

# Shoreland Zoning Ordinance

Green Lake County, Wisconsin



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## **ARTICLE I Introduction**

### **338-1. Statutory authority.**

This chapter is adopted pursuant to the authorization in §§ 59.692 Wis. Stats. to implement 59.69, 59.692, 59.694, 87.30, 236.45, and 281.31 Wis. Stats.

### **338-2. Findings.**

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

### **338-3. Purpose and intent.**

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

- A. Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
  - (1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
  - (2) Establishing minimum lot or parcel sizes to provide adequate area for private onsite wastewater treatment systems.
  - (3) Controlling filling and grading to prevent soil erosion problems.
  - (4) Limiting impervious surfaces to control runoff which carries pollutants into waterways.
  
- 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 and parcel areas and widths.
  - (3) Setting minimum building setbacks from property boundary lines and 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.

**338-4. Title.**

This chapter shall be known, cited and referred to as the “Shoreland Zoning Ordinance, Green Lake County, Wisconsin” except as referred to herein, where it shall be known as “this chapter”.

**338-5. Abrogation and greater restrictions.**

Where more restrictive, this chapter supersedes all the provisions of any county zoning ordinance adopted under § 59.69, Wis. Stats., which relate to shorelands. If another ordinance with shoreland provisions is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- A. This chapter shall not require approval or be subject to disapproval by any town or town board.
- B. If an existing town ordinance relating to shorelands is more restrictive than this chapter or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions, but not otherwise.
- C. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

**338-6. Interpretation.**

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

**338-7. Severability.**

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

**338-8. When effective.**

The existing County Shoreland Protection Ordinance, Chapter 338, (originally adopted as Ordinance No. 224-80, with amendments) shall be replaced in its entirety with the provisions of this chapter, on its effective date.

This chapter shall be effective upon adoption by the Green Lake County Board and publication as provided for in the Wisconsin Statutes. Prior to adoption by the Green Lake County Board the Wisconsin Department of Natural Resources shall issue a certificate of compliance for this chapter.

**338-9. (Reserved)**

**338-10. (Reserved)**

## **ARTICLE II General Provisions**

### **338-11. Areas to be regulated.**

- A. Areas regulated by this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Green Lake County that are:
- (1) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Navigability of lakes, ponds or flowages in Green Lake County shall be determined based on criteria established in Appendix A of this chapter and revisions thereto.
  - (2) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Navigability of rivers and streams in Green Lake County shall be determined based on criteria established in Appendix A of this chapter and revisions thereto.
- B. Determinations of navigability and ordinary high-water mark location shall initially be made by the Land Use Planning and Zoning Department. When questions arise, the Land Use Planning and Zoning Department shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark.
- C. Under § 281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this chapter does not apply to lands adjacent to farm drainage ditches if:
- (1) Such lands are not adjacent to a natural navigable stream or river;
  - (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - (3) Such lands are maintained in nonstructural agricultural use.

### **338-12. Shoreland-Wetland maps**

The Wisconsin Wetland Inventory maps, interpretation date April 25, 1999 with any revisions, shall replace prior maps, originally approved 1984, and are made part of this chapter and are on file in the Land Use Planning and Zoning Department for Green Lake County. These maps may be further viewed from the County's website GIS Viewer at:

[http://gis.co.green-lake.wi.us/website/GIS\\_Viewer\\_Limit/viewer.htm](http://gis.co.green-lake.wi.us/website/GIS_Viewer_Limit/viewer.htm)

**338-13. (Reserved) thru 338-15. (Reserved)**

**338-16. Compliance required.**

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

**338-17. Municipalities and state agencies regulated.**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply when § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022(1), Wis. Stats., applies.

**338-18. (Reserved)**

**338-19. Annexed areas for cities and villages.**

The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in § 59.692 (7), Wis. Stats. When a city or village annexes or incorporates an area that contains shorelands, the provisions of this chapter continue in effect and shall be administered and enforced by the annexing entity. Unless specifically exempted by law, all cities, villages, towns, counties and, when § 13.48 (13), Wis. Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if § 30.2022 (1), Wis. Stats., applies.

**338-20. (Reserved)**

### **ARTICLE III General Standards**

#### **338-21. Impervious surfaces.**

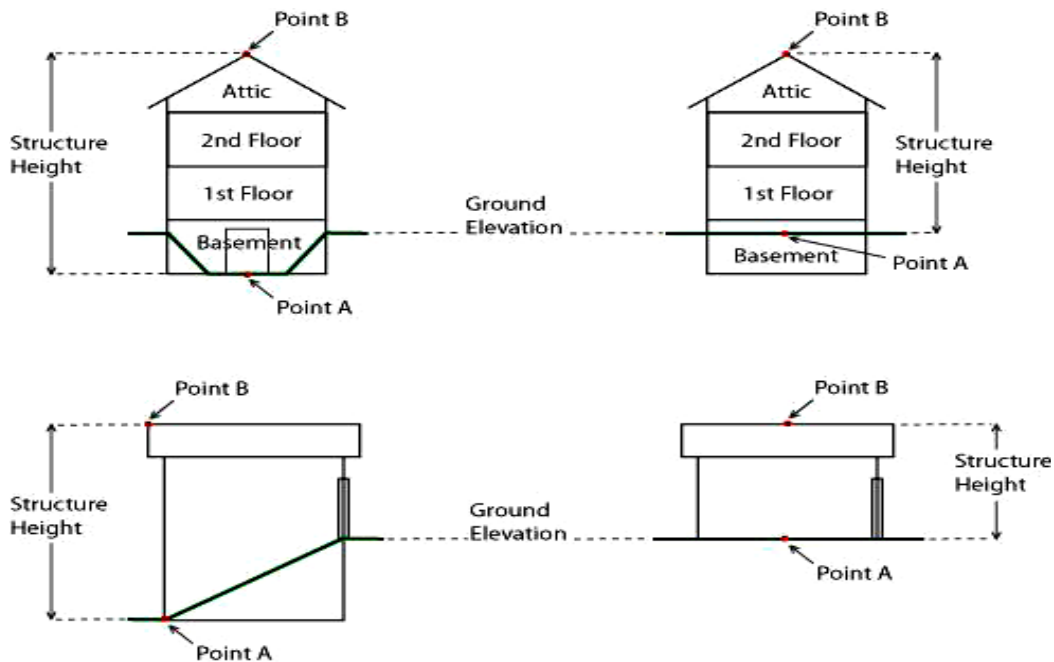
The purpose of impervious surface standards is to protect wildlife habitat on land and in the water, and to protect the water quality of navigable waters against pollution due to stormwater runoff of impervious surfaces.

