

As of March 27, 2018

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Adopted: September 20, 2016; Ordinance 2016-12
Amended: December 27, 2016; Ordinance 2016-16
Amended: March 27, 2018; Ordinance 2018-07

**DOOR COUNTY SHORELAND ZONING ORDINANCE
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DOOR COUNTY SHORELAND ZONING ORDINANCE

Note: Ordinance 2018-07 (27 March 2018) replaced all references throughout this ordinance to the "Door County Planning Department" with "Door County Land Use Services Department".

I. Statutory Authority, Findings of Fact, Statement of Purpose and Intent

A. Statutory Authority

1. This ordinance is enacted pursuant to §§ 59.692 and 281.31, Wis. Stats.

B. Findings of Fact.

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

C. Purpose and Intent.

1. This ordinance was enacted:
 - a. To assure compliance with the objectives of the shoreland zoning enabling statutes, i.e., §§ 59.692 and 281.31, Wis. Stats., and to parallel as closely as possible the regulatory provisions of Ch. NR 115, Wis. Adm. Code.
 - b. To promote the public health, safety, convenience, and general welfare.
 - c. To promote and protect the public trust in navigable waters.
 - d. To limit the direct and cumulative impacts of shoreland development on water quality; near-shore aquatic, wetland, and upland wildlife habitat; and natural scenic beauty.
 - e. To effect the purposes of § 281.31, Wis. Stats., to wit:
 - 1) For the efficient use, conservation, development, and protection of the state's and county's water resources.
 - 2) Further the maintenance of safe and healthful conditions by, among other means, the following:
 - a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation;
 - b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems;
 - c) Controlling filling and grading to prevent soil erosion problems; and
 - d) Limiting impervious surfaces to control runoff which carries pollutants.
 - 3) Prevent and control water pollution.
 - 4) Protect spawning grounds, fish, and aquatic life by, among other means, the following:
 - a) Preserving wetlands and other fish and aquatic habitat.
 - b) Regulating pollution sources.
 - c) Controlling shoreline alterations, dredging, and lagooning.

- 5) Control building sites, placement of structures, and land uses and reserve shore cover and natural beauty by, among other means, the following:
 - a) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - b) Setting minimum lot sizes and widths.
 - c) Setting minimum building setbacks from waterways.
 - d) Setting the maximum height of near-shore structures.
 - 6) Preserve and restore shoreland vegetation and natural scenic beauty by, among other means, the following:
 - a) Restricting the removal of natural shoreland cover.
 - b) Preventing shoreline encroachment by structures.
 - c) Controlling shoreland excavation and other earth moving activities.
 - d) Regulating the use and placement of boathouses and other structures.
 - f. To control use of shorelands to afford the protection of water quality.
2. This ordinance is, per § 59.692(2)(c), Wis. Stats., intended to be, so far as practicable, in accordance and consistent with any comprehensive zoning ordinance applicable to Door County.
 3. If an existing town ordinance relating to and affecting the same shorelands is more restrictive than and pre-dates Door County's enactment of a shoreland zoning ordinance (i.e., June 12, 1968), it continues as a town ordinance in all respects to the extent of the greater restrictions, but not otherwise, as provided under § 59.692(2)(b), Wis. Stats.
 4. This ordinance, consistent with § 59.692 (2m), Wis. Stats, may not be interpreted to regulate the construction of a structure on a substandard lot in a manner that is more restrictive than the shoreland zoning standards for substandard lots.
 5. Door County expressly reserves all powers granted it under § 236.45, Wis. Stats. that may be exercised by it with respect to shorelands as provided under § 59.692(3), Wis. Stats., and § 236.45, Wis. Stats.
 6. This ordinance does not impact or effect an ordinance enacted under § 59.69, Wis. Stats. (i.e., Door County's Comprehensive Zoning Ordinance), § 87.30, Wis. Stats. (i.e., Door County's Floodplain Zoning Ordinance), or § 91.30, Wis. Stats. (i.e., Door County's Farmland Preservation zoning provisions).

II. General Provisions

A. Effective Date

1. This ordinance shall be known as the Door County Shoreland Zoning Ordinance and become effective upon enactment.

B. Applicability [§ NR 115.02, Wis. Adm. Code]

1. The provisions of this ordinance apply to regulation of the use and development of:
 - a. Unincorporated "shorelands" (as that term is defined below) within Door County; *and*
 - b. Annexed or incorporated shorelands within villages in accord and consistent with §§ 61.353, Wis. Stats., including:
 - 1) Provisions of Door County's shoreland zoning ordinance under § 59.692, Wis. Stats. that

were applicable, prior to annexation, to any shoreland annexed by a village after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing village until the effective date of an ordinance enacted by the village under sub. § 61.353(2), Wis. Stats.

- 2) Provisions of Door County's shoreland zoning ordinance under § 59.692, Wis. Stats. that were applicable prior to incorporation, to any shoreland that is part of a town that incorporates as a village under §§.66.0203, 66.0211, or 66.0213, Wis. Stats. after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated village until the effective date of an ordinance enacted by the village under § 61.353(2), Wis. Stats.
- c. Annexed or incorporated shorelands within a city in accord and consistent with §§ 63.233, Wis. Stats., including:
 - 1) Provisions of Door County's shoreland zoning ordinance under § 59.692, Wis. Stats. that were applicable, prior to annexation, to any shoreland annexed by a city after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing city until the effective date of an ordinance enacted by the city under sub. § 62.233(2), Wis. Stats.
 - 2) Provisions of Door County's shoreland zoning ordinance under § 59.692, Wis. Stats. that were applicable prior to incorporation to any shoreland that is part of a town that incorporates as a city under §§.66.0203, 66.0211, 66.0213, or 66.0215, Wis. Stats. after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated city until the effective date of an ordinance enacted by the city under § 62.233(2), Wis. Stats.
2. Application of this ordinance may be limited in accord and consistent with §13.48 (13), Wis. Stats., §30.2022, Wis. Stats., and §281.31 (2m), Wis. Stats., including:
 - a. Every building, structure or facility that is constructed for the benefit of or use of the state shall be in compliance with all applicable state laws, rules, codes and regulations but the construction is not subject to the ordinances or regulations of the municipality in which the construction takes place except zoning, including without limitation because of enumeration payment of permit fees. (See: § 13.48(13), Wis. Stats.)
 - b. Activities of the Wisconsin Department of Transportation may not, in whole or part, be subject to the prohibitions or permit or approval requirements specified under § 59.692, Wis. Stats., in accord and consistent with § 30.202, Wis. Stats.
 - c. A shoreland zoning ordinance required under § 59.692, Wis. Stats., does not apply to any of the following:
 - 1) Lands adjacent to farm drainage ditches if all of the following apply:
 - a) The lands are not adjacent to a natural navigable stream or river; and
 - b) Those parts of the drainage ditches adjacent to these lands were nonnavigable streams before ditching
 - 2) Lands adjacent to artificially constructed drainage ditches, ponds, or storm water retention basins that are not hydrologically connected to a natural navigable water body.(See: § 281.31 (2m), Wis. Stats.)

