



# LAND USE AND WETLANDS: An Inventory of Wisconsin Coastal Counties' Zoning and Land Division Ordinances



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# **Land Use and Wetlands: An Inventory of Wisconsin Coastal Counties' Zoning and Land Division Ordinances**

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Cover Photos (from top, left to right):  
Milwaukee Metropolitan Sewerage District Greenseams Program: Mequon Wetland  
Allen Sheldon: Northern Spring Peeper – *Pseudacris crucifer*  
Scott Franke: Bufflehead – *Bucephala albeola*  
Gary Shackelford: Northern bog violet – *Viola nephrophylla*

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## **I. Introduction**

Though state and federal agencies implement regulations that discourage wetland development (e.g., the discharge of fill), in Wisconsin, counties and local governments control land use. Because of this, most projects clear one or more local approvals before applications for wetland development permits are filed with regulatory agencies. This gives local governments an enormous influence over when and where wetland impacts will occur. While state law strictly discourages development in wetlands, it offers little protection for wetlands from impacts associated with adjacent or upstream development. In contrast, local governments have numerous opportunities to manage adjacent development to reduce wetland degradation.

Despite the important role that local governments play, the effects of local government decision-making on Wisconsin's wetlands have not been evaluated or studied. State law requires counties to meet some minimum state standards for wetland protection, but counties also have the authority to enact regulations that are more stringent than state laws. Though we know that many Wisconsin counties use land use controls to discourage development in or near wetlands (e.g., zoning and ordinances), there has been no inventory or cross-county comparison of what policies are in place or how well they work. Nor has anyone attempted to evaluate the extent to which the implementation of state and county wetland policies are complementary or work at cross purposes.

The purpose of this project was to complete the first phase (*Phase I*) of a comprehensive inventory and assessment of wetland protection policies and programs administered by Wisconsin's 15 coastal counties. For the purpose of this and subsequent reports, we use the term inventory to mean a review and summary of wetland-specific and wetland-relevant language in county laws (e.g., what's on the books). The proposed assessment work (*Phase II, described in Section VI*) will include research to evaluate the implementation and enforcement of these wetland protection policies and how well these policies integrate with (e.g., advance or hinder) the implementation of state and federal wetland protection laws.

Though floodplain zoning, stormwater management, and other land use controls offer opportunities to protect wetlands at the local level, we focused our first analyses on zoning and land division ordinances. Both are common forms of land use regulation and have large potential to facilitate wetland protection or lead to wetland destruction.

## **II. Methods**

Findings for this report were gleaned entirely through the review and analysis of county laws. We examined zoning and subdivision ordinances for all 15 Wisconsin coastal counties. With one exception (Kewaunee County) the information was readily available on county web-sites.

Our objectives included:

1. To evaluate Wisconsin Coastal Counties' commitment to use zoning and land division regulations to protect wetlands.

2. To determine when and how county law recognizes the public benefits (i.e., functions) of wetlands, and uses land use controls to protect those functions.
3. To document whether and how Wisconsin Coastal Counties exceed minimum state requirements for shoreland-wetland zoning and the subdivision of land.
4. To evaluate the extent to which county laws require developers to avoid and minimize wetland impacts as required under state and federal wetland regulations.

We reviewed each county's zoning and subdivision ordinances for wetland-specific or wetland-relevant provisions and documented the findings in county-specific reports (see Section IX). We also noted which counties had adopted a storm water management ordinance but did not have the capacity to review and evaluate the wetland content of those ordinances under this grant.

The findings for each county are presented as answers to a series of standard questions (see Section III). Answers are fully annotated and compiled in a separate 3-4 page report for each county (see Section IX). Summaries of findings from all 15 counties are also presented in a series of tables and charts (see Section X and XI). Key findings, preliminary recommendations to improve wetland protections based on these findings, and next steps and research questions are also included in Sections IV, V, VI, respectively. Recommendations are preliminary because they are based only upon a review of what is and is not included in county laws.

Section VI (Next Steps & Research Questions) includes scoping information and sample questions for an assessment phase that is needed to evaluate the implementation and enforcement of these programs.

### III. What's Included in This Report and Why?

Findings from this inventory of coastal county wetland ordinances are presented as answers to a series of standard questions. To help readers interpret the significance of these findings, our rationale for why we included each question and what can be gleaned from the answers is presented below.

#### Zoning Questions

***Does the stated purpose of the ordinance explicitly include protecting, restoring, and/or enhancing wetlands?*** In many cases, an ordinance will include a statement of purpose or other language that clarifies the intent behind the code and the goals and objectives for its implementation. The purpose statement provides a framework for the administrative interpretation and implementation of the zoning ordinance. It also helps implement policies established in comprehensive plans.

Responses to this question measure the extent of a County's commitment to use zoning as a tool to protect wetlands. In our interpretation, explicit mention of the word wetlands demonstrates an intention to make strong commitment. Use of language that can be interpreted as inclusive of wetlands is also good, though not as strong. Counties that fail to mention wetlands in the purpose statement of their zoning ordinance may be less protective.