- A. Impervious surface standards in this section shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet landward of the ordinary high-water mark of navigable waters and shall require all of the following:
- (1) Calculate the percentage of impervious surface by dividing the surface area of existing and proposed impervious surfaces by the total surface area on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark of navigable waters, and multiply by 100.
  - (2) An impervious surface standard of up to and including 15% is allowed on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark of navigable waters.
  - (3) A permit can be issued for development on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark of navigable waters that exceeds 15% impervious surface but not more than 30% impervious surfaces with a mitigation plan that meets the standards of § 338-48. Mitigation system.
  - (4) For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in (2) above or the maximum impervious surface standard in (3) above, the property owner may do any of the following:
    - (a) maintain and repair the existing impervious surfaces;
    - (b) replace existing impervious surfaces with similar surfaces within the existing building envelope.

- (c) relocate or modify an existing impervious surfaces 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 this chapter, and the impervious surface meets the applicable setback requirements in § 338-23. of this chapter.
- (d) The standards of this subsection shall not supersede any other standards of this chapter that relate to the maintenance, reconstruction, relocation and expansion of existing structures.

**338-22. Structure height.**

- A. To protect and preserve wildlife habitat and natural scenic beauty, a permit shall not be granted on or after February 1, 2010, for any construction that results in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters. Structure height for structures at or greater than 75 feet from the ordinary high water mark shall comply with the provisions of other applicable ordinance standards, if any.
- B. Structure height within 75 feet of the ordinary high water mark of any navigable water is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the diagram below) to a line horizontal to the highest point of a structure excluding items attached to a building structure such as but not limited to chimneys, ornamental towers, vents, television towers, and mechanical appurtenances (Point B in the diagram below), unless specified under other sections of this chapter.



**338-23. Setbacks.**

Setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

- A. Unless exempt under subsection B. or C. below, a 75 foot shoreland setback, from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.
- (1) In addition to the shoreland setback standard in A. above, buildings and structures shall comply with the following setback standards:
    - (a) Side yard: 12 foot minimum and no less than a 25 foot total of both side yard setbacks.
    - (b) Side yard: 10 foot minimum for lots or parcels less than 85 feet wide and no less than a 20 foot total of both side yard setbacks.
    - (c) Street yard: 25 foot minimum.
  - (2) In addition to the shoreland setback standard in A. above, fences shall comply with the following:
    - (a) All fences, no greater than 8 feet in height, may be allowed along any lot line excluding the street right-of-way line and side lot lines within the street yard setback.
    - (b) Open style fences (greater than 50% open space), no greater than 4 feet in height, may be allowed along the street right-of-way line and along the side lot lines within the street yard setback.
  - (3) In addition to the shoreland setback standard in A. above, retaining walls and decorative/landscape walls shall comply with the following:
    - (a) Retaining and decorative/landscape walls may be allowed in the street yard, side yard and rear yard with a minimum zero setback, however, are not allowed in the shoreland setback area.
- B. All of the following structures are exempt from the shoreland setback standards of 75 feet as stated in subsection A. above:
- (1) Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in § 59.692 (1v), Wis. Stats.
    - (a) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.
    - (b) The floor area of all the structures in the shoreland setback area will not

exceed 200 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 vegetative buffer plan that will be implemented by the owner of the property to establish and maintain a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. The enforceable obligations of the vegetative buffer plan shall be evidenced by a document, Shoreland Vegetative Buffer Agreement, filed with the Register of Deeds office prior to construction.
- (2) 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.
  - (3) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private onsite wastewater treatment systems that comply with Chapter Comm 83, 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.
  - (4) Walkways, stairways or rail systems that are necessary to provide safe pedestrian access to the shoreline shall be contained within the access and viewing corridor, and are a maximum of 60 inches in width, including railings.
- C. Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable standards of Chapter 300 Code of Green Lake County, Floodplain Zoning Ordinance.

### **338-24. Shore cover**

The purpose of shore cover standards is to protect natural scenic beauty, fish and wildlife habitat, and water quality. The standards within this section shall consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

- A. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, a shoreland vegetative buffer zone is hereby established for land between the ordinary high water mark and a line parallel thereto a minimum of 35 feet landward. Removal of vegetation in the shoreland vegetative buffer zone is prohibited, except as follows.
  - (1) Routine maintenance of vegetation within the shoreland vegetative buffer zone to create an access and viewing corridor is permitted.

- (2) Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors is allowed, provided that the combined width of all access and viewing corridors on a riparian lot or parcel may not exceed the lesser of 30 percent of the lot or parcel width, that is the landward shortest distance from the intersection of the ordinary high water mark and the side boundary line across the lot or parcel to the other defining side boundary line; or 200 feet.
  - (3) Removal of trees and shrubs in the shoreland vegetative buffer zone on a lot or parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in NR 1.25 (2) (b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226) is permitted, provided that vegetation removal be consistent with these practices.
  - (4) Removal of vegetation within the shoreland vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard is permitted, provided that any vegetation removed be replaced by replanting similar type native vegetation in the same area.
- B. Cutting beyond the landward edge of the 35 foot shoreland vegetative buffer area to the outer limits of the shoreland, shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.
- C. Where a shoreland vegetative buffer zone is required, the buffer shall be designed in accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat. In cases where these standards provide options, the Land Use Planning and Zoning Department shall make the determination which option is most appropriate in the design and execution of the project.

### **338-25. Land disturbing activity.**

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

- A. Filling, grading, lagooning, dredging, ditching, or excavating that does not require a permit under subsection B. below is allowed in the shoreland area provided that all of the following are satisfied:
- (1) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.
  - (2) Filling, grading, lagooning, dredging, ditching, or excavating in a shoreland-wetland

district meets the requirements of subsections 338.42.B. and C.