C. Definitions

1. The following definitions and others as set forth in Ch. NR 115, Wis. Adm. Code, § 59.692, Wis. Stats., and § 281.31, Wis. Stats., are applicable to this ordinance.

- a. "Access and viewing corridor" (§ NR 115.03(1d), Wis. Adm. Code): A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
- b. "Boathouse" (§ NR 115.03(1h), Wis. Adm. Code): A permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.
- c. "Building envelope" (§ NR 115.03(1p), Wis. Adm. Code): The three dimensional space within which a structure is built.
- d. "County zoning agency" (§ NR 115.03(2), Wis. Adm. Code): That committee or commission created or designated by the county board under s. 59.69(2)(a), Wis. Stats., to act in all matters pertaining to county planning and zoning.
- e. "Department" (§ NR 115.03(3), Wis. Adm. Code): The Department of Natural Resources.
- f. "Existing development pattern" (§ NR 115.03(3m), Wis. Adm. Code): That principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- g. "Floodplain" (§ NR 115.03(4), Wis. Adm. Code): The land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Ch. NR 116, Wis. Adm. Code.
- h. "Footprint": A single horizontal plane bounded by the exterior walls of a structure.
- i. "Generally accepted forestry management practices" (§ NR 1.25(2)(b), Wis. Adm. Code): Forestry management practices that promote sound management of a forest, including those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- j. "Impervious surface" (§ NR 115.03(4g), Wis. Adm. Code): An area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in § 340.01(54), Wis. Adm. Code, or sidewalks as defined in § 340.01(58), Wis. Adm. Code, are not considered impervious surfaces.
- k. "Mitigation" (§ NR 115.03(4r), Wis. Adm. Code): Balancing measures that are designed, implemented, and function to restore natural functions and values that are otherwise lost through development and human activities.
- l. "Navigable waters" (§ NR 115.03(5), Wis. Adm. Code): Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats., and Ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:
 - 1) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - 2) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- m. "Ordinary high-water mark" (§ NR 115.03(6), Wis. Adm. Code): The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

- n. "Previously developed land": Land which is occupied by a principal structure, including the land immediately surrounding it, any associated existing accessory structures, and fixed surface infrastructure (e.g., driveway).
 - o. "Regional flood " (§ NR 115.03(7), Wis. Adm. Code): A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
 - p. "Routine maintenance of vegetation" (§ NR 115.03(7m), Wis. Adm. Code): Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
 - q. "Shorelands" (§ NR 115.03(8), Wis. Adm. Code and § 59.692(1)(b), Wis. Stats.): Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
 - r. "Shoreland setback" or "Shoreland setback area" (§ 59.692(1)(bn), Wis. Stats.) An area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under § 59.692, Wis. Stats.
 - s. "Shoreland-wetland district" (§ NR 115.03(9), Wis. Adm. Code): A zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the Department.
 - t. "Structure" (§ 59.692(1)(e), Wis. Stats.): A principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or firepit.
 - u. "Wetlands" (NR § 115.03(13), Wis. Adm. Code): Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
2. If a term used in this ordinance is not defined in pars. a - t, above, then the definition in Door County's general zoning ordinance, enacted under § 59.69, Wis. Stats., titled "Door County Comprehensive Zoning Ordinance" is applicable to this ordinance.
 3. Terms not defined in pars. 1 or 2, above, shall have the meaning customarily assigned to them, as defined in the current version of Merriam-Webster's Collegiate Dictionary.
- D. Variances and Appeals [§ 59.692(4)(b), Wis. Stats.]
1. Variances (to a dimensional standard) and appeals hereunder regarding shorelands shall be heard by the Door County Board of Adjustment.
 2. The procedures of § 59.694, Wis. Stats., and the Door County Comprehensive Zoning Ordinance apply.
- E. Interpretation
1. In its interpretation and application, this ordinance shall be liberally construed in favor of Door County, and shall not be construed to limit or repeal any powers possessed by the County.
 2. Any reference to the Wisconsin Statutes or Wisconsin Administrative Code herein include the Statutes and Code that is in full force and effect at the time this ordinance is enacted *or* as the Statutes or Code are thereafter revised.
- F. Severability
1. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

III. Shoreland-Wetlands Zoning District [§ NR 115.04, Wis. Adm. Code]

- A. County hereby establishes a shoreland-wetland zoning district in accordance with § NR 115.04, Wis. Adm. Code. This district includes those shoreland areas designated as wetlands on the most recent version of the Wisconsin wetland inventory maps (See: <http://dnrm.wisconsin.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>).

Where an apparent discrepancy exists between a shoreland-wetland district map and actual field conditions, the County shall contact the Department to determine if the amended map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the County shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official map amendment must be initiated within a reasonable period of time, not to exceed one year following the determination.

