

**Conservation, Education & Economic Development Committee**  
**Public Hearing Regarding Shoreland Zoning Ordinance #704**

DATE: Wednesday, March 6, 2019

TIME: 8:30 a.m.

LOCATION: Courthouse, Room 114

1. Declaration of Quorum
2. Call hearing to order
3. Read public notice
4. Staff comments
5. Committee questions
6. Call for testimony
7. Close hearing

## **NOTICE OF PUBLIC HEARING**

**TAKE NOTICE THAT the Wood County Conservation, Education and Economic Development Committee will hold a public hearing in Wisconsin Rapids at the Wood County Courthouse, Room #114 on Wednesday, March 6, 2019 commencing at 8:30 a. am. To receive public testimony on a proposal to repeal and recreate the Wood County Shoreland Zoning Ordinance #704. This will meet the required minimum standards contained in NR 115 and the maximum standards as required by 2017 Wisconsin Act 68. Misleading or omitted text regarding boat house roofs and Special Exception Permits will also be presented. A copy of the amended ordinance can be viewed in the Planning and Zoning Office in the Wood County Courthouse during regular business hours prior to the time of the hearing. All persons are invited to attend said hearing and be heard.**

**Kenneth Curry, Chair**

**Wood County Conservation, Education and Economic Development Committee**

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**To be published in the regular legal column of the Wisconsin Rapids Daily Tribune and Marshfield News Herald as a Class 2 Notice pursuant to Chapter 985, Wisconsin Statutes on Wednesday, February 20, 2019 and Wednesday, February 27, 2019.**

**Fee for publication to be paid by:**

**Wood County Planning and Zoning Department  
Wood County Courthouse  
P.O. Box 8095  
Wisconsin Rapids, WI 54495-8095**

**Send AFFIDAVIT OF PUBLICATION to the Wood County Planning and Zoning Department at the Wood County Courthouse prior to March 6, 2019.**

March 6, 2019

Conservation, Education & Economic Development Committee (CEED Committee)

There are three necessary updates to the Wood County Shoreland Zoning Ordinance #704

1. Due to 2017 WI Act 68 a statutory revision and text amendment is required by the State of Wisconsin. This text amendment can be found on proposed page 19 of the Shoreland Ordinance. The ordinance section is 704.12.1 and is printed in red text. This would be attachment #1 to this document. Prior to this amendment there was a provision in shoreland zoning called the “sunset clause”. This was where structures constructed in violation that set unnoticed for 10 years or more could stay but were always considered “illegal structures” and no improvements could be made to them legally. This new amendment was created during the last legislative session and essentially makes these illegal structures now have the similar nuances and privilege as the permitted legal structures. No vertical or lateral expansion is allowed.
2. Attachment #2 will be on proposed page 11 of the revised shoreland ordinance. This is at code section 704.06(1)A.1. This correction is necessary due to an error in the State shoreland model. The inappropriate text is in yellow highlight with the suggested action in red letters. The language is contradictory claiming a boathouse roof can be used as a deck and then at sub (i) states boathouses shall have pitched roofs and shall not be designed as decks. Recommendation is to remove (i).
3. Starting on the proposed page 23 and continuing to page 24 of the Shoreland Zoning Ordinance there are additions made in red (see attachment #3). The previous ordinance had omitted any reference to the specific types of land uses that would be treated as “Special Exceptions or Conditional Uses” for shoreland zoning. I have listed five uses that would have to meet the standards of the ordinance but would also take the approval of the Board of Adjustment to proceed. These uses can be modified and we are seeking approval or recommendations of the CEED Committee.

Respectfully Submitted,

Jeff Brewbaker  
Code Administrator  
Planning & Zoning Office

# Attachment #1

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.

\* **704.12.1 MAINTENANCE, REPAIR, REPLACEMENT OF ILLEGAL STRUCTURES** (s. 59.692(1k)(a)2c, Stats) A structure that was illegally constructed, which is older than ten 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 the violation.)

**704.13 MITIGATION. (NR 115.05 (1)(e)3, (g)5, (g)6)** When the county issues a permit requiring mitigation under sections 704.09(5)C, 704.11(3)D and 704.11(5)E the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include the following:

(1) REQUIRED MITIGATION.

A. A site plan that describes the proposed mitigation measures.

1. The site plan shall be designed and implemented to restore natural functions lost through development and human activities.

2. 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.

B. An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.

C. The enforceable obligations shall be evidenced by a Shoreland Mitigation/Preservation Affidavit recorded in the office of the Register of Deeds prior to issuance of the permit.

(2) ADDITIONAL REQUIREMENTS. Before a permit can be issued, all of the following conditions must be met:

A. The shoreland setback for the purposes of this section shall be seventy-five (75) feet or a lesser setback that has been approved by setback averaging, variance, or is a pre-existing non-conforming structure.

B. For the plan to be approved, it must be binding on the owner, his/her heirs, successors, and assignees, and must authorize entrance onto the property by county staff for inspections to assure compliance with the plan. This agreement shall be written on forms provided by the Code Administrator and recorded with the Register of Deeds at the owner's expense. This also applies to preservation of an existing natural buffer.

C. Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the county to revoke the special zoning permit and order removal of any structure(s) authorized by a special zoning permit.

D. To be considered for approval, any plan to establish, preserve, enhance and/or restore a vegetative buffer zone shall, at a minimum, contain:

(1) A description of how the landowner intends to carry out the project, including methods, materials and equipment to be used;

# Attachment #2

C. The substandard lot or parcel is developed to comply with all other ordinance requirements.

(5) OTHER SUBSTANDARD LOTS. Except for lots which meet the requirements of section 704.05(4) a building permit for the improvement of a lot having lesser dimensions than those stated in sections 704.05(2) and 704.05(3) shall be issued only if a variance is granted by the board of adjustment.

**704.06 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. (NR 115.05(1)(b)1) Unless exempt under section 704.06(1)A, or reduced under section 704.06(2), or increased under section 704.06(3), 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.

A. EXEMPT STRUCTURES. (NR 115.05(1)(b)1m) and s. 59.692(1k)(a)(6), Stats. All of the following structures are exempt from the shoreland setback standards in section 704.06(1):

1. Boathouses located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation. The roof of a boathouse may be used as a deck provided that: KEEP \*

(a) The boathouse has a flat roof.

(b) The roof has no side walls or screens.

(c) The roof may have a railing that meets the Department of Safety and Professional Services.

(d) The construction or placement of boathouses below the ordinary high water mark or any navigable waters shall be prohibited.

(e) Boathouses shall be designed and constructed solely for the storage of boats and related equipment.

(f) One boathouse is permitted on a lot as an accessory structure.

(g) Boathouses shall be constructed in conformity with local floodplain zoning standards.

(h) Boathouses shall not exceed one story and 400 square feet in floor area.

(i) Boathouse roofs shall have a pitched roof that is no flatter than 4/12 pitch, and shall not be designed or used as decks, observation platforms or for other similar uses.

\* DELETE

(i) Earth toned color shall be required for all exterior surfaces of a boathouse.

# Attachment #3

C. EXPIRATION OF PERMIT. Zoning permits shall expire 24 months from date issued if no substantial work has commenced.

## D. CERTIFICATES OF COMPLIANCE.

1. No land or building shall be occupied or used until a certificate of compliance is issued by the county Code Administrator.

(a) The certificate of compliance shall certify that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.

(b) Application for such certificate shall be concurrent with the application for a zoning permit.

(c) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms with all the provisions of this ordinance.

2. The county Code Administrator may issue a temporary certificate of compliance for part of a building, pursuant to rules and regulations established by the county board.

3. Upon written request from the owner, the county Code Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance

## (3) SPECIAL EXCEPTION PERMITS (OR CONDITIONAL USE PERMITS)

A. APPLICATION FOR A SPECIAL EXCEPTION PERMIT. Any use listed as a special exception in this ordinance shall be permitted only after an application has been submitted to the county Code Administrator and a special exception permit has been granted by the board of adjustment. To secure information upon which to base its determination, the board of adjustment may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. A plan of the area showing surface contours, soil types, ordinary high water marks, groundwater conditions, subsurface geology and vegetative cover.

2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.

3. Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations,


4. Specifications for areas of proposed filling, grading, lagooning or dredging.

5. Other pertinent information necessary to determine if the proposed use meets the requirements of the ordinance.

6. Rationale for why the proposed special exception meets all of the special exception criteria listed in this ordinance.

B. SPECIAL EXCEPTIONS. The following uses are permitted upon issuance of a special exception permit according to the procedure set forth in section 704.14(3) of this ordinance, and upon issuance of a Department of Natural Resources or Army Corps of Engineers permit when

required.

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1. Hotels, resorts (including two or more seasonal family dwellings for rent or lease), motels, restaurants, dinner clubs, taverns, and other private clubs.
  2. Institutions of a philanthropic or educational nature.
  3. Recreational camps and campgrounds provided all buildings shall be more than 100 feet from the side lot line. Recreational camps and campgrounds shall conform to the applicable Wisconsin Administrative Codes.
  4. Gift and specialty shops customarily found in recreational areas.
  5. Marinas, boat liveries, sale of bait, fishing equipment, boats and motors, fish farm, and forest industries.

C. NOTICE, PUBLIC HEARING AND DECISION. Before deciding whether to grant or deny an application for a special exception permit, the board of adjustment shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the board of adjustment, 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 board of adjustment shall state in writing the grounds for granting or denying a special exception permit.

D. STANDARDS APPLICABLE TO ALL SPECIAL EXCEPTIONS. In deciding a special exception application, the board of adjustment shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
5. The location of the site with respect to existing or future access roads.
6. The need of the proposed use for a shoreland location.
7. Its compatibility with uses on adjacent land.
8. The amount of liquid and solid waste to be generated and the adequacy of the proposed disposal systems.
9. Location factors under which:
  - (a) Domestic uses shall be generally preferred.
  - (b) Uses not inherently a source of pollution within an area shall be preferred over uses