Though we are interpreting wetland specific language as an indicator of an intent to protect wetlands, we do not assume that the stated intentions are upheld in implementation of these codes. Additional research is needed to evaluate the implementation of these policies.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Though not all county zoning ordinances include a specific goal to protect wetlands, most include goals and objectives that can be advanced by protecting and restoring wetlands. Examples include, but are not limited to, goals to prevent water pollution, decrease flooding or flood hazards, and protect drinking water supplies. This research reports on these types of provisions where they appear in County codes.

We also looked for evidence that the county recognizes how wetland protection and restoration can advance these goals. The information has at least two potential applications:

1. County decision makers may be receptive to amending purpose statements to include wetland protection and restoration as a means to advance goals such as water quality improvement and flood abatement.
2. Concerned citizens can refer to these goals and objectives in arguments against wetland development projects in their community.

***Are both shoreland and inland wetlands expressly protected by the ordinance?***

State law requires counties to establish shoreland-wetland zoning districts and to comply with minimum standards that limit development of wetlands within these districts. These standards

are outlined in Section VII. The state standards apply to all wetlands, or portions of wetlands, that are located in the shoreland zone and mapped on the Wisconsin Wetland Inventory. Though required to protect this subset of shoreland wetlands, Counties have the authority to implement zoning provisions that protect “inland wetlands,” (i.e., those located outside the designated shoreland zone) also.

The purpose of this question is to determine whether Counties have exceeded State shoreland-wetland zoning requirements by protecting some or all inland wetlands. Responses to this question will also illustrate whether Counties mirror state regulations by protecting wetlands regardless of their location.

***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Regulating both shoreland and inland wetlands displays a strong commitment to wetland protection, but Counties can also exceed state minimum standards by implementing stronger protections for shoreland wetlands. Examples include but are not limited to protecting wetlands too small to appear on Wisconsin Wetland Inventory maps, or requiring special permits prior to impacting shoreland wetlands.

Responses to this question record whether and how Counties have implemented wetland-specific zoning provisions that exceed state minimum standards for shoreland wetlands.

***Are there other zoning districts, overlay districts, or special provisions that facilitate wetland protection?***

Counties frequently use special districts or provisions to protect natural areas and sensitive landscapes, to preserve open space and rural character, or to meet other conservation objectives.

Responses to this question document all conservation-oriented provisions of county zoning laws that expressly or potentially protect wetlands among a suite of landscape features or ecosystem services identified for protection.

***Are setbacks required from the edge of wetlands?***

In zoning ordinances, a setback is a minimum required distance between any structure and a specified line. Generally no impervious cover (e.g., buildings, roads, driveways) is allowed in a setback area.

Adjacent development often degrades wetland quality and diminishes the other functions and services that wetlands provide. Therefore, setback policies reflect a county’s commitment to protect wetland quality and functions. Responses to this question document any requirements for setbacks from the delineated (i.e., identified) wetland boundary.

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Vegetated buffers protect wetland quality and function through erosion control, reduced flow of sediment or pollution into the wetland, improved wildlife habitat and more. Wetland buffers may also improve aesthetics and increase property values.

Responses to this question document any requirements for the installation or maintenance of vegetated buffers around wetlands.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Chapter 23.32 of state law defines wetlands as “an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.”<sup>1</sup>

The purpose of this question is to evaluate whether counties are using a definition of wetlands that is consistent with the definition used by the state of Wisconsin in its implementation of wetland protection regulations.

### **Subdivision Regulation Questions**

***Does the purpose of the ordinance explicitly include protecting, restoring, and/or enhancing wetlands?***

As in the section on zoning, responses to this question record any explicit commitments to wetland protection identified in the ordinance. Because the stated purpose in Chapter 236 makes no reference to wetland protection or other conservation goals (see Section VIII), Counties that do include wetland-specific goals in their subdivision ordinance can be characterized as “exceeding state standards” for land division. The summary tables in Section XI reflect this.

Responses to this question also identify Counties where an intention to protect wetlands may be implied (e.g., when the purpose of the ordinance includes protection of natural resources or the avoidance of environmentally sensitive areas).

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

As in the section with zoning, responses to this question record goals and objectives of the ordinance that can be advanced through wetland protection and/or restoration (e.g., water quality improvement, flood storage, erosion control).

***Are wetlands explicitly mentioned as sites that are unsuitable for development and/or land division?***

State and federal wetland regulations generally consider wetlands unsuitable for development. This question examines whether county policies on the suitability of wetlands for development are consistent with this objective of state and federal law.

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

State and federal wetland regulations require developers to identify (i.e., delineate) the boundaries of the wetlands on a property and to complete a functional assessment of the wetlands. This question examines whether and how counties require developers to take similar steps to identify and disclose the extent and quality of acres on a parcel to be subdivided.

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<sup>1</sup> <http://www.legis.state.wi.us/statutes/Stat0023.pdf>

***Are developers required to avoid and minimize wetland impacts in the design of the land division and/or development site?***

State and federal wetland regulations require developers to design projects to “avoid and minimize wetland impacts to the maximum extent practicable.” This question examines what, if any, similar restrictions Counties place on developers once wetlands have been identified on a parcel where subdivision is proposed.