1. Zoning regulations for the shoreland-wetland zoning district shall be as follows:
 - a. Amendment of shoreland-wetland maps and zoning districts is as set forth in § NR 115.04(2)(b)2., Wis. Adm. Code: Ordinance text and map amendments creating or amending shoreland-wetland zoning districts shall be referred to the county zoning agency for public hearing as required by s. 59.69 (5) (e) 2., Wis. Stats.
 - b. Permitted uses within the shoreland-wetland zoning district are as set forth in, and shall be in accord and consistent with, § NR 115.04(3), Wis. Adm. Code.
 - 1) Within shoreland-wetland zoning districts, County shall permit the following uses subject to the general requirements of § NR 115.05, Wis. Adm. Code, the provisions of Chapters 30, 31, and 281.36, Wis. Stats., and all other applicable local, state and federal laws.
 - a) Uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, draining, flooding, dredging, ditching, tiling, or excavating:
 - (1) Hiking, fishing, trapping, hunting, swimming and boating.
 - (2) The harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds in a manner that is not injurious to the natural reproduction of such crops.
 - (3) The pasturing of livestock.
 - (4) The cultivation of agricultural crops.
 - (5) The practice of silviculture, including the planting, thinning and harvesting of timber.
 - (6) The construction or maintenance of duck blinds and deer stands.
 - b) Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
 - (1) Temporary water and stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 - (2) The cultivation of cranberries including flooding, dike and dam construction, or ditching necessary for the growing and harvesting of cranberries.
 - (3) The maintenance and repair of existing agricultural drainage systems where

permissible by s. 30.20, Wis. Stats., including ditching, tiling, dredging, excavating, and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that the filling is permissible by Chapter 30, Wis. Stats., and that the dredged spoil is placed on existing spoil banks where possible.

- (4) The construction or maintenance of fences for pasturing livestock, including limited excavating and filling necessary for such construction or maintenance.
 - (5) The construction or maintenance of piers, docks or walkways built on piling, including limited excavating and filling necessary for such construction and maintenance.
 - (6) The maintenance, repair, replacement, or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
- c) Uses which require the issuance of a regular zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, subject to the following conditions:
 - a. The road cannot, as a practical matter, be located outside the wetland.
 - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland, enumerated in III.C.1.b.
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
 - d. Road construction activities are carried out in the immediate area of the roadbed only.
 - (2) The construction and maintenance of nonresidential buildings, subject to the following conditions:
 - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals or some use permitted in the shoreland-wetland district.
 - b. The building cannot, as a practical matter, be located outside the wetland.
 - c. Such building is not designed for human habitation and does not exceed 500 square feet in floor area.
 - d. Only limited filling or excavating necessary to provide structural support for the building shall be allowed.
 - (3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, and public boat launching ramps and attendant access roads, subject to the following:
 - a. Any private wildlife habitat areas shall be used exclusively for that purpose.
 - b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in III.A.1.b.1)c)(1).

- c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, and game preserves and private wildlife habitat areas is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
 - (4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing such services to their members and the construction or maintenance of railroad lines subject to the following standards:
 - a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
 - b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland, enumerated in III.C.1.b.
 - c. Prohibited Uses in Shoreland–Wetland Zoning Districts. (§ NR 115.044), Wis. Adm. Code)
 - 1) Any use not expressly permitted in III.A.1.b.1). above is prohibited in a shoreland–wetland zoning district, unless the wetland or portion thereof is rezoned by amendment of this ordinance in accordance with § 59.69 (5) (e), Wis. Stats., § NR 115.04(2), Wis. Adm. Code, and this ordinance.
 - 2) Prohibited uses within the shoreland-wetland zoning district include any use not permitted in § NR 115.04(3), Wis. Adm. Code in accord and consistent with § NR 115.04(4), Wis. Adm. Code.
- B. Shoreland-wetland zoning district boundaries shall be shown on maps entitled *Shoreland Zoning Map of Door County*.
- C. The amendment of shoreland–wetland maps and zoning districts is as set forth in, and shall be in accord and consistent with, § NR 115.04, Wis. Adm. Code, and §§ 11.08 and 11.09, Door County Comprehensive Zoning Ordinance.
- 1. The rezoning of lands in the shoreland-wetland district. (See: § NR 115.04(2), Wis. Adm. Code.)
 - a. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:
 - 1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
 - 2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
 - 3) A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and
 - 4) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.
 - b. A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - 1) Storm and flood water storage capacity;
 - 2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the

recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;

- 3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- 4) Shoreline protection against soil erosion;
- 5) Fish spawning, breeding, nursery or feeding grounds;
- 6) Wildlife habitat; or
- 7) Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in § NR 103.04, Wis. Adm. Code, which can be accessed at the following web site:

<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

- c. If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in § III. C. 1. b. of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

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

IV. Shoreland Zoning Regulations [§ NR 115.05, Wis. Adm. Code and § 59.692, Wis. Stats.]

A. Preface

1. The shoreland zoning standards for ordinances enacted under § 59.692, Wis. Stats., established by the Wisconsin Department of Natural Resources in Ch. NR 115, Wis. Adm. Code, are incorporated herein by reference as if set forth in full.
2. This ordinance is not intended, and should not be interpreted, to regulate a matter more or less restrictively than the matter is regulated by a shoreland zoning standard [§ 59.692(1d)(a), Wis. Stats., and § NR 115, Wis. Adm. Code].
3. Paragraph 2., above, does not prohibit the regulation of a matter that is not regulated by a shoreland zoning standard [§ 59.692(1d)(b), Wis. Stats.].
4. The provisions of this ordinance supersede any provisions in the County's comprehensive zoning ordinance that relate to shorelands [§ 59.692 (5), Wis. Stats.].
5. Where an ordinance adopted under a statute other than § 59.692, Wis. Stats, does not solely relate to shorelands and is more restrictive than this ordinance (e.g., a floodplain ordinance or farmland preservation ordinance), that ordinance shall continue in full force and effect to the extent of the greater restrictions.
6. This ordinance shall not require approval or be subject to disapproval by any town or town board [§ 59.692(2)(a), Wis. Stats.].
7. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the

provisions of this ordinance shall prevail. It is also recognized that there is no obligation to consider the existence of a private deed restriction, covenant or easement, and using the County's zoning authority to enforce a private deed restriction, covenant or easement would constitute an impermissible delegation of police power to private entities. [Sills v. Walworth County Land Management Committee, 2002 WI App 111, 254 Wis. 2d 538, 648 N.W.2d 878, 883.]

