

1 Chapter 45 - SHORELAND PROTECTION ORDINANCE

2 New language = yellow

3 Removed language = green and strike through

4 Grey = notes/comments/questions from staff – not part of the ordinance language

5 ARTICLE I. - STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

6 Sec. 45-1. - Statutory authorization.

7 This ordinance is adopted pursuant to the authorization in Wis. Stats. § 59.692 to implement Wis.
8 Stats. §§ 59.692 and 281.31.

9 (Res. No. 2017-05, 2-23-2017)

10 Sec. 45-2. - Finding of fact.

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

17 (Res. No. 2017-05, 2-23-2017)

18 Sec. 45-3. - Purpose and intent.

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

21 (1) *Further the maintenance of safe and healthful conditions and prevent and control water pollution*
22 *through:*

23 a. Limiting structures to those areas where soil and geological conditions will provide a safe
24 foundation.

25 b. Establishing minimum lot sizes to provide adequate area for private on-site wastewater
26 treatment systems (POWTS).

27 c. Controlling filling and grading to prevent soil erosion problems.

28 d. Limiting impervious surfaces to control runoff which carries pollutants.

29 (2) *Protect spawning grounds, fish and aquatic life through:*

30 a. Preserving wetlands and other fish and aquatic habitat.

31 b. Regulating pollution sources.

32 c. Controlling shoreline alterations, dredging and lagooning.

33 (3) *Control building sites, placement of structures and land uses through:*

34 a. Prohibiting certain uses detrimental to the shoreland-wetlands.

35 b. Setting minimum lot sizes and widths.

- 1 c. Setting minimum building setbacks from waterways.
- 2 d. Setting the maximum height of near shore structures.
- 3 (4) *Preserve and restore shoreland vegetation and natural scenic beauty through:*
- 4 a. Restricting the removal of natural shoreland cover.
- 5 b. Preventing shoreline encroachment by structures.
- 6 c. Controlling shoreland excavation and other earth moving activities.
- 7 d. Regulating the use and placement of boathouses and other structures.

8 (Res. No. 2017-05, 2-23-2017)

9 Sec. 45-4. - Title.

10 Shoreland Protection Ordinance for Burnett County, Wisconsin.

11 (Res. No. 2017-05, 2-23-2017)

12 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.01.

13 Secs. 45-5—45-20. - Reserved.

14 ARTICLE II. - GENERAL PROVISIONS

15 Sec. 45-21. - Areas to be regulated.

16 Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the
17 unincorporated areas of Burnett County which are:

- 18 (1) Within 1,000 feet of the ordinary high water mark (OHWM) of navigable lakes, ponds or flowages.
- 19 (2) Within 300 feet of the ordinary high water mark (OHWM) of navigable rivers or streams, or to the
20 landward side of the floodplain as mapped, whichever distance is greater.
- 21 (3) The provisions of this chapter apply to regulation of the use and development of unincorporated
22 shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and,
23 when Wis. Stats. § 13.48(13) applies, state agencies are required to comply with, and obtain all
24 necessary permits under, local shoreland ordinances. The construction, reconstruction,
25 maintenance or repair of state highways and bridges carried out under the direction and
26 supervision of the Wisconsin Department of Transportation (WisDOT) is not subject to local
27 shoreland zoning ordinances if Wis. Stats. § 30.2022(1m) applies. Shoreland zoning
28 requirements in annexed or incorporated areas are provided in Wis. Stats. §§ 61.353 and 62.233.
29 Error in DNR model ordinance, has 30.2022(1), should be (1m)
- 30 (4) Determinations of navigability and ordinary high water mark (OHWM) location shall initially be
31 made by the zoning administrator or other designated zoning staff. When questions arise, the
32 zoning administrator or other designated zoning staff shall contact the appropriate office of the
33 department for a final determination of navigability or ordinary high water mark (OHWM). The
34 county may work with Wisconsin licensed professional land surveyors with regard to Wis. Stats.
35 § 59.692(1h).
- 36 (5) Under Wis. Stats. § 281.31(2m), notwithstanding any other provision of law or administrative rule
37 promulgated thereunder, this shoreland zoning ordinance does not apply to:
38 a. Lands adjacent to farm drainage ditches if:

- 1 1. Such lands are not adjacent to a natural navigable stream or river;
- 2 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams
- 3 before ditching; and
- 4 b. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention
- 5 basins that are not hydrologically connected to a natural navigable water body.

6 (Res. No. 2017-05, 2-23-2017)

7 **State Law reference**— Wis. Admin. Code §§ NR 115.02, 115.03(8).

8 Sec. 45-22. - Shoreland-wetland maps.

9 The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural
10 Resources (DNR) Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at
11 <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>
12 <https://dnrmaps.wi.gov/H5/?viewer=SWDV>

13 (Res. No. 2017-05, 2-23-2017)

14 Sec. 45-23. - Compliance.

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

22 (Res. No. 2017-05, 2-23-2017)

23 Sec. 45-24. - Municipalities and state agencies regulated.

24 Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply
25 with this ordinance and obtain all necessary permits. State agencies are required to comply when Wis.
26 Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and
27 bridges by the Wisconsin Department of Transportation (WisDOT) are exempt when Wis. Stats. §
28 30.2022(1m) applies. Error in DNR model ordinance, has 30.2022(1), should be (1m)

29 (Res. No. 2017-05, 2-23-2017)

30 Sec. 45-25. - Abrogation and greater restrictions.

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

37 (1) This ordinance shall not require approval or be subject to disapproval by any town or town board.

- 1 (2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any
2 amendments thereto, the town ordinance continues in all respects to the extent of the greater
3 restrictions but not otherwise.
- 4 (3) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions,
5 covenants or easements. However, where this ordinance imposes greater restrictions, the
6 provisions of this ordinance shall prevail.
- 7 (4) The following provisions of the Burnett County Ordinances are hereby incorporated by reference.
8 These provisions shall only apply to the shoreland area where they impose greater restrictions
9 than this ordinance otherwise imposes.
- 10 (5) This ordinance may establish standards to regulate matters that are not regulated in Wis. Admin.
11 Code § NR 115, but that further the purposes of shoreland zoning as described in section 45-3 of
12 this ordinance.
- 13 (6) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that
14 requires any of the following:
- 15 a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation
16 requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or
17 regulates outdoor lighting in shorelands if the lighting is designed or intended for residential
18 use.
- 19 b. Requires any inspection or upgrade of a structure before the sale or other transfer of the
20 structure may be made.
- 21 (7) The construction and maintenance of a facility is considered to satisfy the requirements of a
22 shoreland zoning ordinance if:
- 23 a. The department has issued all required permits or approvals authorizing the construction or
24 maintenance under Wis. Stats. ch. 30, 31, 281, or 283.

25 (Res. No. 2017-05, 2-23-2017)

26 **State Law reference**— Similar provisions, Wis. Stats. §§ 59.692(1d)(b), (1k)(a)1, (2)(a), (2)(b),
27 (5), and (7).

28 Sec. 45-26. - Interpretation.

29 In their interpretation and application, the provisions of this ordinance shall be liberally construed in
30 favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin
31 Statutes. Where a provision of this ordinance is required by statute and a standard in Wis. Admin. Code ch.
32 NR 115, and where the ordinance provision is unclear, the provision shall be interpreted in light of the
33 statute and Wis. Admin. Code ch. NR 115 standards in effect on the date of the adoption of this ordinance
34 or in effect on the date of the most recent text amendment to this ordinance.

35 (Res. No. 2017-05, 2-23-2017)

36 **State Law reference**— Similar provisions, Wis. Stats. § 59.69(13).

37 Sec. 45-27. - Severability.

38 If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent
39 jurisdiction, the remainder of this ordinance shall not be affected.

40 (Res. No. 2017-05, 2-23-2017)

1 Secs. 45-28—45-40. - Reserved.

2 ARTICLE III. - SHORELAND-WETLAND DISTRICT¹¹

3 Footnotes:

4 --- (1) ---

5 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.04.

6 Sec. 45-41. - Designation.

7 This district shall include all shorelands within the jurisdiction of this ordinance which are designated
8 as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department
9 of Natural Resources (DNR) Surface Water Data Viewer.

10 (1) *Locating shoreland-wetland boundaries.* Where an apparent discrepancy exists between the
11 shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field
12 conditions, the county shall contact the Department to determine if the map is in error. If the
13 Department determines that a particular area was incorrectly mapped as wetland or meets the
14 wetland definition but was not shown as wetland on the map, the county shall have the authority
15 to immediately grant or deny a shoreland zoning permit in accordance with the applicable
16 regulations based on the Department determination as to whether the area is wetland. In order to
17 correct wetland mapping errors on the official zoning map, an official zoning map amendment
18 must be initiated within a reasonable period of time.

19 (Res. No. 2017-05, 2-23-2017)

20 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.04(b)2.note.

21 Sec. 45-42. - Purpose.

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

26 (Res. No. 2017-05, 2-23-2017)

27 Sec. 45-43. - Permitted uses.

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

- 31 (1) Activities and uses which do not require the issuance of a zoning **and**/or land use permit, but
32 which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or
33 excavating:
- 34 a. Hiking, fishing, trapping, hunting, swimming, and boating;
 - 35 b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits,
36 and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - 37 c. The pasturing of livestock;

- 1 d. The cultivation of agricultural crops;
- 2 e. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
- 3 f. The construction or maintenance of duck blinds.
- 4 (2) Uses which do not require the issuance of a zoning **and**/or land use permit and which may include
- 5 limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent
- 6 specifically provided below:
- 7 a. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry
- 8 conditions that would have an adverse impact on silvicultural activities if not corrected;
- 9 b. The cultivation of cranberries including flooding, dike and dam construction or ditching
- 10 necessary for the growing and harvesting of cranberries;
- 11 c. The maintenance and repair of existing agricultural drainage systems including ditching,
- 12 tiling, dredging, excavating and filling necessary to maintain the level of drainage required to
- 13 continue the existing agricultural use. This includes the minimum filling necessary for
- 14 disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is
- 15 placed on existing spoil banks where possible;
- 16 d. The construction or maintenance of fences for the pasturing of livestock, including limited
- 17 excavating and filling necessary for such construction or maintenance;
- 18 e. The construction or maintenance of piers, docks or walkways built on pilings, including limited
- 19 excavating and filling necessary for such construction and maintenance; and
- 20 f. The maintenance, repair, replacement or reconstruction of existing town and county highways
- 21 and bridges, including limited excavating and filling necessary for such maintenance, repair,
- 22 replacement or reconstruction.
- 23 (3) Uses which require the issuance of a zoning **and**/or land use permit and which may include
- 24 limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent
- 25 specifically provided below:
- 26 a. The construction and maintenance of roads which are necessary to conduct silvicultural
- 27 activities or agricultural cultivation, provided that:
- 28 1. The road cannot as a practical matter be located outside the wetland;
- 29 2. The road is designed and constructed to minimize adverse impact upon the natural
- 30 functions of the wetland enumerated in section 45-45(b);
- 31 3. The road is designed and constructed with the minimum cross-sectional area practical
- 32 to serve the intended use; and
- 33 4. Road construction activities are carried out in the immediate area of the roadbed only.
- 34 b. The construction or maintenance of nonresidential buildings, provided that:
- 35 1. The building is essential for and used solely in conjunction with the raising of waterfowl,
- 36 minnows or other wetland or aquatic animals; or some other use permitted in the
- 37 shoreland-wetland district;
- 38 2. The building cannot, as a practical matter, be located outside the wetland;
- 39 3. Such building is not designed for human habitation and does not exceed 500 square
- 40 feet in floor area; and
- 41 4. Only limited filling or excavating necessary to provide structural support for the building
- 42 is authorized.
- 43 c. The establishment of public and private parks and recreation areas, natural and outdoor
- 44 education areas, historic and scientific areas, wildlife refuges, game bird and animal farms,

- 1 fur animal farms, fish hatcheries, and public boat launching ramps and attendant access
2 roads, provided that:
- 3 1. Any private development is used exclusively for the permitted use and the applicant has
4 received a permit or license under Wis. Stats. ch. 29 where applicable;
 - 5 2. Filling or excavating necessary for the construction or maintenance of public boat
6 launching ramps or attendant access roads is allowed only where such construction or
7 maintenance meets the criteria in section ~~45-433(3)a~~ 45-43(3)a.; and
 - 8 3. Ditching, excavating, dredging, or dike and dam construction in public and private parks
9 and recreation areas, natural and outdoor education areas, historic and scientific areas,
10 wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is
11 allowed only for the purpose of improving wildlife habitat and to otherwise enhance
12 wetland values.
- 13 d. The construction or maintenance of electric, gas, telephone, water and sewer transmission
14 and distribution facilities, by public utilities and cooperative associations organized for the
15 purpose of producing or furnishing heat, light, power or water to their members and the
16 construction or maintenance of railroad lines provided that: In 2016 I tried to add fiber optic
17 to this list, however was told by DNR staff that Wis. Admin Code § NR 115.04(3)(j) prohibits
18 any other items from being added to this exemption.
- 19 1. The transmission and distribution facilities and railroad lines cannot, as a practical
20 matter, be located outside the wetland;
 - 21 2. Such construction or maintenance is done in a manner designed to minimize adverse
22 impact upon the natural functions of the wetland enumerated in section 45-45(b).

23 (Res. No. 2017-05, 2-23-2017)

24 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.04(3).

25 Sec. 45-44. - Prohibited uses.

26 Any use not listed in sections ~~45-433(1)~~ 45-43(1), (2) or (3) is prohibited, unless the wetland or portion
27 of the wetland has been rezoned by amendment of this ordinance in accordance with section 45-45 of this
28 ordinance and Wis. Stats. 59.69(5)(e).

29 (Res. No. 2017-05, 2-23-2017)

30 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.04(4).

31 Sec. 45-45. - Rezoning of lands in the shoreland-wetland district.

32 (a) For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the
33 appropriate office with the Department shall be provided with the following:

- 34 (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this
35 ordinance, within five days of the filing of such petition with the county clerk. Such petition shall
36 include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance
37 describing any proposed rezoning of a shoreland-wetland;
- 38 (2) Written notice of the public hearing to be held on a proposed amendment at least ten days prior to
39 such hearing;

- 1 (3) A copy of the county zoning agency's findings and recommendations on each proposed
 2 amendment within ten days after the submission of those findings and recommendations to the
 3 county board; and
- 4 (4) Written notice of the county board's decision on the proposed amendment within ten days after it
 5 is issued.
- 6 (b) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed
 7 rezoning may result in a significant adverse impact upon any of the following:
- 8 (1) Storm and floodwater storage capacity;
- 9 (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge
 10 of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- 11 (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would
 12 otherwise drain into navigable waters;
- 13 (4) Shoreline protection against soil erosion;
- 14 (5) Fish spawning, breeding, nursery or feeding grounds;
- 15 (6) Wildlife habitat; or
- 16 (7) Wetlands both within the boundary of designated areas of special natural resource interest and
 17 those wetlands which are in proximity to or have a direct hydrologic connection to such designated
 18 areas as defined in Wis. Admin Code § NR 103.04, which can be accessed at the following web
 19 site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>,
 20 docs.legis.wisconsin.gov/code/admin_code/nr/100/103.
- 21 (c) If the Department notifies the county zoning agency that a proposed text or map amendment to the
 22 shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the
 23 criteria listed in section 45-45(b) of this ordinance, that amendment, if approved by the county board,
 24 shall contain the following provision:
- 25 "This amendment shall not take effect until more than 30 days have elapsed after written notice of the
 26 county board's approval of this amendment is mailed (who and where do we mail it too?) to the
 27 Department of Natural Resources (DNR). During that 30-day period the Department of Natural
 28 Resources (DNR) may notify the county board that it will adopt a superseding shoreland ordinance for
 29 the county under Wis. Stats. § 59.692(6). If the Department does so notify the county board, the effect
 30 of this amendment shall be stayed until the Wis. Stats. § 59.692(6) adoption procedure is completed
 31 or otherwise terminated."

32 (Res. No. 2017-05, 2-23-2017)

33 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.04(2).

34 Secs. 45-46—45.60. - Reserved.

35 ARTICLE IV. - LAND DIVISION REVIEW AND SANITARY REGULATIONS^[2]

36 Footnotes:

37 --- (2) ---

38 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(2).

39 Sec. 45-61. - Land division review.

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

- 4 (1) Hazards to the health, safety or welfare of future residents.
- 5 (2) Proper relationship to adjoining areas.
- 6 (3) Public access to navigable waters, as required by law.
- 7 (4) Adequate stormwater drainage facilities.
- 8 (5) Conformity to state law and administrative code provisions.

9 (Res. No. 2017-05, 2-23-2017)

10 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(2).

11 Sec. 45-62. - Planned unit development (PUD).

12 (a) *Purpose.* The planned unit development is intended to permit smaller non-riparian lots where the
13 physical layout of the lots is so arranged as to better assure the control of pollution and preservation
14 of groundcover than would be expected if the lots were developed with the normal lot sizes and
15 setbacks and without special conditions placed upon the planned unit development at the time of its
16 approval. A condition of all planned residential unit development is the preservation of certain open
17 space, preferably on the shoreland, in perpetuity.

18 (b) *Requirements for planned unit development.* The county land use and information committee (LUIC)
19 may at its discretion, upon its own motion or upon petition, approve a planned unit development overlay
20 district upon finding, after a public hearing, that all of the following facts exist:

21 (1) *Area.* The area proposed for the planned unit development shall be at least five acres in size or
22 have a minimum of 300 feet of frontage on a navigable water. The area proposed for home sites
23 is located in a district that permits residential use. Gross project area shall include total project
24 area less any areas below the ordinary high water mark (OHWM) of navigable waters and may
25 include lands in more than one zoning district.

26 (2) *Lots.* Any proposed lot in the planned unit development that does not meet the minimum size
27 standards of sections 45-82 and 45-83 shall be a non-riparian lot.

28 (3) *Lot sizes, widths, setbacks, and vegetation removal.* When considering approval of a planned unit
29 development the governing body shall consider whether proposed lot sizes, widths, and setbacks
30 are of adequate size and distance to prevent pollution or erosion along streets or other public
31 ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of
32 minimizing adverse impacts of development. Shore cover provisions in section 45-212 and 45-
33 213 shall apply except that maximum width of a lake frontage opening shall be 100 feet and
34 minimum vegetative buffer depth shall be increased to offset the impact of the proposed
35 development. Must have minimum setbacks of ten feet to side lot lines, 30 feet to front lot lines,
36 40 feet to rear lot lines and 40 feet to wetlands.

37 (4) *Pollution and erosion control.* The location and nature of the private on-site wastewater treatment
38 systems (POWTS), which will serve the home sites individually or collectively, are in compliance
39 with the county sanitary code and Wis. Admin. Code SPS 383. Erosion control shall be
40 designed/planned to minimize pollution and to follow the standards outlined in Article XII below.

41 (5) *Open space.* At least 50 percent of the project area shall be undivided and restricted in perpetuity
42 from further development. Open space shall be deed and plat restricted to nonstructural
43 agricultural, forestry, recreational or environmental protection uses except that non-habitable
44 accessory structures essential to the open space uses may be approved. A private on-site
45 wastewater treatment system (POWTS) may be located in such an area provided no suitable site

1 is available on the lot served by the system. Open space shall be contiguous. In this section
2 contiguous shall mean at least 33 feet in width. Any restriction placed on use of lands, which is
3 required by this ordinance, or which was placed as a condition of approval of a planned residential
4 development shall vest in the county the right to enforce the restriction against anyone who has
5 or acquires an interest in the land subject to the restriction. If the open space is to be held in
6 common by owners of lots in the development, a homeowner's association or similar legally
7 constituted body shall be created to maintain it. Open space may be:

8 a. Dedicated to the public. Land dedicated to the public must be accepted by action of the
9 governing body of the accepting unit of government.

10 b. Retained by the former owner, or held in individual ownership, while a nonprofit conservation
11 organization or other qualified organization holds a conservation easement prescribing the
12 acceptable uses for the common open space.

13 c. Held in common by the residents of the planned residential development.

14 d. Held as individual outlots by owners of the planned residential development.

15 e. Held by a nonprofit conservation organization acceptable to the county. The conveyance to the
16 nonprofit conservation organization must contain appropriate provisions for reversion in the
17 event that the organization becomes unwilling or unable to uphold the terms of the
18 conveyance.

19 (6) *Density*. The number of platted home sites shall not exceed 125 percent of those which would have
20 been possible if the same land were platted in accordance with the minimum lot sizes, setbacks,
21 widths and water frontage provided by the applicable provisions of this chapter, chapter 10,
22 chapter 22, chapter 30, chapter 58 and chapter 70 of the Burnett County Ordinances. This figure
23 shall be determined by use of the development yield analysis provided in the application and
24 approval process of the applicable chapters.

25 (7) *Design guidelines for approval*.

26 a. Roadways, lots and building envelopes shall be located in areas where they will have the
27 least effect on forests, environmentally sensitive areas, crop land, pasture, meadow, farm
28 buildings and historic structures, and where they will retain or enhance the visual character
29 of the rural landscape. However, in resolving conflicts between these interests, priority shall
30 be given to protection of waterways and their buffers, steep slopes, regulated floodplains
31 and avoidance of a fragmented landscape.

32 b. All residential lots and dwellings shall be encouraged into clusters. Residential clusters shall
33 be located to minimize negative impacts on the natural, scenic and cultural resources of the
34 site, and conflicts between incompatible uses.

35 (8) *Site development and land disturbing*.

36 a. Existing natural drainage ways shall be retained to the greatest extent possible.

37 b. Existing natural vegetation shall be preserved in areas where disturbance outside the
38 building envelope is not essential.

39 (c) *Application procedure and approval process for a planned residential development*.

40 (1) *Initial conference*. Before submitting a conditional use application for a planned residential
41 development, the subdivider shall schedule an appointment with the land use/zoning services
42 department staff to discuss the procedure for approval of a planned residential development,
43 including submittal requirements and design standards.