***Does the ordinance encourage or require that wetlands be dedicated and/or reserved to the County or appropriate municipality for open space, parks, or other purposes?***

County land division ordinances commonly encourage or require the dedication and reservation of lands for public purposes. Responses to this question indicate whether wetlands are explicitly mentioned as sites that should be dedicated or reserved for preservation. Provisions that encourage wetland dedication are also reported.

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

Conservation and cluster subdivisions seek to maximize open space and the preservation of natural resources and can be used effectively to protect wetlands. This question will help determine if the County has provisions that encourage the development of conservation subdivisions and whether those provisions encourage or require wetland preservation.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

This question examines whether county subdivision ordinances use a definition for wetlands that is consistent with state and federal law and/or other county laws. Responses to this question also document cases where ordinances discourage development of lands with wetland characteristics (e.g., low-lying areas, marshy soils, etc.) but fail to use the word “wetlands” in their criteria.

## IV. Summary of Key Findings

### *Zoning Ordinances*

**Only 3 coastal counties (Door, Kenosha, and Racine) mention wetland protection in the purpose statement(s) of their zoning ordinances.** Each of these counties listed wetland protection as a goal under the general zoning ordinance.

**The zoning ordinances for all 15 coastal counties include goals that can be advanced through the protection and restoration of wetlands; however, counties rarely identify wetland protection and restoration as a means to achieve these goals.** Commonly cited goals include flood abatement, water quality improvement, erosion control, surface and groundwater protection, and protection of fish and aquatic habitats (see table 2 & Figure 1). Wetland protection is identified as a recommended measure to protect fish and aquatic habitats in 7 counties; however, no mention is made of the benefit of protecting and restoring wetlands to advance any of these other goals.

**All coastal counties strictly rely on Wisconsin Wetland Inventory (WWI) maps to determine which wetlands are protected under county shoreland-wetland zoning laws.**

While state law regulates the discharge of dredge and fill material into all wetlands, regardless of whether the wetland appears on the WWI, most counties limit protections to wetlands that appear on the WWI maps. WWI maps for all 15 coastal counties have a minimum mapping unit of 2 acres; however, many counties ordinances still state that protections apply to wetlands 5 acres or larger (the minimum mapping unit on older maps). Some counties appear to have the adopted revised maps but have not changed the protected acreage from 5 to 2. Because maps are based on interpretation of aerial photographs, smaller wetlands, ephemeral wetlands, and wooded wetlands may all be underrepresented.

1. **8 of 15 coastal counties exceed state minimum requirements for shoreland wetland zoning in some way.** There is great variability in how counties exceed state standards. Examples include protecting all wetlands in the shoreland zone regardless of presence on a map, or adopting restrictive permit approval criteria. State minimum requirements for shoreland-wetland zoning are described in Section VII.
2. **Bayfield + Oconto have strong programs to deter wetland fill.** Bayfield County requires special use permits to fill wetlands and the ordinance clearly states that permits from the Wisconsin Department of Natural Resources are also required. Oconto County requires excavation, fill, grading and pond construction activities to comply with NR 103 (state wetland law), and acknowledges the need to protect wetland functions.
3. **Only 4 coastal counties have wetland specific zoning districts designed to protect inland wetlands, but two-thirds of all counties have implemented special conservation districts or overlay zones (e.g., Natural Areas, Conservancy Lands, Resource Conservation Districts).** Depending upon how the boundaries of these

districts are drawn and what land development restrictions apply, these special districts may afford additional protections to shoreland and inland wetlands.

4. **Only 2 coastal counties require buildings to be set back a minimum distance from the wetland boundary and no counties require maintenance of vegetated buffers between buildings and wetlands.** One innovative approach worth highlighting is Brown County's Agricultural Shoreland Protection Overlay District which requires a 35' wide vegetated buffer strip along every stream in the county's unincorporated regions. This may benefit some riparian wetlands and also helps reduce the flow of sediment and pollutants to downstream areas, including wetlands.

### *Subdivision Ordinances*

1. **Six of 15 coastal counties include wetland protection in the purpose statement of the county subdivision ordinance.** These same six counties are the only ones to identify goals for the ordinance that can be advanced through the protection and restoration of wetlands (e.g., flood abatement, water quality improvement). We found no examples where language in the ordinance draws a clear connection between wetland protection and restoration and these other conservation goals (e.g., promoting wetland protection for the purpose of flood abatement).
2. **Most coastal counties reserve the right to deem wetlands or lands with wetland characteristics as “unsuitable for development;” however, determinations of suitability are often made by committee(s) on a case-by-case basis.** Most subdivision ordinances describe a list of landscape characteristics than an approving authority may use to deem the land unsuitable for development. Four counties explicitly mention wetlands in the list of unsuitable lands. Eight additional counties describe wetland features (e.g., standing water, poorly drained or muck soils), without using the word wetlands. In many cases, the ordinances leave the final determinations up to the discretion of governing committees (see County reports Section IX). In these cases, the extent to which the language leads to the avoidance of wetland impacts depends largely on how it is interpreted and/or enforced by the members of the committees.
3. **Kenosha & Racine Counties have standout measures in their subdivision ordinances.** Kenosha restrict subdivisions in areas to be served by soil absorption waste disposal systems if the groundwater table is within 7 feet of the natural surface of the land or if the lands have been filled, drained, ditched or tiled in the last ten years. This innovative approach recognizes that there are public health risks associated with placement of on-site sewage systems in drained wetlands and lands with high groundwater tables. Though not stated, this practice also reduces homeowner's exposure to flood risks and damages.

