch. NR 115, do not apply to lands adjacent to:

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

W. "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

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

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

Z. "Routine maintenance of vegetation" means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

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

BB. "Shoreland setback" also known as the "Shoreland setback area" in Wis. Stat. § 59.692(1)(bn), means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under Wis. Stat. §59.692.

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

DD. "Structural alteration" means any change in the supporting members of a building such as bearing walls, columns, rafters, beams, girders, footings and piles.

EE. "Structure" means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or fire pit.

FF. "Tourist Rooming House" means all lodging places and tourist cabins and cottages as regulated by the department of health and human services pursuant to Wis. Admin. Code ch. ATCP 72, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under Wis. Admin. Code ch. ATCP 73.

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

HH. "Variance" means an authorization granted by the board of land use appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.

II. "WDNR" means the Wisconsin Department of Natural Resources.

JJ. "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. (Ord. 161-7, Sec. 4, 2017; Ord. 160-23, Sec. 22, 2017)

## APPENDIX A

### SHORELAND ACTIVITIES WHICH REQUIRE A MITIGATION PLAN

A. When Impervious Surface (IS) limits fall within the below % ranges: (20.09.005)  
Percent IS requiring mitigation

General Standard Shorelines	Highly Developed Shorelines (Residential)	Highly Developed Shorelines (Commercial)
15% - 30 %	>30 % - 40 %	> 40 % - 60 %

- A variance is required when the above IS % limits are exceeded.
- The repair, replacement, or relocation of existing IS does not require mitigation.

B. A lateral expansion of a principal structure that is legal nonconforming to shore or wetland setback (200 sq. ft. max. allowed). (20.11.003)

C. The relocation of a principal structure that is legal nonconforming to shore setback. Relocation is only available when no other more conforming location is available to accommodate a similar sized structure. (20.11.005)

In order to make the above improvements to nonconforming structures, the following must be met:

- The existing principal structure must be located at least 35 ft. from the ordinary high water mark (OHWM) of a navigable waterway and wetland.
- No portion of the addition or relocated structure may be closer to the shore than the existing structure.

**Required Mitigation Practices - The Point System**

Property owners must achieve a certain number of mitigation points in order to construct improvements that require mitigation in accordance with this appendix. Property owners are able to choose a range of practices, with each practice being worth a pre-determined number of points, to achieve the total number of points required for the proposed project.

Mitigation Points are cumulative. For example: A site with a code compliant shoreline protection area twice as deep as required would get 1 point for the extra buffer area, as well as 2 points for the standard code compliant vegetation protection area, for a total of 3 points.

**Mitigation Point Requirements**

A. Five (5) mitigation points are required when Impervious Surface (IS) limits fall within the below % ranges:

General Standard Shorelines	Highly Developed Shorelines (Residential)	Highly Developed Shorelines (Commercial)
15% - 30 %	>30 % - 40 %	> 40 % - 60 %

B. Four (4) mitigation points are required for a lateral expansion of a principal structure that is legal nonconforming to shore or wetland setback (200 sq. ft. max. allowed).

C. Four (4) mitigation points are required for the relocation of a principal structure that is legal nonconforming to shore setback. Relocation is only available when no other more conforming location is available to accommodate a similar sized structure.

