

ARTICLE XIV
Shoreland-Wetland District

§ 396-43. Designation.

- A. This district shall include all shorelands within the jurisdiction of this chapter that are designated as wetlands, including all point symbols, on the most recent Wisconsin Wetland Inventory Maps which have been adopted in § 396-42 of this chapter.
- B. 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 Planning and Zoning 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. **[Amended 6-20-2017 by Ord. No. 18-2017; 4-17-2019 by Ord. No. 8-2019]**

§ 396-44. Purpose.

This chapter is adopted 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.

§ 396-45. Permitted uses.

The following uses shall be allowed, subject to the general zoning regulations in this chapter, the provisions of Chs. 30 and 31 and § 281.36, Wis. Stats., and the provisions of other state and federal laws, if applicable:

- A. Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating:
- (1) Hiking, fishing, trapping, hunting, swimming and boating;
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of silviculture, including the planting, thinning and harvesting of timber, provided it is done in accordance with Article VIII of this chapter;
 - (4) The pasturing of livestock and the construction and maintenance of fences;

- (5) The cultivation of agricultural crops;
 - (6) The construction and maintenance of duck blinds;
 - (7) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - (8) 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.
- B. Uses which do not require the issuance of a zoning permit and which may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below:
- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - (2) The cultivation of cranberries, including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
 - (3) The maintenance and repair of existing agricultural drainage systems, including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that dredged spoil is placed on existing spoil banks where possible;
 - (4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - (6) The maintenance, repair, replacement or reconstruction of existing town and County highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- C. Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
 - (a) The road cannot as a practical matter be located outside the wetland; and

- (b) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
 - [1] The road shall be designed and constructed as a single-lane roadway with only such depth and width necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;
 - [2] Road construction activities are to be carried out in the immediate area of the roadbed only;
 - [3] Any filling, flooding, draining, dredging, ditching, tiling or excavating that is to be done must be necessary for the construction or maintenance of the road; and
 - [4] Roads constructed for silviculture and intermittent agriculture activity are completely removed and the area restored to natural condition upon completion of the activity or inactivity for a period of 12 months.
- (2) The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetland, provided that:
 - (a) Any such building does not exceed 500 square feet in floor area and is not designed for human habitation; and
 - (b) No filling, flooding, draining, dredging, ditching, tiling or excavating is to be done except limited excavating necessary to provide structural support for the building.
- (3) The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:
 - (a) Any private recreation or wildlife habitat area must be used exclusively for that purpose and the applicant has received a permit or license under Ch. 29, Wis. Stats., where applicable;
 - (b) Limited filling and excavating necessary for the development of public boat launching ramps and access roads may be allowed provided that they cannot, as a practical matter, be located outside the wetland; and
 - (c) Ditching, excavating, dredging, and dike and dam construction may be done in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to

otherwise enhance wetland values.

- (4) The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:
 - (a) The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland; and
 - (b) Any filling, excavating, ditching or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland.
- (5) The construction and maintenance of railroad lines, provided that:
 - (a) The railroad lines cannot as a practical matter be located outside the wetland; and
 - (b) Any filling, excavating, ditching or draining that is to be done must be necessary for such construction or maintenance and must be done in manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland.

§ 396-46. Prohibited uses.

Any use not listed in § 396-45A, B or C is prohibited, unless the Shoreland-Wetland District or a portion of the district has been rezoned by amendment of this chapter in accordance with § 59.69(5)(e), Wis. Stats., Ch. NR 115, Wis. Adm. Code, and § 396-48 of this chapter.

§ 396-47. Site requirements.

- A. Yard requirements. All structural uses except for utilities and transportation shall meet the following minimum setback requirements:
 - (1) Class A highway (state highway): 110 feet from center line or 50 feet from lot line, whichever measures furthest into the lot.
 - (2) Class B highway (County trunk): 83 feet from center line or 50 feet from lot line, whichever measures furthest into the lot.
 - (3) Class C highway (town road): 63 feet from center line or 30 feet from lot line, whichever measures furthest into the lot.
 - (4) Front lot line: 30 feet for all structures.
 - (5) Rear lot line: 30 feet for dwelling and attached accessory structures; 10 feet for detached accessory building.