- (3) All applicable federal, state and local authority is obtained in addition to a permit under this chapter.
  - (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or other means through a Chapter 30 Wis. Stats. permit.
- B. Except as provided in subsection C. below, a permit is required as follows:
- (1) For any filling or grading of any area which is within 300 feet landward of the ordinary high water mark of navigable waters, and which has surface drainage toward the navigable water and on which there is either:
    - (a) Any filling or grading on slopes of more than 20%.
    - (b) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
    - (c) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
  - (2) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water, or where the purpose is the ultimate connection with a navigable body of water.
- C. Soil conservation practices and agricultural drainage maintenance.
- (1) Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways, or others used for erosion control shall not require a permit under subsection B. above when designed and constructed to Natural Resources Conservation Service technical standards.
- D. Conditions attached to a permit. In granting a permit under subsection B. above, the Land Use Planning and Zoning Department shall, upon consideration of the factors listed in (1) thru (8) below, attach such conditions where appropriate to the permit, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter. In granting a permit, the Land Use Planning and Zoning Department may not impose conditions which are more restrictive than any of the specific standards in this chapter. Where the ordinance is silent as to the extent of restriction, the Land Use Planning and Zoning Department may impose any reasonable permit conditions to affect the purpose of this chapter. Conditions include:
- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
  - (2) Temporary ground cover (such as mulch or jute netting) shall be used and

permanent vegetative cover shall be established.

- (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (4) Lagoons shall be constructed to avoid fish trap conditions.
- (5) Fill shall be stabilized according to accepted engineering standards and evidenced by a statement to that effect provided by a licensed professional.
- (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (7) Channels or artificial watercourses shall be constructed with side slopes of 2 units horizontal distance to 1 unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
- (8) 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.

**338-26. thru 338-29. (Reserved)**

## **ARTICLE IV**

### **Other Applicable Regulations**

#### **338-30. Land division.**

- A. All land divisions in shoreland areas which create 3 or more lots, parcels or building sites of 5 acres each or less within a 5 year period shall be reviewed pursuant to Chapter 315 Code of Green Lake County, Land Division and Subdivision Ordinance. In such review all of the following factors shall be considered:
- Hazards to the health, safety or welfare of future residents.
  - Proper relationship to adjoining areas.
  - Public access to navigable waters, as required by law.
  - Adequate stormwater drainage facilities.
  - Conformity to state law and administrative code provisions.

#### **338-31. Minimum lot or parcel standards.**

- A. Minimum dimensional standards for all lots or parcels newly created in the shoreland area, with provisions for either public sewer or a private onsite wastewater treatment system, shall be established to provide protection against pollution of the adjacent body of water.
- (1) The minimum lot or parcel area shall be 20,000 square feet. The square footage of the beds of navigable waters shall not be included in the total square footage of a lot or parcel.
  - (2) The minimum lot or parcel width shall be an average of 100 feet. The beds of navigable waters shall not be included in the average width of a lot or parcel. The lot or parcel width shall be calculated by averaging shortest horizontal measurements at the following locations, where applicable:

- (a) The landward shortest distance from the intersection of the ordinary high water mark and the side boundary line across the lot or parcel to the other defining side boundary line.
  - (b) The shortest distance across the lot or parcel from any angle point of a side boundary line to the other defining side boundary line.
  - (c) The shortest distance across the lot or parcel at the boundary line opposite the ordinary high water mark.
  - (d) The street/access right-of-way line.
  - (e) The rear boundary line.
- (B) A substandard lot or parcel means, a lot or parcel that met minimum square footage and minimum average width requirements when recorded in the Register of Deeds office, but does not meet current lot or parcel size requirements.

For the purpose of this subsection a substandard lot or parcel may be used as a building site where the lot or parcel provides a minimum of 50 feet of average width and 7,500 square feet of area, and any of the following apply:

- (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, certified survey map, or consolidation deed by the owner to create one lot or parcel.
  - (2) The substandard lot or parcel was combined with another lot or parcel of record in the Register of Deeds office, by plat, certified survey map, or consolidation deed by the owner to create one lot or parcel, but the combined lot or parcel does not meet the area and average width requirements of this chapter.
  - (3) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel of the same owner.
  - (4) The substandard lot or parcel has been developed with one or more of its structures placed partly upon an adjacent lot or parcel of the same owner. Prior to issuance of any permits for development the adjacent lots or parcels shall be combine by plat, certified survey map, or consolidation deed by the owner to create one lot or parcel.
  - (5) The substandard lot or parcel is developed to comply with all other requirements of this chapter.
- C. Lots or parcels having lesser dimensions than those stated in subsection A. above and do not meet the requirements of subsection B. above shall only be issued a permit for development if a variance is granted by the Board of Adjustment.

### **338-32. Sanitary regulations.**

The County has adopted sanitary regulations, pursuant to Chapter 334 Code of Green Lake County, Private Sewage Systems Ordinance for the protection of health and the preservation and enhancement of water quality.

- A. Where public water supply systems are not available, private well construction shall be required to conform to Chapter NR 812, Wis. Adm. Code.
- B. Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Chapter Comm 83, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under § 59.70(5), Wis. Stats.

**338-33. (Reserved) thru 338-35. (Reserved)**

**ARTICLE V  
(Reserved)**

**338-36. thru 338-40. (Reserved)**

## **ARTICLE VI Shoreland-Wetland District**

### **338-41. Purpose of district.**

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.

- A. This district shall include all shorelands within the jurisdiction of this chapter which are designated as wetlands on the Wisconsin Wetland Inventory maps, interpretation date April 25, 1999 with any revisions, shall replace prior maps, originally approved 1984, and are made part of this chapter and are on file in the Land Use Planning and Zoning Department for Green Lake County. These maps may be further viewed from the County's website GIS Viewer at:

[http://gis.co.green-lake.wi.us/website/GIS\\_View\\_Viewer\\_Limit/viewer.htm](http://gis.co.green-lake.wi.us/website/GIS_View_Viewer_Limit/viewer.htm)

### **338-42. Permitted uses.**

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this chapter, the provisions of Chapters. 30, 31, 281.36 and 281.37, Wis. Stats. and the provisions of other applicable local, state and federal laws:

- A. Activities and uses which do not require the issuance of a permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under subsections B. or C. below.

- (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 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 permit under § 338-52.B. 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 § 338-44.B.;
  - (c) The road is designed and constructed with the minimum cross sectional area practical to serve the intended use;
  - (d) Road construction activities are carried out in the immediate area of the roadbed only.
  
- (2) The construction or maintenance of nonresidential buildings, provided that:
  - (a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
  - (b) The building cannot, as a practical matter, be located outside the wetland;
  - (c) Such building is not designed for human habitation and does not exceed 500 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 Chapter 29, Wis. Stats., where applicable;
  - (b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in subsection C.(1)(a) thru (d) above; 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 § 338-44.B.