8. Any provision in this ordinance that is inconsistent with § 59.692(1d), (1f), (1k) or (2m), Wis. Stats. does not apply and may not be enforced [§ 59.692 (5m), Wis. Stats.].
9. The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the Department has issued all required permits or approvals authorizing the construction or maintenance under Ch. 30, 31, 281, or 283, Wis. Stats. A "facility" means any property or equipment of a public utility, as defined in § 196.01 (5), Wis. Stats. or a cooperative association organized under Ch. 185, Wis. Stats. for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power. [§ 59.692(7), Wis. Stats.]

B. Zoning Standards

1. Minimum Lot Sizes. [§ NR 115.05(1)(a), Wis. Adm. Code]
 - a. Minimum lot sizes in the shoreland area are established to control use of shorelands to afford the protection of water quality, to afford protection against danger to health, safety and welfare, and to protect against pollution of the adjacent body of water, and include the following:
 - 1) Sewered lots. Lots served by public sanitary sewer shall have a minimum average width of 65 feet (including at least 65 feet of frontage at the ordinary high water mark) and a minimum area of 10,000 square feet.
 - 2) Unsewered lots. Lots not served by public sanitary sewer shall have a minimum average width of 100 feet (including at least 100 feet of frontage at the ordinary high water mark) and a minimum area of 20,000 square feet.
 - 3) Substandard lots. A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
 - a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - c) The substandard lot or parcel is developed to comply with all other ordinance requirements.
Otherwise, a substandard lot may not be used as a building site unless a variance is granted that would make the lot buildable.
 - 4) Planned unit development (i.e., a conservation subdivision). A non-riparian lot may be created which does not meet the requirements of pars. IV. B.1.a.1) or 2) above if the County has approved and recorded a plat or certified survey map including that lot within a planned unit development (i.e., a conservation subdivision), if the planned unit development (i.e., a conservation subdivision) contains at least 2 acres or 200 feet of frontage, and if the reduced non-riparian lot sizes are allowed in exchange for larger shoreland buffers and setbacks on those lots adjacent to navigable waters that are proportional to and offset the impacts of the reduced lots on habitat, water quality and natural scenic beauty. The applicant must demonstrate that the proposed larger shoreland buffers and setbacks are of adequate size and distance to offset the adverse impacts of the

proposed developments.

- a) The provisions of Ch. 6, Door County Comprehensive Zoning Ordinance, to the extent that such provisions do not conflict with any provisions of this ordinance, are incorporated herein with the same force and effect as if such provisions had been set out herein.
- b) If any of the provisions of Ch. 6, Door County Comprehensive Zoning Ordinance, conflict with any provision of this ordinance, then such provisions of Ch. 6 shall be deemed inoperative to the extent they so conflict.

For purposes of planned unit developments (i.e., conservation subdivisions) only, the zoning districts to be applied for towns that have not approved Door County's Comprehensive Zoning Ordinance shall be as depicted on the Door County Zoning Maps dated September 19, 2016, on file in the Land Use Services Department and incorporated herein by reference as if set forth in full.

2. Building Setbacks. [§ NR 115.05(1)(b), Wis. Adm. Code, and § 59.692 (1n), Wis. Stats.]

- a. These building setbacks are established to conform to health, safety, and welfare requirements, preserve natural beauty, reduce flood hazards, and avoid water pollution.
- b. Shoreland setback. Except where allowed under par. c. below or where exempt under par. d. below, a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.
- c. Setback averaging
 - 1) If the closest principal structure in each direction along the shoreline to a proposed principal structure exists on an adjacent lot and within 250 feet of the proposed principal structure and both of the existing principal structures are set back less than 75 feet from the ordinary high-water mark, the setback will be equal to the average of the distances that those structures are set back from the ordinary high-water mark but no less than 35 feet.
 - 2) If a principal structure exists on an adjacent lot and within 250 feet of a proposed principal structure in only one direction along the shoreline, is the closest principal structure to the proposed principal structure, and is set back less than 75 feet from the ordinary high-water mark, the setback is equal to the average of 75 feet and the distance that the existing structure is set back from the ordinary high-water mark but no less than 35 feet.
- d. Exempt structures. All of the following structures are exempt from the shoreland setback standards in par. b above:
 - 1) Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation [§ 80.01(1d), Wis. Stats.].
 - a) This section does not prohibit repair and maintenance of boathouses located above the ordinary high-water mark.
 - b) The owner of an existing boathouse in the shoreland setback area that has a flat roof may use the roof as a deck if the conditions set forth in § 59.692 (1o), Wis. Stats. are met.
 - c) Boathouses shall be designed, constructed and used solely for the storage of boats and related equipment. Features (e.g., fireplaces and patio doors) inconsistent with these uses are prohibited.
 - d) The use of boathouses for human habitation is prohibited.
 - e) Boathouses shall not be constructed or placed below the ordinary high water mark of any navigable water.

- f) Boathouses shall be accessible by boats from navigable water, and shall not exceed one story.
 - g) New boathouses shall have a pitched roof, no flatter than 4/12 pitch.
 - h) Earth tone colors are required for all exterior surfaces of a boathouse.
 - i) Boathouses shall be constructed in conformity with local floodplain zoning standards.
- 2) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
 - 3) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. 145, Wis. Stats., and Ch. SPS 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
 - 4) Walkways, stairways, or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
 - 5) A device or system that treats runoff from the surface, authorized under § 59.692 (1k)(am)1, Wis. Stats. [§59.692 (1k)(a) 6, Wis. Stats].
 - 6) Exempt structure are considered conforming structures, and not nonconforming structures.
- e. The County shall, in accord and consistent with § 59.692(1v), Wis. Stats., grant “special zoning permission,” as that phrase is defined in § 59.692(1)(d), Wis. Stats., for the construction or placement of a structure on property in a shoreland setback area, if all of the following apply:
- 1) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
 - 2) The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.
 - 3) The structure (e.g., decks, gazebos, patios and screen houses) that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - 4) County must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest to the water.
- f. Floodplain structures. Buildings and structures to be constructed or placed in a floodplain shall comply with any applicable floodplain zoning ordinance.
- g. Determination of navigability and ordinary high-water mark location will initially be made by the zoning administrator. If issues arise, the zoning administrator will contact the Wisconsin Department of Natural Resources for a final determination of navigability and ordinary high-water mark location. Setback may also be determined in accord and consistent with § 59.692(1h), Wis. Stats.
- h. Existing exempt structures (i.e., a structure legally constructed wholly or partially within the shoreland setback area) may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the existing structure, in accord and consistent with § 59.692(1k)(a) 2m, Wis. Stats.
3. Vegetation [§ NR 115.05(1)(c), Wis. Adm. Code, and § 59.692(1f), Wis. Stats.]
 - a. These standards are established:
 - 1) in consideration of sound forestry and soil conservation practices and the effect of vegetation removal on water quality (including soil erosion) and the flow of effluents,