Racine County requires subdividers to provide proof that the land is suitable for development if the lands have been altered or filled in the last 10 years.

4. **10 of 15 coastal counties require the identification of wetlands at some point in the land division approval process; however only 5 require developers to avoid and minimize wetland impacts in their subdivision design.** Only one county ordinance (Door) requires a formal wetland delineation. Other counties may require such information during the application phase, but if they do the requirement is not included in the code.
5. **Not quite half of all coastal counties (7 of 15) encourage the avoidance and preservation of wetlands through the dedication of open space or parks and/or the design of conservation subdivisions.**
6. **Only three counties define wetlands in the subdivision ordinance.** Two (Iron & Ozaukee) use the same wetland definition that the state uses for regulatory purposes. Kenosha County uses a narrative rather than regulatory definition.

**Additional general observations:**

1. Where wetlands are defined, most counties use the state definition of wetlands in their zoning and subdivision ordinances. Racine County uses the following expanded definition that may help the public understand what wetlands look like and why they matter: “those areas in which the water table is at, near or above the existing land surface and are characterized by hydric soils such as peats, mucks, other organic and mineral soils and by the growth of hydrophytes such as sedges, cattails, red osier dogwood and tamarack. Wetlands function as nutrient and sediment traps contributing to the maintenance of good water quality and reducing the threat of flooding. Wetlands protect shoreland areas from erosion by absorbing storm impact and diminishing the scouring action of currents. Wetlands also provide essential breeding, nesting, resting, feeding grounds and predator escape cover for many species of fish and wildlife.”
2. ***Counties may be using the term “marsh” interchangeably with wetlands.*** In cases where the word “marsh” is used, it is not clear if the intent is to protect this one wetland type or if the word is used as a surrogate to mean wetland. The term marsh appears more frequently in subdivision ordinances than in zoning ordinances.
3. **It is unclear how extensively wetland identification and the avoidance and minimization of wetland impacts is emphasized.** Ozaukee County’s zoning ordinance requires (codifies) identification of all wetlands within 25’ of a building site. Door County requires a wetland delineation as part of the subdivision approval process. 6 other counties require wetland identification during the land division approval process. Assessment is needed to determine whether other counties require/recommend wetland identification and avoidance/minimization of impacts. Codification of these requirements is a good way to ensure enforcement.
4. **Ordinances state that applicants are obligated to comply with state and federal laws but don’t require any actions to help applicants determine when additional approvals may be needed.** Compliance clauses in ordinances recognize the limits of

county authority by stating that applicants are responsible for complying with state and federal laws. However, unless applicants read the ordinance these clauses may be of little utility.

5. ***Douglas County's lake classification may benefit a large number of riparian wetlands.***  
While several other counties use a lake classification system, they appear to only encourage large lot sizes for development adjacent to navigable waters. Douglas County's lake classification system requires substantial setbacks from the ordinary high water mark.

Though three counties mentioned Section 404 of the Clean Water Act in their compliance clause, no ordinances required specific communications with applicants about state and federal wetland regulatory requirements. Only one county (Octonto) states that excavation, fill, grading, and pond construction activities are subject to the State water quality standards for wetlands (NR 103). We interpret this to mean that county staff are applying these standards to their decision-making but will need to confirm this in the assessment phase.

## V. Preliminary Recommendations

The proposed assessment phase of this project will give us a much better feel for where the gaps in wetland protections are, and viable steps that counties and regulatory agencies can take to improve protections. However, we did identify the following preliminary recommendations from our review of county codes:

1. Purpose statements of zoning and subdivision ordinances can be strengthened by:
  - a) Adding an explicit goal to preserve wetlands (see Door or Kenosha County).
  - b) Recognizing the connection between protecting and restoring wetlands and other stated goals (e.g., flood abatement, water quality improvement, protection of groundwater, fish and wildlife habitat). Doing so could strengthen public and decision-maker understanding of these connections and establish a county commitment to protect wetlands for these purposes. It also may improve consideration of impacts to wetland function in local decision making.
2. Conservation districts (e.g., natural areas, sensitive lands, conservancy) can be used to protect inland wetlands and/or small unmapped wetlands in the shoreland-zone. Criteria are needed to ensure that wetlands are included within district boundaries and that lands within such districts are considered unsuitable for development.
3. Improvements to the Wisconsin Wetland Inventory (WWI), and rapid adoption of revised maps, will lead to better wetland protections. This is particularly true for counties where zoning codes only protect mapped wetlands of 5 acres or larger. NR 115 (state shoreland zoning rules) clearly state that county shoreland wetland zoning districts are comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps. In the next two years, counties are required to revise their shoreland zoning codes to reflect recent changes to NR 115. This provides an opportunity for counties to also revise their codes to adopt more current maps and clarify that shoreland wetland zoning applies to all mapped wetlands 2 acres or larger.
4. More attention is needed to prevent degradation of wetland functions (e.g., requirements or incentives for vegetated buffers around wetlands).
5. Subdivision ordinances could improve avoidance of wetland impacts by requiring that wetlands be identified as areas “unsuitable for development.” Identifying drained, ditched or tiled lands as unsuitable for development could enhance opportunities for wetland restoration and reduce flood risks and flood damages.
6. Protections for wetlands can be clarified by inserting the word “wetlands” wherever the word “marsh” currently appears in county code. County leaders need to be educated that marshes are just one of 12 wetland community types found on Wisconsin’s landscape.