44 (2) *Initial application*. After the initial conference, the subdivider shall submit a conditional use
45 application and a series of maps and descriptive information to the land use/zoning services
46 department as required according to the following. Mapping for the initial application can be done
47 in any combination of features as long as individual map components can be distinguished and
48 the relationship between map components can be determined. Inventory and mapping of existing

- 1 resources including the following mapped at a scale of no less than one inch equals 50 feet
2 (unless a different scale is approved by the zoning administrator).
- 3 a. Land contours based at a minimum upon the 2015 most recent Burnett County Lidar with a
4 contour interval of no more than two feet.
- 5 b. United States Department of Agriculture (USDA) Natural Resource Conservation Service
6 soil type locations and characteristics. Location of bedrock and areas of high potential for
7 groundwater contamination should also be noted.
- 8 c. Hydrological characteristics, including surface water bodies, floodplains, wetlands,
9 groundwater recharge and discharge areas, natural swales, drainage ways and steep
10 slopes.
- 11 d. Land cover on the site, according to general cover type, including comments on the health
12 and condition of trees and other vegetation.
- 13 e. Current and past land use, all buildings and structures on the land, cultivated areas, paved
14 areas, and all encumbrances, such as easements and covenants. Any waste sites,
15 brownfields or waste disposal practices should shall also be disclosed.
- 16 f. Known critical habitats for rare, threatened or endangered species.
- 17 g. Views of the site from surrounding roads, and/or nearby elevated areas, indicating on the
18 map where photographs were taken.
- 19 h. Unique geological resources, such as rock outcrops or glacial features.
- 20 i. Cultural resources, if applicable, such as historic buildings, archaeological sites, and burial
21 sites.
- 22 j. All items listed in section 45-62(b).
- 23 (3) *Development yield analysis.* The subdivider shall submit a table showing the maximum number
24 of dwelling units that would be permitted under this chapter, consistent with the minimum lot size,
25 lot widths, setbacks and other provisions of this chapter, chapter 10, chapter 22, chapter 30,
26 chapter 58 and chapter 70 of the Burnett County Ordinances and compare it to the number of
27 dwellings proposed. Land that is undevelopable because of other laws and ordinances that
28 prohibit development in certain areas (e.g., floodways, wetlands) shall be excluded from the
29 development yield analysis.
- 30 (4) *Site analyses and concept plan.* Using the inventory provided in subsection (b) of this section,
31 the development yield analysis provided in subsection (c) of this section, and the design
32 standards in sections 30-425 through 30-427 of the Burnett County Ordinances, the subdivider
33 shall submit a concept plan including at least the following information at a scale of no less than
34 one inch equals 50 feet (unless a different scale is approved by the zoning administrator):
- 35 a. Open space areas indicating which area is to remain undeveloped.
- 36 b. Boundaries of areas to be developed and proposed general roadway and lot layout.
- 37 c. Number and type of housing units proposed.
- 38 d. Proposed methods for and location of water supply, stormwater management and sewage
39 treatment.
- 40 e. Inventory of preserved and disturbed natural features and prominent views.
- 41 f. Preliminary development envelopes showing areas for lawns, pavement, buildings and
42 grading.
- 43 g. Proposed methods of ownership and management of open space.
- 44 (5) *General location map.* The subdivider shall submit a map showing the general outlines of existing
45 buildings, land use, and natural features such as water bodies or wooded areas within 500 feet

1 of the parcel. This information ~~may~~ shall be presented on an aerial photograph at a scale of ~~no~~
 2 ~~less than~~ one inch equals 400 feet (unless a different scale is approved by the zoning
 3 administrator).

- 4 (6) *Review of initial application.* Within 30 days following the filing of a complete application for
 5 conditional use, the land use/zoning services department shall meet with the subdivider to review
 6 the application. Staff from appropriate state agencies may also be requested by the county to
 7 review the conditional use application. The land use/zoning services department shall make the
 8 determination of whether the application is complete. (For the purpose of this chapter, a complete
 9 application accepted by the land use and information committee (LUIC) may include a preliminary
 10 plat as provided for in the subdivision control ordinance codified in chapter 58 of the Burnett
 11 County Ordinances, which may be subject to modification through the public hearing process.)
- 12 (7) *[Scheduling of public hearing.]* Upon determination that the application is complete, the
 13 application will be scheduled for a public hearing for a conditional use permit as provided under
 14 article VIII of chapter 30 of the Burnett County Ordinances. (This public hearing may include
 15 review of the preliminary plat.) Copies of the petition and notice of the hearing shall also be sent
 16 to the appropriate office of the Department as described in section 45-505(b) of this ordinance.
- 17 (8) *Review of conditional use.* The conditional use application for a planned residential development
 18 shall be reviewed in accordance with the provisions of article VIII of chapter 30 of the Burnett
 19 County Ordinances, and the requirements of this ordinance. Approval of the conditional use
 20 application is required prior to the filing of the preliminary plat as required under the subdivision
 21 control ordinance codified in chapter 58 of the Burnett County Ordinances.
- 22 (9) *[Recommendations.]* The Burnett County Land Use and Information Committee (LUIC) report to
 23 the Burnett County Board shall reflect the recommendations of any federal, state or local agency
 24 with which the county zoning agency consults.
- 25 (10) *Findings and conditions of approval.* The county board shall make written findings as to the
 26 compliance or noncompliance of the proposed overlay district with each of the applicable
 27 requirements set forth in section 45-62(b). If the petition is granted in whole or in part, the county
 28 board shall attach such written conditions to the approval as are required by and consistent with
 29 section 45-62(b). The conditions of approval shall in all cases establish the specific restrictions
 30 applicable with regard to minimum lot sizes, width, setbacks, dimensions of vegetative buffer zone
 31 (BZ), dimensions of vegetation protection area (PA) and open space requirements.
- 32 (11) *Planning studies.* A landowner or petitioner may at their own expense develop the facts required
 33 to establish compliance with the provisions of section 45-62(b) or may be required to contribute
 34 funds to the county to defray all or part of the cost of such studies being undertaken by the county
 35 or any agency or person with whom the county contracts for such work.

36 (Res. No. 2017-05, 2-23-2017)

37 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a)4.

38 Sec. 45-63. - Sanitary regulations.

39 The county shall adopt sanitary regulations for the protection of health and the preservation and
 40 enhancement of water quality.

- 41 (1) Where public water supply systems are not available, private well construction shall be required
 42 to conform to Wis. Admin. Code ch. NR 812.
- 43 (2) Where a public sewage collection and treatment system is not available, design and construction
 44 of private on-site wastewater treatment system (POWTS) shall, prior to July 1, 1980, be required
 45 to comply with Wis. Admin. Code ch. SPS Comm 383, and after June 30, 1980, be governed by
 46 a private sewage system ordinance adopted by the county under Wis. Stats. § 59.70(5).

1 (Res. No. 2017-05, 2-23-2017)

2 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(3))

3 Secs. 45-64—45-80. - Reserved.

4 ARTICLE V. - MINIMUM LOT SIZE³

5 Footnotes:

6 --- (3) ---

7 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1).

8 Sec. 45-81. - Purpose.

9 Minimum lot sizes in the shoreland area shall be established to afford protection against danger to
10 health, safety and welfare, and protection against pollution of the adjacent and/or nearby body of water. In
11 calculating the minimum area or width of a lot, the beds of navigable waters shall not be included. The lot
12 or parcel must comply with all other Burnett County ordinance requirements which require larger lot sizes
13 or widths.

14 (Res. No. 2017-05, 2-23-2017)

15 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a).

16 Sec. 45-82. - Publically sewered riparian lots.

17 *Minimum area and width for each lot.* The minimum lot area shall be 10,000 square feet and the
18 minimum average lot width shall be 65 feet. The lot or parcel must comply with all other Burnett County
19 ordinance requirements which require larger lot sizes or widths.

20 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance
21 between side lot lines at the following locations:

- 22 a. The ordinary high water mark (OHWM).
- 23 b. The building setback line of 75 feet from the ordinary high water mark (OHWM). The setback
24 averaging line will not be used in this case.
- 25 c. The rear lot line. For lot width averaging purposes only, the definition of rear lot line is the
26 line opposite of the ordinary high water mark (OHWM). When there are two or more lines
27 opposite of the ordinary high water mark (OHWM), the shortest line will be used for averaging
28 purposes. When there is no line opposite of the ordinary high water mark (OHWM), then a
29 value of zero will be used for averaging purposes.

30 (Res. No. 2017-05, 2-23-2017)

31 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a)1.

32 Sec. 45-83. - Privately sewered riparian lots.

1 *Minimum area and width for each lot.* The minimum lot area shall be 20,000 square feet and the
2 minimum average lot width shall be 100 feet. The lot or parcel must comply with all other Burnett County
3 ordinance requirements which require larger lot sizes or widths.

4 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance
5 between side lot lines at the following locations:

- 6 a. The ordinary high water mark (OHWM).
- 7 b. The building setback line of 75 feet from the ordinary high water mark (OHWM). The setback
8 averaging line will not be used in this case.
- 9 c. The rear lot line. For lot width averaging purposes only, the definition of rear lot line is the
10 line opposite of the ordinary high water mark (OHWM). When there are two or more lines
11 opposite of the ordinary high water mark (OHWM), the shortest line will be used for averaging
12 purposes. When there is no line opposite of the ordinary high water mark (OHWM), then a
13 value of zero will be used for averaging purposes.

14 (Res. No. 2017-05, 2-23-2017)

15 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a)2.

16 Sec. 45-84. - Substandard lots.

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

- 20 (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by
21 plat or survey pursuant to Wis. Stats. § 236.
- 22 (2) The substandard lot or parcel has never been developed with one or more of its structures placed
23 partly upon an adjacent lot or parcel. Removing a structure or structures placed partly upon an
24 adjacent lot or parcel does not make the lots/parcels separate.
- 25 (3) The substandard lot or parcel is developed to comply with all other Burnett County ordinance
26 requirements.

27 *Note:* The intent of this provision is to allow lots that were legally created that currently do not meet
28 the minimum lot width and area requirements to be considered a building site provided all other Burnett
29 County ordinance requirements can be met. Substandard lots that have been reconfigured by a certified
30 survey map or consolidated into one legal description with the register of deeds (ROD), which result in a
31 larger (closer to conforming) lot should be allowed to be utilized as a building site. Additionally, lots that
32 have a legal description for each substandard lot on record with the register of deeds (ROD) but have one
33 tax parcel number assigned by the real property lister (RPL) or assessor for taxing/assessing purposes
34 should be considered separate building sites and should not be considered consolidated. Lots that have
35 had development over the lot lines shall be combined with a certified survey map or recorded plat prior to
36 new development occurring or within three months of the land use permit being issued.

37 (Res. No. 2017-05, 2-23-2017)

38 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a)3.

39 Sec. 45-85. - Other substandard lots.

1 Except for lots which meet the requirements of section 45-84, a building land use permit for the
2 improvement of a lot having lesser dimensions than those stated in sections 45-82, 45-83, 45-86 and 45-
3 87 shall be issued only if a variance is granted by the board of adjustment (BOA).

4 (Res. No. 2017-05, 2-23-2017)

5 Sec. 45-86. - Publically sewered non-riparian lots.

6 *Minimum area and width for each lot.* The minimum lot area shall be 10,000 square feet and the
7 minimum average lot width shall be 65 feet. The lot or parcel must comply with all other Burnett County
8 ordinance requirements which require larger lot sizes or widths.

9 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance
10 between side lot lines at the following locations:

- 11 a. *The front lot line.* For lot width averaging only, the definition of front lot line is the line which
12 abuts a road. For corner lots the higher ranking road will be considered the front. Ranking
13 highest to lowest is: federal road, state road, county road, town/village road, private road.
14 For corner lots where each road has the same ranking, then the shortest side line shall be
15 used for averaging purposes. When the lot has no road frontage, then the front will be
16 considered the side one which contains the access point to the lot.
- 17 b. The building setback line from the front lot line or road right-of-way, whichever is more
18 restrictive.
- 19 c. The rear lot line. For lot width averaging purposes only on non-riparian lots, the definition of
20 rear lot line is the line opposite the front lot line. When there are two or more lines opposite
21 of the front lot line, the shortest line will be used for averaging purposes. When there is no
22 line opposite of the front lot line, then a value of zero will be used for averaging purposes.

23 (Res. No. 2017-05, 2-23-2017)

24 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a)1.

25 Sec. 45-87. - Privately sewered non-riparian lots.

26 *Minimum area and width for each lot.* The minimum lot area shall be 20,000 square feet and the
27 minimum average lot width shall be 100 feet. The lot or parcel must comply with all other Burnett County
28 ordinance requirements which require larger lot sizes or widths.

29 (1) The width shall be calculated by averaging the measurements of the shortest horizontal distance
30 between side lot lines at the following locations:

- 31 a. The front lot line. For lot width averaging only, the definition of front lot line is the line which
32 abuts a road. For corner lots, the higher ranking road will be considered the front. Ranking
33 highest to lowest is: federal road, state road, county road, town/village road, private road.
34 For corner lots where each road has the same ranking, then the shortest side line shall be
35 used for averaging purposes. When the lot has no road frontage, then the front will be
36 considered the side one which contains the access point to the lot.
- 37 b. The building setback line from the front lot line or road right-of-way, whichever is more
38 restrictive.
- 39 c. The rear lot line. For lot width averaging purposes only on non-riparian lots, the definition of
40 rear lot line is the line opposite the front lot line. When there are two or more lines opposite
41 of the front lot line, the shortest line will be used for averaging purposes. When there is no
42 line opposite of the front lot line, then a value of zero will be used for averaging purposes.

1 (Res. No. 2017-05, 2-23-2017)

2 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(a)2.

3 **Sec. 45-88. – Lake access.** This section used to be in our ordinance, section 30-510, but was lost when
4 chapter 30 was split into 30 and 45.

5 All private lake accesses; access easements; or outlots, deeded or contracted accesses for the
6 purpose of lake access shall meet the following requirements.

7 (1) The access to a navigable waterway for backlot or off-lake development shall meet the minimum
8 lot and parcel size requirements of the zoning districts. A contiguous buffer area of 25 feet along
9 each side lot line running the full depth of the lot shall remain in its natural state. The vegetation
10 buffer zone (BZ) and vegetation protection area (PA) must be in compliance or brought into
11 compliance. The access and viewing corridor shall not exceed the required width.

12 (2) The number of single-family lots, building sites, single-family units or single-family condominium
13 units utilizing said access shall be limited to four.

14 (3) Only one (non-habitable) accessory building will be allowed on the lake access parcel; with proper
15 permits.

16 (4) No pit privy sanitary system allowed on this parcel. One private on-site wastewater treatment
17 system (POWTS) or one other type of county approved non-plumbing sanitary system (such as a
18 vault privy, composting toilet, or incinerating toilet) allowed on this parcel; with proper permits.

19 (5) The creation or use of land for a lake access shall be by conditional use only. The land use and
20 information committee (LUIC) shall consider the size, shape, and depth, present and potential use
21 of the lake, and the effect of private access on public rights in navigable waters.

22 Secs. 45-~~89~~89—45-100. - Reserved.

23 ARTICLE VI. - BUILDING SETBACKS⁴

24 Footnotes:

25 --- (4) ---

26 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(b).

27 Sec. 45-101. - Building setbacks.

28 Permitted building setbacks shall be established to conform to health, safety and welfare requirements,
29 preserve natural beauty, reduce flood hazards and avoid water pollution.

30 (Res. No. 2017-05, 2-23-2017)

31 Sec. 45-102. - Shoreland setbacks.

32 Unless exempt under section 45-102(1), or reduced under section 45-103, or increased under section
33 45-104, a setback of 75 feet from the ordinary high water mark (OHWM) of any navigable water to the
34 nearest part of a building or structure shall be required for all buildings and structures.

35 (1) *Exempt structures.* All of the following structures are exempt from the shoreland setback
36 standards in section 45-102:

- 1 a. Boathouses located entirely above the ordinary high water mark (OHWM) and entirely within
2 the access and viewing corridor (if within the vegetated buffer zone (BZ) or vegetation
3 protection area (PA)) that do not contain plumbing and are not used for human habitation.
4 The following standards apply to boathouses:
- 5 1. The construction or placement of a boathouse below the ordinary high water mark
6 (OHWM) of any navigable waters shall be prohibited.
 - 7 2. Boathouse shall be designed and constructed solely for the storage of boats and related
8 equipment.
 - 9 3. The boathouse shall not exceed 250 square feet in size (outside dimensions).
 - 10 4. One boathouse is permitted per buildable lot as an accessory structure. A land use
11 permit is required prior to construction.
 - 12 5. The siding and roofing color schemes shall be muted (non-reflective with dull intensity)
13 and shall only be shades of grey or brown.
 - 14 6. The boathouse shall have a gabled roof with a pitch that equals or exceeds a 4/12 rise
15 to run ratio but is not steeper than 6/12 rise to run ratio. The roof shall not be designed
16 or used as decks, observation platforms or for other similar uses.
 - 17 7. The boathouse shall not exceed one story.
 - 18 8. No attached/detached decks or patios will be allowed.
 - 19 9. The width of the boathouse, parallel to the shoreline, to length ratio shall not exceed 1:3
20 and shall not be less than 1:1.
 - 21 10. The boathouse framing shall only be built out of wood. No concrete or asphalt slabs
22 shall be allowed in the construction. Concrete footings may be used, but they must not
23 be exposed more than six inches above the outside grade.
 - 24 11. One garage style access door not exceeding ten feet in width and no less than eight
25 feet in width shall be installed on the boathouse. The garage style door shall be on the
26 water body side of the structure and may not contain windows.
 - 27 12. A maximum of ten square feet of window surface may be allowed on each of the three
28 sides that do not face the water body. No windows may be on the water body side of
29 the boathouse including in the garage door, or on the roof of the structure.
 - 30 13. One service/entry door not exceeding 36 inches in width shall be allowed per
31 boathouse. The service/entry door shall not be on the water body side of the boathouse.
 - 32 14. The width of the boathouse on the water body side shall not exceed 12 feet.
 - 33 15. Patio doors, fireplaces and other features inconsistent with the use of the structure
34 exclusively as a boathouse are not permitted.
 - 35 16. Any construction on slopes greater than 20 percent shall require a filling/grading permit
36 in conjunction with approval from the county land and water conservation division
37 department staff.
 - 38 17. No retaining walls shall be used in the construction.
 - 39 18. Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - 40 19. Boathouses must meet all other setbacks, such as; wetland, side lot line, front lot line,
41 rear lot line, property lines, road right-of-way and sanitary setbacks.
 - 42 20. A set of construction plans shall be submitted as part of the application.
 - 43 21. A map of survey shall be submitted with the land use permit application to demonstrate
44 the location of the proposed structure along with floodplain information and required
45 setback information.

- 1 22. Applicant must obtain any **relative required** permits from their town before construction.
- 2 23. An agreement to abide by these requirements shall be notarized and recorded with
- 3 the register of deeds (**ROD**) office prior to the **land use** permit being issued. The
- 4 agreement shall be binding on all future owners and shall run with the land until the
- 5 boathouse is completely removed and the site is restored to a natural state.
- 6 b. The roof of an existing boathouse may be used as a deck provided that:
- 7 1. The existing boathouse has a flat roof.
- 8 2. The existing boathouse roof has no side walls or screens.
- 9 3. The **existing** boathouse was legally constructed.
- 10 4. The roof may have a railing that meets the department of safety and professional
- 11 services (**DSPS**) standards.
- 12 5. The existing roof material is to be used as the deck surface. This provision does not
- 13 allow a deck to be constructed over the existing roof surface.
- 14 c. Open-sided and screened structures such as gazebos, decks, patios and screen houses in
- 15 the shoreland setback area that satisfy the requirements in Wis. Stats. § 59.692(1v):
- 16 1. The part of the structure that is nearest to the water is located at least 35 feet landward
- 17 from the ordinary high water mark (**OHWM**).
- 18 2. The floor area of all the structures in the shoreland setback area (**within the 75 foot**
- 19 **setback**) will not exceed 200 square feet.
- 20 In calculating this square footage, boathouses, walkways, stairways or rail systems that
- 21 are necessary to provide pedestrian access to the shoreline shall be excluded.
- 22 3. The structure that is the subject of the request for special zoning permission has no
- 23 sides or has open or screened sides. **Only allowed minor framing for the screens and**
- 24 **roof support.** In 2016 I tried to get standard height knee walls included, but the DNR
- 25 said that was not allowed.
- 26 4. The county must approve a plan that will be implemented by the owner of the property
- 27 to preserve or establish a vegetative buffer zone that covers at least 70 percent of the
- 28 half of the shoreland setback area that is nearest to the water. **Can also be stated as**
- 29 **70 percent of the area within 37.5 feet of the ordinary high water mark (OHWM).**
- 30 5. An enforceable affidavit must be recorded with the register of deeds (**ROD**) prior to the
- 31 **land use** permit being issued acknowledging the limitations on vegetation.
- 32 6. All other setback requirements apply, such as wetland, side lot line, front lot line, rear
- 33 lot line, property lines, road right-of-way and sanitary setbacks.
- 34 7. These structures are not exempt from floodplain requirements.
- 35 **8. A land use permit is required prior to construction.**
- 36 Note: The statutory requirements under Wis. Stats. § 59.692(1v) which require the
- 37 establishment of a vegetative buffer for the construction of open-sided structures is not
- 38 superseded by Wis. Stats. § 59.692(1f)(a).
- 39 d. **A broadcast signal receivers, including satellite dishes or antennas that are is** one meter or
- 40 less in diameter and satellite earth station antennas that **are is** two meters or less in diameter.
- 41 **The broadcast signal receiver shall be located entirely within the access and viewing corridor**
- 42 **or outside the vegetated buffer zone.** All other setback requirements apply, such as; wetland,
- 43 side lot line, front lot line, rear lot line, property lines, road right-of-way and sanitary setbacks.
- 44 The structure **does shall** not exceed 35 feet in height. **No land use permit is required.**

- 1 e. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well
2 pumphouse covers, private on-site wastewater treatment systems (POWTS) that comply
3 with Wis. Admin. Code ch. SPS 383, and other utility structures that have no feasible
4 alternative location outside of the minimum setback and that employ best management
5 practices to infiltrate or otherwise control storm water runoff from the structure. ~~The utility
6 structure shall be located entirely within the access and viewing corridor or outside the
7 vegetated buffer zone.~~ All other setback requirements apply, such as; wetland, side lot line,
8 front lot line, rear lot line, property lines, road right-of-way and sanitary setbacks. The
9 structure ~~does shall~~ not exceed 35 feet in height. ~~A land use permit might be required prior
10 to construction.~~
- 11 f. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the
12 shoreline and are a maximum of 60 inches in width. If a rail system and a stairway/walkway
13 are necessary (per section 45-502(12)) and desired on the same lot/parcel then they shall
14 be constructed adjacent and parallel to each other and shall not exceed 120 inches in width
15 at any point. The combined width of both structures will be measured from the outside edge
16 of the stairway/walkway to the outside edge of the rail system basket/platform. The
17 stairway/walkway or rail system structure shall be located entirely within the access and
18 viewing corridor or outside the vegetated buffer zone (BZ) and vegetation protection area
19 (PA). All other setback requirements apply, such as; wetland, side lot line, front lot line, rear
20 lot line, property lines, road right-of-way and sanitary setbacks. The structure ~~does shall~~ not
21 exceed 35 feet in height ~~or is no~~ and shall not be more than six feet above the existing grade
22 at any point. No roofs are allowed on walkways, stairways or rail systems. ~~No landscaping
23 allowed within 50 feet of the ordinary high water mark (OHWM). A land use permit is required
24 prior to construction.~~
- 25 1. ~~The structure shall be located to minimize earth disturbing activities and shoreline
26 vegetation removal during construction. This provision used to be in our
27 ordinance, section 30-504(4)b, but was lost when chapter 30 was split into 30 and
28 45.~~
- 29 2. ~~Stairways or rail systems shall be supported on piles or footings. Other
30 construction methods such as steps excavated into the slope may be permitted
31 and will require plan and site review by county conservation division staff. This
32 provision used to be in our ordinance, section 30-504(4)g, but was lost when
33 chapter 30 was split into 30 and 45.~~
- 34 3. ~~One landing of up to 40 square feet per stairway, walkway or rail system is allowed,
35 however the square footage of the landing will be deducted from any square
36 footage allowed under Wis. Stats. § 59.692(1v) structures. This provision used to
37 be in our ordinance, section 30-504(4)h, but was lost when chapter 30 was split
38 into 30 and 45.~~
- 39 4. ~~Structures shall be inconspicuously colored. This provision used to be in our
40 ordinance, section 30-504(4)d, but was lost when chapter 30 was split into 30 and
41 45.~~
- 42 g. ~~Devices or systems used to treat runoff from impervious surfaces. The structure shall be
43 located entirely within the access and viewing corridor or outside the vegetated buffer zone.~~
44 All other setback requirements apply, such as; wetland, side lot line, front lot line, rear lot
45 line, property lines, road right-of-way and sanitary setbacks. The structure ~~does shall~~ not
46 exceed 35 feet in height at any point. ~~A land use permit might be required prior to
47 construction.~~
- 48 h. ~~A fence allowed under Wis. Stats. §§ 59.692(1n)(d)7. A land use permit is required prior to
49 construction. This is a recent state law (2021 WI Act 105) that allows some fences within
50 the lake setback, but they must be near a road.~~
- 51 i. ~~A bridge for which the department has issued a permit under Wis. Stats. §§ 30.123. This is
52 from Wis Stat 59.692(1n)(d)8~~

- 1 (2) *Existing exempt structures.* Existing exempt structures may be maintained, repaired, replaced,
2 restored, rebuilt and remodeled provided the activity does not expand the footprint, does not
3 change the existing use and does not go beyond the three-dimensional building envelope of the
4 existing structure. Counties may allow expansion of a structure beyond the existing footprint if the
5 expansion is necessary to comply with applicable state or federal requirements.

