

ORDINANCE AMENDMENT #13-2022 (03/08/23)

CHAPTER 9

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9.11 PURPOSE - UNDERLYING ORDINANCE

It is the purpose of this ordinance to promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to insure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to preserve wetlands, to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; and to protect healthy surroundings for family life.

It is further the goal of this ordinance to promote the following specific purposes:

A. Prevent and control water pollution through:

- ~~1. Requiring setbacks between septic tanks and soil absorption systems from lakes and other watercourses.~~
- 2.1. Regulating the use of septic tanks and soil absorption systems to protect the public health, safety and general welfare.
- ~~3.2. Requiring alternate methods of sewage disposal where land conditions make soil absorption methods unsuitable, and.~~
3. Requiring erosion control measures, structures or devices such as silt fences, sediment basins, check dams, channels, swales, energy dissipation pads, seeding, mulching, retaining walls and other similarities.

4. Requiring water control measures such as any best management practice, storm water facility or other methods used to minimize the discharge of pollutants to State waters.

- B. Further the maintenance of safe and healthful conditions through:
1. Regulating the location and installation of septic tanks.
 2. Limiting structures to those areas where soil and geologic conditions will assure optimal operation.
 3. Regulating the location of wells.
- C. Protect spawning grounds, fish and aquatic life through:
1. Preserving wetlands and other fish and aquatic habitat.
 2. Regulating pollution sources.
 3. Controlling shoreline alterations, dredging and lagooning.
- D. Control building sites, placement of structures and land uses through:
1. Separating conflicting land uses.
 2. Prohibiting certain uses detrimental to the shoreland area.
 3. Setting minimum lot sizes and widths.
 4. Regulating side yards and building setbacks from roadways and waterways.
 5. Requiring the platting of subdivisions.
 6. Establishing minimum lot sizes.
- E. Preserve shore cover and natural beauty through:
1. Restricting the removal of natural shoreland cover.
 2. Preventing shoreline encroachment by structures.
 3. Controlling shoreland excavation and other earth moving activities.
 4. Regulating the use and placement of boathouses and other structures.

9.33 EXCEPTIONS TO ZONING PERMIT REQUIREMENT (#39-2004, 05-2005, 8-2015, 15-2017, 5-2020)

A. New Structure (Costs under \$2,500)

A zoning permit shall not be required when the total fair market value of materials and labor reasonably anticipated for the total cost of constructing a new structure is \$2,500.00 or less, and provided:

1. The structure is less than 200 square feet in size.
2. The structure is not part of a sewerage system.
3. Driveways, sidewalks and walkways greater than 75 ~~ft~~ feet from the OHWM provided they meet the impervious requirements of the ordinance.
4. The structure conforms with all other requirements of this ordinance.

B. Existing Structure (~~Alterations under \$2,500.00~~)

A zoning permit shall not be required for an existing structure ~~when the cumulative fair market value of materials and labor for all structural alterations to the structure,~~

~~excluding ordinary maintenance and repairs, is \$2,500.00 or less over the life of the structure, and provided:~~

1. The improvements or alterations do not structurally alter the structure so as to change its use.
2. The improvements or alterations do not include the replacement of an existing impervious surface greater than 200 square feet in size.
3. The structure conforms to all of the requirements of this ordinance.
4. The structural alteration does not result in any further encroachment upon any setback, yard or open space areas controlled by this ordinance.

C. Maintenance and Repairs

A zoning permit shall not be required for the maintenance and repair of a structure.

D. Public Utility Lines or Structures

A zoning permit shall not be required for the construction of public utility lines or structures.

E. Open Fences

A zoning permit shall not be required for the construction of open fences.

F. Recreational Vehicle

The placement of a recreational vehicle, camping trailer, motor home or park model on a parcel shall comply with applicable setbacks, the minimum lot area and dimensional requirements for uses and zoning districts in Appendix A if used as a dwelling, unless the recreational vehicle is being used in conformity with Section 9.33(F)(3).