- sediments, and nutrients;
 - 2) to protect water quality, fish and wildlife habitat, and natural scenic beauty; and
 - 3) to promote preservation and restoration of native vegetation.
- b. The County hereby regulates removal of vegetation in shoreland areas, as follows:
- 1) Land that extends from the ordinary high water mark to a minimum of 35 feet inland is hereby designated as a vegetative buffer zone.
 - 2) Removal of vegetation in the vegetative buffer zone is prohibited except as follows:
 - a) A person is required to maintain a vegetative buffer zone that existed on July 14, 2015.
 - b) County may allow routine maintenance of vegetation.
 - c) Removal of trees and shrubs in the vegetative buffer zone, to create viewing corridors, is permissible provided that any viewing corridor on a riparian lot or parcel is not more than 35 feet wide for every 100 feet of shoreline frontage. Such a viewing corridor may run contiguously for the entire maximum width.
 - d) County may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in § NR 1.25 (2) (b), Wis. Adm. Code and described in Wisconsin DNR publication “Wisconsin Forest Management Guidelines” Publication FR-226, provided that vegetation removal be consistent with these practices.
 - e) County may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
 - f) County may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued hereunder shall require that all management activities comply with detailed plans approved by the County and designed to control erosion by limiting sedimentation into waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
 - c. This ordinance may not be interpreted to require a person to do any of the following:
 - 1) Establish a vegetative buffer zone on previously developed land.
 - 2) Expand an existing vegetative buffer zone.
4. Filling, Grading, Lagooning, Dredging, Ditching, and Excavating. [§ NR 115.05(1)(d), Wis. Adm. Code]
- a. Filling, grading, lagooning, dredging, ditching, and excavating may be permitted in accord and consistent with the provisions of § NR 115.04, Wis. Adm. Code, the requirements of Ch. 30, Wis. Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat and natural scenic beauty.
 - b. General Standards. Filling, grading, lagooning, dredging, ditching, and excavation that does not require a permit under c. below may be allowed in the shoreland area provided that:
 - 1) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
 - 2) Filling, grading, lagooning, dredging, ditching, or excavating in a shoreland-wetland district

- meets the requirements of Ch. III, A, 1., b. and c. of this ordinance.
- 3) All applicable federal, state, and local authority is obtained in addition to a permit under this ordinance.
 - 4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover, or a bulkhead.
 - 5) Filling or grading may only be allowed within 35 feet of the ordinary high-water mark for activities related to boathouses, vegetative buffers or other permissible uses or reasons.
- c. Permit Required. A permit is required:
- 1) For any filling or grading of any area which is within 300 feet horizontal distance landward of the ordinary high water mark of navigable water and which has either:
 - a) Any filling or grading on slopes of more than 20%;
 - b) Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%; or
 - c) Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
 - 2) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
 - 3) For any filling, grading, or excavating of a site in excess of 10,000 square feet or in excess of 1,000 cubic yards of earth material. This section shall not apply to planting, growing, cultivating and harvesting agricultural crops, nor to installation of public utilities or sanitary waste disposal systems or construction of public roads and walkways.
- d. Permit Conditions. Any permit granted under c. above will include, where deemed appropriate by the zoning administrator, the following conditions:
- 1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
 - 2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
 - 3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
 - 4) Lagoons shall be constructed to avoid fish trap conditions.
 - 5) Fill shall be stabilized according to accepted engineering standards.
 - 6) Filling shall comply with any local floodplain zoning ordinance.
 - 7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
 - 8) The project be designed and constructed in accordance with standards contained in the *United States Department of Agriculture/ Soil Conservation Service/ Wisconsin Section IV Technical Guide*.
5. Impervious Surfaces. [§ NR 115.05(1)(e), Wis. Adm. Code, and § 59.692(1k)(am), Wis. Stats.]
- a. County hereby establishes standards for impervious surfaces to protect water quality and fish and wildlife habitat and protect against pollution of navigable waters.
 - b. Application. These impervious surface standards shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface that is or will be located within 300 feet of the ordinary high water mark of any navigable waterway on any of the following:
 - 1) A riparian lot or parcel.
 - 2) A nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water

mark of any navigable waterway.