7. Counties can do much more to codify avoidance and minimization standards in land use decision-making. Additional assessment is needed to evaluate how much avoidance and minimization is required or encouraged in practice.

## VI. Next Steps/Research Needs

*Research needs identified as of May 30 2010.*

As per our grant proposal for this inventory work, between now and June 30<sup>th</sup>, we plan to consult with key state and county partners to develop methodologies for a “*Phase II Assessment*” project. Target audiences include WDNR Wetland Team members, county zoning staff, state and federal regulatory staff, county conservationists, and consultants. The goal for the *Phase II Assessment* is to evaluate the implementation and enforcement of these wetland protection policies and how well these policies integrate with (e.g., advance or hinder) the implementation of state and federal wetland protection laws.

Partner input will be used to identify important topics and questions for a *Phase II* inquiry, and to seek advice on the most efficient/effective way to gather the information. We expect to propose to complete the research through some combination of phone interviews, surveys, and facilitated discussions at meetings and events.

Through the *Phase I* inquiry, we already have some clear ideas of topics/questions we believe warrant further exploration. In no order of priority, these include but are not limited to:

1. What are the pros and cons of including the shoreland zoning ordinance within the general zoning ordinance versus as a stand-alone ordinance. Does one system lead to more or less confusion by applicants or inconsistency in implementation?
2. How much oversight occurs by the county and/or the state on decisions with wetland impacts in the shoreland zone (e.g., how carefully does WDNR review decisions)? How/when are conditional use permits and variances issued? How stringently is county zoning applied in towns that have adopted their own zoning ordinances and what oversight does the county impose?
3. What wetlands are protected in cases where the ordinance references wetlands of 5 acres or larger that appear on the Wisconsin Wetland Inventory. This question is relevant because WWI maps for all coastal counties have been updated to capture wetlands of 2 acres or larger, and state law requires use of these maps. What, if any, attempts have been made to adopt the more detailed maps? Are counties that have not amended their ordinance using the new or the old maps?
4. How are county staff and/or committees applying criteria for when lands should be considered “unsuitable for development?” How often do these criteria lead to rejection or modification of subdivision requests with proposed wetland impacts?
5. How are boundaries for special conservation districts determined and what criteria are applied within those boundaries (e.g., is development strictly prohibited, are conditional use permits or variances required)?

6. What, if any, wetland identification and avoidance/minimization standards have counties incorporated into zoning and subdivision permit reviews. What additional opportunities exist to codify or encourage wetland identification and avoidance?
7. In counties where the term “marsh” is included in the codes, is it interpreted to mean wetland or does it only offer protections for marsh communities?

Through interviews and additional inquiry, we also hope to get a better feel for each county’s commitment to wetland protection; gaps in understanding by county staff or leaders about the benefits of wetlands or requirements under wetland laws; ways that state policies help or hinder innovative wetland protection or restoration efforts; and other areas of county codes we should review (e.g., stormwater/floodplain ordinances).

In the coming months we will also circulate the findings in this report for review and verification by county zoning administrators. Their input will improve the accuracy of this research and should also help us formulate additional questions for the assessment phase.

### ***Research needs identified as of June 30, 2010***

As part of our process of verifying our findings from this research we contacted the Zoning Administrators (ZA) from each county by e-mail and phone. The phone calls provided an opportunity to: a) brief ZA’s on the objectives of the project; b) request their recommendations on questions and methods for future research and outreach; and, c) describe our long term plans to use the findings to develop and promote recommendations for how counties can improve wetland protection. These discussions enabled us to gauge the interest of Coastal County ZA’s in receiving and working with such recommendations, and to gather information on when Coastal Counties will begin the process of incorporating mandatory updates to their Shoreland Zoning ordinances.

In addition to the communications with ZA’s described above, we discussed our findings and long-term project goals with the Wisconsin Department of Natural Resources’ (WDNR) Wetland Team Leader, WDNR Water Management Specialists, and staff at 1,000 Friends of Wisconsin. The purpose of these discussions was to identify aspects of the local implementation of zoning ordinances and state and federal wetland laws that needed further analysis. We also sought advice on recommended approaches for this next phase of research.

Though the research needs identified prior to June 1<sup>st</sup> still merit further inquiry, the assessment work and evaluation we completed in June helped us to identify additional, more immediate needs and opportunities.

Most importantly, we realized that the findings from this research provided sufficient information to develop recommendations for how coastal counties can modify county ordinances to both strengthen wetland protection, and to improve consistency between the implementation of local ordinances and state and federal wetland laws.

