

**LA CROSSE COUNTY BOARD OF SUPERVISORS MONTHLY MEETING
PROCEEDINGS; THURSDAY, MARCH 16, 2017**

The La Crosse County Board of Supervisors Monthly Meeting was held on Thursday, March 16, 2017 in the Administrative Center, Room 1700. The County Clerk, Ginny Dankmeyer, took attendance. 27 supervisors were present when Chair Tara Johnson called the meeting to order at 6:00 P.M. and those otherwise present, excused or absent are noted in the roll call detail:

District Name	Attendance
1 Richmond, Andrea	Present
2 Geary, Ralph	Present
3 Weidenbach, Doug	Present
4 Freedland, Maureen	Present
5 Rosa, Keyla	Present
6 Plesha, Roger	Present
7 Hampson, Sharon	Present
8 Jerome, Peg	Present
9 Gundersen, Jerome	Present
10 Cable, Kim	Present
11 Scheller, Patrick	Excused
12 Holtze, Dave	Present
13 Tryggestad, Tina	Present
14 Larson, Margaret	Present
15 Kruse, Monica	Present
16 Ferries, Dan	Present
17 Giese, Mike	Present
18 Berg, Laurence	Present
19 Cornforth, Rick	Present
20 Doyle, Steve	Present
21 Burke, Vicki	Present
22 Barlow, Patrick	Present
23 Nikolay, Matt	Present
24 Pfaff, Leon	Present
25 Ebert, Ray	Present
26 Hesse, Dan	Present
27 Wehrs, Tina	Excused
28 Tyser, Kathie	Present
29 Johnson, Tara	Present

PLEDGE OF ALLEGIANCE

COMMUNICATIONS AND ANNOUNCEMENTS:

County Board Chair Report - Tara Johnson

- Update on Logo & Tagline Process – Chair Johnson noted that all votes of the County Board needs to come through a committee. A resolution on the logo and tagline will be coming out of the Executive Committee with next month’s Board cycle.
- Supervisor Conference Reports
 - Supervisor Tyser attended the Wisconsin Legislative Children’s Caucus last Friday.

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- o Supervisor Barlow attended the Village of Holmen Board meeting and they are making great progress on the Library.
- o Supervisor Ebert announced the "Visit West Salem" is this Sunday from 11am – 1pm at the High School.
- o Administrator O'Malley noted the WCA District meeting is Friday, March 24th at the Radisson from 9-12.
- o Clerk Dankmeyer noted a survey on the desk of the Supervisors and asked for that to be filled out and turned back in.

APPOINTMENTS

Motion by T. Johnson/S. Doyle to appoint Ted Eisenbacher to the La Crosse Wildlife Abatement Committee to replace Harry Meinking passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

CONSENT AGENDA

Motion by R. Plesha/D. Ferries to approve the minutes of the La Crosse County Board of Supervisors Planning meeting held February 13, 2017 and the Monthly meeting held February 16, 2017 and the claims list for \$2,139,365.49 passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

RESOLUTION NO. 69-3/17 RE: APPROVAL OF THE RESTRUCTURING OF THE AGING AND DISABILITY RESOURCE CENTER AS A SINGLE COUNTY PROVIDER

WHEREAS, in 2008 the La Crosse County Aging and Disability Resource Center, which had up until that time serviced only La Crosse County, was regionalized to service four counties including La Crosse; and, **WHEREAS**, in January 2016 La Crosse County merged the Aging Department with the Aging and Disability Resource Center, combining the two into one section within the Human Services Department; and, **WHEREAS**, in December 2016, notice was given to Aging and Disability Resource Center partner counties that the regional entity will be ending on June 30, 2017 and that, after that time, the La Crosse County Aging and Disability Resource Center will serve only La Crosse County; and **WHEREAS**, the County Administrator and Human Services Director recommend that the newly-formed Aging and Disability Resource Center of La Crosse County, which includes the ADRC, Aging Services and Adult Protective Services, remain a single division within Human Services; **NOW THEREFORE BE IT RESOLVED**, by the La Crosse County Board of Supervisors that effective July 1, 2017, the Aging Unit and the Aging and Disability Resource Center will remain an integrated and single section within the Human Services Department providing services in La Crosse County only; and **BE IT FURTHER RESOLVED**, that the ADRC Manager will also be the Aging Unit director under Wis. Stat. s. 46.82; and **BE IT FURTHER RESOLVED**, that starting July 1, 2017, the combined agency will report to the Health and Human Services Board and will receive guidance from the Aging and Disability Resource Center Advisory Committee/Commission on Aging. **FISCAL NOTE:** No fiscal impact.

VETERANS, AGING AND LONG TERM CARE COMMITTEE HEALTH & HUMAN SERVICES BOARD

Motion by P. Jerome/A. Richmond to approve. Discussion ensued. ADRC Director Audra Martine and Administrator O'Malley responded to questions from the Board. The motion to approve passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

RESOLUTION NO. 70-3/17 RE: APPROVE COMMITMENT OF FUND BALANCES

WHEREAS, GASB No. 54 requires that commitments of fund balances must occur before year end; **NOW THEREFORE BE IT RESOLVED**, that the resources of the Human Services Special Revenue Fund be committed for services provided in the areas of mental health, developmental disabilities, alcohol and drug abuse, family and children's and economic support. **BE IT FURTHER RESOLVED**, that the resources of the Business Fund be committed for loans provided to businesses within the County to promote economic development, loans

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provided to residents throughout a thirteen-county area for the rehabilitation of their homes and down-payment assistance, and the development of the Lakeview Business Park. **BE IT FURTHER RESOLVED**, that the resources of the Special Jail Assessment Fund be committed for improvements to the La Crosse County Jail. **BE IT FURTHER RESOLVED**, that the resources of the Land Record Assessment Fund be committed for the computerized land information created by the County. **BE IT FURTHER RESOLVED**, that the resources of the Library Fund be committed for operations of the County Library System. **BE IT FURTHER RESOLVED**, that the resources of the Old Landfill Fund be committed for the current costs associated with post-closure care of the old Landfill. **BE IT FURTHER RESOLVED**, that the resources of the ADRC/Aging Fund be committed for services provided to elderly residents of the County. **BE IT FURTHER RESOLVED**, that the resources of the Estate Donation Fund be committed for services provided to elderly residents of the County by monies bequeathed to the County ADRC/Aging Unit. **BE IT FURTHER RESOLVED**, that the resources of the Health Fund be committed for the costs of health services provided to residents of the County. **FISCAL NOTE:** There is no fiscal impact to the County.