### **338-43. Prohibited uses.**

Any use not listed in § 338-42A. or B. or C. is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with § 338-44. of this chapter and § 59.69(5)(e), Wis. Stats.

### **338-44. Shoreland-Wetland rezoning**

- A. For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the appropriate district office of the Department shall be provided with the following:
  - (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this chapter, 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 chapter describing any proposed rezoning of a shoreland-wetland;
  - (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
  - (3) A copy of the Land Use Planning and Zoning Committee'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.
- 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 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 notifies the Land Use Planning and Zoning Committee that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in subsection B. above, that amendment, if approved by the County Board, shall contain the following provision:

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

**338-45. (Reserved)**

**338-46. (Reserved)**

**ARTICLE VII**  
**Nonconforming Uses and Structures**

**338-47. Purpose.**

The provisions of this article are intended to regulate nonconforming uses and structures so as to satisfy the purpose statement of § 338-3. this chapter and § 281.31 Wis. Stats. This shall be achieved by placing restrictions on the expansion of and changes to nonconforming uses. There shall also be restrictions for maintenance and repair, expansion, relocation, and replacement of nonconforming structures.

A. Nonconforming use standards within this article shall be created to allow uses that existed prior to the enactment of this chapter or any amendment thereto but said uses do not comply with the provisions of this chapter. The provisions of this article shall regulate all existing nonconforming uses within the shoreland jurisdiction, unless a variance is granted by the Board of Adjustment. An existing nonconforming use or structure is subject to the following requirements:

- (1) If a nonconforming use is discontinued for a period of 12 consecutive months, any future use of the building, structure or property shall conform to the provisions of this chapter.

B. Nonconforming structure standards within this article shall be created to allow structures

that existed prior to the enactment of this chapter or any amendment thereto but said structures do not comply with the provisions of this chapter. The provisions of this article shall regulate all existing nonconforming structures within the shoreland jurisdiction, unless a variance is granted by the County Board of Adjustment. An existing nonconforming structure is subject to the following requirements:

- (1) Existing nonconforming structures shall be allowed ordinary maintenance and repair within its existing three dimensional envelope. Maintenance and repair includes but is not limited to:
  - (a) Shingle or similar roof replacement.
  - (b) Window and door replacement.
  - (c) Cosmetic treatments for exterior walls.
  - (d) Installation of insulation, not involving structural demolition.
  - (e) Crack patching and waterproofing of foundation walls.
  - (f) Cosmetic treatments to interior walls, ceilings and floors.
  - (g) Replacement or maintenance of mechanical or utility systems.
  - (h) Temporary alterations done under emergency conditions to protect life or property.
  - (i) Based on review by the Land Use Planning and Zoning Department some maintenance and repair under this subsection may include alteration to the existing building envelope and those alteration require mitigation measures per § 338-48.B.(1).
  
- C. All nonconforming principal structures shall be regulated by the provisions of this article unless a variance has been granted by the Board of Adjustment affecting the regulation of the nonconforming principal structure. The following shall apply to nonconforming principal structures:
  - (1) Ordinary maintenance and repair as identified in subsection 338-47.B.(1)(a) thru (i) or others similar thereto of a nonconforming principal structure shall be allowed.
  - (2) Expansion of nonconforming principal structure that was lawfully placed when constructed but does not comply with the 75 foot shoreland setback standard shall comply with the following:
    - (a) Expansion of a nonconforming principal structure shall occur horizontally, landward or vertically at a point that is equal to or greater than 75 feet from the ordinary high water mark of navigable waters.

- (b) The use of the structure has not been discontinued for a period of 12 consecutive months or more.
  - (c) All other provisions of this chapter shall be met.
- (3) Vertical expansion of a nonconforming principal structure that was lawfully placed when constructed but does not comply with the 75 foot shoreland setback standard shall comply with the following:
- (a) The vertical expansion of a nonconforming principal structure with any part located within 35 feet of the ordinary high-water mark of navigable waters is prohibited.
  - (b) The vertical expansion of a nonconforming principal structure shall be permitted above and within the footprint of the principal structure.
  - (c) Vertical expansion is limited to the height allowed in § 338-22., Structure height.
  - (d) The standards of § 338-48., Mitigation system, are satisfied.
  - (e) The use of the structure has not been discontinued for a period of 12 consecutive months or more.
  - (f) All other provisions of this chapter shall be met.
- (4) Replacement or relocation of an entire existing nonconforming principal structure that was lawfully placed when constructed but does not comply with the 75 foot shoreland setback standard shall comply with the following:
- (a) The use of the structure has not been discontinued for a period of 12 consecutive months or more.
  - (b) The existing principal structure is at least 35 feet from the ordinary high-water mark of navigable water.
  - (c) No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark of navigable waters than what existed prior to the replacement or relocation.
  - (d) The Land Use Planning and Zoning Department determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the 75 foot shoreland setback standard. In cases where the Land Use Planning and Zoning Department determines the 75 foot shoreland setback can not be met, the review of the property shall also include determination of any opportunities to create a greater shoreland setback.
  - (e) The standards of § 338-48., Mitigation system, are satisfied.
  - (f) The issuance of a permit for replacement or relocation shall require that all

other structures, unless exempt, on the lot or parcel that do not comply with the 75 foot shoreland setback be removed by the date specified in the permit and evidenced by an affidavit recorded in the office of the Register of Deeds..

(g) All other provisions of this chapter shall be met.

D. All nonconforming accessory structures shall be regulated by the provisions of this article, unless a variance has been granted by the Board of Adjustment affecting the regulation of the nonconforming accessory structure. The following shall apply to nonconforming accessory structures:

- (1) Ordinary maintenance and repair as identified in subsection 338-47.B.(1)(a) thru (i) or others similar thereto of a nonconforming accessory structure shall be allowed.
- (2) Expansion horizontally or vertically of a nonconforming accessory structure is prohibited, unless the requirements of § 338-49., Damaged or destroyed nonconforming structures, are satisfied.
- (3) Replacement or relocation of a nonconforming accessory structure or part thereof within the 75 foot shoreland setback area is prohibited, unless the requirements of § 338-49., Damaged or destroyed nonconforming structures, are satisfied for the replacement structure. The relocation of a nonconforming accessory structure shall be in compliance with the provisions of this chapter.
- (4) Wet boathouses; the maintenance and repair of nonconforming boathouses which extend beyond the ordinary high-water mark of any navigable waters shall be required to comply with § 30.121, Wis. Stats., the administration and enforcement of which is with the Wis. DNR.