A zoning permit shall not be required and the dimensional requirements for uses and zoning districts in Appendix A do not apply for the placement of one recreational vehicle on a parcel, provided any of the following apply:

1. The recreational vehicle is being stored on the property, is not hooked up to electricity or water and is not being used as a dwelling or storage.
2. The recreational vehicle or camping tent is used on the owner's property for a period not to exceed two (2) years while a permanent dwelling is under construction, provided that a zoning permit has been granted for the dwelling unit under construction and a notation was placed on the application for permit that a recreational vehicle is going to be used. Provisions of 13.24 of the Oneida County Private Onsite Wastewater Treatment System Ordinance (POWTS) applies.
3. The recreational vehicle is placed in a campground or recreational vehicle park in accordance with Section 9.53 of this ordinance.

G. Construction Trailers

A zoning permit shall not be required in order to place construction trailers on property during any construction period authorized by a conditional use permit.

- H. A zoning permit shall not be required for erosion and water control measures, structures, devices and landscaping, if associated with an active zoning permit for a structure (two (2) years from date of issuance).

H. I. Other Requirements Apply

The exceptions to the zoning permit requirements contained in this article do not excuse a property owner from applying for and obtaining all other permits required by the Oneida County Ordinances or other local, state or federal laws or regulations.

9.94 SHORELAND SETBACKS, EXEMPT STRUCTURES, REDUCED PRINCIPAL STRUCTURE SETBACKS, FLOODPLAIN STRUCTURES, IMPERVIOUS SURFACES AND HEIGHT (3-2019, 6-2020)

Unless exempt under Section 9.94(A), or reduced under Section 9.94(C), a setback of 75 feet from the ordinary high water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.

- A. Exempt Structures (NR 115.05(1)(b)1m) and ~~see. Section~~ **ss.** 59.692(1k)(a)(6), 59.692(1n)(d), Wis. Stats.)

All of the following structures are exempt from the shoreland setback standards in Section 9.94. Any structure not specifically mentioned under ~~section 9.94(A)(1-7)~~ Sections 9.94(A)(1 through 10) below is not permitted.

1. Boathouse. A riparian owner may construct a boathouse subject to the following restrictions:
 - a. The construction or placement of boathouses below the ordinary high water mark of any navigable waters shall be prohibited.
 - b. The construction of a boathouse is confined to the ~~viewing area~~ access and viewing corridor and shall be at least ~~10~~ five (5) feet from the side yard lot line. With the exception of **Section** 9.94(A)(1)(k) below, boathouses shall be designed and constructed solely for the storage of boats and related equipment. Patio doors, fireplaces, plumbing, living facilities and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
 - c. One boathouse is permitted on a lot as an accessory structure.
 - d. Any boathouse which may be permitted within the setback area shall be of one story only. The basement definition does not apply to a boathouse and therefore constitutes a story. The sidewalls of a boathouse shall not exceed 12 feet in height and shall not be less than seven (7) feet in height as measured from the top of wall to the floor.
 - e. Boathouse construction is subject to the requirements of **Sections** 9.95 and 9.97.

- f. Boathouses shall be constructed in conformity with local floodplain zoning standards.
 - g. The maximum width and footprint of a new boathouse parallel to the OHWM shall not exceed the following: (overhang and eaves are not included in the maximum width or footprint and shall not exceed two (2) feet).
 - (1) For lakes less than 500 acres, rivers and streams the maximum width of a new boathouse shall not exceed 14 feet or a maximum footprint of 336 sq. ft square feet.
 - (2) For lakes of 500 acres or more, flowages and chains the maximum width of a new boathouse shall not exceed 24 feet or a maximum footprint of 720 square feet. (Note: Lake size based on Land Information data.)
 - h. Flat roofs that shed water away from the OHWM are permitted.
 - i. The roof of a boathouse may be used as a deck provided that:
 - (1) The boathouse has a flat roof.
 - (2) The roof has no side walls or screens.
 - (3) The roof may have a railing that meets the State of Wisconsin Uniform Dwelling Code.
 - j. Stairs placed on the exterior side of a boathouse to gain access to a flat roof are not permitted and may be a maximum width of five (5) feet. Concrete aprons four (4) feet wide placed between the boathouse and OHWM are permitted. ~~Boat~~ Boat launch pads placed between the boathouse and OHWM are not permitted.
 - ~~k. Boathouse construction must comply with the provisions of section 9.97.~~
 - ~~l.~~ k. Onsite inspections may be required prior to excavation, during construction and upon completion for the placement of all boathouses.
2. Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in NR 115.05(1)(b)(1m)b and s. 59.692(1v), Wis. Stats.
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
 - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded. The square footage of stairways, walkways and lifts that are determined to be necessary by the department to provide pedestrian access to a berth structure or shoreline because of steep slopes, or rocky, wet or unstable soils, are not included in calculating the total floor area.
 - c. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.
 - e. An enforceable affidavit must be filed with the Register of Deeds prior to construction acknowledging the limitations on vegetation.
 3. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two (2) meters or less in diameter.
 4. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private onsite wastewater treatment systems that comply with ch. SPS 383 and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best

management practices to infiltrate or otherwise control storm water runoff from the structure.