The time is ripe to promote such recommendations because every county in the state must revise their shoreland zoning ordinance to comply with recently enacted changes to state minimum standards (NR 115). Though the new state shoreland zoning rule does little to improve or expand mandatory wetland protections, we see this as a chance to encourage coastal counties to consider doing so as part of their shoreland zoning rewrite.

An unexpected recommendation received from the ZAs was to complete an inventory of the wetland relevant provisions in county stormwater ordinances. ZAs indicated that stormwater ordinances provided counties with the most flexibility to protect wetlands because, unlike zoning and subdivision ordinances, stormwater requirements apply to all construction projects.

While many questions remain about how well existing local wetland protection policies are implemented and enforced, we don't want to miss this immediate opportunity to strengthen what's on the books. We will continue to try to improve our understanding of how stringently local wetland protections are applied and to identify additional opportunities to improve integration of local, state and federal wetland policies as we hope to apply these findings in future outreach efforts.

## **VII. Description of State Minimum Standards for County Shoreland-Wetland Zoning Programs**

The County-by-County findings in this report (Section IX) document when and how Wisconsin Coastal Counties adopt codes that improve protections for wetlands by exceeding minimum State requirements for shoreland-wetland zoning and the subdivision of land. There are also minimum state requirements for floodplain zoning and stormwater management that advance wetland protection, but this section deliberately provides only a summary of the minimum requirements Counties must comply with for shoreland-wetland zoning and subdivision regulations.

Chapter 59 of the Wisconsin Statutes authorizes counties to govern land use and environmental protection within their jurisdictions. Specifically, Chapter 59.69 authorizes counties to plan for the physical development and zoning of territory within the county. The purpose statement for this section of law includes a goal to preserve wetlands. This law gives counties the discretion to enact a general (comprehensive) zoning ordinance; however counties are required under Chapter 59.692 to protect wetlands that are located in the shoreland near navigable waterways. Shoreland zoning ordinances may be adopted as part of, or separate from, a county's general zoning ordinance.

The shoreland zone is defined as the lands within 1,000 feet of the ordinary high water mark (OHWM) of a lake, pond, or flowage; and 300 feet of the OHWM of a navigable river or stream and the landward side of the floodplain.

Chapter NR 115 of the Wisconsin Administrative Codes outlines the State minimum standards for implementing and enforcing shoreland-wetland zoning at the county-level. All counties are required to create shoreland-wetland zoning districts, which must include shoreland wetlands identified on the Wisconsin Wetland Inventory (WWI) maps. The Wisconsin Department of Natural Resources (WDNR) is in the process of completing a county by county update of the WWI. Older maps depict wetlands 5 acres or larger, while updated maps capture wetlands at least 2 acres in size.<sup>2</sup>

Draining, filling, grading, and dredging activities are prohibited in the shoreland-wetland district. A series of permitted uses are authorized under NR 115 provided that they cannot be practicably sited outside the wetland and are designed/performed in a manner that minimizes adverse impacts upon the natural functions of the wetland. Permitted uses include:

1. Hiking, fishing, trapping, hunting, swimming and boating.
2. Harvesting of wild crops (e.g. marsh hay, ferns, moss, wild rice)
3. Normal farming, silviculture, and ranching activities, including:
  - a. Maintenance and repair of existing drainage systems (such as ditching and tiling);
  - b. Construction of roads, if the roads are necessary for agricultural cultivation
4. Duck blinds;
5. Nonresidential structures less than 500 square feet that are used for raising waterfowl, minnows, or other wetland or aquatic animals;

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<sup>2</sup> County wetland information, including the current minimum map unit size for each county can be found at: <http://dnr.wi.gov/wetlands/acreage.html>

6. Piers, docks and walkways;
7. 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;
8. Public or cooperative association electric, gas, telephone water and sewer transmission and distribution lines, and related facilities, intended to provide heat, light, power or water;
9. Railroad lines;
10. Maintenance, repair, replacement, and reconstruction of existing town and county highways and bridges.

Uses not mentioned above are considered prohibited. Counties do have the discretion to impose additional conditions to further restrict permitted uses in the shoreland zone.

If the County believes the WWI is inaccurate and the site is actually not a wetland, the shoreland-wetland district can be rezoned, but only if the rezoning will not result in significant adverse impacts to any of the following natural functions or features:

1. Storage of storm and flood water;
2. Maintenance of dry season stream flow and the flow of groundwater through a wetland;
3. Groundwater discharge and recharge;
4. Capacity to trap, filter, and store sediments, nutrients, heavy metals, and organic compounds;
5. Shoreline stabilization and erosion control;
6. Fish spawning, breeding, nursery, or feeding grounds;
7. Wildlife habitat;
8. Areas of special recreational, scenic or scientific interest, including scarce wetland types.

Prior to proceeding with the rezoning of a shoreland-wetland district a public notice must be issued and a hearing convened where the public has the opportunity to comment on the proposal. Once these conditions are met, the locally elected board or commission decides whether to approve or deny the rezoning request. The WDNR has the authority to provide recommendations on the rezoning proposal and can repeal a decision if it does not comply with NR 115.