EXECUTIVE COMMITTEE

Motion by S. Hampson/T. Tryggestad to approve passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

RESOLUTION NO. 71-3/17 RE: SUPPORTING IMPROVED BROADBAND ACCESS IN LA CROSSE COUNTY

WHEREAS, improved broadband access is necessary to La Crosse County businesses and citizens in the areas of economic development, medical care, education, communication, entertainment, and other future uses; and **WHEREAS**, significant portions of La Crosse County are below average in speed, adoption, and capacity compared to the rest of Wisconsin, the Nation, and our worldwide competitors; and **WHEREAS**, although La Crosse County may not be a broadband provider it may work to facilitate broadband build out and improvement; and **WHEREAS**, public and private involvement in the development of a broadband improvement plan is necessary to ensure success; **NOW, THEREFORE, BE IT RESOLVED**, the La Crosse County Board of Supervisors hereby endorses and establishes as a goal that broadband opportunities are provided for La Crosse County businesses as well as its citizenry; and **BE IT FURTHER RESOLVED**, that the La Crosse County Board encourages the State Legislature and Governor Walker to support funding in the 2017-2019 Biennial State Budget to expand high-speed broadband access for rural Wisconsin residents; and **BE IT FURTHER RESOLVED**, that this resolution be forwarded to the Wisconsin Public Service Commission, the Wisconsin Counties Association, the Wisconsin Economic Development Corporation, Governor Walker, Senator Shilling and Representatives Doyle and Billings.

EXECUTIVE COMMITTEE

Motion by S. Hampson/K. Rosa to approve. Discussion ensued. The motion to approve passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

RESOLUTION NO. 72-3/17 RE: SUPPORTING EFFORTS TO CLOSE COMMERCIAL PROPERTY ASSESSMENT LOOPHOLES

WHEREAS, homeowners in Wisconsin already pay 70% of the total statewide property tax levy; and **WHEREAS**, the disproportionate burden is about to get much worse unless the Legislature addresses tax avoidance strategies that national chains like Walgreens, and big box establishments like Target and Lowe's are using across the country to gain dramatic reductions in their property tax bills at the expense of homeowners and other taxpayers; and **WHEREAS**, a carefully-orchestrated wave of hundreds of lawsuits in Wisconsin is forcing assessors to slash the market value of thriving national retail stores, shifting their tax burden to local mom and pop shops and homeowners; and **WHEREAS**, Walgreens and CVS stores in Wisconsin have argued in communities across the state that the assessed value of their property for property tax purposes should be less than half of their actual sale prices on the open market; and **WHEREAS**, in many cases the courts have sided with Walgreens and CVS, requiring communities to refund tax revenue back to the stores; and **WHEREAS**, there are

over 200 Walgreens stores located in Wisconsin; and **WHEREAS**, Target, Lowes, Meijer, Menards and other big box chains are using what is known as the "Dark Store Theory" to argue that the assessed value of a new store in a thriving location should be based on comparing their buildings to sales of vacant stores in abandoned locations for a different market segment; and **WHEREAS**, the Indiana Legislature has on two occasions in the last two years overwhelmingly passed legislation prohibiting assessors from valuing new big box stores the same as nearby abandoned stores from a different market segment; and **WHEREAS**, the Michigan State House overwhelmingly passed similar legislation in May of 2016. **NOW, THEREFORE, BE IT RESOLVED** that La Crosse County does hereby urge the Governor and State Legislature to protect homeowners and main street businesses from having even more of the property tax burden shifted to them by passing legislation clarifying that:

1. Leases are appropriately factored into the valuation of leased properties; and
2. When using the comparable sale method of valuation, assessors shall consider as comparable only those sales within the same market segment exhibiting a similar highest and best use rather than similarly sized but vacant properties in abandoned locations.

FISCAL NOTE: There is no direct cost impact to the County, since these tax avoidance strategies shift the property tax burden from national retailers to homeowners and small businesses without reducing the total amount of property taxes levied in a single year.

EXECUTIVE COMMITTEE

Motion by S. Hampson/M. Kruse to approve passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

RESOLUTION NO. 73-3/17 RE: SHARING OF PREMIER RESORT AREA TAX REVENUE

WHEREAS, La Crosse County is currently considering budget options to fund necessary highway maintenance and construction projects in La Crosse County; and, **WHEREAS**, none of the budget options considered will meet all of the necessary maintenance needs for La Crosse County highways, and deferring maintenance projects to later dates will only result in more expensive maintenance options in the future; and **WHEREAS**, Wisconsin law provides for the opportunity for a political subdivision to impose a .5% premier resort area sales tax on certain businesses to pay for infrastructure expenses, which include constructing and improving roads and bridges; and **WHEREAS**, on January 19, 2017, the La Crosse County Board of Supervisors voted in favor of the following advisory referendum question being placed on the April 4, 2017 ballot:

"The County has identified \$87.6 million in unmet road needs. To pay for transportation infrastructure in place of annual borrowing, should La Crosse County seek authority to levy a 0.5 percent (1/2 cent on the dollar) sales tax on tourist related items sold, leased or rented through tourist related retailers, (approximately 50% of local retail sales)?"

- a. Yes b. No

and; **WHEREAS**, in addition to unmet County road needs, inadequate funding for local road improvements is increasing the unmet road infrastructure needs for La Crosse County Cities, Villages and Towns; **NOW THEREFORE BE IT RESOLVED** that the La Crosse County Board hereby approves that any revenue received from the Premier Resort Area Tax will be shared with La Crosse County municipalities participating in a Memorandum of Understanding, with 75% of the revenue going to the County and 25% of the revenue to be shared among the Cities, Villages and Towns; **BE IT FURTHER RESOLVED** the County Board is committed to dedicating any revenue received from the Premier Resort Area Tax specifically to address unmet road and bridge needs in the County, Cities, Villages and Towns and for no other infrastructure purpose. **FISCAL NOTE:** No cost to La Crosse County. The annual revenue estimated by the Department of Revenue is \$6.6 million per year (less 3% administrative fees) so that 25% equals approximately \$1.6 million per year to be shared with the Cities, Villages and Towns.

EXECUTIVE COMMITTEE

Motion by S. Hampson/L. Pfaff to approve. Discussion ensued. Chair Johnson responded to questions from the Board. The motion to approve passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

FIRST CONSIDERATION OF ORDINANCE

ORDINANCE NO. 159 TO AMEND S. 1.77 ENTITLED "SUSTAINABLE LA CROSSE COMMISSION" OF THE GENERAL CODE OF LA CROSSE COUNTY, WISCONSIN

EXECUTIVE COMMITTEE

Motion by S. Hampson to move the first reading. Discussion ensued. The ordinance will be held over for 30 days and is on file and open for public inspection in the office of the County Clerk and on the La Crosse County web site at: www.co.la-crosse.wi.us. Upon adoption and publication it will be incorporated into the La Crosse County General Code of Ordinances.

ORDINANCE NO. 158-3/17 TO REPEAL AND RECREATE CHAPTER 20 ENTITLED "SHORELAND ZONING" OF THE GENERAL CODE OF LA CROSSE COUNTY, WISCONSIN

The County Board of supervisors of the County of La Crosse does hereby ordain as follows:

Section 1. Chapter 20 entitled "Shoreland Zoning" is repealed and recreated to read:

20.01 STATUTORY AUTHORIZATION This ordinance is adopted pursuant to the authorization in s. 59.692, Stats, to implement ss. 59.692 and 281.31, Stats.

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

20.03 PURPOSE AND INTENT (NR 115.01) For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has been established to:

- (1) FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:
 - (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.
 - (d) Limiting impervious surfaces to control runoff which carries pollutants.
- (2) PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:
 - (a) Preserving wetlands and other fish and aquatic habitat.
 - (b) Regulating pollution sources
 - (c) Controlling shoreline alterations, dredging and lagooning.
- (3) CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:
 - (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.
- (4) PRESERVE AND RESTORE SHORELAND VEGETATION AND NATURAL SCENIC BEAUTY THROUGH:
 - (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.