5. Walkways, stairways ~~or~~ and rail systems that are necessary to provide pedestrian access to the shoreline ~~and are a maximum of 60-inches in width.~~ subject to the following restrictions:
 - a. Construction is confined to the access and viewing corridor.
 - b. Walkway construction is subject to the requirements of Sections 9.95 and 9.97.
 - c. Maximum width of five (5) feet.
 - d. Landings not exceeding five (5) feet are permitted.
 - e. Open railings on walkways and open grill work on lifts are permitted.
 - f. Benches, seats, tables, canopies, roofs, and sidewalls are prohibited.
6. Devices or systems used to treat runoff from impervious surfaces.
7. A bridge for which the department has issued a permit under s. 30.123, Wis. Stats. (as per s. 59.692(1n)(d)8, Wis. Stats.)
8. A fence that meets all of the following requirements (as per s. 59.692(1n)(d)7, Wis. Stats.)
 - a. A height not taller than 15 feet.
 - b. Located not less than two (2) feet landward of the OHWM.
 - c. Located entirely outside of a highway right-of-way
 - d. Located not less than ten (10) feet from the edge of a roadway and not more than 40 feet from the edge of a roadway or highway right-of-way, whichever is greater.
 - e. Generally perpendicular to the shoreline.

AA. Relaxation of Standards for Persons with Disabilities

The Zoning Director may issue a permit to relax dimensional standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions of federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish:

1. That the facility or premises are routinely used by a disabled person; **and**
2. The nature and extent of the disability; and
3. That the relaxation requested is the minimum necessary to provide reasonable use of the facility by the disabled person.

B. 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. Oneida County 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 s.** 59.692(1k)(a)2m, Wis. Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in Section 9.94(B). 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 storm water erosion control.

C. Reduced Principal Structure Setback (s. 59.692(1n), Wis. Stats.)

A setback less than the 75' feet required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

1. Where there are existing principal structures in both directions, the ~~seback~~ setback shall equal the average of the distances the two (2) existing principal structures are set back from the ordinary high water mark provided all of the following are met:
 - a. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
 - b. Both of the existing principal structures are located within 250' feet of the proposed principal structure and are the closest structure.
 - ~~c. Both of the existing principal structures are located less than 75' from the ordinary high water mark.~~
 - c.d. The average setback shall not be reduced to less than 35' feet from the ordinary high water mark of any navigable water.
 - ~~e. Principal structures permitted a reduced setback are not permitted future expansion pursuant to section 9.99(C).~~

Note: s. 59.692(1d)(a), Wis. Stats., requires counties to adopt the standards consistent with Section 9.94(C)(1) for reducing the shoreland setback.

2. Where there is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the ordinary high water mark and the required setback of 75' feet from the ordinary high water mark provided all of the following are met:
 - a. The existing principal structure is located on adjacent lot to the proposed principal structure.
 - b. The existing principal structure is located within 250' feet of the proposed principal structure and is the closest structure.
 - ~~c. The existing principal structure is located less than 75' from the ordinary high water mark.~~
 - c.d. The average setback shall not be reduced to less than 35' feet from the ordinary high water mark of any navigable water.
 - ~~e. Principal structures permitted a reduced setback are not permitted future expansion pursuant to section 9.99(C).~~

~~D. Improvements~~

~~Any of the improvements referred to in section 9.94(A), and any stairway, walkway or and lift which are essential to provide riparian access to the shoreline and which are a necessary extension of a pier, shall require a shoreland alteration permit if located in, on or over steep slopes, or rocky, saturated or unstable soils. The shoreland alteration permit shall be subject to the following minimum requirements and to such other requirements as the county may determine are necessary in order to maintain~~

or improve the natural beauty and environmental stability of the setback area and the adjacent navigable waters:

- ~~1. The cutting of trees and shrubbery shall be subject to, and in the aggregate shall not exceed, the restrictions of section 9.95 of this ordinance and Wis. Admin. Code NR 115.05(3)(c). Whenever and wherever practicable, if a viewing area has been created by the cutting of trees and shrubbery, all buildings and structures which may be permitted in the setback area, shall be located within such viewing area(s).~~
- ~~2. Environmentally sensitive areas are to be avoided.~~
- ~~3. Native ground cover which stabilizes slopes or screens the improvement from view shall be maintained or, where determined necessary, planted and maintained.~~
- ~~4. Any filling, grading or excavation shall comply with the shoreland alteration permit requirements of this ordinance.~~
- ~~5. Either one stairway or one lift, which otherwise meets the terms and conditions of this ordinance, may be allowed, but not both.~~
- ~~6. Landscaped stairways at grade (not to exceed one foot below the existing grade) are permitted.~~
- ~~7. Walkways and lifts shall be supported on pilings or footings.~~
- ~~8. If necessary for safety purposes, landings not exceeding five feet in width, including those required for purposes of access to stairways and lifts, are permitted. Open railings on walkways, and open grill work on lifts are permitted. Benches, seats and tables on walkways are prohibited.~~
- ~~9. A maximum width of five (5) feet is allowed for stairways and walkways.~~
- ~~10. Unless otherwise permitted in this ordinance, canopies, roofs and side walls are prohibited.~~

~~E. D.~~ 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.

~~F. E.~~ 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 non-riparian 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 Section 9.94(~~FE~~)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.

Note: NR 115.05(1)(e)1m, Clarifies that if an outlot lies between the OHWM and the developed lot or parcel and both are in common ownership, then the lot or parcel

should be 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 other entity, for example a hydroelectric facility or a town or county, then the county should determine what level of control the property owner has over that portion of the lot. Can the property owner place structures, such as shoreline protection, piers, stairs, boathouses etc...on that portion of the lot or does some other entity have control over development? If a property owner has no or little say over construction on that portion of the lot then impervious surfaces on that portion of the lot should be calculated separately.

For properties subject to the condominium form of ownership, the impervious surface calculations apply to the entire property. The property is still under one legal description and the proposed expansion to a unit is not the only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be important to remember also that 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.

3. General Impervious Surface Standard. (NR 115.05(1)(e)2) Except as allowed in Sections 9.94(FE)(4, 5 and 6) 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. (NR 115.05(1)(e)3) A property may exceed the impervious surface standard under Sections 9.94(FE)(3 and 4) provided the following standards are met:
 - a. For properties where the general impervious surface standard applies under Section 9.94(FE)(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 Section 9.94(FE)(3) but do not exceed the maximum standard under Sections 9.94(FE)(4)(a), a permit can be issued for development with a mitigation plan that meets the standards found in Section 9.96.
5. Treated Impervious Surfaces (NR 115.05(1)(e)3m and s. 59.692(1k)(am)1, Wis. Stats.) Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under Section 9.94(FE)(2).
 - a. The impervious surface is treated by devices such as storm water ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
 - b. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.

Note: The provisions in Section 9.94(FE)(5) are an exemption from the impervious surface standards and as such should be read construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device or internally drained. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with Section 9.94(FE)(5) will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt under Section 9.94(FE)(5).

- c. To qualify for the statutory exemption, property owners shall submit a complete permit application that is reviewed and approved by the county. The application shall include the following:
 - (1) Calculations showing how much runoff is coming from the impervious surface area.
 - (2) Documentation that the runoff from the impervious surface is being treated by a proposed treatment system, treatment device or internally drained area.
 - (3) An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.
- 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 Section 9.94(~~FE~~)(3) or the maximum impervious surface standard in Section 9.94(~~FE~~)(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;
 - 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 Section 9.94.

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

E. Height (NR 115.05(1)(f))

To protect and preserve wildlife habitat and natural scenic beauty 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 its intersect with the ground to a line horizontal to the highest point of a structure, unless specified under other sections of this code (see Appendix **I**).

9.95 VEGETATION (NR 115.05(1)(c))

A. 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 and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients. Filling, grading, landscaping and excavating within the vegetative buffer zone is prohibited with the

exception of construction of a boathouse, walkways, or planting vegetation, or landscaping in the access and viewing corridor.