6 In 2016 I tried to get solar panels and other minor utilities added to this exemption. Such as install
7 solar panels on the roof, or an ac unit next to the dwelling; however was told by DNR that nothing
8 can be added to the items exempt from a shoreland setback.

9 *Note:* Wis. Stats. § 59.692(1k)(a)2m prohibits counties from requiring any approval or imposing any
10 fee or mitigation requirement for the activities specified in section 45-102(2). However, it is important to
11 note that property owners may be required to obtain permits or approvals and counties may impose fees
12 under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general
13 zoning, sanitary codes, building codes, or even stormwater erosion control.

14 (Res. No. 2017-05, 2-23-2017)

15 **State Law reference**— Similar provisions, Wis. Admin. Code §§ NR 115.05(1)(b)1 and 1m,
16 and Wis. Stats. §§ 59.692(1k)(a)2m and (1k)(a)(6).

17 Sec. 45-103. - Reduced principal structure setback.

18 A setback less than the 75 ~~foot~~ ~~foot~~ required setback from the ordinary high water mark (OHWM) shall
19 be permitted for a proposed principal structure (this is not allowed for additions to existing principal
20 structures, must be a new principal structure) and shall be determined as follows:

- 21 (1) Where there are existing principal structures on both sides, the setback shall equal the average
22 of the distances the two existing principal structures are set back from the ordinary high water
23 mark (OHWM) provided all of the following are met:
- 24 a. Both of the existing ~~legal~~ ~~legally constructed~~ principal structures are located on adjacent side
25 lots to the proposed principal structure.
 - 26 b. Both of the existing ~~legal~~ ~~legally constructed~~ principal structures are located within 250 feet
27 of the proposed principal structure and are the closest structures.
 - 28 c. Both of the existing ~~legal~~ ~~legally constructed~~ principal structures are located less than 75 feet
29 from the ordinary high water mark (OHWM).
 - 30 d. The average setback shall not be reduced to less than 35 feet from the ordinary high water
31 mark (OHWM) of any navigable water.

32 *Note:* Wis. Stats. § 59.692(1d)(a) requires counties to adopt the standards consistent with section ~~45-~~
33 ~~102(1)~~ 45-103(1) for reducing the shoreland setback.

34 (Res. No. 2017-05, 2-23-2017)

35 **State Law reference**— Similar provisions, Wis. Stats. § 59.692(1n).

36 Sec. 45-104. - Increased principal structure setback.

37 A setback greater than the required 75 feet from the ordinary high water mark (OHWM) may be
38 required for a proposed principal structure and determined as follows:

- 1 (1) Where there are existing principal structures on both sides, the setback shall equal the average
 2 of the distances the two existing principal structures are set back from the ordinary high water
 3 mark (OHWM) provided all of the following are met:
- 4 a. Both of the existing legal legally constructed principal structures are located on adjacent side
 5 lots to the proposed principal structure.
 - 6 b. Both of the existing legal legally constructed principal structures are located within 200 feet
 7 of the proposed principal structure.
 - 8 c. Both of the existing legal legally constructed principal structures are located greater than 75
 9 feet from the ordinary high water mark (OHWM).
 - 10 d. Both of the existing legal legally constructed principal structures were required to be located
 11 at a setback greater than 75 feet from the ordinary high water mark (OHWM).
 - 12 e. The increased setback does not apply if the resulting setback limits the placement to an area
 13 on which the structure cannot be built. Remove or modify this item?? What if I want a 50x50
 14 structure which can't meet these requirements, however a 30x50 structure would meet the
 15 requirements.

16 (Res. No. 2017-05, 2-23-2017)

17 **State Law reference**— Similar provisions, Wis. Stats. § 59.692(1n)(c).

18 Sec. 45-105. - Floodplain structures.

19 Buildings and structures to be constructed or placed in a floodplain shall be required to comply with
 20 any applicable floodplain zoning ordinance. Impossible for some of these to meet floodplain requirements,
 21 such as a walkway/stairway to a dock?

22 (Res. No. 2017-05, 2-23-2017)

23 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(b)2.

24 Sec. 45-106. - Road setbacks.

- 25 (a) All state and U.S. numbered highways are hereby designated class A highways. The setback line for
 26 class A highways and for any other roads designated as major roads on official maps in effect in the
 27 county shall be 66 feet from road right-of-way as established by a Wisconsin licensed professional
 28 land surveyor or 130 feet from centerline when no survey exists.
- 29 (b) All county trunk highways not otherwise designated as class A highways are hereby designated class
 30 B highways. The setback for class B highways and for roads designated as arterial roads on official
 31 maps in effect in the county shall be 42 feet from road right-of-way as established by a Wisconsin
 32 licensed professional land surveyor or 75 feet from centerline when no survey exists.
- 33 (c) All town roads not otherwise designated class A or class B highways are hereby designated class C
 34 highways. The setback for class C highways and for streets other than major and arterial roads
 35 designated as such on official maps in effect in the county shall be 30 feet from road right-of-way as
 36 established by a Wisconsin licensed professional land surveyor or 63 feet from centerline when no
 37 survey exists.
- 38 (d) A setback equal to the average setback of all existing principal buildings located within 300 feet of a
 39 proposed building site and on the same side of the road for class A, class B and class C highways,
 40 shall be permitted where three of these buildings do not conform to the appropriate setback line. If the

- 1 average is less than 25 feet, the proposed building shall be constructed no closer than 25 feet to the
2 right-of-way.
- 3 (e) Minor, readily removable structures, such as fences or signs permitted by this ordinance or other
4 Burnett County ordinances, may be placed within setback lines. When deemed necessary by the
5 county land use and information committee (LUIC) in connection with development such as highway
6 improvement programs, property owners and public utilities may be required to remove, at their own
7 expense and without right of compensation, any such structures erected within setback lines.
- 8 (f) Public utility equipment without permanent foundations are allowed, such as; overhead telephone,
9 overhead electric, open fences less than ten feet in height, underground telephone, underground
10 electric, underground fiber optic, underground gas, underground public sewer, underground public
11 water as long as they have approval from the department/agency who has oversight of the
12 highway/road that it will not be a safety hazard. Public utility equipment with foundations and roofed or
13 enclosed buildings must be at least ten feet from any property line and must have approval from the
14 department/agency who has oversight of the highway/road that it will not be a safety hazard. No roofed
15 or enclosed building shall be more than ten feet in height. When deemed necessary by the county land
16 use and information committee (LUIC) in connection with development such as highway improvement
17 programs, property owners and public utilities may be required to remove, at their own expense and
18 without right of compensation, any such structures erected within setback lines.
- 19 (g) Any proposed or planned roads (e.g., frontage roads, service roads, access roads, etc.) indicated in
20 the county land use/zoning maps shall require all buildings to meet the required setbacks designated
21 above. Any proposed or planned roads not designated shall be considered class C highways for
22 setback purposes.
- 23 (h) Structural setbacks from privately constructed roads (except individual driveways) shall be 40 feet
24 from the centerline of the road.
- 25 (i) Within the unincorporated village overlay district a minimum structural setback distance of ten feet
26 from the right-of-way line of any road or alley shall be maintained.
- 27 (1) Special structural setback reductions will be permitted within the unincorporated village overlay if
28 there are at least three existing principal buildings, built to less than the required setback (ten
29 feet), within 300 feet on either side of the proposed site, the reduced setback may be equal to but
30 no closer than the setback of the closest adjacent principal building.

31 (Res. No. 2017-05, 2-23-2017)

32 Sec. 45-107. - Rear setbacks.

33 Rear setbacks shall be 40 feet in all zoning districts except as listed in chapter 30.

34 (Res. No. 2017-05, 2-23-2017)

35 Sec. 45-108. - Side setbacks.

36 Side setbacks shall be ten feet in all zoning districts except those as listed in chapter 30.

37 (Res. No. 2017-05, 2-23-2017)

38 Sec. 45-109. - Wetland setbacks.

39 A setback of 40 feet from the wetland to the nearest part of a building or structure shall be required for
40 all buildings and structures unless exempt or reduced by other applicable regulations.

1 (Res. No. 2017-05, 2-23-2017)

2 Sec. 45-110. - Eave setbacks.

3 Standard eaves two feet or less in width will not apply to the setback requirements.

4 (Res. No. 2017-05, 2-23-2017)

5 Sec. 45-111. – Setbacks for deposition of human remains.

6 The site for the deposition of human remains shall meet the setback from the ordinary high water mark
7 (OHWM). This includes any above or below ground items and/or structures such as; grave, cremation
8 ashes, casket, vault, crypt, mausoleum, columbarium, headstone, plaque, marker, urn or monument. The
9 parcel must have the appropriate zoning district to allow for the deposition of human remains.

10 Secs. 45-111~~2~~.—45-130. - Reserved.

11 ARTICLE VII. - ACCESSORY USES AND STRUCTURES

12 Sec. 45-131. - Accessory uses and structures.

13 (a) Any structure shall conform to the setback and other dimensional requirements of the district within
14 which it is located, unless it is exempt structure under section 45-102(1) above.

15 (b) A single (one per lot/parcel) bunkhouse/temporary guest quarters will be permitted by land use permit
16 where:

17 (1) The bunkhouse/temporary guest quarters shall be located within or as part of an accessory
18 structure.

19 (2) The bunkhouse/temporary guest quarters shall not exceed 50 percent of the gross floor area of the
20 accessory structure with a maximum of 499 square feet of habitable floor area. Square footage
21 is measured as all area within the exterior walls of the habitable area and all area within the
22 exterior walls of the entire area of the structure. Enclosed porches will be included in these
23 amounts, decks will not be included in these amounts. Although not habitable by definition
24 bathrooms, utility rooms, kitchens, entry ways, closets and interior stairwells will be included in
25 the square footage not to exceed 499. Storage area must be separate and segregated from any
26 habitable area (can have a door from the habitable area to the storage area).

27 (3) All of the setback requirements are met including shoreland, road, property line and wetland.

28 (4) Minimum average lot width of 100 feet and minimum lot area of 30,000 square feet are provided.

29 (5) Plumbing, if installed, conforms to the state sanitary code.

30 (6) Leasing, rental or use as a residence is strictly prohibited.

31 (7) A document is recorded with the register of deeds (ROD) outlining use restrictions.

32 (8) The lot/parcel does not exceed the principal building density allowed.

33 (9) Not allowed in commercial or industrial districts.

34 (10) The POWTS on the lot must be sized to handle the number of occupants in the bunkhouse and
35 the dwelling.

36 (c) A single (one per lot/parcel) independent bunkhouse/temporary guest quarters will be permitted by land
37 use permit where:

- 1 (1) The structure does not exceed 250 square feet of footprint. Square footage is measured as the
2 exterior wall area of the structure. Enclosed porches will be included in this amount, decks will
3 not be included in these amounts. Entry ways and interior stairwells will be included in the square
4 footage not to exceed 250.
- 5 (2) Plumbing of the structure is prohibited.
- 6 (3) All of the setback requirements are met including shoreland, road, property line and wetland.
- 7 (4) Minimum average lot width of 100 feet and minimum lot area of 20,000 square feet are provided.
- 8 (5) Leasing, rental or use as a residence is strictly prohibited.
- 9 (6) A document is recorded with the register of deeds (ROD) outlining use restrictions.
- 10 (7) The lot/parcel does not exceed the principal building density allowed.
- 11 (8) Not allowed in commercial or industrial districts.
- 12 (9) For those beyond the shoreland setback, the height limit shall not exceed 20 feet as measured in
13 section 45-272 below.
- 14 (10) The POWTS on the lot must be sized to handle the number of occupants in the bunkhouse and
15 the dwelling.

16 (Res. No. 2017-05, 2-23-2017)

17 Secs. 45-132—45-150. - Reserved.

18 ARTICLE VIII. - PARKING/LOADING/UNLOADING REQUIREMENTS

19 Sec. 45-151. - Parking/loading/unloading requirements.

- 20 (a) Any building hereafter erected or placed on a lot shall be provided with off-road parking spaces for
21 those using such building. Off-road is located outside of the road right-of-way.
 - 22 (1) Each parking space required must be at least 180 square feet of usable parking area.
 - 23 (2) Residential uses shall be provided with at least one parking space for each dwelling unit.
 - 24 (3) Commercial and industrial uses as listed and permitted in the zoning districts, shall be provided,
25 except as noted below, with one parking space for each 200 square feet of floor area. However,
26 restaurants, taverns and similar establishments shall be provided with at least one space for each
27 three seats devoted to patron use; motels, tourist cabins and similar establishments, shall be
28 provided with at least one space for each unit; drive-in eating stands offering in-car service shall
29 be provided with at least five spaces for each person employed to serve customers.
 - 30 (4) Public gathering uses shall be provided with at least one space for each five patrons to be
31 accommodated on the premises.
 - 32 (5) Off-road parking will not be required in the unincorporated village overlay district (UVOD) where
33 parking is allowed and provided for on public right-of-way.
- 34 (b) Any commercial or industrial building hereafter erected or placed on a lot, shall be provided with
35 sufficient off-road loading and unloading space so that no public roads or alleys need to be blocked by
36 such activities. In the commercial and industrial districts such buildings shall be provided with a
37 minimum of 400 square feet of off-road loading and unloading space.
- 38 (c) Parking/loading/unloading areas are considered structures within the shoreland area and must meet the
39 shoreland setbacks.

40 (Res. No. 2017-05, 2-23-2017)

1 Secs. 45-152—45-170. - Reserved.

2 ARTICLE IX. - DRIVEWAYS AND PRIVATE ROADS

3 Sec. 45-171. - Driveways and private roads.

4 (a) Private roads are described as those serving more than one parcel. All private roads serving multiple
5 parcels shall be a minimum width of two rods.

6 (b) Driveways are described as serving only one parcel. All driveways which serve new
7 agricultural/residential/commercial/industrial buildings that are greater than 75 feet from a public or
8 private road shall meet the following within 60 days of land use permit issuance:

9 (1) Driveways shall have a minimum clearance width of 20 feet (open space between the trees, fences,
10 power poles, etc; not the actual driving surface width), ditches can be within this 20 foot cleared
11 width. Any curves in driveways must not be less than 100-foot radius.

12 (2) Overhead clearance shall be established at a minimum height of 13 feet.

13 (3) Driveways exceeding 150 feet in length must provide an adequate turnaround area that will
14 accommodate a 30-foot long fire truck. The turnaround space can be provided by one of the
15 following methods and shall be within 75 feet of the principal building:

16 a. If a circle drive is constructed, it must have a radius of no less than 35 feet to the centerline;

17 b. A turnaround space free of trees and other obstructions may be provided if it has the
18 dimensions of not less than 60 feet by 50 feet; or

19 c. A turnout may be provided with the following dimensions: the length shall be a minimum of
20 30 feet. The width at the entrance shall also be a minimum of 30 feet. The turnout may be
21 trapezoidal in shape, thereby tapering down to a minimum of 20 feet at the rear. In addition,
22 a minimum of 40 feet of driveway must be provided between the building and the turnout to
23 allow enough room to back a 30-foot long fire truck into the turnout.

24 (c) Exemptions from the provisions of this section would include:

25 (1) New buildings that are 75 feet or less from a public or private road.

26 (2) Those portions of both private roads and driveways that are restricted by existing easement.

27 (d) In the interest of public safety and better delivery of emergency services, the county board encourages
28 and recommends that existing driveways be upgraded to these minimum standards.

29 (e) Driveways and private roads are considered structures within the shoreland area and must meet the
30 shoreland setbacks.

31 (Res. No. 2017-05, 2-23-2017)

32 Secs. 45-172—45-190. - Reserved.

33 ARTICLE X. – FENCES AND RETAINING WALLS

34 Sec. 45-191. - Fences.

35 (a) Solid fences. A setback of 75 feet from the ordinary high water mark (OHWM) of any navigable water
36 to the nearest part of a solid fence shall be required. A solid fence is considered to be wood panels,
37 wood boards, metal panels, glass panels, or any other type of fence structure besides chain link, wood
38 rail, or wire.

- 1 (b) Agricultural/livestock open type fences might be exempt under other statutes. These are only allowed
2 in zoning districts which allow livestock.
- 3 (c) An open fence is considered to be a chain link, wood rail or wire and will not obstruct the adjoining
4 property owner's view of the water. A setback of 75 feet from the ordinary high water mark (OHWM)
5 of any navigable water to the nearest part of an open fence shall be required, except for those exempt
6 under section 45-191(b). In 2016 I tried to get open fences allowed within the 75 foot setback, but
7 DNR stated that nothing could be added to the list of items exempt from the OHWM setback.
- 8 (d) Fence height is measured from the lowest original grade at the fence location perpendicular to the
9 slope to the highest point of any fence component.
- 10 (e) Any open or solid fence less than ten feet in height is allowed to be placed on the side, front, or rear
11 lot line with a setback of zero feet. Lake Ordinary high water mark (OHWM) and wetland setbacks still
12 apply in this case.
- 13 (f) Any open or solid fence less than ten feet in height is allowed to be placed on the road right-of-way
14 line with a setback of zero feet. Lake Ordinary high water mark (OHWM) and wetland setbacks still
15 apply in this case.
- 16 (g) No county land use permit will be required for open or solid fences if they comply with the above
17 criteria in sections 45-191(1) to 45-191(6) 45-191(a) to 45-191(f).
- 18 (h) Any open or solid fence over ten feet in height will be treated as an accessory structure and must
19 meet all accessory structure setback requirements and requires a land use permit.
- 20 (i) A fence allowed under Wis. Stats. §§ 59.692(1n)(d)7 requires a land use permit prior to construction.
21 This is a recent state law (2021 WI Act 105) that allows some fences within the lake setback, but they
22 must be near a road.

23 (Res. No. 2017-05, 2-23-2017)

24 Sec. 45-192. – Retaining walls.

- 25 (a) Any retaining wall three feet or less in height must meet required setbacks from the ordinary high
26 water mark (OHWM). These retaining walls can have a wetland setback of no less than ten feet. No land
27 use permit is required for these.
- 28 (b) Any retaining wall with a height greater than three feet and up to six feet in height must meet
29 required setbacks from the ordinary high water mark (OHWM). These retaining walls can have a wetland
30 setback of no less than 20 feet. A land use permit is required for these.
- 31 (c) Any retaining wall with a height greater than six feet and less than ten feet in height must meet
32 required setbacks from the ordinary high water mark (OHWM). These retaining walls must meet required
33 wetland setback. A land use permit is required for these.
- 34 (d) Any retaining wall ten feet or greater in height will require engineered drawings and must be certified
35 by a Wisconsin professional engineer within one month of construction completion. The certification must
36 be submitted to the county land services department within one month of construction completion. These
37 retaining walls must meet required setbacks from the ordinary high water mark (OHWM). These retaining
38 walls must meet required wetland setback. A land use permit is required for these.

39 Secs. 45-1923—45-210. - Reserved.

40 ARTICLE XI. - VEGETATION¹⁵¹

1 Footnotes:

2 --- (5) ---

3 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(c).

4 Sec. 45-211. - Purpose.

5 To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate
6 removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance
7 standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation
8 removal shall be regulated in a manner to protect on water quality, including and reduce soil erosion, and
9 the flow of effluents, sediments and nutrients.

10 (Res. No. 2017-05, 2-23-2017)

11 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(c)1.

12 Sec. 45-212. - Activities allowed within a vegetative buffer zone (BZ).

13 A vegetative buffer zone (BZ) is created to protect water quality, fish and wildlife habitat and natural
14 scenic beauty, and to promote the preservation and restoration of native vegetation. The county ordinance
15 shall designate land. The vegetative buffer zone (BZ) is the area that extends from the ordinary high water
16 mark (OHWM) to 35 feet landward. inland as a vegetative buffer zone and prohibit Removal or destruction
17 of vegetation in the vegetative buffer zone (BZ) shall be prohibited except as follows:

18 (1) The county may allow for Routine maintenance of vegetation which means normally accepted
19 horticultural practices that do not result in the loss of any layer of existing vegetation and do not
20 require earth disturbance.

21 (2) The removal or destruction of vegetation for the creation of county may allow removal of trees
22 and shrubs in the vegetative buffer zone to create access and viewing corridors provided the
23 following are met: No filling and/or grading is allowed within the access and viewing corridors.
24 Tree stumps should be removed by a stump grinder to preserve existing grade. Per Wis. Stats. §
25 59.692(1f)(b), the viewing corridor may be at least 35 feet wide for every 100-foot increment of
26 shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of
27 shoreline frontage owned. For lots with less than 100 feet of shoreline frontage, the viewing
28 corridor can be up to 35 percent of the shoreline frontage. For lots over 100 feet of shoreline
29 frontage, the viewing corridor will be 35 feet for every 100-foot increment of shoreline frontage.
30 Some examples are: 100.00—199.99 feet of shoreline frontage gets 35 feet of corridor, 200.00—
31 299.99 feet of shoreline frontage gets 70 feet of corridor, 300.00—399.99 feet of shoreline
32 frontage gets 105 feet of corridor, 400.00—499.99 feet of shoreline gets 140 feet of corridor, this
33 pattern continues on.

34 a. The access and viewing corridor remains a strip of vegetated land for the purpose of providing
35 safe pedestrian access to the ordinary high water mark (OHWM) through the vegetative buffer
36 zone (BZ).