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20.04 TITLE This Chapter shall be known as the Shoreland Zoning Ordinance for La Crosse County, Wisconsin.

20.05 DEFINITIONS For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally. References to sections marked with 'NR' are references to the Department of Natural Resources, Wisconsin Administrative Code. The following definitions are applicable throughout this chapter:

- (1) "Access and viewing corridor" (NR 115.03(1d)) a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
- (2) "Boathouse" (NR 115.03(1h)) 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.
- (3) "Building envelope" (NR 115.03(1p)) the three dimensional space within which a structure is built.
- (4) "County zoning agency" (NR 115.03(2)) 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. At the time of adoption of this chapter the La Crosse County Planning, Resources and Development Committee.
- (5) "Department" (NR 115.03(3)) the Department of Natural Resources
- (6) "Existing development pattern" (NR 115.03(3m)) principal structures existing within 250 feet of a proposed principal structure in both directions along the shoreline.
- (7) "Floodplain" (NR 115.03(4)) 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.
- (8) "Footprint" the land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05 (1)(g)5.
- (9) "Generally accepted forestry management practices" (NR 1.25(2)(b)) forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (10) "Impervious surface" (NR 115.03(4g)) 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 (all surface types including crushed rock), parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Stats., or sidewalks as defined in s. 340.01(58), Wis. Stats., are not considered impervious surfaces. Decks are considered pervious provided that a minimum of 2/10 - inch spacing is provided between all deck boards, underlying landscape fabric if used is manufactured by design to allow infiltration of water into the soil, and no other impediment to the infiltration of water exists beneath the deck. Stairways and walkways with gaps between their surface structure allowing water to readily pass are considered pervious.

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- (11) "Mitigation" (NR 115.03(4r)) balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
- (12) "Navigable waters" (NR 115.03(5)) 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:
 - (a) 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
 - (b) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body
- (13) "Ordinary high-water mark" (NR 115.03(6)) 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. The OHWMs of the Black, La Crosse, and Mississippi Rivers, Lakes Onalaska and Neshonoc, and Swift Creek are established as elevations by prior Department staff and as listed in Appendix "A"
- (14) "Regional flood" (NR 115.03(7)) 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.
- (15) "Routine maintenance of vegetation" (NR 115.03(7m)) normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance
- (16) "Shoreland" (NR 115.03(8)) lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (17) "Shoreland setback" also known as the "Shoreland setback area" in s. 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 section 59.692, Wis. Stats
- (18) "Shoreland-wetland district" (NR 115.03(9)) an overlay zoning district, created as a part of a the county shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.
- (19) "Special exception" (NR 115.03(10)) a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Planning and Development Committee.
- (20) "Structure" (s.59.692(1)(e), Wis. Stats) a principal structure or any accessory structure including but not limited to a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit. A building is considered a structure.
- (21) "Unnecessary hardship" (NR 115.03(11)) that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance

- (22) "Wetlands" (NR 115.03(13)) 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.

GENERAL PROVISIONS

20.06 AREAS TO BE REGULATED Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of La Crosse County which are:

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. (NR 115.03(8))
- (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. (NR 115.03(8))
- (3) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas. It shall also apply to shoreland districts within a city or village that has adopted this ordinance by reference and is under contract with La Crosse County to administer this ordinance within its incorporated boundaries. Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Stats.
- (4) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark.
- (5) Under s. 281.31(2m), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 - (a) Lands adjacent to farm drainage ditches if:
 1. Such lands are not adjacent to a natural navigable stream or river;
 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching;
 - (b) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

20.07 SHORELAND-WETLAND MAPS The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrm.wisconsin.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>

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

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

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

and effect to the extent of the greater restrictions.(s. 59.692(2)(a), Wis. Stats) This ordinance shall not require approval or be subject to disapproval by any town or town board.

- (1) (s. 59.692(2)(b), Wis. Stats.) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- (2) 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.
- (3) (s. 59.692(1d)(b), Wis. Stats) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 1.3 of this ordinance.
- (4) (s. 59.692(1k)(a)1, Wis. Stats) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires—any of the following:
 - (a) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
 - (b) Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (5) (s.59.692(7), Wis. Stats) 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 chs. 30, 31, 281, or 283 Wis. Stats. A "facility" means any property or equipment of a public utility, as defined in s. 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.

20.11 INTERPRETATION (59.69(13), Wis. Stats) In their interpretation and application, the provisions of this ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by statute and a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

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

ESTABLISHMENT OF SHORELAND-WETLAND DISTRICT

20.13 DESIGNATION OF SHORELAND-WETLAND DISTRICT (NR 115.04) The shoreland-wetland district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

20.14 LOCATING SHORELAND-WETLAND BOUNDARIES. (NR 115.04(b)2.note) Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to determine if the 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 zoning map amendment must be initiated within a reasonable period of time.

(228-16/17)

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

20.16 PERMITTED USES IN SHORELAND-WETLAND ZONING DISTRICT (NR 115.04(3)) The following uses shall be allowed in the shoreland-wetland district, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31, and 281.36, Wis. Stats, and the provisions of other applicable local, state and federal laws:

- (1) Activities and uses which do not require the issuance of a Shoreland Zoning/Occupancy permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
 - (a) Hiking, fishing, trapping, hunting, swimming, and boating;
 - (b) 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;
 - (c) The pasturing of livestock;
 - (d) The cultivation of agricultural crops;
 - (e) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - (f) The construction or maintenance of duck blinds.
- (2) Uses which do not require the issuance of a Shoreland Zoning/Occupancy permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
 - (a) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - (b) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
 - (c) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
 - (d) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (e) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - (f) 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. These activities shall also be exempt from Special Exception requirements under s. 20.25 of this code, except that commonly accepted soil erosion and conservation practices shall be followed.
- (3) Uses which require the issuance of a Shoreland Zoning/Occupancy permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
 - (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that
 1. The road cannot as a practical matter be located outside the wetland;
 2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 20.18(2).

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3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
 4. Road construction activities are carried out in the immediate area of the roadbed only.
- (b) The construction or maintenance of nonresidential buildings, provided that:
1. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 2. The building cannot, as a practical matter, be located outside the wetland;
 3. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 4. Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (c) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
1. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats, where applicable;
 2. 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 s. 20.16(3)(a); and
 3. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- (d) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
1. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 2. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 20.18(2).

20.17 PROHIBITED USES IN THE SHORELAND-WETLAND DISTRICT (NR 115.04(4))
Any use not listed in ss. 20.16(1), 20.16(2) or 20.16(3) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with s. 20.18 of this ordinance and s. 59.69(5)(e), Wis. Stats.

20.18 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT (NR 115.04(2))

- (1) 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:
 - (a) 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;
 - (b) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing

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- (c) 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
 - (d) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.
- (2) 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:
- (a) Storm and flood water storage capacity;
 - (b) 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;
 - (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (d) Shoreline protection against soil erosion;
 - (e) Fish spawning, breeding, nursery or feeding grounds;
 - (f) Wildlife habitat; or
 - (g) 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> .
- (3) 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 s. 20.18(2) 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 s. 59.692(6), Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6), Stats, adoption procedure is completed or otherwise terminated."