B. Activities Allowed within the Vegetative Buffer Zone (NR 115.05(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:

1. The county may allow routine maintenance of vegetation.
2. ~~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 or shoreline frontage owned.~~ The county may allow removal of trees and shrubs in the vegetative buffer zone to create an access and viewing corridor. Per s. 59.692(1f)(b)1, Wis. Stats., the maximum width of an access and viewing corridor may be ten (10) feet or up to 35 percent of the shoreline frontage, whichever is greater, except that the maximum width of an access and viewing corridor may not exceed 200 feet. The access and viewing corridor may run contiguously for the entire maximum allowed width of 200 feet. (as per ss. 59.692(1f)(b)1 and 2, Wis. Stats.) or can be broken up.
3. 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), and described in department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
4. 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.
5. The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. 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 restriction to preserve the newly restored area.
6. Shoreline protection activities authorized by a state permit and erosion control measures approved by the County Land Conservation Department which are designed to remedy significant existing erosion problems.

9.97 SHOREYARD ALTERATION PERMITS AND FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING (NR 115.05(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.

~~A. Shoreyard Alteration Permit Required~~

~~As specified in this section, a shoreyard alteration permit is required for the filling, grading, lagooning, dredging, ditching or excavation of a shoreyard except in the Shoreland-Wetland District (District 11) when done in association with the activities specified in sections 9.91(D)(2). Filling, grading and excavating within the vegetative buffer zone is prohibited with the exception of construction of a boathouse, walkway, or planting vegetation. Onsite inspections may be required prior to excavation, during construction and upon completion. Shoreline protection activities authorized by a state permit and erosion control measures approved by the county Land Conservation Department which are designed to remedy significant existing erosion problems are permitted without a shoreland alteration permit.~~

A. Shoreyard Alteration Permit Required

As specified in this section, a shoreyard alteration permit is required for the filling, grading, lagooning, dredging, ditching or excavation of the shoreyard. Filling, grading, landscaping and excavating within the vegetative buffer zone is prohibited with the following exceptions:

1. Construction of a boathouse,
2. Construction of a walkway,
3. Devices or systems used to treat runoff from impervious surfaces,
4. Planting of vegetation,
5. Activities authorized by a state permit and erosion control measures approved by the County Land Conservation Department, which are designed to remedy significant erosion problems,
6. Landscaping in access and viewing corridor.

B. Application

An application for a shoreyard alteration permit shall be filed with the department on a form approved by the committee and available from the department. Completed applications shall be accompanied by the application fee, as determined by the County Board from time to time. Any state or federal permits required for a project shall be filed with the application. No application will be considered complete until these permits are filed.

C. Shoreyard Alteration Permit Exemptions*

1. Any construction project that is regulated and issued a permit pursuant to Wis. Admin. Code SPS ch. 320-325 and has an erosion control plan.
2. Any land disturbance of one (1) acre or more that is regulated by the Wisconsin Department of Natural Resources.
3. Any land disturbances associated with an issued zoning permit per Article 3 of the Oneida County Zoning and Shoreland Protection Ordinance.
4. Any land disturbances associated with an issued sanitary permit.

*A Shoreyard Alteration Permit (SAP) is not required for projects, including any general erosion control, which will be directly addressed within the two (2) year time frame of an approved zoning permit. However, as with any project, placement of a structure, replacement of an existing structure, etc., contact the Planning and Zoning Department to review whether a permit is required.

G. D. Permit Review Procedure

1. Permit from Zoning Administrator

The zoning administrator has the authority to act on applications in the instances set forth below. The zoning administrator shall act on an application within 30 working days of the completed application being filed.

- a. Alterations for the placement of structures, pursuant to **Section** 9.94(A)(1), and walkways if located in, on or over steep slopes or rocks, saturated or unstable soils.
- b. Alterations greater than 200 square feet but less than 10,000 square feet of the shoreyard that slope towards the ordinary high water mark of a navigable water body, when the slope is between 12% ~~to~~ and 45%.
- c. Alterations of more than 10,000 square feet of the shoreyard when the slope of the shoreyard is less than 45%.
- d. Alterations of the shoreyard when the slope is greater than 45% is prohibited.