## **Mitigation Schedule**

<b>Mitigation Type</b>	<b>Number of Points Awarded for Mitigation</b>
A. Removal of a Non-Compliant POWTS (septic system)	3 points
B. Removal of improvements within 75 ft. of the OHWM and replace with vegetation.  Examples: beaches, boathouse approaches, fire pits, fountains, impervious surfaces	1 point, 0-250 square feet, 2 points, 251-500 square feet, 3 points, 501 square feet and greater. (credit is not provided if removal is required as part of another accredited mitigation type)
C. Maintain existing or establish new native vegetative buffer adjacent to a navigable waterway (OHWM extended 35' landward)	3 points
D. Increase depth of existing compliant shoreland buffer	1 point for every 15 foot increase (max. 3 points)
E. Remove existing retaining walls located within 75 ft. of OHWM and replace with vegetation (low impact landscaping approach)	1 point per 25 lineal ft. of wall
F. Removal of seawall/riprap and replacement with natural, nonstructural stabilization materials	4 points for entire shoreline (for shorelines with greater than 100 feet of lineal shoreline) 2 points for 50 feet of lineal shoreline
G. Removal of Existing Shore lighting with installation of Downcast Shore Lighting	1 point
H. Increasing setback of structures from OHWM	1 point per 5' of increased setback beyond required (max. 4 points)
I. Decrease width of access & viewing corridor below 35%	1 point = 25 % view corridor 2 points = 15% view corridor (max. 2 points)
J. Passive restoration (natural recovery) of a compliant shoreland buffer	2 point
K. Installation of a rain garden or other engineered system designed to capture and treat/infiltrate storm water runoff	3 points for system designed and implemented to result in no net increase in storm water runoff. 5 points for systems designed and implemented to result in "0" storm water runoff.
L. Maintain existing or establish new shoreline habitat (fallen trees or fish sticks)	2 points per tree cluster as specified in the DNR Best Practices Manual
M. Alternative method approved by Department staff	Based on proposal

\*See below for detailed explanation of mitigation items. (Ord. 162-015, Sec. 3, 2018)

## APPENDIX A

### DETAILED EXPLANATIONS OF MITIGATION ITEMS

The benefits of mitigation of the following:

- Provides water quality benefits by treating and reducing runoff;
- Containing erosion and controlling sediment;
- Provide natural scenic beauty;
- Provide aquatic and diverse wildlife habitat;
- Restores natural topography;
- Improve and preserve water quality by offsetting the impacts associated with surface runoff; and
- Restore natural shoreline vegetation to promote natural landscapes

- A. **Removal of a Non-Compliant POWTS** – Documentation indicating that a Private Onsite Wastewater Treatment System (POWTS) on the lot or parcel has failed and must show that the POWTS has caused or resulted in one or more of the following conditions (outlined in Wisconsin Chapter 145): 1. The discharge of sewage into surface water or groundwater. 2. The introduction of sewage into zones of saturation which adversely affects the operation of a private on-site wastewater treatment system. 3. The discharge of sewage to a drain tile or into zones of bedrock. 4. The discharge of sewage to the surface of the ground. 5. The failure to accept sewage discharges and back up of sewage into the structure served by the private on-site wastewater treatment system.
- B. **Removal of improvements within 75 feet of the OHWM and replace with vegetation** – Removal of improvements such as, beaches, boathouse approaches, fire pits, fountains, impervious surfaces, unless there is a specific exemption in the code for such a structure.
- C. **Maintain existing or establish new native vegetative buffer adjacent to a navigable waterway (OHWM extended to 35 feet landward).** – A written and approved shoreline restoration plan which restores all of the natural functions of the shoreline vegetation protection area in accordance with the standards contained in NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat and the provisions of this code, or verification that existing vegetation meets these standards. The department shall review the restoration plan or verify that existing vegetation is adequate to meet these requirements.
- D. **Increase depth of existing compliant shoreland buffer** – The depth of an existing shoreland buffer may be increased beyond 35 feet through active restoration, passive restoration, or by maintaining existing vegetation already present in acceptable densities. Shoreland buffers may include a cleared view and access corridor. A written and approved shoreline restoration plan which restores all of the natural functions of the shoreline vegetation protection area in accordance with the standards contained in NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat and this code, or verification that existing vegetation meets these standards. The department shall review the plan or verify that existing vegetation is adequate to meet these requirements.