LAND DIVISION REVIEW, PLANNED UNIT DEVELOPMENT AND SANITARY REGULATIONS

20.19 LAND DIVISION REVIEW (NR 115.05(2)) The county shall review, pursuant to s. 236.45, Wis. Stats, all land divisions in all shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review all of the following factors shall be considered:

- (1) Hazards to the health, safety or welfare of future residents.
- (2) Proper relationship to adjoining areas.
- (3) Public access to navigable waters, as required by law.
- (4) Adequate stormwater drainage facilities.
- (5) Conformity to state law and administrative code provisions.
- (6) Compliance with Chapter 18 [SUBDIVISION AND PLATTING] of the La Crosse County Code of Ordinances.

20.20 PLANNED UNIT DEVELOPMENT (PUD) (NR 115.05(1)(a)4)

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

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- (2) REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT. The La Crosse County Planning, Resources and Development Committee may at its discretion, upon its own motion or upon petition, approve a Planned Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:
- (a) Area. The area proposed for the Planned Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
 - (b) Lots. Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of ss. 20.22(1) and 20.22(2) shall be a non-riparian lot.
 - (c) Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a Planned Unit Development the governing body shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in s. 20.24(2) shall apply except that maximum width of a lake frontage opening shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.
 - (d) The Planned Unit Development shall comply with all requirements of Chapter 18 [SUBDIVISION AND PLATTING] of the La Crosse County Code of Ordinances.

20.21 SANITARY REGULATIONS (NR 115.05(3)) The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

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

SHORELAND ZONING STANDARDS

20.22 **MINIMUM LOT SIZES** (NR 115.05(1)) Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included. Not more than one principal or main building is authorized on any lot with the exception of those permitted in a Planned Unit Development (PUD) under s.1808 of the La Crosse County Subdivision Ordinance.

- (1) SEWERED LOTS (NR 115.05(1)(a)1) MINIMUM AREA AND WIDTH FOR EACH LOT. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet. The width shall be calculated by averaging measurements at the following three locations:
 - (a) The ordinary high water mark.
 - (b) The building setback line.
 - (c) One other location on the lot within 300 feet of the ordinary highwater mark.
- (2) UNSEWERED LOTS (NR 115.05(1)(a)2) MINIMUM AREA AND WIDTH FOR EACH LOT. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet. The width shall be calculated by averaging measurements at the following three locations:
 - (a) The ordinary high water mark.
 - (b) The building setback line.
 - (c) One other location on the lot within 300 feet of the ordinary highwater mark.
- (3) SUBSTANDARD LOTS (NR 115.05(1)(a)3) 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:

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- (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.
- (4) OTHER SUBSTANDARD LOTS Except for lots which meet the requirements of s.20.22(3) a Shoreland Zoning/Occupancy permit for the improvement of a lot having lesser dimensions than those stated in ss. 20.22(1) and 20.22(2) shall be issued only if a variance is granted by the board of adjustment.

20.23 **BUILDING SETBACKS** (NR 115.05(1)(b)) Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

- (1) SHORELAND SETBACKS (NR115.05(1)(b)1) Unless exempt under s.20.23(3), or reduced under s. 20.23(4), or increased under s. 20.23(5), a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a building or structure shall be required for all buildings and structures.

(2) SIDEYARDS

- (a) For lots served by public sanitary systems, the minimum width of one main side yard shall be 8 feet and the minimum combined width of both main side yards shall be 20 feet. Accessory structures shall meet a sideyard setback of 4 feet, excluding fences and retaining walls. That portion of any retaining wall allowed within a sideyard and exempted under s.20.23 shall be limited to a maximum of 8-lineal ft.
- (b) For lots served by private septic systems, the minimum width of one main side yard shall be 10 feet and the minimum combined width of both main side yards shall be 25 feet. Accessory buildings shall meet a sideyard setback of 5 feet, excluding fences and retaining walls. That portion of any retaining wall allowed within a sideyard and exempted under s.20.23 shall be limited to a maximum of 8-lineal ft.
- (c) Properties located in a shoreland district within a city or village and subject to this chapter by contract are allowed zero lot lines (twindos) for two unit dwellings if allowed by city or village codes. If a zero lot line is proposed the following provisions will apply:
 - 1. can only create two parcels, which, in total, meet the minimum lot size and frontage requirements of s.20.22.
 - 2. The required sideyard setbacks in 20.23(2)(a) and (b) shall apply to the structure, as a whole, measured to the perimeter of the two parcels combined

- (3) EXEMPT STRUCTURES (NR 115.05(1)(b)1m. All of the following structures are exempt from the shoreland setback standards in s. 20.23:

- (a) 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.
 - 1. Boathouses shall be designed and constructed solely for the storage of boats and related equipment.
 - 2. The roof of a boathouse may be used as a deck provided that:
 - i. The boathouse has a flat roof
 - ii. The roof has no side walls or screens
 - iii. The roof may have a railing that meets Department of Safety and Professional Services standards
 - 3. Earth toned color shall be required for all exterior surfaces of a boathouse.
 - 4. The main door shall face the water.
 - 5. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.

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6. Wall heights shall be a maximum of 10-ft and roofs with a minimum 4:12 pitch.
- (b) Open-sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Wis. Stats, namely:
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 floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 4. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
 5. The statutory requirements under s. 59.692(1v), Wis. Stats., which require the establishment of a vegetative buffer for the construction of open sided structures is not superseded by s. 59.692(1f)(a), Wis. Stats.
- (c) Fishing rafts that are authorized on the Wolf River and Mississippi River under s. 30.126, Wis. Stats.
- (d) 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.
- (e) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS Comm 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.
- (f) Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width
- (g) Devices or systems used to treat runoff from impervious surfaces.
- (h) EXISTING EXEMPT STRUCTURES (s.59.692(1k)(a)2m, Wis. Stats) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.
- (4) REDUCED PRINCIPAL STRUCTURE SETBACK (s.59.692(1n), Wis. Stats) A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:
- (a) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:
1. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
 2. Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
 3. Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 4. The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
 5. Measurement shall be from the Ordinary High Water Mark (OHWM) to the primary structure of residences on both sides of the subject lot

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and not to attached decks, three season rooms, or other similar additions to the primary structure.

- (b) Where there is an existing principal structure in only one direction, the setback shall equal the average of the distance the existing principal structure is set back from the ordinary high water mark and the required setback of 75' from the ordinary high water mark provided all of the following are met:
1. The existing principal structure is located on adjacent lot to the proposed principal structure.
 2. The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.
 3. The existing principal structure is located less than 75' from the ordinary high water mark.
 4. The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
 5. Measurement shall be from the OHWM to the primary structure of residences on both sides of the subject lot and not to attached decks, three season rooms, or other similar additions to the primary structure.

(5) FLOODPLAIN STRUCTURES (NR 115.05(1)(b)2) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

20.24 **VEGETATION** (NR 115.05(1)(c))

(1) PURPOSE (NR 115.05(1)(c)1) To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

(2) ACTIVITIES ALLOWED WITHIN A VEGETATIVE BUFFER ZONE (NR115.05(1)(c)2) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

- (a) The county may allow routine maintenance of vegetation.
- (b) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per s. 59.692(1f)(b), Wis. Stats, the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
- (c) The 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 s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with these practices.
- (d) The 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.
- (e) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this section shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored

area. The permit also shall require an enforceable deed restriction to preserve the newly restored area.