#### **§ 338-48. Mitigation system.**

A. When a permit is issued under this chapter that requires mitigation, a complete permit application shall be submitted and include a mitigation plan to be reviewed and approved by the Land Use Planning and Zoning Department with the following:

- (1) A scaled site plan depicting mitigation measures along with applicable notations describing any details of the proposed mitigation measures.
  - (a) The mitigation plan shall be designed and implemented to restore natural functional values impacted through development and human activities.
  - (b) The mitigation measures within the plan shall offset the impacts of development on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty of navigable waters.
- (2) An implementation schedule with a specified date for completion of the mitigation measures. Also, an enforceable obligation document of the property owner to establish and maintain the mitigation measures.

- (a) The enforceable obligations of the mitigation plan shall be evidenced by an instrument, Shoreland Mitigation Agreement, recorded in the Register of Deeds office prior to issuance of a permit.
- B. The various types of development projects that require mitigation measures based on this chapter shall have options to mitigate the impacts of those development projects as provided herein. In cases where a development project impacts more than one type of development requiring mitigation, mitigation measures shall provide the total points for all affected types of development. The mitigation measures with corresponding mitigation points applicable to development projects requiring mitigation are as follows:
- (1) 3 Points; Creation or restoration of the shoreland vegetative buffer zone. The mitigation points and buffer depth may be modified if a lesser buffer depth is approved by the Land Use Planning and Zoning Department, based on the scope of the development project.
  - (2) 1 Point; Each additional 500 square feet of native secondary vegetative shoreland buffer; after the shoreland vegetative buffer zone has been created or restored.
  - (3) 2 Points; Removal of each building structure having 200 square feet or more of impervious surface within the 75 foot shoreland setback area.  
  
1 Points; Removal of each building structure having less than 200 square feet of impervious surface within the 75 foot shoreland setback area.  
  
Removal area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone shall be in accordance with D. below.
  - (4) 1 Point; Removal of each 200 square feet of impervious surface within 300 feet of the ordinary high water mark of navigable waters. Removal area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone shall be in accordance with D. below.
  - (5) 1 Point; Removal of seawalls/bulkheads.
  - (6) 1 Point; Relocate access and viewing corridor to include boathouse. Vacated area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Vacated area(s) within the shoreland vegetative buffer zone shall be vegetated in accordance with D. below
  - (7) Stormwater management that will infiltrate the stormwater runoff on a lot or parcel, for a 2 year rainfall event, into a rain garden(s) for conditions stated below. Other infiltration methods may be used as approved by the Land Use Planning and Zoning Department.

- (a) 2 Points; Stormwater management practice that will infiltrate all the stormwater runoff from the impervious surface of principal building structure(s).
- (b) 3 Points; Stormwater management practice that will infiltrate all the stormwater runoff from the impervious surface of principal building structure(s) and any accessory building structure(s).
- (c) 4 Points; Stormwater management practice that will infiltrate the stormwater runoff from all the impervious surface(s).

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

- (1) Impervious surface development. Any of the following levels of impervious surface area, based on the standards of §338-21. shall provide mitigation measures having the following number of mitigation points.
  - (a) 5 mitigation measure points shall be included in a mitigation plan on a lot or parcel where the percentage of impervious surface is greater than 15% and up to and including 20%.
  - (b) 6 mitigation measure points shall be included in a mitigation plan on a lot or parcel where the percentage of impervious surface is greater than 20% and up to and including 25%.
  - (c) 7 mitigation measure points shall be included in a mitigation plan on a lot or parcel where the percentage of impervious surface is greater than 25% and up to and including 30%.
- (2) Vertical expansion of a nonconforming principal structure per §338-47.C.(3) shall require a mitigation plan that includes any mitigation measures listed in 338-48.B. having a minimum of 1 point.
- (3) Replacement or relocation of a nonconforming principal structure per §338-47.C.(4) shall require a mitigation plan that includes any mitigation measures listed in 338-48.B. having a minimum of 2 points.

D. Where reference is made to a shoreland vegetative buffer zone, the buffer shall be designed in accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat. In cases where these standards provide options, the Land Use Planning and Zoning Department shall make the determination which option is most appropriate in the design and execution of the project.

E. Where reference is made to a rain garden, the rain garden shall be designed, installed and maintained in accordance with Wis DNR Publication, PUB-WT-776 2003 "Rain Gardens: A how-to manual for homeowners".

- F. Where the Land Use Planning and Zoning Department determines a lot or parcel has excessive navigable water frontage for the purpose of a shoreland vegetative buffer installation, the Land Use Planning and Zoning Department may reduce the width of the shoreland vegetative buffer to no less than 100 feet.
- G. All development projects requiring mitigation measures on a lot or parcel having a POWTS (private onsite wastewater treatment system) shall be required to have the POWTS evaluated by a licensed plumber to determine condition and sizing compliance; and if needed the POWTS shall be upgraded to comply with current applicable standards.

**§ 338-49. Damaged or destroyed nonconforming structures.**

As provided in § 59.692 Wis. Stats., a nonconforming structure that has been damaged or destroyed by violent wind, fire, flood vandalism, ice, snow, mold or infestation, this article may not prohibit the restoration of that nonconforming structure if that structure will be restored to the size, location and use it had immediately before the damage or destruction occurred subject to all of the following:

- A. The nonconforming structure was damaged or destroyed on or after October 14, 1997.
- B. A nonconforming structure that is damaged or destroyed due to a deliberate act by the landowner or his or her agent, or gradual deterioration through old age, or dilapidated condition, may not be restored, except in compliance with the standards of this chapter.
- C. A nonconforming structure that is damaged or destroyed that is subject to floodplain zoning regulations may not be restored, unless in compliance with the Code of Green Lake County, Chapter 300, Floodplain Zoning.
- D. The size of the nonconforming structure shall be allowed larger than it was immediately before the damage or destruction, if necessary to comply with applicable state and federal requirements. Documentation of state and federal requirements shall be provided by the landowner prior to issuance of a land use permit.
- E. The landowner shall demonstrate by permit application approval, the scope, nature, and extent with dimensions, of work required to restore the damage or destruction to a nonconforming structure caused by violent wind, fire, flood, vandalism, ice, snow, mold or infestation and said work shall be limited to repair, reconstruction or improvement of the area that was damaged or destroyed.