NR 115 requires a 75 foot setback from the OHWM of navigable lakes, rivers, and stream, but not for wetlands located in the shoreland zone. A setback is a separation distance from a defined boundary (e.g. the edge of a wetland) and generally prohibits the placement of impervious cover including buildings and structures within the required setback.

While NR 115 does not require wetland setbacks, NR 151 – Runoff Management – of the Wisconsin Administrative Code requires building and structural setbacks (“protective areas”) from the edge of wetlands on a limited basis. The protective areas are commonly 50 or 75 feet depending on the wetland type; and are just required for projects needing a stormwater permit from the Department of Natural Resources or County employing a stormwater management ordinance.

## VIII. Description of State and County Authority for Regulating the Division of Land

Subdivisions are defined as the division of land into 5 or more lots, parcels, or tracts; building sites of 1.5 acres or less; or successive divisions of land within a 5-year period that result in 5 or more parcels of 1.5 acres or less. Chapter 236 of the Wisconsin Statutes establishes basic requirements and procedures for dividing and recording parcels of land. If a land division is not recorded it cannot be legally developed and subsequently sold on the real estate market.

Subdivision requirements and approval processes vary depending on the location of the subdivision and involve oversight by multiple authorities. **Table 1** summarizes these authorities.

Location of Subdivision		Approving Authority		Objecting Authority
City of Milwaukee	→	<ul style="list-style-type: none"> <li>▪ Common Council</li> </ul>	→	<ul style="list-style-type: none"> <li>▪ None</li> </ul>
Within City or Village Limits	→	<ul style="list-style-type: none"> <li>▪ City Council or Village Board</li> </ul>	→	<ul style="list-style-type: none"> <li>▪ County Planning and/or Zoning Department for conflicts with parks, highways, airports, schools, and other planned public improvements.</li> <li>▪ WI Department of Administration for non-conformity with surveying and layout requirements and final plat format and certificates.</li> <li>▪ WI Department of Transportation for issues with a subdivision adjacent to a State highway or connecting streets.</li> <li>▪ WI Department of Commerce for concerns with subdivisions not served by a public sewer or near navigable lakes and streams.</li> <li>▪ WI Department of Natural Resources for concerns with subdivisions near navigable lakes and streams.</li> </ul>
Within Extraterritorial Plat Jurisdiction of a City or Village	→	<ul style="list-style-type: none"> <li>▪ Town Board; and</li> <li>▪ City Council or Village Board; and</li> <li>▪ County Planning and/or Zoning Department; and</li> </ul>	→	
Unincorporated areas, or Those Outside the Extraterritorial Plat Jurisdiction of a City or Village	→	<ul style="list-style-type: none"> <li>▪ Town Board; and</li> <li>▪ County Planning and/or Zoning Department</li> </ul>	→	
Adapted from Ohm, B.W. (1999). Subdivision Regulations, Chapter 7. In <i>Guide to Community Planning in Wisconsin</i> . Madison, WI: University of Wisconsin Department of Urban and Regional Planning.				

The recommended and required information developers must submit in the subdivision approval process and the counties role in reviewing these plans include:<sup>3</sup>

1. Concept or sketch plan (optional): A conceptual plan is the document that can be submitted by the landowner or developer early in the process. It allows the County

<sup>3</sup> Center for Land Use Education. (2008). Planning Implementation Tools: Land Division Ordinances. Stevens Point, WI: University of Wisconsin-Extension. Available at: [http://www.uwsp.edu/cnr/landcenter/pdffiles/implementation/Land\\_Division\\_Ordinances.pdf](http://www.uwsp.edu/cnr/landcenter/pdffiles/implementation/Land_Division_Ordinances.pdf)

Planning and/or Zoning Department to provide suggestions and help the landowner or developer design a land division that is in compliance with the local comprehensive plan, and local, state, and federal regulations.

2. Preliminary Plat (optional): Follows the conceptual plan and is the document that generally includes the layout of the lots and streets and detail on natural features, topography, utilities, parks, and so on. The County has 90 days to review and approve or deny the preliminary plat.
3. Final Plat (required): Similar to the preliminary plat, this is the document that includes the detailed design and maps of the proposed land division. The County has 60 days to review and approve or deny the final plat. State agencies have 20 days to object to the proposed final plat.
4. Certified Survey Map (required): The final document where the land division is surveyed by a registered land surveyor and recorded with the surveyor's certificate of compliance at the County Register of Deeds. This process must occur prior to the issuance of final plat approval.

For the required phases above Chapter 236 details minimum design requirements that must be met (e.g., minimum lot and street dimensions).

No wetland-specific provisions are incorporated into minimum State land division standards; however, the following requirements for land divisions adjacent to lakes and streams do benefit some wetlands:

- The Department of Natural Resources or Department of Commerce may require lands within 500 feet of the OHWM of any navigable stream, lake, or other waterway to have adequate drainage areas for private sewage disposal systems and building setbacks in order to prevent water pollution and to protect public health and safety;
- All subdivisions adjoining a navigable lake or stream must provide public access at least 60 feet wide, and the County must construct and maintain shoreline erosion control practices along this public access;
- The final plat must identify: (a) all watercourses, drainage ditches and other existing features pertinent to proper subdivision; and (b) the water elevations of adjoining lakes or streams at the date of the survey, plus the approximate high and low water elevations of those lakes or streams.