37 b. The access and viewing corridor may be 35 percent of the shoreline frontage but in no case
38 shall it be less than 10 feet or greater than 200 feet.

39 c. The access and viewing corridor may run contiguously for the entire maximum width based on
40 the shoreline frontage owned.

41 d. No filling, grading or excavation is allowed within the access and viewing corridor.

42 e. Tree stumps should be removed by a stump grinder to preserve existing site elevations.

- 1 (3) The ~~county may allow~~ removal of trees and shrubs ~~in the vegetative buffer zone~~ on a parcel with
 2 ten or more acres of forested land consistent with "generally accepted forestry management
 3 practices" as defined in Wis. Admin. Code § NR 1.25(2)(b), and described in Department
 4 publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that
 5 vegetation removal be consistent with these practices.
- 6 (4) The ~~county may allow~~ removal of vegetation ~~within the vegetative buffer zone~~ to manage exotic
 7 or invasive species, damaged vegetation, vegetation that must be removed to control disease, or
 8 vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced
 9 by replanting in the same area ~~with similar allowed native species~~ as soon as practicable.
- 10 (5) The county may authorize by permit additional vegetation management activities ~~such as~~
 11 ~~prescribed burns or other vegetation management or removal activities where there is a~~
 12 ~~demonstrable need for the additional management activity.~~ ~~in the vegetative buffer zone.~~ ~~The~~
 13 ~~permit issued under this subsection shall require that all management activities comply with~~
 14 ~~detailed plans approved by the county and designed to control erosion by limiting sedimentation~~
 15 ~~into the waterbody, to improve the plant community by replanting in the same area, and to~~
 16 ~~maintain and monitor the newly restored area.~~ The permit also shall require an enforceable
 17 restriction to preserve the newly restored area. Prior to issuing a permit under this section, the
 18 county shall require the following information be provided in the permit application:
- 19 a. Detailed plans documenting the need and purpose are submitted and approved by the
 20 county.
- 21 b. Sufficient information with the plans showing that it is designed to:
- 22 1. control erosion by limiting sedimentation into the waterbody;
- 23 2. to improve the plant community by replanting in the same area; and
- 24 3. to maintain and monitor the newly restored area.

25 Note: Wis. Stats. § 59.692(1f)(a) prohibits counties from requiring a property owner to establish a
 26 vegetative buffer zone (BZ) on previously developed land or expand an existing vegetative buffer zone
 27 (BZ). However, as part of a counties shoreland mitigation standards ~~or enforcement where vegetation~~
 28 ~~removal is prohibited~~, the establishment or expansion of the vegetative buffer may remain an option.

29 (Res. No. 2017-05, 2-23-2017)

30 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(c)2.

31 Sec. 45-213. - Activities allowed within a vegetation protection area (PA).

32 A vegetation protection area (PA) is created to ~~to~~ protect water quality, fish and wildlife habitat and
 33 natural scenic beauty, and to promote the preservation and restoration of native vegetation. ~~the county~~
 34 ~~ordinance shall designate~~ The vegetation protection area (PA) is the land between 35 feet ~~inland~~ landward
 35 from the ordinary high water mark (OHWM) and 50 feet ~~inland~~ landward from the ordinary high water mark
 36 (OHWM). ~~Removal or destruction as a vegetation protection area and prohibit removal~~ of vegetation in the
 37 vegetation protection area (PA) shall be prohibited except as follows:

- 38 (1) ~~The county may allow~~ Routine maintenance of vegetation which means normally accepted
 39 horticultural practices that do not result in the loss of any layer of existing vegetation and do not
 40 require earth disturbance.
- 41 (2) The ~~removal or destruction of vegetation for the creation of~~ ~~county may allow removal of trees~~
 42 ~~and shrubs in the vegetation protection area to create~~ access and viewing corridors provided the
 43 following are met: No filling and/or grading is allowed within the access and viewing corridors.
 44 Tree stumps should be removed by a stump grinder to preserve existing grade. The access and
 45 viewing corridor may be at least 35 feet wide for every 100-foot increment of shoreline frontage.

1 The access and viewing corridor may run contiguously for the entire maximum width of shoreline
 2 frontage owned. For lots with less than 100 feet of shoreline frontage, the access and viewing
 3 corridor can be up to 35 percent of the shoreline frontage. For lots over 100 feet of shoreline
 4 frontage, the access and viewing corridor will be 35 feet for every 100-foot increment of shoreline
 5 frontage. Some examples are: 100.00—199.99 feet of shoreline frontage gets 35 feet of corridor,
 6 200.00—299.99 feet of shoreline frontage gets 70 feet of corridor, 300.00—399.99 feet of
 7 shoreline frontage gets 105 feet of corridor, 400.00—499.99 feet of shoreline gets 140 feet of
 8 corridor, this pattern continues on.

9 a. The access and viewing corridor remains a strip of vegetated land for the purpose of providing
 10 safe pedestrian access to the ordinary high water mark (OHWM) through the vegetation
 11 protection area (PA).

12 b. The access and viewing corridor may be 35 percent of the shoreline frontage but in no case
 13 shall it be less than 10 feet or greater than 200 feet.

14 c. The viewing corridor may run contiguously for the entire maximum width based on the shoreline
 15 frontage owned.

16 d. No filling, grading or excavation is allowed within the access and viewing corridor.

17 e. Tree stumps should be removed by a stump grinder to preserve existing site elevations.

- 18 (3) The county may allow removal of trees and shrubs in the vegetation protection area on a parcel
 19 with ten or more acres of forested land consistent with "generally accepted forestry management
 20 practices" as defined in Wis. Admin. Code § NR 1.25 (2)(b) and described in Department
 21 publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that
 22 vegetation removal be consistent with these practices.

- 23 (4) The county may allow removal of vegetation within the vegetation protection area to manage
 24 exotic or invasive species, damaged vegetation, vegetation that must be removed to control
 25 disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed
 26 be replaced by replanting in the same area with similar allowed species as soon as practicable.

- 27 (5) The county may authorize by permit additional vegetation management activities such as
 28 prescribed burns or other vegetation management or removal activities where there is a
 29 demonstrable need for the additional management activity, in the vegetation protection area. The
 30 permit issued under this subsection shall require that all management activities comply with
 31 detailed plans approved by the county and designed to control erosion by limiting sedimentation
 32 into the waterbody, to improve the plant community by replanting in the same area, and to
 33 maintain and monitor the newly restored area. The permit also shall require an enforceable
 34 restriction to preserve the newly restored area. Prior to issuing a permit under this section, the
 35 county shall require the following information be provided in the permit application:

36 a. Detailed plans documenting the need and purpose are submitted and approved by the
 37 county.

38 b. Sufficient information with the plans showing that it is designed to:

39 1. control erosion by limiting sedimentation into the waterbody;

40 2. to improve the plant community by replanting in the same area; and

41 3. to maintain and monitor the newly restored area.

42 (Res. No. 2017-05, 2-23-2017)

43 Secs. 45-214—45-230. - Reserved

44 ARTICLE XII. - FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING^[6]

1 Footnotes:

2 --- (6) ---

3 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(d).

4 Sec. 45-231. - Filling, grading, lagooning, dredging, ditching and excavating.

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

9 (Res. No. 2017-05, 2-23-2017)

10 Sec. 45-232. - General standards.

11 Filling, grading, lagooning, dredging, ditching or excavating which does not require a **land use** permit
12 under section 45-233 **(b)** may be permitted in the shoreland area provided that:

- 13 (1) It is not done within the vegetative buffer zone **(BZ)** unless necessary for establishing or
14 expanding the vegetative buffer.
- 15 (2) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and
16 wildlife habitat.
- 17 (3) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets
18 the requirements of section 45-43(2) of this ordinance.
- 19 (4) All applicable federal, state and local authority is obtained in addition to a permit under this
20 ordinance.
- 21 (5) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative
22 cover or a bulkhead.
- 23 (6) It is not done within the vegetation protection area **(PA)** unless necessary for establishing or
24 expanding the vegetation protection area **(PA)**.

25 (Res. No. 2017-05, 2-23-2017)

26 Sec. 45-233. - Permit required.

27 Except as provided in section 45-232, a **land use** permit is required:

- 28 (1) For any filling or grading of any area which is within 300 feet landward of the ordinary high water
29 mark **(OHWM)** of navigable water and which has surface drainage toward the water and on which
30 there is either:
- 31 a. Any filling or grading on slopes of more than 20 percent.
- 32 b. Filling or grading of more than 1,000 square feet on slopes of 12 percent—20 percent.
- 33 c. Filling or grading of more than 2,000 square feet on slopes less than 12 percent.
- 34 (2) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon,
35 pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark
36 **(OHWM)** of a navigable body of water or where the purpose is the ultimate connection with a
37 navigable body of water.

1 (Res. No. 2017-05, 2-23-2017)

2 Sec. 45-234. - Permit conditions.

3 In granting a **land use** permit under section ~~45-133~~ **45-233**, the county shall attach the following
4 conditions, where appropriate, in addition to those provisions specified in section 45-503;

5 (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.

6 (2) Temporary groundcover (such as mulch or jute netting) shall be used and permanent vegetative
7 cover shall be established.

8 (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall
9 be used to prevent erosion.

10 (4) Lagoons shall be constructed to avoid fish trap conditions.

11 (5) Fill shall be stabilized according to accepted engineering standards.

12 (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway
13 or destroy the flood storage capacity of a floodplain.

14 (7) Channels or artificial watercourses shall be constructed with side slopes of two units horizontal
15 distance to one unit vertical or flatter which shall be promptly vegetated, unless bulkheads or
16 riprap are provided.

17 (Res. No. 2017-05, 2-23-2017)

18 Secs. 45-235—45-250. - Reserved.

19 ARTICLE XIII. - IMPERVIOUS SURFACE STANDARDS^[7]

20 Footnotes:

21 --- (7) ---

22 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(e).

23 Sec. 45-251. - Purpose.

24 Establish impervious surface standards to protect water quality and fish and wildlife habitat and to
25 protect against pollution of navigable waters. County impervious surface standards shall apply to the
26 construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian
27 lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high
28 water mark (**OHWM**) of any navigable waterway.

29 (Res. No. 2017-05, 2-23-2017)

30 Sec. 45-252. - Calculation of percentage of impervious surface.

31 Percentage of impervious surface shall be calculated by dividing the surface area of the existing and
32 proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high
33 water mark (**OHWM**) by the total surface area of that lot or parcel, and multiplied by 100. Impervious
34 surfaces described in section 45-255 shall be excluded from the calculation of impervious surface on the
35 lot or parcel. If an outlot lies between the ordinary high water mark (**OHWM**) and the developable lot or
36 parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or
37 parcel for the purposes of calculating the percentage of impervious surface.

1 *Note:* Wis. Admin. Code § NR 115.05(1)(e)1m clarifies that if an outlot lies between the ordinary high
2 water mark (OHWM) and the developed lot or parcel and both are in common ownership, then the lot or
3 parcel should be considered one property for the purposes of calculating the percentage of impervious
4 surfaces. If there is an outlot, parcel or road that is owned by some other entity, for example a hydroelectric
5 facility or a town or county, then the county should determine what level of control the property owner has
6 over that portion of the lot. Can the property owner place structures, such as shoreline protection, piers,
7 stairs, boathouses etc., on that portion of the lot or does some other entity have control over development?
8 If a property owner has no or little say over construction on that portion of the lot then impervious surfaces
9 on that portion of the lot should be calculated separately.

10 For properties that have been "condominiumized" the impervious surface calculations apply to the
11 entire property. The property is still under one legal description and the proposed expansion to a unit is not
12 the only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be
13 important to remember also that mitigation applies to the property as a whole and not just to the portion of
14 the frontage that might be in front of the unit impacted.

15 (Res. No. 2017-05, 2-23-2017)

16 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(e)1.

17 Sec. 45-253. - General impervious surface standard.

18 Except as otherwise allowed in sections 45-254 and 45-255, the county shall allow up to 15 percent
19 impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark
20 (OHWM).

21 (Res. No. 2017-05, 2-23-2017)

22 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(e)2.

23 Sec. 45-254. - Maximum impervious surface standard.

24 A property may exceed the impervious surface standard under 45-253 provided the following
25 standards are met:

- 26 (1) For properties where the general impervious surface standard applies under section 45-253, a
27 property owner may have more than 15 percent impervious surface but not more than 30 percent
28 impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water
29 mark (OHWM). This sounds like they can't exceed 30% within 300 ft of the OHWM? We have
30 been told it is 30% of the entire lot area.

31 Example 100 ft wide by 1,000 ft deep lot; total lot area = 100,000 sq ft. 30% is 30,000 sq
32 ft. I could have 30,000 sq ft of impervious within 300 ft of the water.

- 33 (2) For properties that exceed the standard under section 45-253 but do not exceed the maximum
34 standard under section 45-254(1), a land use permit can be issued for development with a
35 mitigation plan that meets the standards found in section 45-341.

36 (Res. No. 2017-05, 2-23-2017)

37 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(e)3.

38 Sec. 45-255. - Treated impervious surfaces.

1 Impervious surfaces that can be documented to demonstrate they meet either of the following
2 standards shall be excluded from the impervious surface calculations under section ~~45-232~~ 45-252:

- 3 (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands,
4 infiltration basins, rain gardens, bio-swales or other engineered systems.
- 5 (2) The runoff from the impervious surface discharges to an internally drained pervious area that
6 retains the runoff on or off the parcel and allows infiltration into the soil.

7 Note: The provisions in section 45-255 are an exemption from the impervious surface standards and
8 as such should be read and construed narrowly. As such, a property owner is entitled to this exemption
9 only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized to
10 handle and treat a 10-year storm event) treatment system, treatment device or internally drained. Property
11 owners that can demonstrate that the runoff from an impervious surface is being treated consistent with
12 section 45-255 will be considered pervious for the purposes of implementing the impervious surface
13 standards in this ordinance. If a property owner or subsequent property owner fails to maintain the treatment
14 system, treatment device or internally drained area, the impervious surface is no longer exempt under
15 section 45-255.

16 To qualify for the statutory exemption, property owners shall submit a complete **land use** permit
17 application, that is reviewed and approved by the county. The application shall include:

- 18 (13) Calculations showing how much runoff is coming from the impervious surface area;
- 19 (24) Documentation that the runoff from the impervious surface is being treated by a proposed
20 treatment system, treatment device, or internally drained area; and
- 21 (35) An implementation schedule and enforceable obligation on the property owner to establish and
22 maintain the treatment system, treatment devices, or internally drained area. The enforceable
23 obligations shall be evidenced by an instrument recorded in the office of the register of deeds
24 (**ROD**) prior to the issuance of the **land use** permit.

25 (Res. No. 2017-05, 2-23-2017)

26 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(e)3m; and Wis.
27 Stats. § 59.692(1k)(a)5.

28 Sec. 45-256. - Existing impervious surfaces.

29 For existing impervious surfaces that were lawfully placed when constructed but that do not comply
30 with the impervious surface standard in section 45-253 or the maximum impervious surface standard in
31 section 45-254, the property owner may do any of the following:

- 32 (1) Maintain and repair the existing impervious surfaces;
- 33 (2) Replace existing impervious surfaces with similar surfaces within the existing **footprint building**
34 **envelope**; or
- 35 (3) Relocate or modify an existing impervious surface with similar or different impervious surface,
36 provided that the relocation or modification does not result in an increase in the percentage of
37 impervious surface that existed on the effective date of the county shoreland ordinance, and the
38 impervious surface meets the applicable setback requirements in sections 45-102, ~~45-102~~ or 45-
39 103.
- 40 (4) For impervious surface purposes only a land use permit is required for sections 45-256(2) and
41 (3) if the area of replacement, relocation or modification exceeds 100 square feet in size. Other
42 Burnett County ordinance requirements for land use permits still apply.

1 *Note:* The impervious surface standards in this ordinance shall not be construed to supersede other
 2 provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still
 3 apply to new or existing development.

4 (Res. No. 2017-05, 2-23-2017)

5 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(e)4.

6 Secs. 45-257—45-270. - Reserved.

7 ARTICLE XIV. - HEIGHT [\[8\]](#)

8 Footnotes:

9 --- (8) ---

10 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(f).

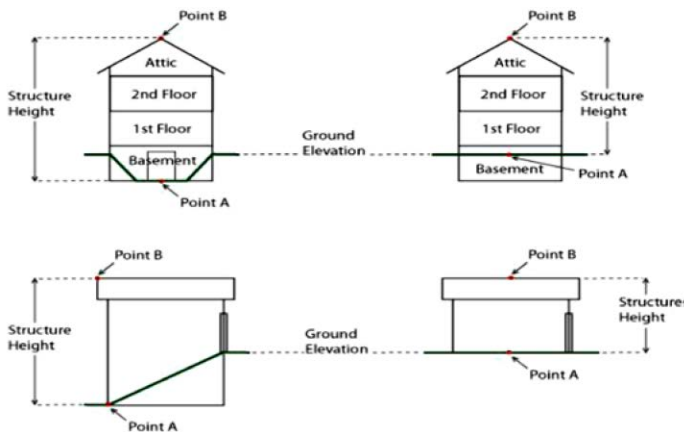
11 Sec. 45-271. - Height.

12 To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a
 13 county may not permit any construction that results in a structure taller than 35 feet within 75 feet of the
 14 ordinary high water mark (OHWM) of any navigable waters.

15 (Res. No. 2017-05, 2-23-2017)

16 Sec. 45-272. - How to determine structure height.

17 Structure height is the measurement of the vertical line segment starting at the lowest point of any
 18 exposed wall and its intersect with the ground (point A in the following diagram) to a line horizontal to the
 19 highest point of a structure (point B in the following diagram), unless specified under other sections of this
 20 Code.



21

22 (Res. No. 2017-05, 2-23-2017)

23 Sec. 45-273. - Height limit beyond 75-foot setback.

1 To protect and preserve wildlife habitat and natural scenic beauty, a county may not permit any
 2 construction that results in a structure outside of the 75-foot shoreland ordinary high water mark (OHWM)
 3 setback taller than 40 feet except as follows:

- 4 (1) Chimneys are exempt from the 40-foot height limit if they are less than ten feet in height above
 5 point B as shown in section 45-272 and less than ten square feet in footprint area above point B
 6 as shown in section 45-272.
- 7 (2) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in
 8 diameter are exempt from the 40-foot height limit if they are less than ten feet in height above
 9 point B as shown in section 45-272.
- 10 (3) Certain agricultural buildings are exempt per section 30-658(d)(1) of the Burnett County
 11 Ordinances.
- 12 (4) Certain telecommunication facilities per chapter 30 article VI of the Burnett County Ordinances.
- 13 (5) If any portion of the structure is within the 75-foot shoreland ordinary high water mark (OHWM)
 14 setback, then a height limit of 35 feet applies to the entire structure.

15 (Res. No. 2017-05, 2-23-2017)

16 Secs. 45-274—45-290. - Reserved.

17 ARTICLE XV. - NONCONFORMING USES AND STRUCTURES⁹¹

18 Footnotes:

19 --- (9) ---

20 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(g).

21 Sec. 45-291. - Discontinued nonconforming use.

22 If a nonconforming use is discontinued for a period of 12 months, any future use of the building,
 23 structure or property shall conform to all Burnett County ordinance requirements.

24 (Res. No. 2017-05, 2-23-2017)

25 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(g)3.

26 Sec. 45-292. - Maintenance, repair, replacement or vertical expansion of nonconforming structures.

27 An existing structure that was lawfully placed when constructed but that does not comply with the
 28 required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the
 29 activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was
 30 lawfully placed when constructed but that does not comply with the required shoreland setback may be
 31 vertically expanded unless the vertical expansion would extend more than 35 feet above grade level.
 32 Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to
 33 comply with applicable state or federal requirements. The following requirements must be met to allow
 34 replacement or vertical expansion of a nonconforming existing structure:

- 35 (1) The use of the existing structure has not been discontinued for a period of 12 months or more if
 36 a nonconforming use. In 2016 DNR thought this contradicts (5) below.
- 37 (2) The lot or parcel in which the existing structure is located on must comply with lot dwelling
 38 density.

1 (3) The existing structure must be conforming to all other setback requirements, such as; wetland,
2 side lot line, front lot line, rear lot line, property lines, and road right-of-way and the requirements
3 of Wis. Admin. Code ch. SPS 383.

4 (4) Floodplain requirements shall be met.

5 (5) Land uses related to conditional uses within a zoning district shall not be permitted to be replaced
6 or vertically expanded unless made into a conforming zoning district land use or obtaining a new
7 conditional use permit prior to replacement or vertical expansion. An example would be a one
8 story bar/restaurant that is 30 ft from the lake in an area that is zoned residential, should they be
9 allowed to rebuild in the same footprint? Should they be allowed to expand vertically and go up
10 to 35 ft tall? This could triple the interior area of the building which has more impact to the
11 surrounding area; additional septic area, additional parking, additional traffic, additional noise,
12 etc. The "use" is being expanded so a new CUP should be required.

13 (6) The replaced, expanded, and entire structure must be brought into compliance with the
14 requirements of Wis. Admin. Code ch. SPS 383.

15 *Note:* Wis. Stats. §§ 59.692(1k)(a)2, 4, and (b) prohibits counties from requiring any approval or
16 imposing any fee or mitigation requirement for the activities specified in section 45-292. However, it is
17 important to note that property owners may be required to obtain permits or approvals and counties may
18 impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning,
19 general zoning, sanitary codes, building codes, or even stormwater erosion control.

20 *Note:* Wis. Admin. Code § NR 115.05(1)(b)1m lists structures that are exempt from the shoreland
21 setback. These structures are considered conforming structures and are not considered nonconforming
22 structures. Structures that were granted variances or illegally constructed structures are not considered
23 nonconforming structures. This variance language was modified with a change in state law.

24 (Res. No. 2017-05, 2-23-2017)

25 **State Law reference**— Similar provisions, Wis. Stats. §§ 59.692(1k)(a)2,4 and (b).

26 Sec. 45-293. - Lateral expansion of nonconforming principal structures within the setback.

27 An existing principal structure that was lawfully placed when constructed but that does not comply with
28 the required building setback per section 45-102 may be expanded laterally, provided that all of the following
29 requirements are met:

30 (1) The use of the structure has not been discontinued for a period of 12 months or more if a
31 nonconforming use.

32 (2) The existing principal structure is at least 35 feet from the ordinary high water mark (OHWM).

33 (3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No
34 portion of the expansion may be any closer to the ordinary high water mark (OHWM) than the
35 closest point of the existing principal structure.

36 (4) The county shall issue a land use permit that requires a mitigation plan that shall be approved
37 by the county and implemented by the property owner by the date specified in the permit. The
38 mitigation plan shall meet the standards found in section 45-341.

39 (5) All other provisions of the shoreland ordinance shall be met.

40 (6) The lot or parcel in which the structure is located on must comply with lot dwelling density.

41 (7) Floodplain requirements shall be met.

42 (8) The expanded and entire structure must be brought into compliance with the requirements of Wis.
43 Admin. Code ch. SPS 383.