20.25 FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING (NR115.05(1)(d)) Filling, grading, lagooning, dredging, ditching and excavating may be permitted only in accordance with the provisions of s. NR 115.04, 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.

- (1) **GENERAL STANDARDS** Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under s. 20.25(2) may be permitted in the shoreland area provided that:
 - (a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
 - (b) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland wetland district meets the requirements of ss. 20.16(2) and 20.16(3) of this ordinance.
 - (c) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
 - (d) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.
- (2) **PERMIT REQUIRED** Except as provided in s. 20.25(1), a Special Exception permit is required:
 - (a) For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:
 1. Any filling or grading on slopes of more than 20%.
 2. Filling or grading of more than 1,000 sq. ft. on slopes of 12% to 20%.
 3. Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
 - (b) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary highwater mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
- (3) **SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.** Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under s. 20.25(2) when designed and constructed to Natural Resources Conservation Service technical standards. The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:
 - (a) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under s. 20.25(2)(b) is obtained.
 - (b) Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
 - (c) Ditch banks shall be maintained in a sod cover and free of woody vegetation.
 - (d) A 10 foot wide buffer strip of untilled, un-grazed sod cover shall be maintained adjacent to the ditch bank.
- (4) **PERMIT CONDITIONS.** In granting a permit under s. 20.25(2), the County shall attach the following conditions, where appropriate, in addition to those provisions specified in ss. 20.32 or 20.34.
 - (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
 - (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
 - (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.

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- (d) Lagoons shall be constructed to avoid fish trap conditions.
- (e) Fill shall be stabilized according to accepted engineering standards.
- (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (g) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

20.26 IMPERVIOUS SURFACE STANDARDS (NR 115.05(1)(e))

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

(2) **CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE** (NR 115.05(1)(e)1) Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in s. 20.26(5) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface. For property that is the subject of a condominium plat, the impervious surface calculation shall be based upon the entire condominium plat, not each unit.

If an outlot lies between the OHWM and the developed lot or parcel and both are in common ownership, then the lot or parcel is considered one property for the purposes of calculating the percentage of impervious surfaces. If there is an outlot, parcel or road that is owned by some entity other than the owner of the developed lot, then using the outlot for impervious surface calculations shall be allowed only if the owner of the developed lot has rights authorizing development on that outlot.

(3) **GENERAL IMPERVIOUS SURFACE STANDARD** (NR 115.05(1)(e)2) Except as otherwise allowed in ss. 20.26(4) and (5), the county shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

(4) **MAXIMUM IMPERVIOUS SURFACE STANDARD** (NR 115.05(1)(e)3) A property may exceed the impervious surface standard under s.20.26(3) provided the following standards are met:

- (a) For properties where the general impervious surface standard applies under Section 20.26(3), a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- (b) For properties that exceed the standard under s. 20.26(3) but do not exceed the maximum standard under s.20.26(4)(a), a permit can be issued for development with a mitigation plan that meets the standards found in s. 20.30.
- (c) Exceeding impervious surface area on that portion of the lot within the Shoreland District to greater than 15% but less than or equal to 30% shall be considered a Class "A" project for purposes of mitigation.

(5) **TREATED IMPERVIOUS SURFACES** (NR115.05(1)(e)3m and s. 59.692(1k)(a)5, Stats) Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under s. 20.26(2):

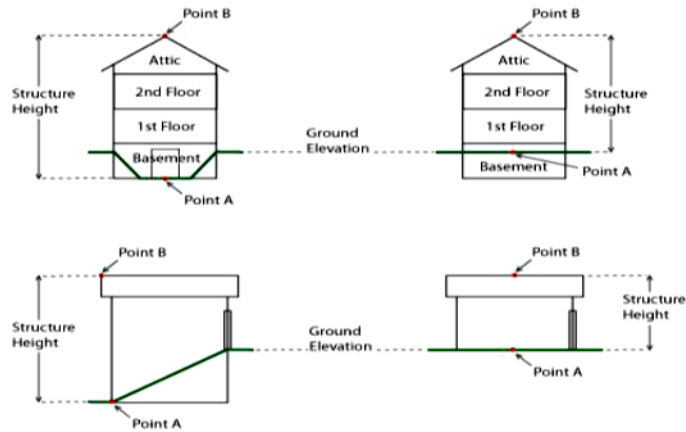
- (a) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.

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- (b) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.
 - (c) Post-development peak runoff shall be maintained or reduced from the pre-development runoff from 2 year storm events. All designed stormwater facilities shall safely pass the 25 year storm event. This shall be certified by a credentialed State of Wisconsin P.E. and said certification made part of the application before a permit allowing development can be issued.
- (6) EXISTING IMPERVIOUS SURFACES (NR 115.05(1)(e)4) For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in s. 20.26(3) or the maximum impervious surface standard in s. 20.26(4), the property owner may do any of the following:
- (a) Maintain and repair the existing impervious surfaces;
 - (b) Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
 - (c) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in ss. 20.23(1) or 20.23(3)(h).

20.27 **HEIGHT** (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that result in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.

Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.



20.28 **NONCONFORMING USES AND STRUCTURES.** (NR 115.05(1)(g))

- (1) DISCONTINUED NONCONFORMING USE (NR 115.05(1)(g)3) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.
- (2) MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES (s. 59.692(1k)(a)2,4 and (b), Wis. Stats) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Expansion of a structure beyond the existing

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- footprint shall be allowed if the expansion is necessary to comply with applicable state or federal requirements.
- (3) LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURES WITHIN THE SETBACK (NR 115.05(1)(g)5) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per s. 20.23(1) may be expanded laterally, provided that 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) 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 excluding decks, patios, three season rooms, and other similar appurtenant additions to the primary structure. Lateral expansions under this section are not considered part of the footprint of the original structure.
 - (d) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in s. 20.30
 - (e) All other provisions of the shoreland ordinance shall be met.
 - (f) Lateral expansion that does not result in exceeding 15% impervious surface shall be considered a Class "B" project for purposes of mitigation.
- (4) EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURES BEYOND SETBACK (NR 115.05(1)(g)5m) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under s. 20.23(1) may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per s. 20.23(1) and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per s. 20.26.
- (5) RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURES (NR 115.05(1)(g)6) An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per s. 20.23(1) 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 relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
 - (d) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per s. 20.23(1)
 - (e) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in s. 20.30, and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted 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 County Register of Deeds.

- (f) All other provisions of the shoreland ordinance shall be met. Relocation of a principal structure shall be considered a Class "A" project for mitigation purposes.