2. Engineering or Architectural Plans

In the following circumstances, when a shoreyard alteration permit is required, the applicant shall file plans created by a registered professional engineer or landscape architect describing erosion control measures to be utilized during construction excavation. The registered professional engineer or landscape architect shall certify that the erosion control measures specified in the permit and plans have been properly installed prior to the start of any construction excavation activities:

- a. Alterations less than 35 ft feet from the OHWM of a navigable water body when the slope is between 12% ~~to~~ and 45%.
- b. Alterations greater than 35 ft feet but less than 75 ft feet from the OHWM that slope towards the ordinary high water mark of a navigable water body, when the slope is between 25% ~~to~~ and 45%.
- c. Alterations of more than 10,000 square feet of the shoreyard where the project is for the construction of anything other than a single family dwelling.
- d. The zoning director upon review of a completed shoreyard alteration permit may waive the registered professional engineer or landscape architect plan requirement and, as a substitute, require special restrictions and conditions to ensure proper erosion control measures will be implemented before, during and after construction excavation.

Note: See Appendixes V, W, and X for percentage slope examples.

D. E. Inspections

1. An inspection of the site by the department may be performed prior to the issuance of any shoreyard alteration permit.

2. A second onsite inspection may be performed by the department to ensure proper fencing and erosion control measures after the permit is issued but prior to any construction excavation.
3. An onsite inspection may be performed by department during construction and upon completion to ensure that the project complies with this ordinance.

E. F. Permit Conditions

In granting a shoreyard alteration permit, the committee or the zoning administrator, shall require that the applicant comply with the following conditions where appropriate:

1. The smallest amount of bare ground shall be exposed for as short a time as feasible.
2. Temporary ground cover (such as mulch) shall be used and permanent cover (such as sod) shall be planted.
3. Diversion, silting basin, terraces and other methods shall be used to trap sediment.
4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions.
5. Fill shall be stabilized according to accepted engineering standards.
6. Fill shall not restrict a floodway or destroy the storage capacity of a floodplain.
7. Sides of a channel or artificial watercourses shall be stabilized to prevent slumping.
8. Sides of channels or artificial watercourses shall be constructed with slopes (side) of two units horizontal distance to one unit vertical or flatter, unless bulkheads or rip-rapping are provided.
9. Any specific landscaping, construction, planting, or erosion control conditions.
10. Fill materials shall not be deposited in any floodplain, wetland, or outside the designated and fenced construction without proper written authorization.
11. Post-construction runoff shall be infiltrated or temporarily stored to prevent erosion and sediment transport.
12. Upland slopes and artificial watercourses shall be stabilized according to accepted engineering standards.
13. Any other conditions intended to protect shorelines and minimize erosion, sedimentation, and the impairment of fish and wildlife habitat.
14. Onsite inspections may be required prior to excavation, during construction and upon completion for alterations greater than 200 square feet but less than 10,000 square feet located within 75 ft feet of the OHWM that slope towards the ordinary high water mark of a navigable water body, when the slope is between 12% ~~to~~ and 45%.

F. G. Storm Water Runoff/Soil Disturbance

The placement of structures, the development of property, filling grading, lagooning, dredging, ditching or excavation of the shoreyard cannot result in the diversion of water onto adjoining properties. All storm water must be contained within the boundaries of a lot or parcel, with the exception of runoff directed to private easement roads, public roads or highways. If storm water runoff cannot be contained on the property, it may be directed towards a town road or highway upon receipt of a written statement from the government entity that has jurisdiction over such road, stating that it has no objection. This provision applies to both on-water and off-water lots within all shoreland zoning districts.

9.99 NONCONFORMING USES AND STRUCTURES (NR 115.05(1)(g)) (#3-2019)

A. 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.

B. Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures. (ss. 59.692(1k)(a)2m and 4, 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. 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 ss. 59.692(1k)(a)2m and 4, Wis. Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in Section 9.99(B). 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 storm water erosion control.

C. Lateral Expansion of Nonconforming Principal Structure 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 Sections 9.94 may be expanded laterally, provided that all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
2. The existing principal structure is at least 35 feet from the ordinary high water mark.
3. 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.
4. 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 Section 9.96.
- ~~5. Conforming principal structures permitted a reduced setback per section 9.94 are not permitted expansion under this section.~~

~~5.6.~~ All other provisions of the shoreland ordinance shall be met.