1 (9) Land uses related to conditional uses within a zoning district shall not be permitted to be laterally
2 expanded unless made into a conforming zoning district land use or obtaining a new conditional
3 use permit prior to lateral expansion. An example would be a one story bar/restaurant that is 40
4 ft from the lake in an area that is zoned residential, should they be allowed to expand laterally?
5 Should the lateral expansion be allowed up to 35 ft tall? This could substantially increase the
6 interior area of the building which has more impact to the surrounding area; additional septic area,
7 additional parking, additional traffic, additional noise, etc. The “use” is being expanded so a new
8 CUP should be required.

9 (Res. No. 2017-05, 2-23-2017)

10 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(g)5.

11 Sec. 45-294. - Expansion of a nonconforming principal structures beyond setback.

12 An existing principal structure that was lawfully placed when constructed but that does not comply with
13 the required building setback under section 45-102 may be expanded horizontally, landward, or vertically
14 provided that the expanded area meets the building setback requirements per section 45-102 and that all
15 other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion
16 under this paragraph, but may be required per article XIII.

17 The following requirements must be met to allow expansion of a nonconforming existing structure
18 beyond the setback:

19 (1) The use of the existing structure has not been discontinued for a period of 12 months or more if
20 a nonconforming use.

21 (2) The lot or parcel in which the existing structure is located on must comply with lot dwelling
22 density.

23 (3) Floodplain requirements shall be met.

24 (4) The expanded and entire structure must be brought into compliance with the requirements of Wis.
25 Admin. Code ch. SPS 383.

26 (5) Land uses related to conditional uses within a zoning district shall not be permitted to be expanded
27 unless made into a conforming zoning district land use or obtaining a new conditional use permit
28 prior to expansion. The “use” is being expanded so a new CUP should be required.

29 (Res. No. 2017-05, 2-23-2017)

30 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(g)5m.

31 Sec. 45-295. - Relocation of nonconforming principal structures.

32 An existing principal structure that was lawfully placed when constructed but that does not comply with
33 the required building setback per section 45-102 may be relocated on the property provided all of the
34 following requirements are met:

35 (1) The use of the structure has not been discontinued for a period of 12 months or more if a
36 nonconforming use.

37 (2) The existing principal structure is at least 35 feet from the ordinary high water mark (OHWM).

38 (3) No portion of the relocated structure is located any closer to the ordinary high water mark
39 (OHWM) than the closest point of the existing principal structure.

- 1 (4) The county determines that no other location is available on the property to build a principal
 2 structure of a comparable size to the structure proposed for relocation that will result in
 3 compliance with the shoreland setback requirement per section 45-102.
- 4 (5) The county shall issue a **land use** permit that requires a mitigation plan that shall be approved
 5 by the county and implemented by the property owner by the date specified in the permit. The
 6 mitigation plan shall meet the standards found in section 45-341, and include enforceable
 7 obligations of the property owner to establish or maintain measures that the county determines
 8 are adequate to offset the impacts of the permitted relocation on water quality, near-shore aquatic
 9 habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be
 10 proportional to the amount and impacts of the relocated structure being permitted. The obligations
 11 of the property owner under the mitigation plan shall be evidenced by an instrument recorded in
 12 the office of the county register of deeds **(ROD)**.
- 13 (6) All other provisions of the shoreland ordinance shall be met.
- 14 (7) The lot or parcel in which the existing structure is located on must comply with lot dwelling
 15 density.
- 16 (8) The relocated structure must conform to all other setback requirements, such as; wetland, side
 17 lot line, front lot line, rear lot line, property lines, **and** road right-of-way **and the requirements of**
 18 **Wis. Admin. Code ch. SPS 383**.
- 19 (9) Floodplain requirements shall be met.
- 20 **(10) The relocated structure must meet the requirements of Wis. Admin. Code ch. SPS 383.**

21 (Res. No. 2017-05, 2-23-2017)

22 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(1)(g)6.

23 Secs. 45-296—45-320. - Reserved.

24 ARTICLE XVI. - MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES
 25 AUTHORIZED BY VARIANCE^[10]

26 Footnotes:

27 --- **(10)** ---

28 **State Law reference**— Similar provisions, Wis. Admin. Code §§ 59.692(1k)(a)2. and (a)4.

29 Sec. 45-321. - Maintenance, repair, replacement or vertical expansion of structures that were authorized
 30 by variance.

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

- 38 (1) The lot or parcel in which the existing structure is located on must comply with lot dwelling
 39 density.

(2) The existing structure must be conforming to all other setback requirements, such as: wetland, side lot line, front lot line, rear lot line, property lines, and road right-of-way and the requirements of Wis. Admin. Code ch. SPS 383. Example: a structure was given a variance to reduce the shoreland setback, it was built without knowing where the side lot line was, now it is determined that the structure does not meet the required side setback. Since a variance was not granted to reduce the side setback this structure is illegal.

(3) Floodplain requirements shall be met.

(4) The replaced, expanded, and entire structure must be brought into compliance with the requirements of Wis. Admin. Code ch. SPS 383.

(5) If the variance approval was for a certain building plan and/or had a specific height limit then those requirements still apply.

What if the structure was abandoned for years; such as a cabin close to the water granted by a variance in 1975, and it has been abandoned since 2005, after a certain time it should no longer be allowed to be redone?

Note: Wis. Stats. § 59.692(1k)(a)2. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 45-321. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control

(Res. No. 2017-05, 2-23-2017)

ARTICLE XVII. - MAINTENANCE, REPAIR, REPLACEMENT OF ILLEGAL STRUCTURES^{10A}

Footnotes:

--- (10A) ---

State Law reference— Similar provisions, Wis. Admin. Code §§ 59.692(1k)(a)2c.

Sec. 45-322. - Maintenance, repair, replacement of illegal structures.

A structure that was illegally constructed, which is older than ten years and may not be enforced under the shoreland ordinance (Wis. Stats. § 59.692(1t)) may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the structure. (No vertical or lateral expansion allowed for structures in violation.) The following requirements must be met to allow replacement or rebuilding of an illegal structure:

(1) Floodplain requirements shall be met.

(2) The replaced, rebuilt, and entire structure must be brought into compliance with the requirements of Wis. Admin. Code ch. SPS 383.

What if the structure was abandoned for years; such as a cabin close to the water built without permits in 1975, and it has been abandoned since 2005, after a certain time it should no longer be allowed to be redone?

Note: Wis. Stats. § 59.692(1k)(a)2. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 45-322. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control

Secs. 45-322³—45-340. - Reserved.

1 ARTICLE ~~XVII~~ XVIII. - MITIGATION^[11]

2 Footnotes:

3 --- (11) ---

4 **State Law reference**— Similar provisions, Wis. Admin. Code §§ NR 115.05 (1)(e)3, (g)5, and (g)6.

5 Sec. 45-341. - Mitigation.

6 When the county issues a **land use** permit requiring mitigation under sections 45-254, 45-293 and 45-
7 295, the property owner must submit a complete **land use** permit application that is reviewed and approved
8 by the county. The application shall include the following:

- 9 (1) A site plan that describes the proposed mitigation measures.
- 10 a. The site plan shall be designed and implemented to restore natural functions lost through
11 development and human activities.
- 12 b. The mitigation measures shall be proportional in scope to the impacts on water quality, near-
13 shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
- 14 (2) An implementation schedule and enforceable obligation on the property owner to establish and
15 maintain the mitigation measures.
- 16 a. The enforceable obligations shall be evidenced by an instrument recorded in the office of the
17 register of deeds (**ROD**) prior to the issuance of the **land use** permit.
- 18 (3) Mitigation points as shown in section 45-341(6) required for lateral expansion **of a nonconforming**
19 **principal structure within the setback** per section 45-293 are 2.0 points for 0.01—100.00 square
20 feet of lateral expansion **within the setback** and 4.0 points for 100.01—200.00 square feet of
21 lateral expansion **within the setback**.
- 22 (4) Mitigation points as shown in section 45-341(6) required for relocation of a nonconforming
23 principal structure per section 45-295 are 2.0 points for 0.01—500.00 square feet of relocated
24 building footprint within the shoreland setback area, 3.0 points for 500.01—999.99 square feet of
25 relocated building footprint within the shoreland setback area, and 4.0 points for 1,000.00 and
26 over square feet of relocated building footprint within the shoreland setback area.
- 27 (5) Mitigation points as shown in section 45-341(6) required for maximum impervious surface
28 standard per section 45-254 are 2.0 points for 15.01 percent—20.00 percent impervious surface,
29 4.0 points for 20.01 percent—25.00 percent, and 6.0 points for 25.01 percent—30.00 percent
30 impervious surface.
- 31 (6) Mitigation points are as follows:
- 32 a. Restore and maintain native vegetation along the vegetative buffer zone (**BZ**) within 35 feet
33 of the ordinary high water mark (**OHWM**) with a state-allowed-width **access and viewing and**
34 **access** corridor on lots with 200.00 feet or more of shoreline. (2.0 points) Note – current law
35 allows these size lots to have at least 70 ft of access and viewing corridor.
- 36 b. Restore and maintain native vegetation along the vegetative buffer zone (**BZ**) within 35 feet
37 of the ordinary high water mark (**OHWM**) with only a 30-foot-wide **access and viewing and**
38 **access** corridor on lots with 200.00 feet or more of shoreline. (4.0 points) Note – current law
39 allows these size lots to have at least 70 ft of access and viewing corridor.
- 40 c. Restore and maintain native vegetation along the vegetative buffer zone (**BZ**) within 35 feet
41 of the ordinary high water mark (**OHWM**) with a state-allowed-width **access and viewing and**
42 **access** corridor on lots with less than 200 feet of shoreline but more than 100 feet of
43 shoreline. (2.0 points) Note – current law allows these size lots to have 35 ft to 70 ft of
44 access and viewing corridor.

- 1 d. Restore and maintain native vegetation along the vegetative buffer zone (BZ) within 35 feet
 2 of the ordinary high water mark (OHWM) with only a 20-foot-wide access and viewing and
 3 access corridor on lots with less than 200 feet of shoreline but more than 100 feet of
 4 shoreline. (3.0 points) Note – current law allows these size lots to have 35 ft to 70 ft of
 5 access and viewing corridor.
- 6 e. Restore and maintain native vegetation along the vegetative buffer zone (BZ) within 35 feet
 7 of the ordinary high water mark (OHWM) with a state-allowed-width access and viewing and
 8 access corridor on lots with less than 100 feet of shoreline. (1.0 points) Allow 35 percent of
 9 shoreline to be used for the viewing and access corridor for lots with 100 feet or less of
 10 shoreline. Note – current law allows these size lots to have 10 ft to 35 ft of access and
 11 viewing corridor.
- 12 f. Restore and maintain native vegetation along the vegetative buffer zone (BZ) within 35 feet
 13 of the ordinary high water mark (OHWM) with only a 15 10-foot-wide access and viewing
 14 and access corridor on lots with less than 100 feet of shoreline. (2.0 points) Note – current
 15 law allows these size lots to have 10 ft to 35 ft of access and viewing corridor.
- 16 g. Restore and maintain the vegetation protection area (PA). (2.0 points) The use of this option
 17 requires the vegetative buffer zone (BZ) and access and viewing and access corridor to be
 18 in compliance or be brought into compliance.
- 19 h. Remove nonconforming accessory buildings from the shoreland setback area. (1.0 points
 20 for a structure from 0.01 square feet to 199.99 square feet in size, 2.0 points for a structure
 21 200.00 square feet or larger). Illegal structures do not qualify for these points. Exempt
 22 structures (boathouse, stair/walkway, etc.) do not qualify for these points.
- 23 i. Installation of gutters on all structures on the lot/parcel and divert all gutter water to a rain
 24 garden, rock trench located on the same lot/parcel or stormwater treatment device located
 25 on the same lot/parcel (3.0 points). Rain garden or s Stormwater treatment device must be
 26 designed by a Wisconsin licensed professional engineer and the engineer must sign off after
 27 construction that it was built according to the plans. Maintenance on the rain garden, rock
 28 trench or storm water stormwater treatment device must be performed as required. Rain
 29 garden, rock trench or stormwater treatment device must be able to handle and treat a 10-
 30 year storm event. This type of mitigation in section 45-341(6)i. can be excluded from the
 31 impervious surface calculation in section 45-252.
- 32 1. A portion of this requirement can be used to get 1.0 or 2.0 points of mitigation. Install
 33 gutters on one-third of the roof run-off area and divert this run-off to a rain garden, rock trench
 34 or stormwater treatment device is eligible for 1.0 point of mitigation. Install gutters on two-
 35 thirds of the roof run-off area and divert this run-off to a rain garden, rock trench or
 36 stormwater treatment device is eligible for 2.0 points of mitigation. The rain garden, rock
 37 trench or stormwater treatment device must be located on the same lot/parcel. Stormwater
 38 treatment device must be designed by a Wisconsin licensed professional engineer and the
 39 engineer must sign off after construction that it was built according to the plans. Maintenance
 40 on the rain garden, rock trench or stormwater treatment device must be performed as
 41 required. Rain garden, rock trench or stormwater treatment device must be able to handle
 42 and treat a 10-year storm event.
- 43 j. Divert all water from gutters, driveways, patios, sidewalks and all other impervious surfaces
 44 on the lot/parcel to a rain garden, rock trench located on the same lot/parcel or stormwater
 45 treatment device located on the same lot/parcel (4.0 points). Rain garden or s Stormwater
 46 treatment device must be designed by a Wisconsin licensed professional engineer and the
 47 engineer must sign off after construction that it was built according to the plans. Maintenance
 48 on the rain garden, rock trench or stormwater treatment device must be performed as
 49 required. Rain garden, rock trench or stormwater treatment device must be able to handle
 50 and treat a 10-year storm event. This type of mitigation in section 45-341(6)j. can be
 51 excluded from the impervious surface calculation in section 45-252. A current topographic

1 survey done by a Wisconsin licensed professional land surveyor might be needed to verify
 2 direction of water flow on the parcel.

3 1. A portion of this requirement can be used to get 1.0, 2.0, or 3.0 points of mitigation. Divert
 4 one-fourth of the run-off area and divert this run-off to a rain garden, rock trench or
 5 stormwater treatment device is eligible for 1.0 point of mitigation. Divert one-half of the run-
 6 off area and divert this run-off to a rain garden, rock trench or stormwater treatment device
 7 is eligible for 2.0 points of mitigation. Divert three-fourths of the run-off area and divert this
 8 run-off to a rain garden, rock trench or stormwater treatment device is eligible for 3.0 points
 9 of mitigation. The rain garden, rock trench or stormwater treatment device must be located
 10 on the same lot/parcel. Stormwater treatment device must be designed by a Wisconsin
 11 licensed professional engineer and the engineer must sign off after construction that it was
 12 built according to the plans. Maintenance on the rain garden, rock trench or stormwater
 13 treatment device must be performed as required. Rain garden, rock trench or stormwater
 14 treatment device must be able to handle and treat a 10-year storm event. A current
 15 topographic survey done by a Wisconsin licensed professional land surveyor might be
 16 needed to verify direction of water flow on the parcel.

17 (Res. No. 2017-05, 2-23-2017)

18 Secs. 45-342—45-360. - Reserved.

19 ARTICLE XVIII XIX. - LAKE CLASS STANDARDS FOR RIPARIAN LOTS

20 Sec. 45-361. - Lake class standards for riparian lots.

21 (a) The following classification lists identify lakes named in "Surface Water Resources of Burnett County,"
 22 published by the state department of natural resources, and appearing by name on the 1:24,000 scale
 23 topographic maps published by the U.S. Geological Survey, commonly referred to as the U.S.G.S.
 24 quadrangle maps.

25 (1) All unnamed lakes listed in the "Surface Water Resources of Burnett County," state department of
 26 natural resources and all named lakes 50 acres in size or less are considered class 3 protection
 27 lakes.

28 (2) In addition, any lake inadvertently omitted from the "Surface Water Resources of Burnett County"
 29 over 50 acres in size will be classified according to available information and unlisted lakes 50
 30 acres or less in size will be considered class 3 protection lakes.

31 (3) It should be noted that the county's shoreline regulation jurisdiction extends only to those portions
 32 of shoreline outside the boundaries of any incorporated municipality.

33 (4) Development standards for rivers and streams refer to all rivers and streams in the county deemed
 34 by the state department of natural resources to be navigable.

35 (5) There are unnamed lakes that have "local" names and for the purpose of this classification are
 36 considered class 3 lakes.

37 (b) Dimensional requirements. Class development standards apply to all riparian parcels.

Lakes Classification	Side Yard Setback for all Structures
Class 1	10' min.

Class 2	10' min.
Class 3	10' min.
Rivers and Streams - Also considered Class 3	10' min.

1 (c) Burnett County Lakes Classification List of Lakes.

2 CLASS 1

Austin
Big McKenzie
Big Sand
Burlingame
Clam (Upper and Lower to the downstream dam)
Devils
Dunham
Lipsett
Little Wood
Little Yellow
Middle McKenzie
Mud Hen
Rice (15-39-14)*
Round (27-37-18)

Sand (25-40-15)
Spirit
Trade (Big and Little)
Twenty-Six
Viola
Warner
Webb
Wood
Yellow

1 (xx-xx-xx) means (section – town – range).

2 CLASS 2

Bashaw
Bass (23-39-16)
Bass (13-40-17)
Benoit
Big Bear
Big Doctor
Birch Island
Bluff
Bonner

Briggs
Buck (26-39-15)
Buffalo
Cadotte/Loon (1-40-15)
Clam River Flowage
Clear
Cranberry (8-38-15)
Cranberry (36-41-16)
Crooked (8-38-16)
Danbury Flowage (County Rd U to downstream dam)
Deer
Des Moines
Dubois
Eagle (34-41-15)
Falk
Fish (8-40-14)
Fremstadt
Gaslyn
Godfrey
Green

Gull
Ham
Hanscom
Holmes
Johnson (23-40-16)
Lily (34-41-14)
Little Bear
Long (33-41-14)
Long (16-38-16)
Loon (31-41-15)
Loon/Cadotte
Love
Mallard
McGraw (Big & Little)
Minerva
Minnow
Nicaboyne
No Mans
North Rice
Oak

Owl
Pine (22-37-18)
Pokegama
Poquette
Prinel
Rooney
Round (33-41-16)
Sand (22-38-16)
Shoal
Silver (22-38-16)
Spencer
Staples
Tabor
Taylor
Upper Twin

1 (xx-xx-xx) means (section – town – range).

2 CLASS 3

Baker (2-39-15)
Baker (18-39-14)
Banach

Barren Springs #1
Barren Springs #2
Bartash
Bass (24-39-14)
Bass (13-41-16)
Bass (25-38-15)
Bass (9-38-15)
Bass (23-40-15)
Bass (3-41-14)
Bass (17-37-18)
Bass Lake Springs
Behr
Berg
Big
Black
Blomberg
Bogey
Bradley
Buck (14-37-14)
Chase

Clam River Springs
Clubhouse
Conners
Corwick
Cranberry (4-40-14)
Crescent
Crooked (12-40-16)
Crystal
Culbertson
Culbertson Springs
Deep
Doctor
Dogtown Springs
Durand
Eagle (27-40-14)
Echo
Elbow
Fawn
Fenton
Ferry

Fish (6-38-16)
Frog (23-41-14)
Gabrielson
Glendenning
Goose
Greenwood
Hayden
Horseshoe
Hunters
Indian
Island
Johnson (24-41-15)
Kent
Kreiner
Lake 32
Larson
Lily (6-39-15)
Lind
Lindy
Little Bass (22-40-16)

Little Bass (36-38-15)
Little Deer
Little Dunham
Little Mallard
Little Round
Lone Star
Long (33-41-16)
Lost (2-39-14)
Lost (27-39-15)
Lost Lakes
Lower Loon (Lang)
Lower Twin
Lucerne
McElroy
Meeker Run
Middle Loon (Myre)
Miller
Mingo
Miniature
Mollette

Money
Mud (34-41-15)
Mud (26-40-16)
Myrick
Mystery
North
North Lang
North Twin
Our
Peacock
Perch
Peterson
Pickle
Pike
Pine (25-40-15)
Places
Point
Pratt
Put
Rahn

Rice (36-37-18)
Richart
Robie
Rohr
Round (3-39-15)
Saginaw
Silver (36-38-18)
Smith
South Twin
Spook
Spring Creek Springs
Stone
Stullen
Swamp (11-39-15)
Swamp (30-38-16)
Tamarack
Tanda
Temple
Thatcher
Tomoe

Tucker
Twenty-Six Lake Spring
Upper Loon (Phernetton)
Wilson
All unnamed lakes
All rivers and streams

1 (xx-xx-xx) means (section – town – range).

2 (Res. No. 2017-05, 2-23-2017)

3 Secs. 45-362—45-380. - Reserved.

4 ARTICLE XIX XX. - REGULATION OF CONDITIONAL USES

5 Sec. 45-381. - Regulations of conditional uses.

6 Except as added to or hereafter altered in this ordinance, the procedures and requirements of article
7 VIII of chapter 30 of the Burnett County Ordinances governing conditional uses shall apply.

8 (Res. No. 2017-05, 2-23-2017)

9 Sec. 45-382. - Quarries and mines.

10 (a) Application requesting county land use and information committee (LUIC) approval of a proposed
11 quarrying activity shall be accompanied by:

12 (1) A description of all phases of the contemplated operation including types of machinery and
13 equipment, which will or might be necessary to carry on the operation. Where the operation is to
14 include sand and gravel washing, the estimated daily quantity of water required, its source and
15 its disposition shall be identified.

16 (2) A legal description of the proposed site.

17 (3) A restoration plan as hereinafter required.

18 (b) In reviewing a proposal for a quarrying activity, the county land use and information committee (LUIC)
19 shall take into consideration:

20 (1) The effect of the proposed operation on drainage and water supply, particularly in connection
21 with sand and gravel washing.

22 (2) The possibility of soil erosion as a result of the proposed operation.

23 (3) The most suitable land use for the area.

- 1 (c) No grant to carry on a quarrying operation shall be given until the applicant complies with all
2 requirements of chapter 32 of the Burnett County Ordinances, pertaining to nonmetallic mining, and
3 Wis. Admin. Code ch. NR 135.
- 4 (d) The county land use and information committee (LUIC) may set forth conditions regarding appropriate
5 setback and other dimensional requirements, particularly with reference to avoiding a nuisance effect
6 on surrounding residential uses. Suitable fencing and landscaping may be required.
- 7 (e) Existing quarries shall be limited to registered areas and be subject to chapter 32 of the Burnett
8 County Ordinances, pertaining to nonmetallic mining, and Wis. Admin. Code ch. NR 135.

9 (Res. No. 2017-05, 2-23-2017)

10 Sec. 45-383. - Salvage yards.

11 No salvage yard as defined in chapter 30 of the Burnett County Ordinances shall be permitted in the
12 county except in conformance with the standards, rules and regulations of the Wisconsin Administrative
13 Code and all other requirements of the Burnett County Ordinances.