**338-50. (Reserved)**

## **ARTICLE VIII Administration**

### **338-51. Officials designated.**

Where the Land Use Planning and Zoning Department, Land Use Planning and Zoning Committee or a Board of Adjustment has already been appointed officials to administer a zoning ordinance adopted under § 59.69, 59.692, Wis. Stats., these officials shall also administer this chapter.

### **338-52. Land Use Planning and Zoning Department.**

A. The officials of the Land Use Planning and Zoning Department are authorized to administer this chapter and shall have the following duties and powers. It shall:

- (1) Require permits for new construction, development, reconstruction, replacement or moving of buildings and structures. A copy of permits applications shall be

required to be filed in the Land Use Planning and Zoning Department.

- (2) Perform regular inspections of permitted work in progress to insure conformity of the finished structures with the terms of this chapter.
  - (3) Establish a variance procedure which authorizes the Board of Adjustment to grant such variance from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland protection ordinance, a literal enforcement of the provisions of this chapter will result in unnecessary hardship.
  - (4) Establish a special exception permit (conditional use) procedure.
  - (5) Shall keep a complete record of all proceedings of the Board of Adjustment and Land Use Planning and Zoning Committee.
  - (6) Provide written notice to the appropriate regional office of the Department at least 10 days prior to any hearing and provide copies within 10 days after a decision on any of the following:
    - (a) proposed variance,
    - (b) special exception or conditional use permit,
    - (c) appeal for a map or text interpretation,
    - (d) map or text amendment, and
    - (e) copies of all proposed land divisions submitted to the county for review under ARTICLE IV,
    - (f) Upon request of the Department the County shall provide to the appropriate regional office a copy of any permit issued under subsection B. below,
  - (7) Map zoning districts and record, on an official copy of such map, all district boundary amendments.
  - (8) Establishment of penalties for violations of various provisions of this chapter, including forfeitures. Compliance with this chapter shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats.
  - (9) Investigate and report violations of this chapter for enforcement and/or prosecution.
- B. Permits are required, except where another section of this chapter specifically exempts certain types of development from this requirement. A permit shall be obtained from the Land Use Planning and Zoning Department or Board of Adjustment or Land Use Planning and Zoning Committee before commencement of any new development.

- (1) An application for a permit shall be made to the Land Use Planning and Zoning Department upon forms furnished by the county and shall include for the purpose of proper review and enforcement of regulations in this chapter, the following information:
    - (a) Name and address of the applicant, property owner, and contractor.
    - (b) Legal description of the property, proposed use and whether it is new construction or a modification.
  - (2) Additionally, a site development plan drawn to scale shall be submitted with the permit application form and shall contain:
    - (a) Dimensions of the lot or parcel and location of all existing and proposed structures and impervious surfaces relative to the boundary lines, center line of abutting highways and the ordinary high-water mark of any abutting waterways.
    - (b) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
  - (3) Plans for appropriate mitigation when required.
  - (4) Payment of the appropriate fee.
  - (5) Additional information as required by the permitting entity.
- C. Unless otherwise stated in this chapter, permits issued under the authority of this chapter shall expire 1 year from date issued unless substantial work has commenced.

### **338-53. Board of Adjustment.**

The Board of Adjustment, created under § 59.694 Wis. Stats. is here by authorized and shall be appointed to act for the purpose of this chapter. The Board of Adjustment shall exercise the powers conferred by Wisconsin Statutes and adopt rules, in addition to those adopted by the County Board pursuant to § 59.694(3) Wis. Stats., for the conduct of business. The Director of the Land Use Planning and Zoning Department may not be the Secretary of the Board of Adjustment.

#### **A. Powers and duties. The Board of Adjustment:**

- (1) may adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by § 59.694, Wis. Stats.
- (2) shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the

enforcement or administration of this chapter.

- (3) shall hear and decide applications for special exception permits pursuant to this chapter.
  - (4) may grant a variance from the standards of this chapter. In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in this chapter. Where this chapter is silent as to the extent of restriction, the Board of Adjustment may impose any reasonable conditions to effect the purpose of this chapter.
- B. Special exception permit application. A special exception permit is any use listed as a special exception in this chapter and shall be permitted only after an application has been submitted to the Land Use Planning and Zoning Department and a special exception permit has been granted by the Board of Adjustment. To secure information upon which to base its determination, the Board of Adjustment may require the applicant to furnish, in addition to the information required for a 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 chapter.
- C. Standards applicable to all special exceptions. In deciding a special exception permit, the Board of Adjustment shall evaluate the effect of the proposed use upon:
- (1) The maintenance of safe and healthful conditions.
  - (2) The prevention and control of water pollution including sedimentation.
  - (3) Compliance with Chapter 300, Floodplain Zoning, and opportunity for damage to adjacent properties due to altered surface water drainage.
  - (4) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  - (5) The location of the site with respect to existing or future access roads.

- (6) The need of the proposed use for a shoreland location.
  - (7) Its compatibility with uses on adjacent land.
  - (8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
  - (9) Location factors under which:
    - (a) Domestic uses shall be generally preferred;
    - (b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
    - (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- D. Conditions attached to special exceptions permit. Upon consideration of the factors listed in subsection C. above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter. In granting a special exception permit, the Board of Adjustment may not impose conditions which are more restrictive than any of the specific standards in this chapter. Where the ordinance is silent as to the extent of restriction, the Board of Adjustment may impose any reasonable permit conditions to affect the purpose of this chapter. Conditions that may be attached include:
- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
  - (2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
  - (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
  - (4) Lagoons shall be constructed to avoid fish trap conditions.
  - (5) Fill shall be stabilized according to accepted engineering standards.
  - (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
  - (7) Channels or artificial watercourses shall be constructed with side slopes of 2 units horizontal distance to 1 unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