- E. **Remove existing retaining walls located within 75 feet of the OHWM and replace with vegetation (low impact landscaping)** – Remove retaining wall and develop a plan to replace it. The restoration plan shall include a grading, vegetation and erosion control plan.
- F. **Remove of seawall/riprap and replacement with natural, nonstructural stabilization materials** – Provide a plan and a copy of the WDNR permit for the removal of the seawall/riprap structures and replacement with natural, nonstructural stabilization materials.
- G. **Removal of existing shore lighting with installation of downcast shore lighting** – Replace existing shore lighting with downcast or shielded shore lighting to eliminate light pollution at the property line. Light fixtures that are shielded on four sides and illuminate downward toward the earth will meet this mitigation practice.
- H. **Increase setback of structures from the OHWM** – Increase structure beyond minimum required by Title 20.
- I. **Decrease width of access & viewing corridor below 35 %** - Submit a vegetation, management and erosion plan to reduce the viewing corridor less than 35 %. The management plan shall indicate how invasive species are control.

NOTE: The remaining access and viewing corridor from the developed portion of the site to the water's edge can be maintained or established.

- J. **Passive restoration (natural recovery) of a compliant shoreland buffer** - Passive restoration of a shoreland buffer involves restricting mowing, raking, and trimming and allowing natural regeneration of the landscape to occur from the ordinary high water mark to a point that is at least 35 feet inland. A passive shoreland buffer may only serve as the restoration if tree, shrub and ground cover layers are already present in acceptable densities and the site is suited for natural regeneration. A compliant shoreland buffer should contain three distinct layers including a native tree canopy, shrub layer, and groundcover layer, except for closed canopy forest types such as pine and hemlock. Shoreland buffers may include a cleared view and access corridor. Passive restoration is not applicable on landscapes containing large concentrations of invasive species or in areas mainly vegetated with turf grasses.
- K. **Installation of a rain garden or other engineered system designed to capture and treat/infiltrate storm water runoff** - A rain garden is a shallow depression landscaped with suitable native vegetation, engineered and designed to capture and infiltrate storm water. The rain garden must be located outside of the shoreland buffer, designed to conform to property constraints, and located a reasonable distance to septic systems, building foundations, and lot lines. A rain garden should capture and infiltrate the runoff volume for a minimum of a 10 year, 5 minute rain event. Rain gardens are not suitable on land containing impermeable soil types or steep slopes.

An engineered system maybe designed to capture and treat/infiltrate storm water runoff. Engineered systems are not allowed in the shoreland buffer, unless there are no other feasible locations on the lot. Examples of a engineered systems include, but are not limited to, rain gardens, infiltration trenches, chambers, or dry wells, internally drained areas, pervious pavement, grass swales, and a plan that will result in no net increase in runoff from the site within 300 feet of the ordinary high water mark. The plan shall be designed to handle the storm water from the current NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2-year 24 hour rainfall event for Eau Claire County and shall include all engineered calculations to support the design, and in compliance with the “Controlling Runoff and Erosion from your Waterfront Property-A Guide for Landowners” copyright 2008 by Burnett County Land and Water Conservation Department, available on both the Eau Claire County and Wisconsin DNR websites.

An engineered system designed that will result construction storm water retention plan which will result in no runoff from any impervious surface on the site within 300 feet of the ordinary high water mark. The department shall review the plan to determine adequacy. This plan shall be designed to handle the storm water from a one year storm as designated by NRCS for Eau Claire County, and in compliance with the “Controlling Runoff and Erosion from your Waterfront Property-A Guide for Landowners” copyright 2008 by Burnett County Land and Water Conservation Department, available on both the Eau Claire County and Wisconsin DNR websites.

- L. **Maintain Existing or Establish New Shoreline Habitat (fallen trees or fish sticks)** – Develop a shoreland habitat plan in compliance with the standards set forth per the DNR Best Practices Manual for Fish Sticks.
  
- M. **Alternative Method Approved by The Department** - Applicant must demonstrate a connection between the proposed mitigation and the intent/purpose of the mitigation requirements of the Eau Claire Shoreland Protection and Overlay Ordinance. For example, an applicant could provide engineering information showing that the proposal could accomplish the same outcome as one of the mitigation strategies outlined. Points would be awarded in line with the comparable mitigation points.

(Ord. 162-015, Sec. 4, 2018)