- 14 (1) An application is required prior to issuance of a conditional use permit for a salvage yard. This
15 application requesting county land use and information committee (LUIC) approval of a proposed
16 salvage yard activity shall be accompanied by:
- 17 a. A description of all phases of the contemplated operation including types of machinery and
18 equipment, which will or might be necessary to carry on the operation.
- 19 b. A legal description of the proposed site.
- 20 c. A location map showing all adjacent land use.
- 21 (2) In reviewing a proposal for a salvage yard, the county land use and information committee (LUIC)
22 shall take into consideration:
- 23 a. The effect of the proposed operation on existing land uses.
- 24 b. The possibilities of noise, smoke, dust and other factors common to a salvage yard.
- 25 c. The most suitable land use for the area.
- 26 (3) The county land use and information committee (LUIC) may set forth conditions regarding
27 appropriate setback and other dimensional requirements, particularly with reference to avoiding
28 a nuisance effect on surrounding residential uses.
- 29 a. All salvage yards shall have minimum front, side and rear yard setback of 100 feet.
- 30 b. Salvage yards shall be screened in accordance with article VII of chapter 30 of the Burnett
31 County Ordinances.

32 (Res. No. 2017-05, 2-23-2017)

33 Sec. 45-384. - Garbage and refuse disposal sites.

- 34 (a) No garbage or refuse disposal sites shall be permitted in the county except in conformance with the
35 rules and regulations of Wisconsin Administrative Codes.
- 36 (b) All such disposal sites shall have a minimum front, side and rear yard setback of 100 feet each.
- 37 (c) Garbage and refuse disposal sites shall be screened in accordance with article VII of chapter 30 of
38 the Burnett County Ordinances.

39 (Res. No. 2017-05, 2-23-2017)

1 Sec. 45-385. - Mobile home/manufactured home parks.

2 Except as otherwise specifically authorized, no mobile home intended for occupancy shall be located
3 in the county except in a mobile home/manufactured home park, the plan of which has been approved by
4 the county land use and information committee (LUIC). Such parks shall meet the following requirements:

- 5 (1) Minimum size, five acres.
- 6 (2) Maximum number of mobile home/manufactured home sites, ~~six~~ **three** per **developable** acre.
- 7 (3) Minimum width of a mobile home/manufactured home site, 40 feet.
- 8 (4) Maximum height of a mobile home/manufactured home, 20 feet. Height is measured from the
9 lowest original site grade to the highest point of the roof.
- 10 (5) The distance between separate mobile homes/manufactured homes shall not be less than 30
11 feet.
- 12 (6) Minimum distance between mobile home/manufactured home and service road, ten feet.
- 13 (7) All drives, parking areas and walkways shall be hard surfaced. **Hard surface shall be considered**
14 **road gravel, pea gravel, asphalt, recycled asphalt, concrete, crushed concrete, crushed stone, or**
15 **other like material with a depth of at least two inches.** There shall be one parking space for each
16 mobile home/manufactured home and additional parking spaces for automotive vehicles within
17 the park, totaling not less than one and one-quarter parking spaces for each mobile
18 home/manufactured home space.
- 19 (8) No mobile home/manufactured home sales office or other business or commercial use shall be
20 located on the mobile home/manufactured home park site. However, laundries, washrooms,
21 recreation rooms, maintenance equipment storage and one office are permitted.
- 22 (9) Minimum side yard setback, 40 feet at all front, side and rear lot lines of the mobile
23 home/manufactured home park.
- 24 (10) Each mobile home shall be placed on a mobile home stand. The stand should provide for
25 practical placement on and removal from the lot of the mobile home and retention of the home on
26 the lot in a stable condition and in satisfactory relationship to its surroundings. The size of a
27 development will be acceptable if it is suitable for the general market to be served by the individual
28 proposal and fits the dimensions of mobile homes anticipated. The location of each mobile home
29 stand shall be at such elevation, distance and angle in relation to the access street and the mobile
30 home accessway that placement and removal of the mobile home is practical. Appropriate
31 material, properly graded, placed and compacted so as to be durable and adequate for the
32 support of the maximum anticipated loads during all seasons should be used.
- 33 (11) All mobile home/manufactured home parks shall be screened in accordance with article VII of
34 chapter 30 of the Burnett County Ordinances.
- 35 (12) All mobile homes/manufactured homes shall meet the required construction standards.
- 36 (13) Mobile home/manufactured home parks shall comply with the sanitation regulations of the
37 county sanitary code and the appropriate requirements of the Wisconsin Administrative Codes.
- 38 (14) Each manufactured home shall be placed on a foundation meeting the appropriate
39 requirements of the Wisconsin Administrative Codes.
- 40 **(15) A mobile home/manufactured home park map shall be placed on file in the zoning office and shall**
41 **include the home layout, location of sites, roads, property lines, required setbacks, structures,**
42 **water supplies, private waste disposal system, recreation areas and any other information the**
43 **land use and information committee (LUIC) shall deem necessary. Any proposed changes in the**
44 **approved map shall be presented to the zoning office for approval. No implementation of the**
45 **proposed change shall take place until written approval is received from the zoning office.**

1 (16) Mobile home/manufactured home parks shall not be expanded except by conditional use permit
2 review.

3 (17) All other setback requirements of this chapter and other Burnett County Ordinances along with
4 any other federal, state or local codes shall apply. The land use and information committee (LUIC)
5 may require additional setback requirements as per conditional use permit.

6 (18) Each mobile home or manufactured home must have a unique site address issued by the county.

7 (19) A mobile home is considered built before June 15, 1976, or not built to a uniform construction
8 code. A mobile home is not allowed in any new mobile home/manufactured home park. A mobile
9 home is not allowed in any expansion areas of an existing mobile home/manufactured home park.
10 A mobile home is not allowed to replace a manufactured home.

11 (Res. No. 2017-05, 2-23-2017)

12 Sec. 45-386. - Campgrounds

13 Burnett County regulates campgrounds in order to protect the health, safety and welfare of its citizens,
14 and the natural, historical and cultural resources of Burnett County. ~~These land uses are permitted by
15 Burnett County because of their importance in providing the general public access to recreational
16 opportunities. It also is recognized that such land uses promote tourism and contribute to the general
17 economic welfare of the County.~~

18 (a) Definitions. The following words, terms and phrases, when used in this section, shall have the
19 meanings ascribed to them in this subsection, except where the context clearly indicates a different
20 meaning:

21 *Awning* means a covering used by campers for protection from the weather and may be used over a
22 deck. An awning shall only be attached to the camping unit.

23 *Deck/patio* means a platform which is intended to support persons/chattels.

24 *Screen house* means a structure with a roof and sides, with or without a floor, with at least 50 percent
25 of each exposed wall covered by screen for protection from insects. There shall be no solid material (glass,
26 wood, metal or rigid plastic material) in front of or behind the ~~sides~~ screens to impede the free movement
27 of air through the screen. A temporary covering of canvas or flexible plastic material is permitted for
28 protection from the weather.

29 *Storage structure* means a structure intended for storage purposes only, not to be used for human
30 habitation. The structure footprint shall not exceed 100 square feet. The structure height shall not exceed
31 12 feet.

32 (b) No camping unit shall be located within the shoreland areas of the county except in a permitted
33 federal, state, town and county camp, a private campground or planned unit development, except that
34 a camping unit may be placed on a private lot for not more than 30 days in any one calendar year
35 without a land use permit for a private camping unit or a conditional permit as per article VIII of chapter
36 30 of the Burnett County Ordinances. Camping units on private parcels cannot be issued a land use
37 permit on parcels that have an existing dwelling or other structures for human habitation.

38 (1) Camping grounds requirements.

39 a. Must meet all Wis. Admin. Code ch. ATCP 79 requirements which are enforced by the state
40 personnel or their designated agent, all sanitary requirements of the county sanitary
41 ordinance and Wisconsin Administrative Codes, and any other applicable local, state and
42 federal codes.

43 b. Minimum ~~parcel~~ size of five acres.

44 c. Maximum number of sites shall be five per developable acre.

- 1 d. Each site shall be clearly numbered and consistent with the placement shown on the
2 campground map.
- 3 e. A campground map shall be placed on file in the zoning office and shall include the
4 campground layout, location of campsites, roads, property lines, required setbacks,
5 structures, water supplies, private waste disposal system, recreation areas and any other
6 information the land use and information committee (LUIC) shall deem necessary. Any
7 proposed changes in the approved campground shall be presented to the zoning office for
8 approval. No implementation of the proposed change shall take place until written approval
9 is received from the zoning office.
- 10 f. Each site shall have sufficient area for one vehicle parking on that site. Rustic/primitive sites
11 will have sufficient parking area available, this can be onsite or off-site parking.
- 12 g. Each camping unit shall meet the setback requirements of 75 feet to the ordinary high water
13 mark (OHWM) of any navigable water and there shall be a minimum 50-foot setback from
14 all exterior lot lines to each recreation unit. All other setback requirements of this chapter
15 and other Burnett County Ordinances along with any other federal, state or local codes shall
16 apply. The land use and information committee (LUIC) may require additional setback
17 requirements as per conditional use permit.
- 18 h. Screening provisions of article VII of chapter 30 of the Burnett County Ordinances shall apply
19 where the land use and information committee (LUIC) determines they are needed.
- 20 i. Individual site accessory uses require a land use permit and are limited to:
- 21 1. *Storage structure.* Each site may be provided with one storage structure with a footprint
22 not to exceed 100 square feet and the structure height shall not exceed 12 feet. The
23 storage structure shall not be used for human habitation. This structure must meet
24 floodplain requirements. These require a land use permit.
- 25 2. *Awnings, decks/patios and screen houses.* Awnings, decks/patios and screen houses
26 will be permitted provided they do not exceed the unit size in square feet and in any
27 event the total area of these uses shall not exceed 200 square feet. These structures
28 must meet floodplain requirements. These require a land use permit.
- 29 j. A separate area may be designated in a campground for group camping in tents; however,
30 such group camping shall not exceed two weeks in any one time period and no more than
31 20 tent units per developable acre shall be permitted. In addition, the group camping area
32 must be provided with proper sanitary provisions as required by Wis. Admin. Code ch. ATCP
33 79.
- 34 k. A campground may have a home and accessory buildings for the one owner's or one
35 manager's private use.
- 36 l. Campgrounds shall not be expanded except by conditional use permit review.
- 37 (2) Provisions required to be met before issuing a six month land use permit for a camping unit on
38 a private lot:
- 39 a. One unit per lot.
- 40 b. Must have private on-site waste water treatment system (POWTS) meeting the requirements
41 of Wis. Admin. Code ch. SPS 383. A privy type waste water treatment system is not allowed
42 to be the only treatment system used for the camping unit if the camping unit has any indoor
43 or outdoor plumbing pipes or fixtures.
- 44 c. No camping unit shall be less than 75 feet from the ordinary high water mark (OHWM) of a
45 navigable water body. No camping unit shall be less than 25 feet from the side lot line. No
46 camping unit shall be less than 40 feet from a wetland. The camping unit must meet all other
47 setback requirements and meet floodplain requirements.

- 1 d. Camping unit to be allowed on the lot for no more than the six months per year. Only one of
- 2 these permits to be issued per lot, per calendar year.
- 3 e. Each camping unit must have a unique site address issued by the county.
- 4 (3) Provisions required to be met before issuing a three year land use permit for a camping unit on a
- 5 private lot:
- 6 a. One unit per lot.
- 7 b. Must have private on-site waste water treatment system (POWTS) meeting the requirements
- 8 of Wis. Admin. Code ch. SPS 383. A privy type waste water treatment system is not allowed
- 9 to be the only treatment system used for the camping unit if the camping unit has any indoor
- 10 or outdoor plumbing pipes or fixtures.
- 11 c. No camping unit shall be less than 75 feet from the ordinary high water mark (OHWM) of a
- 12 navigable water body. No camping unit shall be less than 25 feet from the side lot line. No
- 13 camping unit shall be less than 40 feet from a wetland. The camping unit must meet all other
- 14 setback requirements and meet floodplain requirements.
- 15 d. Each camping unit must have a unique site address issued by the county.
- 16 e. This land use permit can't be extended. Only one of these permits can be issued to a parcel,
- 17 regardless if the ownership changes.
- 18 (4) Once the land use permit in subsection (b)(3) expires, a conditional use permit will be required for
- 19 each consecutive three year period.

20 (Res. No. 2017-05, 2-23-2017)

21 Sec. 45-387. - Major recreational equipment.

- 22 (a) The parking, storage, or use of major recreational equipment shall not be subject to the provisions of
- 23 this section, except that no major recreational equipment shall be parked or stored on any lot in a
- 24 residential district for more than 30 days per year except in a garage or carport or completely covered
- 25 (completely covered means to be concealed to within three feet of the lowest ground elevation).
- 26 (b) It shall be further required that the storage of such equipment must meet all standard setback
- 27 requirements, and with riparian parcels having lake or river frontage, this equipment must be stored
- 28 so it is not visible from the water. This can be accomplished by storing the equipment behind a building
- 29 which is taller and wider than the equipment, behind a solid fence which is taller and wider than the
- 30 equipment, or covering the equipment. A cover would need to conceal the equipment to within three
- 31 feet of the lowest ground elevation.

32 (Res. No. 2017-05, 2-23-2017)

33 Secs. 45-388—45-400. - Reserved.

34 ARTICLE ~~XX~~ XXI. - ESTABLISHMENT OF DISTRICTS

35 Sec. 45-401. - Establishment of districts.

36 For the purposes of this article, the unincorporated areas of the county are hereby divided into the

37 following types of districts:

	Zoning Districts
--	------------------

(1)	RR-1	Residential-Recreation District
(2)	RR-2	Residential-Recreation District
(3)	RR-3	Residential-Recreation District
(4)	A	Exclusive Agricultural District
(5)	A-1	Agricultural-Transition District
(6)	A-2	Agricultural-Residential District
(7)	A-3	Agricultural-Residential District
(8)	A-4	Ag/Forestry/Residential District
(9)	C-I	Commercial District
(10)	I-1	Industrial District
(11)	F-1	Forestry District
(12)	W-1	Resource Conservation District
(13)	SP-1	Shoreland Protection District
(14)	PUD	Planned Unit Development District
(15)	SW-1	Shoreland-Wetland District
(16)	UVOD	Unincorporated Village Overlay District
(17)	AP	Airport District
(18)	RR-RC	Residential Recreational – Recreational Commercial

1 (See district purpose, permitted district uses and conditional uses in chapter 30 of the Burnett
2 County Ordinances)

3 (Res. No. 2017-05, 2-23-2017)

1 Sec. 45-402. - Zoning map, district boundaries, dimensional requirements and land use requirements.

2 For purpose of this chapter, the county, outside the incorporated villages and cities, is hereby divided
3 into the zoning districts identified and described in ~~section 30-27~~ chapter 30, article II of the Burnett County
4 Ordinances. The purpose, permitted uses, conditional uses, and dimensional requirements from each
5 zoning district will apply within the shoreland areas. The boundaries of districts are established as shown
6 upon the maps designated as the "Zoning Map of Burnett County, Wisconsin," which are hereby adopted
7 and made a part of this chapter. All notations, references and other information shown upon the zoning
8 maps shall be as much a part of this chapter as if the matter and things set forth by said maps were fully
9 described herein. The zoning maps are on display in the office of the zoning administrator.

10 (Res. No. 2017-05, 2-23-2017)

11 Secs. 45-403—45-420. - Reserved.

12 ARTICLE ~~XXI~~ XXII. - SIGN REGULATIONS

13 Sec. 45-421. - Sign regulations.

14 Sign regulations in chapter 30, article IV of the Burnett County Ordinances apply in all shoreland areas.

15 (Res. No. 2017-05, 2-23-2017)

16 Secs. 45-422—45-440. - Reserved.

17 ARTICLE ~~XXII~~ XXIII. - TELECOMMUNICATIONS FACILITIES

18 Sec. 45-441. - Telecommunications facilities.

19 Telecommunication facility regulations in chapter 30, article VI of the Burnett County Ordinances apply
20 in all shoreland areas.

21 (Res. No. 2017-05, 2-23-2017)

22 Secs. 45-442—45-460. - Reserved.

23 ARTICLE ~~XXIII~~ XXIV. - SCREENING AND FENCING

24 Sec. 45-461. - Screening and fencing.

25 Screening and fencing regulations in chapter 30, article VII of the Burnett County Ordinances apply in
26 all shoreland areas when required by any use or conditional use.

27 (Res. No. 2017-05, 2-23-2017)

28 Secs. 45-462—45-480. - Reserved.

29 ARTICLE ~~XXIV~~ XXV. - OTHER NONCONFORMING USES AND STRUCTURES

30 Sec. 45-481. - Other nonconforming structures.

1 The existing lawful use of a structure or premises which is compliant with shoreland setbacks, but is
 2 not in conformance with other provisions of the Burnett County Ordinances may be continued subject to
 3 the following conditions:

- 4 (1) No structural addition to any nonconforming structure over the life of the structure shall exceed
 5 50 percent of its building envelope, or the replacement of more than 50 percent of its structural
 6 components, and may not increase the nonconformity, unless a variance permitting expansion
 7 beyond 50 percent of its building envelope or replacement of more than 50 percent of its structural
 8 components, or an increase in its nonconformity, is successfully obtained.
- 9 (2) Discontinued nonconforming use. If a nonconforming use is discontinued for a period of 12
 10 months, any future use of the building, structure or property shall conform to this chapter and all
 11 other Burnett County Ordinance provisions.
- 12 (3) Uses or adjuncts thereof which are nuisances shall not be permitted to continue as
 13 nonconforming uses.

14 (Res. No. 2017-05, 2-23-2017)

15 Secs. 45-482—45-500. - Reserved.

16 ARTICLE ~~XXV~~ XXVI. - ADMINISTRATIVE PROVISIONS^[12]

17 Footnotes:

18 --- (12) ---

19 **Editor's note**— Similar provisions, Wis. Admin. Code § NR 115.05(4).

20 Sec. 45-501. - Administrative provisions.

21 The shoreland zoning ordinance adopted by each county shall require all of the following:

- 22 (1) The appointment of an administrator and such additional staff as the workload may require.
- 23 (2) The creation of a zoning agency as authorized by Wis. Stats. § 59.69, a board of adjustment
 24 (BOA) as authorized by Wis. Stats. § 59.694, and a county planning agency as defined in §
 25 236.02(3), and required by § 59.692(3). The zoning agency and planning agency is called the
 26 land use and information committee (LUIC) in Burnett County.
- 27 (3) Shoreland wetland map amendments according to Wis. Admin. Code § NR 115.04. Every petition
 28 for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county
 29 zoning agency. A copy of each petition shall be provided to the appropriate office of the
 30 Department within five days of the filing of the petition with the county clerk. Written notice of the
 31 public hearing to be held on a proposed amendment shall be provided to the appropriate office of
 32 the Department at least ten days prior to the hearing. A copy of the county board's decision on
 33 each proposed amendment shall be forwarded to the appropriate office of the Department within
 34 ten days after the decision is issued.

35 (Res. No. 2017-05, 2-23-2017)

36 Sec. 45-502. - Zoning administrator.

37 The zoning administrator shall have the following duties and powers:

- 1 (1) Develop and maintain a system of permits for new construction, development, reconstruction,
2 structural alteration or moving of buildings and structures. ~~A copy of a~~ Applications shall be
3 required to be filed in the office of the county zoning administrator.
- 4 (2) Regularly inspect permitted work in progress to insure conformity of the finished structures with
5 the terms of the ordinance.
- 6 (3) Develop and maintain a variance procedure which authorizes the board of adjustment (BOA) for
7 land use variances and the land use and information committee (LUIC) for subdivision variances
8 to grant such variance from the terms of the ordinance as will not be contrary to the public interest
9 where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal
10 enforcement of the provisions of the ordinance will result in unnecessary hardship.
- 11 (4) Develop and maintain a conditional use procedure.
- 12 (5) Keep a complete record of all proceedings before the board of adjustment (BOA) and the land
13 use and information committee (LUIC).
- 14 (6) Provide written notice to the appropriate office of the Department at least ten days prior to any
15 hearing on a requested variance or conditional use permit, appeal for a map or text interpretation,
16 map or text amendment, and copies of all proposed land divisions submitted to the county for
17 review under article IV.
- 18 (7) Submit to the appropriate office of the Department, within ten days after grant or denial, copies
19 of any decision on a variance or conditional use permit, or appeal for a map or text interpretation,
20 and any decision to amend a map or text of an ordinance.
- 21 (8) Develop and maintain an official map of all mapped zoning district boundaries, amendments,
22 and recordings.
- 23 (9) Establish appropriate penalties for violations of various provisions of the ordinance, including
24 forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to
25 prevent or abate a violation, as provided in Wis. Stats. § 59.69(11).
- 26 (10) Pursue the prosecution of violations of the shoreland ordinance.
- 27 (11) Approve subdivision variance requests which appear to meet the intent of the Burnett County
28 Ordinances. If the zoning administrator feels the subdivision variance request does not meet the
29 intent of the Burnett County Ordinances, then the subdivision variance shall be heard by the land
30 use and information committee (LUIC). A certified survey map (CSM) or recorded plat will be
31 required for each lot/parcel which is reconfigured as part of the subdivision variance within one
32 year of the approval.
- 33 (12) The zoning administrator may issue a special permit to relax the standards of this ordinance in
34 order to provide reasonable accommodations as required by provisions of federal and state law.
35 Such relaxation shall be the minimum necessary to be consistent with federal guidelines for
36 accommodation of persons with disabilities and shall, where practicable, be terminated when the
37 facility is no longer used by the disabled person. A person applying for a permit for construction
38 under this section shall establish the nature and extent of the disability and that the relaxation
39 requested is the minimum necessary to provide reasonable use of the facility. A deed restriction
40 for the reasonable accommodation shall be recorded with the register of deeds (ROD).

41 (Res. No. 2017-05, 2-23-2017)

42 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(4).