20.29 MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE. (ss. 59.692(1k)(a)2. and (a)4, Wis. Stats) A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Note: Section 59.692(1k)(a)2, Wis. Stats. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in s. 20.30. 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

20.30 MITIGATION (NR 115.05 (1)(e)3, (g)5, (g)6) Mitigation consists of balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities. The purpose of mitigation is to help meet the intent and purpose of this ordinance, including maintaining safe and healthful conditions; preventing and controlling water pollution; protecting spawning grounds, fish, and aquatic habitat, and; preserving and restoring shoreland vegetation and natural scenic beauty. When the county issues a permit requiring mitigation under ss. 20.26(4), 20.28(3) and 20.28(5) the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include the following:

- (1) A site plan that describes the proposed mitigation measures including the following information:
 - (a) The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
 - (b) The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
 - (c) For condominium plats, mitigation applies to the property as a whole and not just to the portion of the frontage that might be in front of the unit impacted.
- (2) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.
- (3) MITIGATION MEASURES The following measures are options an applicant can choose from to meet County mitigation standards. Projects deemed "Class A" are required to obtain 4 mitigation points and projects deemed "Class B" impact are required to obtain 2 mitigation points. Mitigation points can be acquired with a combination of any of the following and mitigation credits are further explained in Appendix B:
 - (a) Restoration/Establishment of existing shoreland buffer to standards under sub (4) (2 pts)
 - (b) Increase width of shoreland buffer (1 pt for every 10')
 - (c) Decrease width of shoreland viewing/access corridor (1 pt for every 40')
 - (d) Add 10' side yard buffer on each side of parcel (1 pt)
 - (e) Removing impervious surfaces (1/2 point for every 100 sq. ft.)
 - (f) Removing/relocating nonconforming principal structures outside of 75' setback from OHWM ((1/2 point for every 100 sq. ft.)
 - (g) Removing/relocating nonconforming accessory structures (1/2 point for every 100 sq. ft.)
 - (h) Installation of rain gardens or other engineered infiltration measures (1/2 point)

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- (i) Painting structures earthy natural colors to match the natural surroundings (1/2 point)
- (j) Other mitigation measures deemed acceptable by the county (1/2-2 points)
- (4) MINIMUM REQUIREMENTS FOR ESTABLISHING A SHORELAND BUFFER AS AN OPTION FOR MEETING MITIGATION STANDARDS The County may approve existing shoreland buffers as adequate if applicant demonstrates it meets the minimum requirements listed below: When the establishment of a shoreland buffer is required, the following minimum standards shall be met:
 - (a) The shoreland buffer shall extend a minimum of 35' landward from the OHWM
 - (b) The buffer shall only include species native to the state of Wisconsin.
 - (c) Minimum densities deemed effective shall be determined by the County.
 - (d) The buffer shall consist of native grasses or plants to a minimum height of 12 inches, a distinct shrub understory, and an overstory consisting of deciduous trees.

ADMINISTRATIVE PROVISIONS

20.31 ADMINISTRATIVE PROVISIONS (NR 115.05(4)) The shoreland zoning ordinance adopted by each county shall require all of the following:

- (1) The appointment of an administrator and such additional staff as the workload may require.
- (2) The creation of a zoning agency as authorized by s. 59.69, Wis. Stats, a board of adjustment as authorized by s. 59.694, Wis. Stat., and a county planning agency as defined in s. 236.02(3), Wis. Stats, and required by s. 59.692(3), Wis. Stats.
- (3) A system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county zoning administrator, unless prohibited by s. 59.692(1k), Wis. Stats.
- (4) Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
- (5) A variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship as long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland zoning ordinance.
- (6) A special exception (conditional use) procedure for uses presenting special problems.
- (7) The county shall keep a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.
- (8) Written notice to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under s. 20.19.
- (9) Submission to the appropriate office of the Department, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.
- (10) Development and maintenance of an official map of all mapped zoning district boundaries, amendments, and recordings.
- (11) The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Wis. Stats.
- (12) Pursuing the prosecution of violations of the shoreland zoning ordinance

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- (13) Shoreland wetland map amendments according to s. NR 115.04. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the Department within 10 days after the decision is issued.

20.32 PERMITS

- (1) **WHEN REQUIRED** Except where another section of this ordinance specifically exempts certain types of development from this requirement, a permit shall be obtained from the zoning administrator or board of adjustment/committee before any new development commences.
- (2) **APPLICATION** An application for a permit shall be made to the zoning administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following information:
- (a) Name and address of applicant and property owner.
 - (b) Legal description of the property and type of proposed use.
 - (c) A to scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting waterways.
 - (d) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
 - (e) Plans for appropriate mitigation when required.
 - (f) Payment of the appropriate fee.
 - (g) Additional information required by the zoning administrator.
- (3) **EXPIRATION OF PERMIT** Zoning permits shall expire 24 months from date issued if no substantial work has commenced.

20.33 SPECIAL EXCEPTION PERMITS –

- (1) **APPLICATION** Any use listed as a special exception in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a special exception permit has been granted by the La Crosse County Planning, Resources and Development Committee. To secure information upon which to base its determination, the Planning, Resources and Development Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:
- (a) A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.
 - (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
 - (c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
 - (d) Specifications for areas of proposed filling, grading, lagooning or dredging.
 - (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
 - (f) Rationale for why the proposed special exception meets all of the special exception criteria listed in the ordinance
- (2) **NOTICE, PUBLIC HEARING AND DECISION** Before deciding whether to grant or deny an application for a special exception permit, the Planning, Resources and Development Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Committee shall be given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. The Committee shall state in writing the grounds for granting or denying a special exception permit.

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- (3) **STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS** In deciding a special exception application, the Planning, Resources and Development Committee shall evaluate the effect of the proposed use upon:
- (a) The maintenance of safe and healthful conditions
 - (b) The prevention and control of water pollution including sedimentation.
 - (c) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
 - (d) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (e) The location of the site with respect to existing or future access roads.
 - (f) The need of the proposed use for a shoreland location.
 - (g) Its compatibility with uses on adjacent land.
 - (h) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
 - (i) Location factors considering the following:
 1. Domestic uses shall be generally preferred;
 2. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 3. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (4) **CONDITIONS ATTACHED TO SPECIAL EXCEPTIONS** Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. Upon consideration of the factors listed above, the Committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. In granting a special exception permit, the Planning, Resources and Development Committee may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the committee may impose any reasonable permit conditions to affect the purpose of this ordinance.
- (5) **SPECIAL EXCEPTION PERMITS - RECORDING** When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted. Such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a special exception permit shall be provided to the appropriate office of the Department within 10 days after it is granted or denied.
- (6) **SPECIAL EXCEPTION PERMITS-REVOCATION** Where the conditions of a special exception permit are violated, the special exception permit may be revoked after rehearing by the Committee.

20.34 **VARIANCES**

- (1) The board of adjustment may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates all of the following:
- (a) literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
 - (b) the hardship is due to special conditions unique to the property;
 - (c) the variance is not contrary to the public interest.
 - (d) the request represents the minimum relief necessary to relieve unnecessary burdens
- (2) **VARIANCES - NOTICE, HEARING AND DECISION** (s. 59.694(6), Wis. Stats.) Before deciding on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under ch. 985, Wis. Stats.

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Such notice shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department office within 10 days of the decision.

20.35 BOARD OF ADJUSTMENT (s. 59.694 Wis. Stats.) The chair of the county board shall appoint a board of adjustment consisting of 3 members under s. 59.694, Wis. Stats., subject to County Board approval. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by s. 59.694(3), Wis. Stats. POWERS AND DUTIES (s. 59.694 Wis. Stats.) of the board of adjustment include the following:

- (1) The board of adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.694, Wis. Stats.
- (2) It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (3) It may grant a variance from the standards of this ordinance pursuant to s. 20.34.
- (4) In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to effect the purpose of this ordinance.