- c. Calculation. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the lot or parcel by the total surface area of that lot or parcel, and multiplying by 100. For the purposes of this section, County will exclude impervious surfaces described in pars. g. and h., below. If an outlot lies between the ordinary high water mark and the developable lot or parcel described in par. b. above and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surfaces.
- d. General standard. Except as allowed in pars. e. to i. below, County may allow up to 15% impervious surface as calculated under par. c. above on a lot or parcel described in par. b. above.
- e. COUNTY HAS NOT, AS OF DECEMBER 27, 2016, ESTABLISHED AREAS OF HIGHLY DEVELOPED SHORELINE. The County may do so prospectively consistent with the processes and standards that follow.
 - 1) A “highly developed shoreline” means a shoreline within an area identified as an Urbanized Area or Urban Cluster in the 2010 US Census or a shoreline that has a commercial, industrial, or business land use as of January 31, 2013.
 - 2) County may establish, after conducting a hearing and receiving approval by the Wisconsin DNR, a map of additional areas of highly developed shorelines not included in par. e. 1) above.
 - 3) Consistent with § 59.692(1k)(am)2, Wis. Stats., if the standards in this section allow a greater amount of impervious surface on areas with highly developed shorelines than areas with shorelines that are not highly developed, as determined by the Department, then these standards also require an area with highly developed shorelines must include at least 500 feet of shoreline and require one of the following must apply:
 - a) The area is composed of a majority of lots with more than thirty percent (30%) impervious surface area, as calculated by the County and approved by the Wisconsin DNR.
 - b) The area is composed of a majority of lots that are less than 20,000 square feet in area.
 - c) The area is located on a lake and served by a sewerage system, as defined in § 281.01 (14), Wis. Stats. [§ NR 110.03 (30), Wis. Adm. Code].
- f. Maximum impervious surface. County may allow a property owner to exceed the impervious surface standard under pars. d. and e. above provided that:
 - 1) For lots or parcels described under par. b. above that will exceed the impervious surface standard under par. d. above and are not located within a highly developed shoreline as defined in par. e. above, County may allow more than 15% impervious surface but not more than 30% impervious surface as calculated under par. c. on the lot or parcel.
 - 2) For lots or parcels described under par. b. above and located within an area defined by this ordinance as a highly developed shoreline under par. e. above, County may allow more than 30% impervious surface but not more than 40% impervious surface as calculated under par. c. above on the lot or parcel for properties that have a residential land use, or more than 40% impervious surface but not more than 60% impervious surface as calculated under par. c. above for properties that have a commercial, industrial, or business land use.
 - 3) For lots or parcels described under par. b. above that will exceed the impervious surface standard under pars. d. and e. above, but do not exceed the maximum impervious surface

standards under par. f. 1) or 2) above, the County shall issue a permit that requires a mitigation plan approved by the County and implemented by the property owner by the date specified in the permit. The mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the County determines adequate to offset the impacts of the impervious surface on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the impervious surface being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the Office of the Door County Register of Deeds.

- g. Treated impervious surfaces. For purposes of this ordinance, a surface is considered pervious if the runoff from the surface is treated by a device or system, or is discharged to an internally drained pervious area, that retains the runoff on or off the parcel to allow infiltration into the soil, in accord and consistent with § 59.692(1k)(am)1, Wis. Stats. County will consider pervious and exclude from the calculation under par. c. above any impervious surface where the property owner can show (See: IV. E. 2. C., *infra*) that runoff from the impervious surface is treated by devices or systems such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems, or that the runoff discharges to internally drained pervious area that retains the runoff on or off the parcel to allow infiltration into the soil. [§ NR 115.05(1)(e)3m, Wis. Adm. Code.]
 - h. A roadway, as defined in § 340.01(54), Wis. Stats., or a sidewalk, as defined in § 340.01(58), Wis. Stats., may not be considered in calculating impervious surface allowances, per § 59.692(1k)(am)3, Wis. Stats.
 - i. Existing impervious surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in pars. d. or e., above, the property owner may do any of the following as long as the property owner does not increase the percentage of impervious surface that existed on the effective date of this ordinance:
 - 1) Maintain and repair all impervious surfaces.
 - 2) Replace existing impervious surfaces with similar surfaces within the existing building envelope.
 - 3) Relocate or modify existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification meets the applicable building setback requirements herein.
6. Height. [§ NR 115.05(1)(f), Wis. Adm. Code]
- a. To protect and preserve wildlife habitat and natural scenic beauty, any construction that results in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters is prohibited.
7. Nonconforming Structures and Uses. [§ NR 115.05(1)(g), Wis. Adm. Code, and § 59.692 (1k)(a)2, Wis. Stats.]
- a. General rule for nonconforming uses.
 - 1) In accord and consistent with §§ 59.69 (10)-(10m) and 59.692 (1k), Wis. Stats., this ordinance does not prohibit the continuation of the lawful use of a building, structure, or property, that existed when this ordinance took effect, which is not in conformity with the provisions of this ordinance or any amendment.
 - b. Nonconforming use of temporary structure. [§ NR 115.05(1)(g) 2, Wis. Adm. Code]
 - 1) The continuance of the nonconforming use of a temporary structure is prohibited.

- c. Discontinued nonconforming use. [§ NR 115.05(1)(g) 3, Wis. Adm. Code]
 - 1) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to this ordinance.
- d. Maintenance, repair, replacement, restoration, rebuilding or remodeling of structures. [§ NR115.05(1)(g)4, Wis. Adm. Code, § 59.692(1k)(a), 2 & (b), Wis. Stats.]
 - 1) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland building setback under par. IV. B. 2. b. supra may be maintained, repaired, replaced, restored, rebuilt, or remodeled, if the activity does not expand the footprint of the existing structure, in accord and consistent with § 59.692(1k)(a), 2, Wis. Stats.
 - 2) A structure of which any part is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled, if the activity does not expand the footprint of the existing structure, in accord and consistent with §59.692 (1K)(a)2, Wis. Stats.
 - 3) A building or structure in violation of a county shoreland zoning ordinance that has been in place for more than ten years, for which, under §59.592(1t), Wis. Stats., the violation may not be enforced, may be maintained, repaired, replaced, restored, rebuilt, or remodeled, if the activity does not expand the original footprint of the building or structure, in accord and consistent with §59.692 (1k)(a)2.c., Wis. Stats. (Added: 27 March 2018; Ord. 2018-07)
- e. Expansion of certain nonconforming structures within the setback. [§ 59.692(1k)(a), 4., Wis. Stats.]
 - 1) An existing nonconforming structure or a structure of which any part is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015, may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level, in accord and consistent with § 59.692(1k)(a), 4., Wis. Stats.
 - 2) An existing nonconforming principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. IV. B. 2.b supra may, in accord and consistent with § NR 115.05(1)(g) 5, Wis. Adm. Code, be expanded laterally provided that the following requirements are met:
 - a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use. [§ NR115.05(1)(g) 5.g., Wis. Adm. Code]
 - b) The existing principal structure is at least 35 feet from the ordinary high–water mark. [§ NR115.05(1)(g)5.b., Wis. Adm. Code]
 - c) Any lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high–water mark than the closest point of the existing principal structure. [§ NR 115.05(1)(g)5.c., Wis. Adm. Code]
 - d) For any lateral expansion, County shall issue a permit that requires a mitigation plan that is subject to approval by the County and must be implemented by the property owner by the date specified in the permit. (See: IV.E.2.b infra.) The mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the County determines adequate to offset the impacts of the permitted expansion on water quality, near–shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the expansion being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the Office of the Door County Register of Deeds. [§ NR 115.05(1)(g)5.d., Wis. Adm. Code]