D. Expansion of a Nonconforming Principal Structure 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 Section 9.94, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per Section 9.94 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 Section 9.94(F).

E. 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 Section 9.94 may be relocated on the property provided all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
2. The existing principal structure is at least 35 feet from the ordinary high water mark.
3. 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.
4. 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 Section 9.94.
5. 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 Section 9.96.
6. All other provisions of the shoreland ordinance shall be met.

F. 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 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Note: **Section s.** 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 Section 9.99(F). 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 storm water erosion control.

G. Maintenance Maintenance, Repair, Replacement of Illegal Structures (s. 59.692(1k)(a)2c, Wis. Stats.)

A structure that was illegally constructed, which is older than ten (10) years and may not be enforced under the shoreland ordinance (s. 59.692(1t), Wis. Stats.), may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not

expand the footprint of the structure. (No vertical or lateral expansion allowed for structures in violation.)

G. H. Structures that do not meet the Minimum Setbacks to Lot Lines (Side Yard or Rear Yard Setback) and Road Right-of-Way Lines

The following requirements do not apply to the OHWM setback:

1. Accessory structures that encroach over lot lines, road right-of-way lines, or are located within the road setback, side yard or rear yard setback are permitted ordinary maintenance and repair. Such accessory structures shall not be structurally altered, improved, replaced or expanded.
2. Dwelling units or principal buildings located in road setback, side yard setback or rear yard setback areas may be continued subject to the following:
 - a. All work must be in strict compliance with all other requirements of this ordinance. Ordinary maintenance, repairs and structural improvements shall be permitted.
 - b. A dwelling unit or principal building or portions thereof located in a road setback, side yard setback or rear yard setback areas is permitted to be expanded vertically and horizontally, which may result in total replacement, in a direction away from the adjoining lot line or road right-of-way line. Upon reaching the setback line, such expansion may also be lateral to the setback line.
 - c. In the event a proposed expansion is in a road setback area, the property owner shall obtain a written statement from the government entity that has jurisdiction over such road stating that it has no objection.
3. Dwelling units or principal buildings that encroach over lot lines or road right-of-way lines may be continued subject to the following:
 - a. All work shall be in strict compliance with all other requirements of this ordinance.
 - b. Ordinary maintenance, repairs and non-structural improvements shall be permitted provided they do not alter the envelope of such structure, which consists of any existing exterior wall, roof or foundation.
 - c. Structural improvements. The alteration of any structural members of the existing walls, roof or interior structural members of such structure shall not be permitted.

Article 10 remains the same except:

~~**Building Footprint:** The area enclosed by the lines formed by connecting all points where the building's walls, or the foundation supporting the walls, meet the ground. For the purpose of this definition, decks, patios or other appurtenances shall not be considered as part of the building footprint (see also definition of Footprint).~~

Building Footprint: The entire area of ground covered by a structure, expressed in square feet, including attached appurtenances such as, but not limited to, balconies, eaves, porches, decks, fireplaces, chimneys.

Erosion Control Measure, Structure or Device: Physical devices constructed and management practices utilized to control sedimentation and soil erosion.

Landscaping: To improve the appearance of an area of land, as by planting trees, shrubs, or grass, or altering the contours of the ground.

Structure (sec. 59.692(1)(e), Wis. Stats.): A principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on the ground, or attached to something having a permanent or temporary location on the ground, including but not limited to any building, dwelling, manufactured building, manufactured home, mobile home, house trailer, recreational vehicle, garage, shed, boathouse, boat shelter, advertising sign, deck, patios, driveways, fences, retaining walls, walkway or other improvements or any part of such structure. A structure includes any permanent or temporary appurtenance attached thereto, including but not limited to awnings and advertising signs.

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

Structure, Principal: ~~The main structure on a lot, intended for primary use as permitted by the regulations of the district in which it is located.~~ A building or other structure which houses a principal use of a lot, including any functional appurtenances, such as garages, decks, stairways and balconies, which are attached to said building or structure. A lot on which more than one principal use is located may have more than one principal structure.

Viewing Area: ~~An area relatively free of vegetation that allows a reasonably unobstructed view of the shore from the principal structure located on the property.~~

Vegetative Buffer Zone: An area of natural vegetation 35 feet from the ordinary high water mark of a lake, river or stream.