43 Sec. 45-503. - Permits.

- 1 (a) *When required.* Except where another section of this ordinance specifically exempts certain types of
2 development from this requirement; a permit shall be obtained from the zoning administrator, or
3 board of adjustment (BOA), or land use and information committee (LUIC) before any new development.
- 4 (b) *Application.* An application for a permit shall be made to the zoning administrator upon forms furnished
5 by the county and shall include for the purpose of proper enforcement of these regulations, the
6 following information:
- 7 (1) Name and address of applicant and property owner.
- 8 (2) Legal description of the property and type of proposed use.
- 9 (3) A to scale drawing of the dimensions of the lot and location of all existing and proposed structures
10 and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary
11 high water mark (OHWM) of any abutting waterways. The zoning administrator may allow
12 drawings to be dimensioned in lieu of to scale.
- 13 (4) Location and description of any existing private water supply or sewage system (POWTS) or
14 notification of plans for any such installation.
- 15 (5) Plans for appropriate mitigation when required.
- 16 (6) Payment of the appropriate fee.
- 17 (7) Additional information required by the zoning administrator.
- 18 (8) When the zoning administrator or other designated zoning staff determines the impervious
19 surface appears to cover 12 percent or more of the portion of the lot/parcel that is within 300 feet
20 of the ordinary high water mark (OHWM), then the applicant shall submit a map of survey drawn
21 to a scale of 1:10 to 1:60 by a Wisconsin licensed professional surveyor with the application. The
22 map must show all existing and proposed structures, existing and proposed impervious surfaces
23 and existing and proposed mitigation or treatment devices/components. The map must include a
24 chart documenting the existing and proposed square footage area of all buildings/structures,
25 asphalt/pavement, concrete, decks/patios/stairs, paver blocks and gravel
26 driveways/walkways/paths.
- 27 (c) *Expiration of permit.* Zoning and land use permits shall expire 12 months from date issued, unless
28 they meet the requirements of (1) below. If additional time is needed, a 12-month extension may be
29 granted upon written request to the zoning office and upon paying the corresponding permit extension
30 fee (unless prohibited by (1) below). Only one extension will be allowed.
- 31 (1) A conditional use permit (CUP) applicant can ask for the permit start up to be valid for up to three
32 years (this must be noted on the application at the time of the submittal otherwise it will be the default
33 of one year). This gives the applicant up to three years to have the conditional use constructed and
34 operating.
- 35 a. If the conditional use is not constructed and operating within three years then the conditional use
36 permit (CUP) expires.
- 37 b. If an extension is needed then the applicant needs to submit another conditional use permit
38 (CUP) application, with appropriate required conditional use permit (CUP) fee. This extension must
39 be submitted before the original conditional use permit (CUP) expires. An extension requires
40 another public hearing in front of the land use and information committee (LUIC). Only one
41 extension, up to an additional three years, can be granted by the land use and information
42 committee (LUIC).
- 43 c. If the project is not constructed and operating in three years, and no extension has been
44 approved, the conditional use permit (CUP) process will need to start over.
- 45 (2) Once a conditional use is legally established it can continue until; the use has stopped for 12
46 months, it is revoked by the land use and information committee (LUIC), it is revoked by court order,
47 or it is revoked and/or prohibited by other federal, state, county or local regulation.

1 (Res. No. 2017-05, 2-23-2017)

2 Sec. 45-504. - Conditional use permits (CUP).

- 3 (a) *Application for a conditional use permit (CUP).* Any use listed as a conditional use in this chapter or
4 any other Burnett County ordinance shall be permitted only after an application has been submitted to
5 the zoning administrator and a conditional use permit (CUP) has been granted by the land use and
6 information committee (LUIC). To secure information upon which to base its determination, the land
7 use and information committee (LUIC) may require the applicant to furnish, in addition to the
8 information required for a zoning permit, the following information:
- 9 (1) A plan of the area showing surface contours, soil types, ordinary high water marks (OHWM),
10 ground water conditions, subsurface geology and vegetative cover.
- 11 (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and
12 landscaping.
- 13 (3) Plans of buildings, sewage disposal facilities (POWTS), water supply systems and arrangement
14 of operations.
- 15 (4) Specifications for areas of proposed filling, grading, lagooning or dredging.
- 16 (5) Other pertinent information necessary to determine if the proposed use meets the requirements
17 of this ordinance or any other Burnett County ordinance requirements.
- 18 (6) Rationale for why the proposed conditional use meets all of the conditional use criteria listed in
19 this ordinance or any other Burnett County ordinance requirements.
- 20 (b) *Notice, public hearing and decision.* Before deciding whether to grant or deny an application for a
21 conditional use permit (CUP), the land use and information committee (LUIC) shall hold a public
22 hearing. Notice of such public hearing, specifying the time, place and matters to come before the land
23 use and information committee (LUIC), shall be given as a class 2 notice under Wis. Stats. ch. 985.
24 Such notice shall be provided to the appropriate office of the department at least ten days prior to the
25 hearing. The land use and information committee (LUIC) meeting minutes shall state in writing the
26 grounds for granting or denying a conditional use permit (CUP).
- 27 (c) *Standards applicable to all conditional uses.* In deciding a conditional use application, the land use
28 and information committee (LUIC) shall evaluate the effect of the proposed use upon:
- 29 (1) The maintenance of safe and healthful conditions.
- 30 (2) The location and safety of proposed parking areas.
- 31 (3) The prevention of noise pollution.
- 32 (4) The prevention and control of water pollution including sedimentation.
- 33 (5) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent
34 properties due to altered surface water drainage.
- 35 (6) The erosion potential of the site based upon degree and direction of slope, soil type and
36 vegetative cover.
- 37 (7) The location of the site with respect to existing or future access roads.
- 38 (8) The need of the proposed use for a shoreland location.
- 39 (9) Its compatibility with uses on adjacent land.
- 40 (10) The amount of liquid and solid wastes to be generated and the adequacy of the proposed
41 disposal systems.
- 42 (11) Location factors under which:
- 43 a. Domestic uses shall be generally preferred;

- 1 b. Uses not inherently a source of pollution within an area shall be preferred over uses that are
2 or may be a pollution source; and
- 3 c. Use locations within an area tending to minimize the possibility of pollution shall be preferred
4 over use locations tending to increase that possibility.
- 5 (d) *Conditions attached to conditional uses.* Such conditions may include specifications for, without
6 limitation because of specific enumeration: type of shore cover; specific sewage disposal (POWTS)
7 and water supply facilities; landscaping and planting screens; period of operation; operational control;
8 sureties; deed restrictions; permit duration, transfer or renewal; location of piers, docks, parking and
9 signs; and type of construction. Upon consideration of the factors listed above, the land use and
10 information committee (LUIC) shall attach such conditions, in addition to those required elsewhere in
11 this ordinance or any other Burnett County ordinances, as are necessary to further the purposes of
12 this ordinance or any other Burnett County ordinances. Violations of any of these conditions shall be
13 deemed a violation of this ordinance.
- 14 In granting a conditional use permit (CUP), the land use and information committee (LUIC) may not
15 impose conditions which are more restrictive than any of the specific standards in the ordinance or any
16 other Burnett County ordinance. Where the ordinance is silent as to the extent of restriction, the land use
17 and information committee (LUIC) may impose any reasonable permit conditions to affect the purpose of
18 this ordinance or any other Burnett County ordinance.
- 19 (e) *Recording.* When a conditional use permit (CUP) is approved, an appropriate record shall be made
20 of the land use and structures permitted. Such permit shall be applicable solely to the structures, use
21 and property so described. A copy of any decision on a conditional use permit (CUP) shall be provided
22 to the appropriate office of the department within ten days after it is granted or denied.
- 23 (f) *Revocation.* Where the conditions of a conditional use permit (CUP) are violated, the conditional use
24 permit (CUP) shall be revoked by the land use and information committee (LUIC).

25 (Res. No. 2017-05, 2-23-2017)

26 Sec. 45-505. - Variances.

- 27 (a) *Variance criteria to be met.* The board of adjustment (BOA) for land use variances and the land use
28 and information committee (LUIC) for subdivision variances may grant upon appeal a variance from
29 the standards of this ordinance where an applicant convincingly demonstrates that:
- 30 (1) Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the
31 applicant;
- 32 (2) The hardship is due to special conditions unique to the property;
- 33 (3) The request is not contrary to the public interest; and
- 34 (4) The request represents the minimum relief necessary to relieve unnecessary burdens.
- 35 (b) *Notice, public hearing and decision.* Before deciding on an application for a variance, the board of
36 adjustment (BOA) for land use variances and the land use and information committee (LUIC) for
37 subdivision variances shall hold a public hearing. Notice of such hearing specifying the time, place and
38 matters of concern, shall be given a class 2 notice under Wis. Stats. ch. 985. Such notice shall be
39 provided to the appropriate office of the Department at least ten days prior to the hearing. The
40 board/committee shall state in writing the reasons for granting or refusing a variance and shall provide
41 a copy of such decision to the appropriate office of the Department within ten days of the decision.
- 42 (c) Land Use variances are heard by the board of adjustment (BOA). Subdivision variances are heard by
43 the land use and information committee (LUIC).
- 44 (d) The land use and information committee (LUIC) may grant a variance from the lot/parcel dimensional
45 standards (subdivision variance) of this ordinance pursuant to this section. In granting a variance, the
46 land use and information committee (LUIC) may not impose conditions which are more restrictive than

1 any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of
2 restriction, the land use and information committee (LUIC) may impose any reasonable permit
3 conditions to affect the purpose of this ordinance or any other Burnett County ordinance.

4 (Res. No. 2017-05, 2-23-2017)

5 **State Law reference**— Similar provisions, Wis. Stats. § 59.694(6).

6 Sec. 45-506. - Board of adjustment (BOA).

7 The county executive, county administrator or chair of the county board shall appoint a board of
8 adjustment (BOA) consisting of three or five members under Wis. Stats. § 59.694. The county board shall
9 adopt such rules for the conduct of the business of the board of adjustment (BOA) as required by Wis.
10 Stats. § 59.694(3).

11 (1) *Powers and duties.*

- 12 a. The board of adjustment (BOA) shall adopt such additional rules as it deems necessary and
13 may exercise all of the powers conferred on such boards by Wis. Stats. § 59.694.
- 14 b. It shall hear and decide appeals where it is alleged there is error in any order, requirement,
15 decision, or determination made by an administrative official in the enforcement or
16 administration of this ordinance.
- 17 c. It may grant a variance from the dimensional standards of this ordinance pursuant to section
18 45-505. Subdivision variances are heard by the land use and information committee (LUIC).
- 19 d. In granting a variance, the board may not impose conditions which are more restrictive than
20 any of the specific standards in the ordinance. Where the ordinance is silent as to the extent
21 of restriction, the board may impose any reasonable permit conditions to affect the purpose
22 of this ordinance or any other Burnett County ordinance.

23 (2) *Appeals to the board.* Appeals to the board of adjustment (BOA) may be made by any person
24 aggrieved or by an officer, department, board or bureau of the county affected by any decision of
25 the zoning administrator, any conditional use permit (CUP) decision by the land use and
26 information committee (LUIC), any Certified Survey Map (CSM) or plat decision by the land use
27 and information committee (LUIC), or other administrative officer, or other designated zoning staff.
28 Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with
29 the zoning administrator, and with the board of adjustment (BOA), a notice of appeal specifying
30 the reasons for the appeal. The zoning administrator shall promptly transmit to the board all the
31 papers constituting the record concerning the matter appealed.

32 a. A decision by the land use and information committee (LUIC) on a legislative decision of a
33 rezone is appealed directly to circuit court. The appeal must be filed with the court within 30 days
34 of the written decision.

35 b. A decision by the land use and information committee (LUIC) on a legislative decision of an
36 ordinance amendment is appealed directly to circuit court. The appeal must be filed with the court
37 within 30 days of the meeting minutes being approved.

38 c. A decision by the land use and information committee (LUIC) on a subdivision variance is
39 appealed directly to circuit court. The appeal must be filed with the court within 30 days of the
40 written decision.

41 (3) *Hearing appeals and applications for variances.*

- 42 a. The board of adjustment (BOA) shall fix a reasonable time for a hearing on the appeal or
43 application. The board shall give public notice thereof by publishing a class 2 notice under
44 Wis. Stats. ch. 985 specifying the date, time and place of the hearing and the matters to
45 come before the board. Notice shall be mailed to the parties in interest. Written notice shall

1 be provided to the appropriate office of the department at least ten days prior to hearings on
2 proposed shoreland variances, and appeals for map or text interpretations.

3 b. A decision regarding the appeal or application shall be made as soon as practical. Copies of
4 all decisions on shoreland variances, and appeals for map or text interpretations shall be
5 provided to the appropriate office of the Department within ten days after they are granted
6 or denied.

7 c. The final disposition of an appeal or application to the board of adjustment (BOA) shall be in
8 the form of a written resolution or order signed by the chair and secretary of the board. ~~The~~
9 ~~final disposition of an appeal or application to the board of adjustment shall be in the form of~~
10 ~~a written decision document signed by the chair and secretary of the board.~~ The decision
11 document shall either affirm, deny, vary or modify the appeal and list the specific reasons for
12 the determination.

13 d. At the public hearing, any party may appear in person or by agent or by attorney.

14 (Res. No. 2017-05, 2-23-2017)

15 **State Law reference**— Similar provisions, Wis. Stats. §§ 59.694, 59.694(6).

16 Sec. 45-507. - Fees.

17 The county board may, by resolution, adopt fees for the following:

- 18 (1) Zoning and land use permits.
- 19 (2) Planned unit development reviews.
- 20 (3) Public hearings.
- 21 (4) Legal notice publications.
- 22 (5) Conditional Use permits.
- 23 (6) Variances.
- 24 (7) Administrative appeals.
- 25 (8) Other duties as determined by the county board.

26 (Res. No. 2017-05, 2-23-2017)

27 **Editor's note**— Similar provisions, Wis. Stats. §§ 59.69, 59.694, 59.696, and 59.697.

28 Sec. 45-508. - Changes and amendments.

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

- 32 (1) *Amendments.* Amendments to this ordinance may be made on petition of any interested party
33 as provided in Wis. Stats. § 59.69(5).
- 34 (2) *Shoreland wetland map amendments.* Every petition for a shoreland-wetland map amendment
35 filed with the county clerk shall be referred to the county zoning agency. A copy of each petition
36 shall be provided to the appropriate office of the Department within five days of the filing of the
37 petition with the county clerk. Written notice of the public hearing to be held on a proposed
38 amendment shall be provided to the appropriate office of the Department at least ten days prior

1 to the hearing. A copy of the county board's decision on each proposed amendment shall be
2 provided to the appropriate office of the Department within ten days after the decision is issued.

3 (Res. No. 2017-05, 2-23-2017)

4 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.04.

5 Sec. 45-509. - Enforcement and penalties.

6 Any development, any building or structure constructed, moved or structurally altered, or any use
7 established after the effective date of this ordinance in violation of the provisions of this ordinance, by any
8 person, firm, association, corporation (including building contractors or their agents) shall be deemed a
9 violation. The zoning administrator, other designated zoning staff or the county zoning agency (LUIC) shall
10 refer violations to the corporation counsel who shall expeditiously prosecute violations. Any person, firm,
11 association or corporation who violates or refuses to comply with any of the provisions of this ordinance
12 shall be subject to a forfeiture of not less than \$200.00 per offense, together with the taxable costs of action.
13 Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is
14 a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated
15 pursuant to Wis. Stats. § 59.69(11).

16 (1) *Penalty.* Any person, firm or corporation, including those doing work for others, who violates any
17 of the provisions of this ordinance shall be subject to a forfeiture of not less than \$200.00 for each
18 violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and
19 separate violation of this ordinance and as such, forfeitures shall apply accordingly. The zoning
20 administrator or other designated zoning staff shall refer violations to the corporation counsel who
21 shall prosecute violations.

22 (2) *Injunction.* Any use or action which violates the provisions of this ordinance shall be subject to a
23 court injunction prohibiting such violation.

24 (3) *Responsibility for compliance.* It shall be the responsibility of the applicants as well as their agent
25 or other persons acting on their behalf to comply with the provisions of this ordinance. Any person,
26 firm or corporation, causing a violation or refusing to comply with any provision of this ordinance
27 will be notified in writing of such violation by the county zoning administrator or other designated
28 zoning staff. Each day a violation exists shall constitute a distinct and separate violation of this
29 ordinance and, as such, forfeitures shall apply accordingly. Every violation of this ordinance is a
30 public nuisance and the creation thereof may be enjoined and the maintenance thereof may be
31 abated pursuant to Wis. Stats. § 59.69(11).

32 (4) *Suspension of permit.* Whenever the zoning administrator or other designated zoning staff,
33 determines there are reasonable grounds for believing there is a violation of any provision of this
34 ordinance, the zoning administrator or other designated zoning staff shall give notice to the owner
35 of record as hereinafter provided. Such notice shall be in writing and shall include a statement of
36 the reason for the suspension of the permit. It shall allow 30 days for the performance of any act
37 it requires. If work cannot be completed in the 30-day period, an extension may be granted if
38 reason of hardship prevail and can be verified. Such notice or order shall be deemed to have
39 been properly served upon such owner or agent when a copy thereof has been sent by registered
40 mail to owner's last known address or when the owner has been served by such notice by any
41 method authorized by the laws of Wisconsin. The owner of record has the right to appeal any
42 decision by the zoning administrator or other designated zoning staff or apply to the Burnett
43 County Board of Adjustment (BOA) for land use variances or the land use and information
44 committee (LUIC) for subdivision variances for a variance from the strict rule of the ordinance
45 within 30 days of receipt of a notice or order.

46 (5) *Emergency conditions.* Whenever the zoning administrator finds that an emergency exists such
47 as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or
48 circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable

1 which requires immediate action to protect the public health, safety and welfare, the administrator
 2 may, without notice or hearing, issue an order citing the existence of such emergency and may
 3 require that such action be taken as may be deemed necessary to meet the emergency. The
 4 administrator shall notify the chairperson of the land use and information committee (LUIC) within
 5 24 hours of such situations. Notwithstanding any other provisions of this ordinance such order
 6 shall become effective immediately. Any person to whom such order is directed shall comply
 7 therewith immediately. Appeals or challenges to emergency orders may be brought after
 8 emergency conditions have ceased to the board of adjustment (BOA).

9 (Res. No. 2017-05, 2-23-2017)

10 **State Law reference**— Similar provisions, Wis. Admin. Code § NR 115.05(4)(j).

11 Secs. 45-510—45-530. - Reserved.

12 ARTICLE ~~XXVI~~ XXVII. - DEFINITIONS

13 Sec. 45-531. - Purpose.

14 For the purpose of administering and enforcing this ordinance, the terms or words used herein shall
 15 be interpreted as follows: Words used in the present tense include the future; words in the singular number
 16 include the plural number; and words in the plural number include the singular number. The word "shall" is
 17 mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

18 (Res. No. 2017-05, 2-23-2017)

19 Sec. 45-532. - Meaning of terms.

20 The following terms used in this ordinance mean:

21 *Access and viewing corridor* (NR 115.03(1d)) means a strip of vegetated land that allows safe
 22 pedestrian access to the shore through the vegetative buffer zone (BZ) or through the vegetation protection
 23 area (PA). Shore should be replaced with ordinary high water mark (OHWM). Shore is used in NR 115, so
 24 probably can't change – ask DNR? Or define shore/shoreline as essentially the same as OHWM?

25 *Accessory structure* means a subordinate structure on the same property as the principal structure
 26 which is devoted to a use incidental to the principal use of the property. An accessory structure can be
 27 either a permanent or temporary structure. An accessory structure doesn't always require a permanent
 28 foundation, in some cases it can be a structure placed directly on the ground or a structure on skids.
 29 Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, patios, solar
 30 panels, decks, swimming pools, hot tubs, fences, doghouses, swing sets, wood sheds, tool sheds, retaining
 31 walls, driveways, parking lots, sidewalks, detached stairways and lifts. Accessory structures which are
 32 detached and independent of any other structure and which are less than 100 square feet in footprint will
 33 not require a land use permit provided that such meet the dimensional and setback requirements of this
 34 chapter.

35 *Addition* means a new contiguous weatherproof roofed and walled connection no less than six feet
 36 wide at any point to an existing structure.

37 *Artificial* means made, modified or produced by human beings rather than occurring naturally.

38 *Attached buildings* means there is a continuous weatherproof roof and walls between the two
 39 structures at least six feet wide at any point.

40 *Average lot width for riparian lots* is calculated by averaging the measurements of the shortest
 41 horizontal distance between side lot lines at the following locations:

- 1 (1) The ordinary high water mark (OHWM).
- 2 (2) The building setback line of 75 feet from the ordinary high water mark (OHWM).
- 3 (3) The rear lot line. For lot width averaging only on riparian lots, the definition of rear lot line is the
- 4 line opposite of the ordinary high water mark (OHWM). When there are two or more lines opposite
- 5 of the ordinary high water mark (OHWM) the shortest line will be used for averaging purposes.
- 6 When there is no line opposite of the ordinary high water mark (OHWM) then a value of zero will
- 7 be used for averaging purposes.

8 *Average lot width for non-riparian lots* is calculated by averaging the measurements of the shortest

9 horizontal distance between side lot lines at the following locations:

- 10 (1) The front lot line. For lot width averaging only, the definition of front lot line is the line which abuts
- 11 a road. For corner lots the higher ranking road will be considered the front. Ranking highest to
- 12 lowest is: federal road, state road, county road, town/village road, private road. For corner lots
- 13 where each road has the same ranking, then the shortest side line shall be used for averaging
- 14 purposes. When the lot has no road frontage, then the front will be considered the side one which
- 15 contains the access point to the lot.
- 16 (2) The building setback line (from the front lot line).
- 17 (3) The rear lot line. For lot width averaging purposes only on non-riparian lots, the definition of rear
- 18 lot line is the line opposite the front lot line. When there are two or more lines opposite of the front
- 19 lot line, the shortest line will be used for averaging purposes. When there is no line opposite of
- 20 the front lot line, then a value of zero will be used for averaging purposes.

21 *Beach, artificial* means the placement of sand or other material to create a new beach; or the removal

22 or destruction of natural vegetation to expose sand or other material to create a new beach. These are not

23 allowed within 50 feet of the landward side of the ordinary high water mark (OHWM).

24 *Beach, natural* means a beach formed entirely through natural processes. These are only located

25 below the ordinary high water mark (OHWM).

26 *Boathouse* (NR 115.03(1h)) means a permanent structure used for the storage of watercraft and

27 associated materials and includes all structures which are totally enclosed, have roofs or walls or any

28 combination of these structural parts. These are considered non-habitable accessory structures and have

29 to meet all ordinance requirements.

30 *Boathouse, dry* means a boathouse where no part of the boathouse is at or below the ordinary high

31 water mark (OHWM). These are entirely regulated by Burnett County. These are considered non-habitable

32 accessory structures and have to meet all ordinance requirements.

33 *Boathouse, wet* means a boathouse where any part of the boathouse is at or below the ordinary high

34 water mark (OHWM). These are entirely regulated by the department.

35 *Buffer* means an area of native vegetation to lessen or moderate the impact of land use changes.

36 *Building* see definition of "Structure".

37 *Building envelope* (NR 115.03(1p)) means the three dimensional space within which a structure is

38 built.

39 *Bunkhouse/temporary guest quarters* means an accessory structure or part of an accessory structure

40 with or without plumbing which is used as temporary sleeping quarters only. These are considered habitable

41 structures and must be constructed to appropriate building codes and have to meet all ordinance

42 requirements.

43 *Campground* means a parcel or tract of land owned by a person, state or local government that is

44 designed, maintained, intended, or used for the purpose of providing campsites offered with or without

45 charge, for temporary overnight sleeping accommodations.

46 *Camping type – seasonal* means camping where the unit is allowed to be stored on the campsite/parcel

47 during periods when the unit is not occupied or when the campground is not in operation.

1 *Camping type – temporary* means camping where the unit is removed when the unit is not occupied.

2 *Camping type – rustic/primitive* means camping as defined in ATCP 79.27.

3 *Camping unit - cabin* means a building or other structure as defined in ATCP 79.03(4). These are used
4 for temporary living quarters or shelter during periods of recreation, vacation or leisure time.