- e) All other provisions of this ordinance shall be met. [§ NR 115.05(1)(g)5.e. Wis. Adm. Code]
- f. Expansion of nonconforming structures beyond setback. [§ NR 115.05(1)(g)5m., Wis. Adm. Code]
 - 1) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. IV. B. 2.b. supra may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements in par. IV. B. 2.b. supra, and that all other provisions of this ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required under par. IV. B. 5.
- g. Relocation of nonconforming principal structure.
 - 1) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. IV. B. 2.b. supra may be relocated on the property provided all of the following requirements are met:
 - a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - c) No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
 - d) County determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement in par. IV. B. 2.b. supra.
 - e) County shall issue a permit that requires a mitigation plan that is subject to approval by the County and must be implemented by the property owner by the date specified in the permit. The mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the County determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the Office of the Door County Register of Deeds.
 - f) All other provisions of this ordinance shall be met.
- h. Approvals, fees, mitigation requirements, prohibitions, or regulations hereunder apply to the maintenance, repair, replacement, restoration, rebuilding, or remodeling of a nonconforming structure or a structure of which any part is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015, if and only if the activity expands the footprint of the existing structure [§ 59.692(1k)(a)2, Wis. Stats.].
- i. Approvals, fees, mitigation requirements, prohibitions, or regulations hereunder apply to the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a structure listed under IV. B. 2. d. above that was legally constructed wholly or partially within the shoreland setback area if and only if the activity expands the footprint of the existing structure [§ 59.692(1k)(a)2m, Wis. Stats.].
- j. In accord and consistent with § 59.692 (1K)(bm), Wis. Stats., an activity specified under § 59.692 (1K)(a) 2m, Wis. Stats. is prohibited from expanding an exempt structure (See: § 59.692

(1n)(d), Wis. Stats.) beyond the 3-dimensional building envelope of the existing structure.

- k. An activity (i.e., the maintenance, repair, replacement, restoration, rebuilding, or remodeling) to expand the footprint of a nonconforming structure or a structure listed under IV. B. 2. d. above or a structure of which any part is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015, is allowed if, and to the extent the expansion is necessary, for the structure to comply with applicable state or federal requirements [§ 59.692 (1k)(b), Wis. Stats.].
- l. While not required by this ordinance, if a request is made by a landowner for voluntary inspections and informal approval related to an act described in § 59.692(1k)(a)2, 2m, 3, or 4, Wis. Stats., the following will apply:
 - 1) site visit fees, pre-project and post-project; and
 - 2) informal approval letter fee.
- m. The burden of proof, both the burden of production and persuasion, is on the landowner to establish a nonconforming use or nonconforming structure status.

C. Land Division Review [§ NR 115.05(2), Wis. Adm. Code and § 236.45, Wis. Stats.]

- 1. All land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period shall be reviewed. Any such review will include consideration of all of the following factors:
 - a. Hazards to the health, safety, or welfare of future residents.
 - b. Proper relationship to adjoining areas.
 - c. Public access to navigable waters, as required by law.
 - d. Adequate storm drainage facilities.
 - e. Conformity to state law and administrative code provisions.
- 2. Door County has enacted local subdivision regulations under § 236.45, Wis. Stats. (See Door County Land Division Ordinance). The Door County Land Division Ordinance applies to shorelands without regard to § 59.692(1d)(a), Wis. Stats., and § NR 115.05, Wis. Adm. Code.

D. Sanitary Regulations [§ NR 115.05(3), Wis. Adm. Code]

- 1. Door County has enacted sanitary regulations (i.e., Ch. 21, Door County Code) for the protection of health and the preservation and enhancement of water quality.
- 2. Where public water supply systems are not available, private well construction shall be required to conform to Ch. NR 812, Wis. Adm. Code.
- 3. Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall, prior to July 1, 1980, be required to comply with Ch. SPS 383, Wis. Adm. Code and after June 30, 1980, be governed by Ch. 21, Door County Code, enacted under § 59.70 (5), Wis. Stats.

E. Administrative and Enforcement Provisions. [§ NR 115.05(4) Wis. Adm. Code]

- 1. The appointment of an administrator and such additional staff as the workload may require. (See: Chapter 10, Door County Comprehensive Zoning Ordinance, incorporated herein by reference as if in full.)
- 2. The creation of a zoning agency, as authorized by § 59.69, Wis. Stats., a board of adjustment, as authorized by § 59.694, Wis. Stats., and a county planning agency, as defined in § 236.02 (1), Wis. Stats., and required by § 59.692 (3), Wis. Stats. (See: Chapter 10, Door County Comprehensive Zoning Ordinance, incorporated herein by reference).