20.36 APPEALS TO THE BOARD. (s. 59.694 Wis. Stats.) Appeals to the board of adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

20.37 HEARING APPEALS AND APPLICATIONS FOR VARIANCES (s. 59.694(6), Wis. Stats.)

- (1) The board of adjustment shall fix a reasonable time for a hearing on the appeal. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.
- (2) A decision regarding the appeal shall be made as soon as practical. Copies of all decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate office of the Department within 10 days after they are granted or denied.
- (3) The final disposition of an appeal to the board of adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
- (4) At the public hearing, any party may appear in person or by agent or by attorney.

20.38 FEES (ss. 59.69, 59.694, 59.696, 59.697, Wis. Stats.) The county board may, by resolution, adopt fees for the following:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Planned Unit Development reviews.
- (4) Public hearings.
- (5) Legal notice publications.
- (6) Special exception permits.
- (7) Variances.

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- (8) Administrative appeals.
- (9) Other duties as determined by the county board.

20.39 CHANGES AND AMENDMENTS The county board may from time to time, alter, supplement or change the regulations contained in this ordinance in accordance with the requirements of s. 59.69(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and this ordinance where applicable.

- (1) AMENDMENTS. Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.69(5), Wis. Stats.
- (2) SHORELAND WETLAND MAP AMENDMENTS (NR 115.04) Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department at least 10 days prior to the hearing.
- (3) A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the Department within 10 days after the decision is issued.

20.40 ENFORCEMENT AND PENALTIES (NR 115.05(4)(j)) Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations.

- (1) Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars per offense in accordance with Chapter 25 of the La Crosse County Code of Ordinances, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.69(11), Wis. Stats.
- (2) Injunction: Any use or action which violates the provisions of this Ordinance shall may be subject to a court injunction prohibiting such violation.
- (3) Responsibility for Compliance: It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this Ordinance. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this Ordinance will be notified in writing of such violation by the County Zoning Administrator or his/her designee. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Section 59.69(11), Wis. Stats.
- (4) Suspension of Permit: Whenever the Zoning Administrator or designee determines there are reasonable grounds for believing there is a violation of any provision of this Ordinance, the Zoning Administrator or designee shall give notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30 day period, an extension may be granted if reason of hardship prevail and can be verified. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin. The owner of record has the right to appeal any decision by the Zoning Administrator or designee or apply to the

County Board of Adjustment for a Variance from the strict rule of the Ordinance within 30 days of receipt of a notice or order.

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

Section 2. This Ordinance shall take effect the day after passage and publication as required by law.

Tara Johnson, County Board Chair
Ginny Dankmeyer, County Clerk

PLANNING, RESOURCES AND DEVELOPMENT COMMITTEE

Motion by M. Nikolay/D. Holtze to approve. Discussion ensued. Corporation Counsel Megan DeVore and Zoning and Planning Administrator Nathan Sampson responded to questions from the Board. The motion to approve passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

CONDITIONAL USE PERMIT NO. 1006 FILED BY CRAIG MCGREW OF BUG TUSSEL WIRELESS, ACTING O/B/O HEBERT HANSON, UNDER CH. 28 MOBILE TOWER, TELEVISION, OR RADIO BROADCAST SERVICE FACILITY SITING OF THE LA CROSSE COUNTY CODE OF ORDINANCES TO CONSTRUCT A NEW SELF-SUPPORTING MOBILE SERVICE SUPPORT STRUCTURE AND FACILITY (CELL TOWER) 200-FT IN HEIGHT ON A PROPOSED 50-FT X 100-FT LEASED AREA ON LAND ZONED GENERAL AGRICULTURE DISTRICT IN THE TOWN OF HOLLAND

The La Crosse County Planning, Resources and Development Committee, having considered an application filed by Craig McGrew of Bug Tussel Wireless, 3609 Driftwood Dr N #201, Lafayette, IN, 47905, acting o/b/o Herbert Hanson, W7520 Old CTH NA, Holmen, WI, 54636 and having held a business meeting on the 27th day of February, 2017 for a Conditional Use Permit under Ch. 28 Mobile Tower, Television, or Radio Broadcast Service Facility Siting of the La Crosse County Code of Ordinances to construct a new self-supporting mobile service support structure and facility (cell tower) 200-ft in height on a proposed 50-ft x 100-ft leased area on land zoned General Agriculture District in the Town of Holland and described as follows: Part of the SE/SW of Section 36, T18N, R8W. Tax parcel 8-1226-0. Property address W7520 Old CTH NA. Town of Holland. And pursuant to s. 59.69 Wis. Stats. and s. 17.36 Zoning Code: the Committee did publish and receive proof of a Class II notice of the hearing; did receive receipts of mailing of the notices to the affected Town Clerk(s); did hold a public hearing to hear testimony or correspondence from the people; and, did receive and consider action from the affected Town Board(s). The Committee, under s. 91.48(1), Wis. Stats., along with the affected Town Board(s), under s. 17.36(4), have the authority to approve the application with integral conditions or to disapprove of the application. Having considered the entire record the Committee's recommendation is to: By a vote of four (4) in favor (Hundt-Wehrs, Nikolay, Holtze, Scheller), two (2) no (Hesse, Gundersen), and one (1) absent (Cornforth), the committee recommended denial of Conditional Use Permit No. 1006 with the following twelve (12) conditions for approval recommended by staff:

1. This permit is granted specifically to Craig McGrew, acting o/b/o Bug Tussel Wireless, LLC, 3609 Driftwood Drive N, Lafayette, Indiana, 47905, for a mobile service facility

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and support structure on property owned by Herbert Hanson, W7520 Old CTH NA, Holmen WI 54636;

2. An information report as required under s.28.07 shall be submitted by the applicant to the La Crosse County Zoning, Planning & Land Information Department within 45 days of County Board approval;
3. A copy of any FAA report if required indicating findings that no hazards exist shall be submitted to the La Crosse County Zoning Department prior to issuance of a Zoning/Occupancy Permit authorizing construction. All other conditions listed under s.28.05(9) shall be met before construction may commence;
4. The results of the Section 106 filing once completed shall be submitted to La Crosse County Zoning, Planning & Land Information office for inclusion in this file;
5. The applicant shall obtain any required Erosion Control and/or stormwater permits through La Crosse County Land Conservation Department before a Zoning/Occupancy Permit can be issued;
6. The tower shall be designed and constructed to accommodate a minimum of four (4) wireless carriers;
7. A minimum setback distance of 75-ft from the nearest point of the support structure base to the Old CTH NA right of way shall be maintained;
8. The tower shall be removed and the site restored at the expense of the tower owner as required under s.28.08(1);
9. A bond or other acceptable instrument in the amount of \$20,000 shall be provided to La Crosse County and maintained without lapsing over the life of the tower to guarantee removal of the support structure as required in s.28.08(2);
10. No advertising is allowed on the support structure or fenced compound except for a sign attached to the fence shall be required with contact information and phone numbers in case of an emergency;
11. Abandonment is considered discontinuance of use for 24 consecutive months or longer; and
12. This permit is transferrable, but acceptable financial guarantee for abandonment shall be received by La Crosse County from the new owner within 60 days of transfer.