- (6) Side lot line: 10 feet for all structures.
- (7) Ordinary high-water mark: minimum 75 feet (see § 396-10B and Article XI).
NOTE: Subsection A(4), (5) and (6) are subject to Subsection A(1), (2) and (3) above.

B. Height requirements. [Amended 4-17-2019 by Ord. No. 8-2019]

- (1) All structures: maximum 35 feet (see § 396-10A and Article XI).

C. Lot/area requirements. [Amended 4-17-2019 by Ord. No. 8-2019]

- (1) For parcels zoned conservancy or shoreland-wetland in their entirety, the following requirements apply:
 - (a) Sewered lots [§ NR 115.05(l)(a)1, Wis. Adm. Code]: minimum area and width for each lot. The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet.
 - (b) Unsewered lots [§ NR 115.05(l)(a)2, Wis. Adm. Code]: minimum area and width for each lot. The minimum lot area shall be 20,000 square feet and the minimum average lot width shall be 100 feet.
- (2) For parcels not zoned conservancy or shoreland-wetland in their entirety, the following requirements apply:
 - (a) Sewered lots [§ NR 115.05(l)(a)1, Wis. Adm. Code]: minimum area and width for each lot. The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet.
 - (b) Unsewered lots [§ NR 115.05(l)(a)2, Wis. Adm. Code]: minimum area and width for each lot. The minimum lot area shall be 20,000 square feet and the minimum average lot width shall be 100 feet.

§ 396-48. Rezoning of lands in Shoreland-Wetland District.

NOTE: Only the minimum area of the lot required for the proposed use shall be considered for rezoning.

- A. For all proposed text and map amendments to the Shoreland-Wetland District, the appropriate district and area offices of the Department of Natural Resources shall be provided with the following:
 - (1) A copy of every petition for a text or map amendment to the Shoreland-Wetland District, within five days of filing such petition with the Planning and Zoning Department. Such petition shall include a copy of the Wisconsin Wetland Inventory Map adopted as part of this chapter describing any proposed rezoning of a shoreland-wetland;
 - (2) Written notice of the public hearing to be held on a proposed amendment, at least 10 days prior to such hearing;

- (3) A copy of the Planning and Zoning Committee's findings and recommendations on each proposed amendment, within 10 days after the submission of those findings and recommendations to the County Board; and
 - (4) Written notice of the County Board's decision on the proposed amendment, within 10 days after it is issued.
- B. Shoreland-wetland or portion thereof shall not be rezoned unless in the best interest of Adams County citizens and protection of the local natural resources. The petitioner shall have the burden to demonstrate the proposed rezone of a previously established district is in the best interest of Adams County citizens.
- (1) A wetland district or portion thereof shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (a) Stormwater and floodwater storage capacity;
 - (b) Maintenance of dry 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;
 - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types; or
 - (h) 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.
 - (2) The burden of proof that the proposed rezone will not have "significant adverse impact" shall fall upon the petitioner. Petitioner shall supply the information requested on the appropriate inventory checklist and present the information to the Planning and Zoning Committee at the time of rezoning request.
- C. If the Department of Natural Resources has notified the Planning and Zoning Committee that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Subsection B of this section, 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 since

written notice of the County Board's approval of this amendment was mailed to the Department of Natural Resources. During that thirty-day period, the Department of Natural Resources may notify the County Board that it will adopt a superseding shoreland ordinance for the County under § 59.692(6), Wis. Stats. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the § 59.692(6) adoption procedure is completed or otherwise terminated."

§ 396-49. Special exceptions.

The following uses shall be allowed upon issuance of a special exception permit as provided in § 396-84 of this chapter and issuance of a Department of Natural Resources permit, where required by Chs. 30 and 31, Wis. Stats.:

A. Dams, power plants, flowages and ponds.

NOTE: Wildlife ponds and wetland scrapes approved as appropriate by the Planning and Zoning Administrator, Planning and Zoning Committee, federal or state authorities and/or the USDA Farm Service Agency and/or the USDA Natural Resources Conservation Service are exempted from obtaining a special exception permit (a zoning permit may be required).

B. Relocation of any watercourse.