- (8) 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.
- E. Variances. The Board of Adjustment may grant upon appeal a variance from the standards of this chapter where an applicant convincingly demonstrates that:
- (1) literal enforcement of the provisions of this chapter will result in unnecessary hardship on the applicant;
  - (2) the hardship is due to special conditions unique to the property; and
  - (3) the granting of such variance is not contrary to the public interest.
- F. Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Land Use Planning and Zoning Department. Such appeal shall be made within 30 days, as provided by the rules of the Board of Adjustment, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The Land Use Planning and Zoning Department shall transmit papers constituting the record concerning the matter appealed to the Board of Adjustment.
- G. Notice, public hearing and decision of a special exception permit, variance or an appeal. The Board of Adjustment shall fix a reasonable time for a public hearing on these appeal or application requests.
- (1) Notice. Notice of such public hearing, specifying the time, place and matters to come before the Board of Adjustment, shall be given as a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided in writing to the appropriate district office of the Department at least 10 days prior to the hearing. Notice shall be mailed to other parties in interest.
  - (2) Public hearing. Before deciding whether to grant or deny an application for a special exception permit, variance or appeal, the Board of Adjustment shall hold a public hearing. At the public hearing, any party may appear in person or by agent or by attorney.
  - (3) Decision. The Board of Adjustment shall state in writing, signed by the Chair of said Board, the grounds for granting or denying the special exception permit, variance or appeal. The written decision shall contain the specific facts that are the basis for the Board of Adjustment's decision. The decision shall either affirm, reverse, vary or modify the order requirement, decision or determination heard, in whole or in part, dismiss the request for lack of jurisdiction or prosecution or grant the request. Copies of all such decisions shall be submitted to the appropriate district office of the Department within 10 days of the decision.

- (a) A decision shall not be made on a request that will be modified in such a way so as to provide greater relief to the applicant than what was requested in the application
- H. Recording. When a special exception permit or a variance is approved, an appropriate record shall be made of the land use and structures permitted and such permit or variance shall be applicable solely to the structures, use and property so described in said approval decision. A copy of any decision on a special exception permit or variance shall be provided to the appropriate district office of the Department within 10 days after it is granted or denied.
- I. Revocation. Where the conditions of a special exception permit or variance are violated, the special exception permit or variance shall be revoked. Notice of such revocation shall come from the Land Use Planning and Zoning Department.

#### **338-54. Land Use Planning and Zoning Committee.**

- A. The Land Use Planning and Zoning Committee shall:
  - (1) Oversee the functions of the Land Use Planning and Zoning Department; and
  - (2) Review and advise the County Board on all proposed amendments to this chapter, maps and text.
- B. The Land Use Planning and Zoning Committee shall not:
  - (1) Grant variances to the terms of the chapter in place of action by the Board of Adjustment; or
  - (2) Amend the text or zoning maps in place of official action by the County Board.

#### **338-55. (Reserved) thru 338-57. (Reserved)**

### **ARTICLE IX Amendments**

#### **338-58. Changes and amendments.**

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

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

- B. Every petition for a shoreland-wetland map amendment filed with the County Clerk shall be referred to the Land Use Planning and Zoning Committee . A copy of each petition shall be provided to the appropriate district office of the Department within 5 days of the filing of the petition with the County Clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing.
- C. A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within 10 days after the decision is issued.

**ARTICLE X  
(Reserved)**

**338-59. thru 338-65. (Reserved)**

**ARTICLE XI**  
**Enforcement**

**§ 338-66. Investigation of alleged violations.**

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

**§ 338-67. Violations, penalties and citations.**

- A. Any violation of the provisions of this chapter by or under the direction of the landowner shall be brought into compliance upon notification by the Land Use Planning and Zoning Department or the Land Use Planning and Zoning Committee or the County Corporation Counsel.
- B. The County Corporation Counsel shall have the authority to use all legal remedies necessary to pursue compliance with the provisions of this chapter. After consultation with the Land Use Planning and Zoning Department and/or the Land Use Planning and Zoning Committee, the Corporation Counsel shall determine which legal remedy or legal remedies are in order to pursue compliance with the provisions of this chapter.
- C. Any landowner who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$50 nor more than \$5,000 per offense, together with the taxable costs of action. Each day that the violation exists shall constitute a separate offense.
- D. In addition to the Corporation Counsel having the authority to pursue compliance per Subsection B above, the designated staff of the Land Use Planning and Zoning Department shall have the authority to and may prepare, sign and issue citations in order to commence action to achieve compliance with the provisions of this chapter.

**§ 338-68. Stop-work orders.**

- A. No land use permit obtained. When the Land Use Planning and Zoning Department is notified or becomes aware of any activity in violation of the provisions of this chapter by or under the direction of the landowner that requires issuance of a land use permit pursuant to this chapter, and such a permit has not been obtained, the Land Use Planning and Zoning Department may issue a stop-work order requiring any such activity to be immediately stopped and enjoined.
- B. Land use permit obtained. When the Land Use Planning and Zoning Department is notified or becomes aware of any activity in violation of the provisions of this chapter by or under the direction of the landowner for which a land use permit was issued and the actual activity deviates from that land use permit, the Land Use Planning and Zoning Department may issue a stop-work order requiring the activity to be immediately stopped and enjoined.
- C. The stop-work order shall be mailed to the subject landowner's property tax bill mailing address or the mailing address as stated on the land use permit application and/or to any person signing the land use permit application.
- D. The stop-work order card issued and posted by the Land Use Planning and Zoning Department shall be posted at the subject site in plain view from a nontrespass location off the subject property. A stop-work order card shall remain posted until compliance of the violation occurs.
- E. An action filed pursuant to the Board of Adjustment or to any court shall stop work during and until the final outcome of the action has been reached or until so ordered by a Court of appropriate jurisdiction.

**§ 338-69. Injunctions.**

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

**338-70. (Reserved)**

**ARTICLE XII  
Fees**

**§ 338-71. Fees.**

The following fees shall be paid to Green Lake County at the Land Use Planning and Zoning Department at the time of application for each service requested as listed below to defray the cost of administration, investigation, advertising and processing:

A. Land use permit based on construction value of project:

(1) Fee.

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

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

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

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

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

**ARTICLE XIII**  
**Definitions**

**338-75. Word usage and 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 “may” is permissive, and the word "shall" is mandatory, not discretionary. All distances unless otherwise specified shall be measured horizontally.

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

**ACCESS SITE** – An area of land that is contiguous to a body of water (lake, pond, flowage, river or stream) that provides a means of access to the water from backlot development.

**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.

**BUILDING ENVELOPE** - means the three dimensional space within which a structure is built.

**COUNTY ZONING AGENCY** - means that committee or commission created or designated by the county board under § 59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning and for the purpose of this chapter is the Green Lake County Land Use Planning and Zoning Committee.

**DEPARTMENT** - means the Wisconsin Department of Natural Resources.

**DEVELOPMENT** - means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.

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

**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 Chapter NR 116, Wis. Adm. Code.

**FOOTPRINT** – means the area of land that is directly below and shares the same perimeter as a structure above it.

**GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES** - means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

**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 surfaces such as but not limited to rooftops, sidewalks, driveways, parking lots, and streets.