3. A system of permits for all new construction, development, reconstruction, structural alteration, or moving of buildings and structures is hereby established. A copy of all applications shall be required to be filed in the office of the county zoning administrator.
 - a. A shoreland zoning permit is required for: all new construction, including additions; development; ditching, dredging, excavating, filling, grading, or lagooning; moving of buildings or structures; reconstruction; or structural alteration.
 - b. A mitigation permit or permits shall be required as described in IV. B. 5. f. 3); IV. B. 7. e. 1) d.; and IV. B. 7. g. 1) e. The Door County Shoreland Mitigation Handbook is incorporated herein by reference as if set forth in full.
 - c. An impervious surface authorization permit shall be required in order to have surfaces designated as treated surfaces, as described in IV. B. 5. g., or to exceed impervious surface ratio allowances. (See also: § 11.03, Door County Comprehensive Zoning Ordinance, which is incorporated herein by reference as if set forth in full.)
 - d. Permit(s) under this ordinance are not required under pars. a. through c. above if another provision of this ordinance specifically exempts the activity from regulation or approval, although permit(s) may be required under the Door County Comprehensive Zoning Ordinance and/or Door County Floodplain Zoning Ordinance.
4. Applications.
 - a. "Application" means a form prescribed by the Door County Land Use Services Department to be completed, dated, and signed by the owner or authorized agent for an activity which requires a permit, approval, or determination under this ordinance, and any other information (e.g., plans, property deeds, technical analysis, or other reports) which can reasonably be required of the applicant and which the zoning administrator needs to make a decision under applicable provision of law.
 - b. The zoning administrator will determine whether a complete application has been submitted and, no later than twenty one (21) calendar days after the application is submitted, notify the applicant in writing about the determination of completeness.
 - 1) If the zoning administrator determines that the application is incomplete, the notice will state the reason for the determination and information necessary to make the application complete.
 - 2) If the zoning administrator determines that the application is complete, s/he will provide to the applicant a notice of complete application, unless s/he has already issued the permit.
 - c. Once the applicant receives notice of an incomplete application, the applicant must submit the information requested by the zoning administrator within one hundred and eighty (180) calendar days. If the additional information is submitted within this time period, the zoning administrator shall re-initiate the process for a determination of completeness, and notify the applicant within twenty-one (21) days of the receipt of the additional information whether the application is complete or incomplete.
 - d. If the applicant fails to submit the information requested by the zoning administrator within one hundred and eighty (180) days, the zoning administrator will send a letter to the applicant, informing the applicant that unless the information is received within thirty (30) calendar days from the date of the letter, a decision will be issued that the application has expired for lack of the information necessary to complete review and processing. The decision shall be sent to the applicant, and will also state that the County will take no further action on the application.
 - e. The zoning administrator will make a final decision on an application within forty-eight (48)

calendar days of the notice of complete application.

- f. The applicant will submit as requested by the zoning administrator, at any time during the review process, additional information the zoning administrator finds to be reasonably necessary for review of the application.
 - g. If the applicant makes any material additions or alterations to the project for which the application has been submitted, any calendar day time limit begins anew.
5. Regular inspection of permitted work in progress, and, for those projects requiring a permit, a certificate of compliance in accord and consistent with § 11.05 Door County Comprehensive Zoning Ordinance, shall be required to insure conformity of the finished structures with the terms of the ordinance.
6. Fees and Expenses.
- a. The Land Use Services Department will, except where another provision of this ordinance prohibits doing so, charge a fee for permits, approvals, or determinations.
 - b. The permit, approval, or determination fee must accompany the application or request. Otherwise, the application will not be considered complete and the request will not be considered.
 - c. Fees charged for permits, approvals, or determinations will be as determined by the Door County Land Use Services Department Fee Schedule, established by the Door County Resource Planning Committee and/or Door County Board of Supervisors.
 - d. If the applicant applies for a permit or requests an approval after a project is begun or after it is completed, the Land Use Services Department will charge an amount equal to twice the amount of the fee that it would have charged under this section. Subsequent violations shall be subject to the fees specified in the Door County Land Use Services Department Fee Schedule.
 - e. The Land Use Services Department will only refund a permit, approval, or determination fee in accordance with the Door County Land Use Services Department Fee Schedule.
 - f. Multiple fees may be applicable, and will be charged, to a project.
7. Enforcement.
- a. County may issue a citation, pursuant to and in accordance with § 66.0113, Wis. Stats., Door County Comprehensive Zoning Ordinance Chapter 12, and Chapter 35, Door County Code.
 - b. A cease and desist order may be issued by the Door County Land Use Services Department (i.e., the Planning Director or a Zoning Administrator). The cease and desist order: may order that all construction, development, or uses on the property that do not conform to this ordinance immediately cease; and must be reasonably specific and concrete, so as to fairly apprise wrongdoer of specific violation of this ordinance and necessary remedial measures.
 - c. Door County may institute other proceedings in any court of competent jurisdiction and pursue any remedy or relief afforded by law, including a civil forfeiture or injunction.
8. County may not commence an enforcement action hereunder against a person who owns a building or structure that is in violation of this ordinance if the person can establish that the building or structure has been in place for more than 10 years, in accord and consistent with § 59.692(1t), Wis. Stats.
9. The variance procedure in accord and consistent with par. II. D. supra.
10. The conditional use procedure for any uses presenting special problems shall be as set forth in § 11.04 Door County Comprehensive Zoning Ordinance.
11. III A. 1. supra addresses shoreland-wetland maps amendments.

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

- A. In any town where the Door County Comprehensive Zoning Ordinance is effective:
 - 1. The Door County Comprehensive Zoning Ordinance is incorporated herein by reference as if set forth in full.
 - 2. In accord and consistent with §§ 59.692(1)(c) & (1d), Wis. Stats., the provisions of the Door County Comprehensive Zoning Ordinance apply and may be enforced in “shorelands” to the extent that its provisions do not regulate a “shoreland zoning standard”.
- B. In any town where the Door County Comprehensive Zoning Ordinance is not effective, the regulation of matters that are not shoreland zoning standards consistent with §§ 59.692(1)(c) & (1d), Wis. Stats., is as follows:
 - 1. Setback Requirements and Related Restrictions
 - a. Road. No structure shall be placed within a road right-of-way or easement.
 - b. Property / Parcel Boundaries. No structure shall be placed across a parcel boundary.
 - c. Wetland. No structure shall be placed closer than ten feet from a wetland boundary.
 - d. Height. No structure located 75 feet or further from the ordinary high-water mark shall be taller than 35 feet.

VI. § 59.692, Wis. Stats., and Ch. NR 115, Wis. Adm. Code.

- A. § 59.692, Wis. Stats. and Ch. NR 115, Wis. Adm. Code are incorporated herein by reference.
- B. If a provision of this ordinance is inconsistent with § 59.692, Wis. Stats., or Ch. NR 115, Wis. Adm. Code, the particular provision does not apply and may not be enforced, in which case the Statute or Administrative Code provision controls, but only to the extent of the inconsistency.