5 *Camping unit - mobile* means a tent, tent trailer, travel trailer, camping trailer (ATCP 79.03(5)), pickup
6 camper, motor home (ATCP 79.03(20)) or any other portable device or vehicular type structures as may be
7 developed, marketed or used for temporary living quarters or shelter during periods of recreation, vacation,
8 leisure time or travel.

9 *Camping unit - park model* means a camping unit that is built on a single chassis mounted on wheels
10 that has a gross trailer area of not more than 400 square feet in setup mode, and bears a label, symbol or
11 other identifying mark indicating construction to nationally recognized standards ANSI 119.5 (ATCP
12 79.03(23)). Typically these have the tongue and wheels removed after set-up and/or is skirted and not
13 meant to be mobile. A park model camping unit is not considered a mobile camping unit due to the fact of
14 its limited mobility. These are used for temporary living quarters or shelter during periods of recreation,
15 vacation or leisure time. These type of camping units are required to be connected to a POWTS; unless it
16 is located at a facility licensed to sell this type of camping unit and only located there for the purpose of
17 sale.

18 *Camping unit - yurt* means a building or other structure as defined in ATCP 79.03(42). These are used
19 for temporary living quarters or shelter during periods of recreation, vacation or leisure time.

20 *Chimney* means as defined in Wis. Admin. Code SPS 320.07(13).

21 *Common open space* means undeveloped land within a planned residential development that has
22 been designated, dedicated, reserved or restricted in perpetuity from further development, and is set aside
23 in the interest of the residents of the development. Common open space shall not be part of individual
24 residential lots. It shall be substantially free of structures, but may contain historic structures and
25 archeological sites including Indian mounds, and/or such recreational facilities for residents as indicated on
26 the approved development plan.

27 *Conservation easement* means the grant of a property right or interest from the property owner to a
28 unit of government or nonprofit conservation organization stipulating that the described land shall remain
29 in its natural, scenic, open or wooded state, precluding future or additional development.

30 *Construction trailer* means a portable structure designed to be used as an office at a construction site
31 for a building, highway, gravel pit, etc. which is usually equipped with a desk, chairs and first aid equipment.
32 This structure is not designed to be used for and shall not be permitted for use as a camping unit, dwelling,
33 cabin or temporary living quarters. A current and active county land use or zoning permit is required in order
34 for a construction trailer to be located on a lot. A separate land use permit is not required for the construction
35 trailer, however these are still considered non-habitable accessory structures and have to meet all
36 ordinance requirements.

37 *Conditional use* means a use that is specifically listed in a local zoning ordinance as a conditional use,
38 and that can only be permitted if the Burnett County Land Use and Information Committee (LUIC)
39 determines that the conditions specified in the ordinance for that use are satisfied.

40 *County zoning agency* (NR 115.03(2)) means that committee or commission created or designated by
41 the county board under Wis. Stats. § 59.69(2)(a) to act in all matters pertaining to county planning and
42 zoning. In Burnett County this is the land use and information committee (LUIC).

43 *Deck* means as defined in Wis. Admin. Code SPS 320.07(21m). These are considered non-habitable
44 accessory structures and have to meet all ordinance requirements.

45 *Department* (NR 115.03(3)) means the department of natural resources (DNR).

46 *Development* means any artificial change to improved or unimproved real estate, including, but not
47 limited to, the construction of buildings, structures or accessory structures; the repair of any damaged
48 structure or the improvement or renovation of any structure, regardless of the percentage of damage or
49 improvement; the construction of additions or substantial improvements to buildings, structures or

1 accessory structures; the placement of buildings and structures; mining, dredging, filling, grading, paving,
2 excavation, or drilling operations; the storage, deposition or extraction of materials or equipment, and the
3 installation, repair or removal of public or private sewage disposal systems (POWTS) or water supply
4 facilities.

5 **Developable acre** means the parcel area remaining after all setbacks, POWTS areas, buffers, roads,
6 driveways, existing structures, wetlands, navigable waters, and floodplains are excluded from the parcel.

7 *Development envelopes* means areas within which grading, lawns, pavement and buildings will be
8 located.

9 *Drainage system* means one or more artificial ditches, tile drains or similar devices which collect
10 surface runoff or groundwater and convey it to a point of discharge.

11 *Dwelling, single family* means a building designed or used as the living quarters for one **or more**
12 **families** family. A dwelling is construed to include manufactured homes.

13 *Dwelling, two family* means a building (duplex) designed for and occupied by two families living
14 independently of each other.

15 *Dwelling, multifamily* means a dwelling or group of dwellings on one plot containing separate living
16 units for two or more families but which may have joint services or facilities or both. **Move this definition to**
17 **be before dwelling single family.**

18 *Eave* means the part of a roof that overhangs the walls of a building.

19 *Enclosed dwelling area* means a space, measured by floor area, which is enclosed by walls (solid,
20 windows, or screens) and covered by roof, and is measured for each story of a multistory structure, but
21 does not include basements or garages.

22 *Essential services* means services provided by public and private utilities necessary for the exercise
23 of the principal use or service of the principal structure. These services include underground surface or
24 overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage and communications
25 systems and accessories thereto such as poles, towers, wires, mains, drains, vaults, culverts, laterals,
26 sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes,
27 traffic signals, pumps, lift stations, and hydrants, but not including buildings.

28 **Excavation** means the process of moving earth, rock, sand, dirt or other similar materials.

29 *Existing development pattern* (NR 115.03(3m)) means that principal structures exist within 250 feet of
30 a proposed principal structure in both directions along the shoreline.

31 *Expansion* means an addition to an existing structure regardless of whether the addition is vertical or
32 horizontal or both.

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

37 *Family* means one or more persons **related by blood, marriage or adoption, or a group of not more**
38 **than five persons not so related;** living, **or** sleeping, **cooking and eating** on the same premises as a single
39 housekeeping unit.

40 *Farming, general* means the production of field crops or the raising of livestock or livestock products
41 for commercial gain.

42 **Fence, open** means a fence typically constructed of chain link, wood rail, or wire. This type of fence is
43 not intended to obstruct a view or shield an object from view.

44 **Fence, solid** means a fence constructed in such a way so that more than 75 percent of the surface
45 area of the fence obstructs a view through the fence from a position perpendicular to the fence.

1 *Filling* means the act of transporting, depositing or placing the deposition of any materials by artificial
2 means below, on or above the ground surface.

3 *Fire pit, permanent* means a structure used to contain an outdoor fire and constructed to have a
4 permanent location; such as a depression surrounded by asphalt, concrete, block, tile, flagstone, pavers,
5 gravel, stone, rock, mulch, decking, carpet, canvas, plastic, etc or other surface lacking native vegetation.
6 These are considered non-habitable accessory structures and have to meet all ordinance requirements.
7 Sometimes similar to a patio.

8 *Fire pit, temporary* means a small portable structure such as a metal fire ring or a ring of individual
9 rocks that are less than 8 inches in diameter. This ring will not exceed a diameter of four feet and not exceed
10 a height of 18 inches. One of these per lot is not considered a structure for regulatory purposes.

11 *Floodplain* (NR 115.03(4)) means the land which has been or may be hereafter covered by floodwater
12 during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are
13 defined in Wis. Admin. Code ch. NR 116.

14 *Floor area* means the square foot measurement of all area within the outside of the exterior walls
15 (siding) of the structure.

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

24 *Foundation* means the underlying base of a building or other structure, including, but not limited to,
25 pillars, footings and concrete and masonry walls.

26 *Garage, attached* means a portion of a principal structure utilized for the storage of items. A garage is
27 not designed to be used for and shall not be permitted for use as habitable space. These have to meet all
28 ordinance requirements.

29 *Garage, detached* means an accessory structure utilized for the storage of items. A garage is not
30 designed to be used for and shall not be permitted for use as habitable space. These are considered non-
31 habitable accessory structures and have to meet all ordinance requirements.

32 *Generally accepted forestry management practices* (NR 1.25(2)(b)) means forestry management
33 practices that promote sound management of a forest. Generally accepted forestry management practices
34 include those practices contained in the most recent version of the department publication known as
35 Wisconsin Forest Management Guidelines and identified as PUB FR-226.
36 <http://dnr.wi.gov/topic/forestmanagement/documents/guidelines/foreword.pdf>
37 <https://dnr.wisconsin.gov/topic/forestmanagement/guidelines>

38 *Grading* means the process of reshaping land. This can include raising or lowering ground elevations,
39 adding or removing slopes or leveling the ground surface.

40 *Guest cabin* means the same as dwelling. See definition of "dwelling".

41 *Habitable* means any **room space** used for sleeping, living or dining purposes.

42 *Home occupation* means a gainful occupation conducted by a member of the family within his or her
43 place or residence where the space used is incidental to residential use and no article is sold or offered for
44 sale except such as is produced by such home occupation.

45 *Hospital*, unless otherwise specified, shall be deemed to include sanitarium, sanatorium, clinic, rest
46 home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and
47 shall be deemed to be limited to places for diagnosis, treatment or other care of human ailments.

1 *Impervious surface (NR 115.03(4g))* means an area that releases as runoff all or a majority of the
2 precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, sidewalks, **decks,**
3 **patios,** driveways, parking areas, parking lots, streets, roadways and private roads unless specifically
4 designed, constructed, and maintained to be pervious. **Typical gravel materials used for roads, driveways**
5 **or parking areas become compacted and sheds water similar to paved surfaces, therefore they are**
6 **considered impervious.** Roadways as defined in Wis. Admin. Code § 340.01(54) or sidewalks as defined
7 in § 340.01(58) are not considered impervious surfaces.

8 *Lot* means a parcel of land occupied or capable of being occupied by structures and/or uses consistent
9 with the provisions of this ordinance and the Burnett County Subdivision Ordinance. Adjoining lands of
10 common ownership shall be considered a contiguous parcel even if divided by a public or private road,
11 easement or navigable rivers or streams.

12 *Lot area* means the horizontal projection of a parcel of land, exclusive of any portion of public right-of-
13 way, any portion of a lot 33 feet or less in width. Measurements are to be made by standard surveying
14 methods. This area shall be exclusive of lakebeds and easements. (This excludes blanket easements.)

15 *Lot of record* means any lot, the description of which is properly recorded with the register of deeds
16 **(ROD),** which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

17 *Lot line* means any line dividing one lot from another.

18 *Maintenance and repairs* means any work done on a structure, including such activities as interior
19 remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors,
20 wiring, siding, roof and other nonstructural components; and repair of cracks in foundations, sidewalks,
21 walkways, and the application of waterproof coatings to foundations.

22 ***Major recreation equipment* means any type of camping unit that has an exterior length greater than**
23 **10 feet. Exterior length includes the tongue and bumper.**

24 *Manufactured home* means a home factory-built in the United States to the U.S. Department of
25 Housing and Urban Development (HUD) construction standards. This HUD code took effect on June 15,
26 1976. A HUD-coded home will display documentation called the "certification label and the data plate".
27 Removing the certification label and data plate is illegal. Removal could hinder the buying, selling,
28 permitting, financing or insuring of a manufactured home, they are not replaceable. **These are considered**
29 **habitable principal structures and have to meet all ordinance requirements.**

30 ***Marina* means a facility for the rental of boats or mooring space that consists of a pier, pier slips,**
31 **wharfs, mooring structures, or a combination of the same for securing watercraft.**

32 *Mitigation (NR 115.03(4r))* means balancing measures that are designed, implemented and function
33 to restore natural functions and values that are otherwise lost through development and human activities.

34 *Mobile home* means any structure originally designed to be capable of transportation by motor vehicle
35 upon public highway which does not meet standards established for manufactured housing construction
36 and safety standards as administered by the U.S. Department of Housing and Urban Development (HUD).
37 This HUD code took effect on June 15, 1976. A mobile home is considered built before June 15, 1976, or
38 not built to a uniform construction code. **Since these do not meet construction and safety standards these**
39 **are not allowed as habitable structures. Existing mobile homes can remain as non-conforming structures**
40 **until it is not used for a period of 12 months or until it is replaced.**

41 ***Native* means of local origin.**

42 *Navigable waters (NR 115.03(5))* means Lake Superior, Lake Michigan, all natural inland lakes within
43 Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this
44 state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.
45 Under Wis. Stats. § 281.31(2m), notwithstanding any other provision of law or administrative rule
46 promulgated thereunder, shoreland ordinances required under Wis. Stats. § 59.692 and Wis. Admin. Code
47 ch. NR 115 do not apply to lands adjacent to:

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

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

3 *Nonconforming structure* means an existing lawful structure or building which is not in conformity with
4 the provisions of this ordinance for the area which it occupies. If a nonconforming structure is not used for
5 a period of 12 months, any future use of the structure shall conform to this chapter.

6 *Nonconforming use* means a lawful use that existed immediately prior to the adoption of a zoning
7 ordinance which prohibits or restricts said use. If a nonconforming use is discontinued for a period of 12
8 months, any future use shall conform to this chapter.

9 *Nonprofit conservation organization* means any charitable corporation, charitable association or
10 charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the
11 natural scenic or open-space values of real property, assuring the availability of real property for
12 agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing
13 air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real
14 property.

15 *Non-riparian lot* means a lot or parcel of land which does not abut navigable water.

16 *Non-riparian owner* means someone who owns land which does not abut navigable water.

17 *Ordinary high water mark (OHWM)* (NR 115.03(6)) means the point on the bank or shore up to which
18 the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion,
19 destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily
20 recognized characteristics.

21 *Parcel* see definition of "lot".

22 *Patio* means a designated area constructed of materials embedded or placed on the ground. Such as
23 asphalt, concrete, block, tile, flagstone, pavers, gravel, rock, stone, brick, wooden block, mulch, etc or other
24 surface lacking native vegetation. These are considered non-habitable accessory structures and have to
25 meet all ordinance requirements.

26 *Planned residential development* means a housing development in a rural setting that is characterized
27 by compact lots and common open space, and where the natural features of the land are maintained to the
28 greatest extent possible. (Also known as a conservation subdivision).

29 *Planned unit development* means a zoning district which permits smaller non-riparian lots and
30 preserves open space preferably on the shoreland in perpetuity.

31 *Portable toilet facility* means a self-contained portable unit that includes fixtures, incorporating holding
32 tank facilities, designed to contain human excrement. These are only allowed on a lot during construction
33 or a special event such as a grand opening, promotion, graduation or birthday party, wedding, festivals or
34 fairs.

35 - When on a lot during construction a current and active county land use or zoning permit is required
36 in order for the portable toilet to be located on the lot. A separate county permit is not required for
37 the portable toilet facility, however these are still considered non-habitable accessory structures
38 and have to meet all ordinance requirements.

39 - When on a lot during a special event no county land use or zoning permit is required for the
40 portable toilet facility, however these are still considered non-habitable accessory structures and
41 have to meet all ordinance requirements. These are not allowed on the lot for more than 15 days
42 per event or 45 days in total per calendar year. The related special event must be an allowed use
43 or conditionally allowed use on the lot.

44 *POWTS* means a private onsite wastewater treatment system.

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

46 *Principal structure* means a building or structure in which the principal use of the lot on which it is
47 located is conducted. Only one principal structure is allowed per parcel.

1 *Privy* means an enclosed non-portable toilet into which non-water-carried human excrement is
2 deposited directly by humans. These are typically known as a pit privy, vault privy, composting toilet or
3 incinerating toilet. These are considered non-habitable accessory structures and have to meet all ordinance
4 requirements and require a county permit.

5 *Quarry* includes, but is not limited to, sand, gravel and marl pits.

6 *Retaining wall* means a vertical structure or near vertical structure, located on the landward side of the
7 ordinary high water mark (OHWM); typically constructed of rock, stone, concrete, wood, block or other
8 similar material. These are considered non-habitable accessory structures and have to meet all ordinance
9 requirements.

10 *Reconstruction* means replacement of all, or substantially all (more than 50 percent) of the components
11 of a structure or to the point when reconstruction of a principal structure will require the construction to be
12 done in accordance with the Uniform Dwelling Code, Wis. Admin. Code SPS 320—325, or the Commercial
13 Building Code, Wis. Admin. Code SPS 361-366.

14 *Regional flood* (NR 115.03(7)) means a flood determined to be representative of large floods known
15 to have generally occurred in Wisconsin and which may be expected to occur on a particular lake, pond,
16 flowage, river or stream because of like physical characteristics, once in every 100 years.

17 *Renovation of a principle structure* means the process of improving a structure by alteration,
18 refurbishment and/or restoration, including the replacement of no more than 50 percent of the structural
19 members, but not to the point of requiring compliance as a new structure under the Uniform Dwelling Code,
20 Wis. Admin. Code SPS 320—325, or the Commercial Building Code, Wis. Admin. Code SPS 361-366.

21 *Riparian lot* means a lot or parcel of land that abuts navigable water.

22 *Riparian owner* means a riparian owner is someone who owns land which abuts navigable water.

23 *Routine maintenance of vegetation* (NR 115.03(7m)) means normally accepted horticultural practices
24 that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

25 *Salvage yard* means a lot, land or structure, or part thereof, used for the collecting, storage or sale of
26 waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging
27 of machinery or vehicles not in running condition or for the sale of parts thereof.

28 *Salvageable material* means discarded material no longer of value as intended, but which is stored or
29 retained for salvage, sale or future reuse.

30 *Setback* means the minimum allowable horizontal distance from a given point or line of reference.

31 *Shed* means an accessory structure utilized for the storage of items. A shed is not designed to be used
32 for and shall not be permitted for use as habitable space. These are typically made out of wood, metal,
33 canvas, plastic, nylon, other type of tarp material. These typically don't have a foundation and in most cases
34 are placed on either a gravel pad or placed directly on the ground. These are considered non-habitable
35 accessory structures and have to meet all ordinance requirements.

36 *Shore* see definition of "ordinary high water mark (OHWM)".

37 *Sign* means any structure or natural object or part thereof or device attached thereto or printed or
38 represented thereon which is intended to attract attention to any object, product, place, activity, person,
39 institution, organization, or business, or which shall display or include any letter, word, banner, flag,
40 pennant, insignia, device, or representation used as or which is in the nature of an announcement, direction,
41 or advertisement. Move this definition to be after *shoreland-wetland district*.

42 *Shoreland* (NR 115.03(8)) means lands within the following distances from the ordinary high water
43 mark (OHWM) of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or
44 stream or to the landward side of the floodplain, whichever distance is greater.

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

1 *Shoreland-wetland district* (NR 115.03(9)) means a zoning district, created as a part of a county zoning
2 ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory
3 maps prepared by the department.

4 *Slope* means a degree of deviation of a surface from horizontal, measured as a numerical ratio, as a
5 percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second
6 number is the vertical distance (rise), as 2:1. Percent slope is calculated as rise divided by run. A 2:1 slope
7 is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90
8 degree slope being vertical (maximum) and a 45 degree slope being a 1:1 slope.

9 *Soil disturbance* means soil striping, clearing, grubbing, grading, excavating or filling.

10 *Special exception* see definition of "Conditional use".

11 *Storage container* means an accessory structure utilized for the storage of items. A storage container
12 is not designed to be used for and shall not be permitted for use as habitable space. These typically don't
13 have a foundation and in most cases are placed on either a gravel pad or placed directly on the ground.
14 These are considered non-habitable accessory structures and have to meet all ordinance requirements.

15 *Structure* (Wis. Stats. § 59.692(1)(e)) means a principal structure or any accessory structure including
16 a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or fire pit either
17 permanently or temporarily attached to, placed upon, or set onto or into the ground, lakebed, streambed,
18 or upon another structure.

19 *Structural alteration* means the replacement of or alteration of one or more of the structural
20 components of any nonconforming structure.

21 *Structural component* means any part of the framework of a building or other structure. A structural
22 component may be non-load bearing, such as the gable end of a one-story house. Wall coverings, such as
23 siding on the exterior or drywall on the interior, are not included in the definition of structural component.

24 • The structural components of a building's exterior walls include the vertical studs, top and
25 bottom plates, sheathing and window and door sills and headers.

26 • The structural components of a building's roof include the ridge board, rafters, rafter ties, or roof
27 trusses, and roof sheathing.

28 • The structural components of a building's floors and ceilings include girder(s), joist, bridging,
29 subfloor(s), and posts.

30 • The structural components of a building's foundation include footings, foundation walls and
31 concrete slabs.

32 *Structure height* see article XIV of this ordinance for how this is determined.

33 *Substandard lots* means a legally created lot or parcel that met the minimum area and minimum width
34 requirements when created but does not meet current requirements for a new lot.

35 *Temporary living quarters* means for seasonal or temporary use for 180 cumulative days or less per
36 year.

37 *Unnecessary hardship* (NR 115.03(11)) means that circumstance where special conditions, which
38 were not self-created, affect a particular property and make strict conformity with restrictions governing
39 area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the
40 purposes of this ordinance.

41 *Use* means the specific purpose for which land or a building is designed, arranged, intended, or for
42 which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed
43 to include any nonconforming use.

1 *Variance* means an authorization granted by the board of adjustment (BOA) for land use variances or
2 the land use and information committee (LUIC) for subdivision variances to construct, alter or use a building
3 or structure, or reconfigure a parcel in a manner that deviates from the dimensional standards of this
4 ordinance.

5 *Vegetative buffer zone (BZ)* means an area that contains three layers of native vegetation: trees,
6 shrubs and groundcover. Under the shoreland habitat standard in 643A NRCS, which provides that
7 shoreland habitat means an "area adjacent to a waterbody or water course in a non-agricultural setting that
8 is vegetated with a diverse mixture of native species that can include grasses, grass-like species, forbs,
9 shrubs and trees." The vegetated buffer zone (BZ) contains the area between the ordinary high water mark
10 (OHWM) and 35 feet inland landward from the ordinary high water mark (OHWM).

11 *Vegetation protection area (PA)* means an area that contains three layers of native vegetation: trees,
12 shrubs and groundcover. Vegetated with a diverse mixture of native species that can include grasses,
13 grass-like species, forbs, shrubs and trees. The vegetation protection area (PA) contains the area between
14 35 feet inland landward from the ordinary high water mark (OHWM) and 50 feet inland landward from the
15 ordinary high water mark (OHWM).

16 *Walkway* means a developed path consisting of asphalt, concrete, flagstone, rock, stone, gravel, brick,
17 wood, mulch, pavers, tile, or other similar materials. These are considered non-habitable accessory
18 structures and have to meet all ordinance requirements.

19 *Wetlands" (NR 115.03(13))* means those areas where water is at, near or above the land surface long
20 enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of
21 wet conditions.

22 *Yard, front* means an open, unoccupied space on the same lot with the building between the front line
23 of the building and the front line of the lot and extending the full width of the lot.

24 *Yard, rear* means an open, unoccupied space on the same lot with the building between the rear line
25 of the building and the rear line of the lot and extending the full width of the lot.

26 *Yard, side* means an open, unoccupied space on the same lot with the building situated between the
27 building and the side line of the lot and extending from the front yard to the rear yard.

28 (Res. No. 2017-05, 2-23-2017)