**LAND USE PLANNING AND ZONING DEPARTMENT** – Shall mean the County department responsible for administration and enforcement of the provisions of this chapter being, the department director, code enforcement officer(s) and administrative assistant.

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

**MAINTENANCE AND REPAIR** - includes activities such as but not limited to interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components; and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.

**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.

**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 §281.31(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under § 59.692, Wis. Stats, and Chapter NR 115, Wis. Adm. Code, do not apply to 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
- (c) Such lands are maintained in nonstructural agricultural use.

**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.

**PARCEL** – An area of unplatted contiguous land having a boundary description duly recorded in the Register of Deeds office that identifies the boundaries of a specific property.

**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.

**REPLACEMENT CONSTRUCTION** - in which the principle building or portion thereof is torn down and replaced by a new structure or building or portion thereof.

**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.

**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.

**SHORELAND BUFFER, PRIMARY** – A vegetated buffer between the secondary shoreland buffer and the ordinary high water mark.

**SHORELAND BUFFER, SECONDARY** – A vegetated buffer landward of the primary buffer.

**SHORELAND SETBACK** or **SHORELAND SETBACK AREA** – S. 59.692 (1)(bn) means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of buildings or structures has been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.

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

**SPECIAL EXCEPTION (CONDITIONAL USE)** - means a use which is permitted by this chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the appropriate authority.

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

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

**STRUCTURE, BUILDING** - Any structure having a roof supported by columns or walls built for the support, shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials, or property of any kind.

**STRUCTURE OR USE, PRINCIPAL** - The main structure or use on a lot or parcel, intended for primary use as permitted by the regulations of the district in which it is located. A lot or parcel on which more than one principal use is located may have more than one principal structure, if allowed by the ordinance standards regulating the principal use(s).

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

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

**VARIANCE** - means an authorization granted by the board of adjustment, when criteria are met, to deviate from the strict interpretation of the standards of an ordinance.

**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.

## Appendix A

| <b>Shoreland Zone Determinations</b>   |                            |                                    |
|--|----------------------------|------------------------------------|
| <b>Lakes, Ponds and Flowages</b>   | <b>Navigability</b>        | <b>Extent of Shoreland</b>         |
| Natural lake or pond with a defined bed and bank that is navigable-in-fact (including bodies of water called "sloughs" that are actually separate lakes or ponds)  | Navigable and public       | 1000 feet from OHWM                |
| Glacial pothole lake that is navigable-in-fact   | Navigable and public       | 1000 feet from OHWM                |
| Man-made agricultural pond that is navigable-in-fact and not connected to navigable waters*  | Non-navigable and private  | None                               |
| Man-made non-agricultural pond that is navigable-in-fact and connected to waterway that is navigable-in-fact   | Navigable and public       | 1000 feet from OHWM                |
| Man-made non-agricultural pond that is navigable-in-fact and constructed prior to 1963 revision of s. 30.19, Wis. Stats., with (a) no connection or (b) a non-navigable connection to waterway that is navigable-in-fact | Non-navigable and private* | None                               |
| Man-made non-agricultural pond that is navigable-in-fact and within 500 feet of the OHWM of a navigable waterway and made public as a condition of a Wis-DNR Chapter 30 permit.  | Navigable and public       | 1000 feet from OHWM                |
| Man-made non-agricultural pond that is navigable-in-fact, more than 500 feet from OHWM of waterway that is navigable-in-fact and is not connected to waterway  | Non-navigable and private* | None                               |
| Flowage that is navigable-in-fact & created by a dam on a navigable waterway   | Navigable and public       | 1000 feet from OHWM or floodplain  |
| Flowage that is navigable-in-fact, created by a dam on a non-navigable waterway and authorized by s. 30.19, Wis. Stats.  | Navigable and public       | 1000 feet from OHWM or floodplain  |
| Flowage that is navigable-in-fact and created by a dam on a non-navigable waterway, but not authorized by s. 30.19, Wis. Stats.  | Non-navigable and private* | None                               |
| Inner harbors, turning basins, waterways, slips and canals created by a municipality under s. 30.10, Wis. Stats., on a navigable lake, pond, or flowage  | Navigable and public       | 1000 feet from OHWM or floodplain  |
| Lake, pond or flowage that is navigable-in-fact and enclosed pursuant to s. 30.196, Wis. Stats,  | Navigable and public       | 1000 feet from OHVVM or floodplain |

| <b>Shoreland Zone Determinations</b>   |                            |                                  |
|--|----------------------------|----------------------------------|
| <b>Rivers and Streams</b>  | <b>Navigability</b>        | <b>Extent of Shoreland</b>       |
| Natural stream with a defined bed and bank that is navigable-in-fact   | Navigable and public       | 300 feet from OHWM or floodplain |
| Non-navigable stream   | Non-navigable and private  | None                             |
| Agricultural drainage ditch that is navigable-in-fact and has navigable stream history   | Navigable and public       | 300 feet from OHWM or floodplain |
| Agricultural drainage ditch that is navigable-in-fact, no stream history and adjacent shoreland has structures   | Naigable and public        | 300 feet from OHWM or floodplain |
| Agricultural drainage ditch that is navigable-in-fact, no stream history, and adjacent shoreland is maintained in non-structural agricultural uses   | Non-navigable and private* | None                             |
| Non-agricultural drainage ditch or channel that is navigable-in-fact, constructed since the 1963 revision of s. 30.19, Wis. Stats., and ultimately connected to a navigable lake, pond, or flowage | Navigable and public       | 300 feet from OHWM or floodplain |
| Slough that is navigable-in-fact on a navigable stream   | Navigable and public       | 300 feet from OHWM or floodplain |
| Inner harbors, turning basins, waterways, slips and canals created by a municipality under s. 30.10, Wis. Stats., on a navigable stream  | Navigable and public       | 300 feet from OHWM or floodplain |
| Non-agricultural drainage ditch or channel that is navigable-in-fact, constructed since the 1963 revision of s. 30.19, Wis. Stats., and ultimately connected to a navigable stream                 | Navigable and public       | 300 feet from OHWM or floodplain |
| Stream that is navigable-in-fact and enclosed pursuant to s. 30.196, Wis. Stats.   | Navigable and public       | 300 feet from OHWM or floodplain |