THE COUNTY BOARD took the following action this 16th day of March, 2017. Disapproved the application.

PLANNING, RESOURCES AND DEVELOPMENT COMMITTEE

Motion by M. Nikolay/S. Hampson to approve as recommended by the Committee which was to deny. Discussion ensued. Corporation Counsel Megan DeVore explained the vote procedure for the approval of a denial by the Committee. She also explained the likelihood of an appeal with denial due to State Statute and County Ordinance. Zoning and Planning Administrator Nathan Sampson responded to questions from the Board. The motion to approve as recommended by the Committee which was to deny, passed on a roll call vote with 22 ayes, 5 nays - D. Ferries, J. Gundersen, D. Hesse, D. Holtze and R. Plesha, 2 excused - P. Scheller and T. Wehrs.

ZONING ORDINANCE NO. Z371-3/17 RE: PETITION NO. 1985 TO AMEND THE LA CROSSE COUNTY ZONING ORDINANCE FILED BY MICHAEL M AND FRANCES L RUEGG, TO REZONE A 24.988 ACRE LOT, EXCEPTING 0.92 ACRES REZONED UNDER ZONING PETITION NO. 979, FROM THE EXCLUSIVE AGRICULTURE DISTRICT TO THE RURAL DISTRICT CREATING TWO LOTS FOR ONE EXISTING AND ONE PROPOSED SINGLE FAMILY RESIDENCE IN THE TOWN OF SHELBY

The La Crosse County Planning, Resources and Development Committee, having considered Petition No. 1985 to amend the La Crosse County Zoning Ordinance filed By Michael M and Frances L Ruegg, W4651 County Rd MM, Coon Valley, WI, 54623 and having held a public hearing on the 27th day of February 2017 for a petition to rezone a 24.988 acre lot, excepting 0.92 acres rezoned under Zoning Petition No. 979, from the Exclusive Agriculture District to the Rural District creating two lots for one existing and one proposed single family residence in the Town of Shelby and described as follows: Part of the SW/SE of Section 30, T15N, R6W.

Tax parcel 11-172-1. Property address W4651 County Rd MM. Town of Shelby. And pursuant to s. 59.69 Wis. Stats.: the Committee did publish and receive proof of a Class II notice of the hearing; did receive receipts of mailing of the notices to the affected Town Clerk(s); did hold a public hearing to hear testimony and official correspondence; and, did receive and consider action from the affected Town Board(s). The Committee, under s. 59.69(5)(e)4, and under s. 91.48(1), Wis. Stats., has the authority to approve the petition as submitted; to disapprove of the petition; or, to modify and approve the petition. Having considered the entire record the Committee's recommendation is to: By a vote of five (5) in favor, zero (0) no, one (1) absent (Cornforth), and one (1) abstained (Holtze), the committee recommended approval of Zoning Petition No. 1985 subject to the recording of deed restrictions on both lots indicating the following:

1. Only one single residence per parcel with no additional residences authorized, and no further subdivision of land that would reduce the lot acreage with single family residential improvements below 10 acres.

(If this petition is approved as a conditional zoning, deed restrictions must be recorded before zoning takes effect.) The County Board, under s.59.69(5)(e)5 Wis. Stats., has the authority to effectuate the petition by ordinance or to disapprove it. **The County Board** took the following action this 16th day of March, 2017. Approved the petition with amendments/conditions, becomes an ordinance, after recording conditions.

PLANNING, RESOURCES AND DEVELOPMENT COMMITTEE

Motion by M. Nikolay/D. Hesse to approve. Discussion ensued. The motion to approve as recommended by the Committee passed on a voice vote with 26 ayes, 1 abstention - D. Holtze, 2 excused - P. Scheller and T. Wehrs.

ZONING ORDINANCE NO. Z372-3/17 RE: PETITION NO. 1986 TO AMEND THE LA CROSSE COUNTY ZONING ORDINANCE FILED BY ERIC SEEGER, O/B/O D&G SERVAIS JOINT REVOCABLE TRUST, TO REZONE 3.219 ACRES FROM THE GENERAL AGRICULTURE DISTRICT TO THE RURAL DISTRICT FOR THREE PROPOSED CSM LOTS FOR SINGLE FAMILY RESIDENTIAL USE IN THE TOWN OF SHELBY

The La Crosse County Planning, Resources and Development Committee, having considered Petition No. 1986 to amend the La Crosse County Zoning Ordinance filed by Eric Seeger, 600 3rd St N, Suite 200, La Crosse, WI, 54601, o/b/o D&G Servais Joint Revocable Trust, W5050 Knobloch Rd, La Crosse, WI, 54601 and having held a public hearing on the 27th day of February 2017 for a petition to rezone 3.219 acres from the General Agriculture District to the Rural District for three proposed CSM lots for single family residential use in the Town of Shelby and described as follows: Part of the NW/SE of Section 12, T15N, R7W. Part of tax parcel 11-1065-0. Town of Shelby. And pursuant to s. 59.69 Wis. Stats.: the Committee did publish and receive proof of a Class II notice of the hearing; did receive receipts of mailing of the notices to the affected Town Clerk(s); did hold a public hearing to hear testimony and official correspondence; and, did receive and consider action from the affected Town Board(s). The Committee, under s. 59.69(5)(e)4, and under s. 91.48(1), Wis. Stats., has the authority to approve the petition as submitted; to disapprove of the petition; or, to modify and approve the petition. Having considered the entire record the Committee's recommendation is to: By a vote of six (6) in favor, zero (0) no, and one (1) absent (Cornforth), the committee recommended approval of Zoning Petition No. 1986 subject to no conditions. (If this petition is approved as a conditional zoning, deed restrictions must be recorded before zoning takes effect.) The County Board, under s.59.69(5)(e)5 Wis. Stats., has the authority to effectuate the petition by ordinance or to disapprove it. **The County Board** took the following action this 16th day of March, 2017. Approved the petition as submitted, becomes an ordinance.

PLANNING, RESOURCES AND DEVELOPMENT COMMITTEE

Motion by M. Nikolay/R. Cornforth to approve as recommended by the Committee passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

(248-16/17)

SUGGESTIONS FOR FUTURE AGENDA TOPICS

- Supervisor Barlow asked about the need for a professional engineer on staff at the County and what the cost would be.
- Supervisor Geary asked for an update on the Library Taskforce.
- Supervisor Cornforth asked for an update on what the County is doing with drug addiction and if there has been any progress.

ADJOURN

Motion by D. Weidenbach/L. Berg to adjourn at 7:39 PM passed on a unanimous voice vote with 27 ayes, 2 excused - P. Scheller and T. Wehrs.

STATE OF WISCONSIN)

COUNTY OF LA CROSSE)

I, Ginny Dankmeyer , La Crosse County Clerk, in and for the County of La Crosse, Wisconsin, do hereby certify that the foregoing is a true and correct copy of the Journal of Proceedings of the La Crosse County Board of Supervisors at the La Crosse County Board of Supervisors Monthly Meeting held Thursday, March 16, 2017 and that it is the whole thereof. IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL THIS DAY 21 OF MARCH 2017.