Chapter 236.45 grants counties the authority to develop land division ordinances that are more restrictive than State law. This gives counties the discretion to develop additional land division standards to protect wetlands.

## **IX. County Specific Reports**

This section provides the findings for how each coastal county advances wetland protection through zoning and subdivision regulations. The information provided below was generated by analyzing zoning and land division ordinances available on-line and then documenting the wetland and wetland-related provisions within those ordinances. Answers to the standardized questions are intended to illustrate what has been codified by the County. Therefore, this information may not appropriately depict standard wetland protection practices that are not codified in the ordinance(s).

# Ashland County

## Zoning

### ***Introduction***

Ashland County has a General Zoning Ordinance and a Shoreland Amendatory Ordinance. No wetland conservation provisions are contained in the general zoning ordinance.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring wetlands?***

No. The Shoreland Amendatory Ordinance does include a goal to protect spawning grounds, fish, and aquatic life and identifies wetland preservation as a means to do so.<sup>4</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The Shoreland Amendatory Ordinance includes a goal to “further the maintenance of safe and healthful conditions and prevent and control water pollution; and preserve shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Wetland District protects only shoreland wetlands of 5 acres or more that are identified on the Wisconsin Wetland Inventory last revised on September 28, 1995.<sup>5</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

No.

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

No. The County does use a lakes and rivers classification system to encourage large lots adjacent to navigable waters.

### ***Does the ordinance require building setbacks from the edge of wetlands?***

No.

### ***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of native vegetation)?***

Not applicable.

### ***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

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<sup>4</sup> Section 1.3 of Shoreland Amendatory Ordinance

<sup>5</sup> Section 4.61 of Shoreland Amendatory Ordinance

Yes. The State wetland definition is used.<sup>6</sup>

## **Subdivision Regulations**

### ***Introduction***

The Ashland County Subdivision Control Ordinance regulates State-defined subdivisions (see Section VIII) in unincorporated areas of the County. The ordinance does not apply to land divisions on the Bad River Indian Reservation, the Madeline Island Reservation, or lands held in public trust by the Federal Government.<sup>7</sup>

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

No.

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Yes. A “developable building site,” also referred to as an area suitable for construction, is identified as an area that does not include floodplains or wetlands.<sup>8</sup>

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

No.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

No.

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

No.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

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<sup>6</sup> Section 14.0 of Shoreland Amendatory Ordinance

<sup>7</sup> Section 2.0 of Subdivision Control Ordinance

<sup>8</sup> Section 1.0(7) of Subdivision Control Ordinance

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

No.

The Ashland County ordinances are available at:

<http://www.co.ashland.wi.us/departments/zoning/AshlandCountyZoningOrdinance2009April.pdf>

# **Bayfield County**

## **Zoning**

### ***Introduction***

Bayfield County has a General Zoning Ordinance and a Shoreland and Wetland zoning Ordinance.<sup>9</sup> Both ordinances contain wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. Both ordinances include goals to “prevent and control water pollution, to protect spawning grounds, fish, and aquatic life, and to promote the better uses of scenic resources.” The ordinances do not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>10</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

Yes. The General Zoning Code requires a 25 foot setback from all wetlands 2 acres or larger identified on the Wisconsin Wetland Inventory maps.<sup>11</sup> The ordinance also requires a Class B special use permit for the filling of any wetland. Adjoining landowners must be notified about the proposed wetland fill. Requests for Class B special use permits cannot be approved until the Wisconsin Department of Natural Resources issues a wetland fill permit.<sup>12</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. Wetlands of 5 acres or more in the shoreland-wetland district<sup>13</sup> are protected by setback requirements (see below).

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. The General Zoning Code has a Conservancy (W-1) zoning district designed to “prevent the destruction and alteration of natural resources that are considered to possess valuable ecological and aesthetic assets.” The ordinance requires that “all efforts should be made in these areas to preserve the qualities for which they have been set aside.” Fish hatcheries, signs, gas and oil pipelines, irrigation facilities, canals, dams, and reservoirs are the only permissible uses; however each must be approved by a conditional use permit.<sup>14</sup>

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<sup>10</sup> Section 13-1-3 of Zoning Code

<sup>11</sup> Section 13-1-22 of Zoning Code

<sup>12</sup> Section 13-1-24(c) of the Bayfield County Zoning Code

<sup>13</sup> Section 13-3-21 of Shoreland and Wetland Zoning

<sup>14</sup> Sec. 13-1-61(m) of Zoning Code

The General Zoning Code also requires completion of an environmental impact analysis (EIA) for the following activities: subdivisions consisting of 25 lots or more; resorts, condominiums, planned unit developments, motels, hotels, or multi-unit dwellings, or mining activities. Presumably wetland impacts should be disclosed and discussed in EIA documents.

In addition, the General Zoning Code facilitates the development of conservation subdivisions (see subdivision regulations section below).

***Does the ordinance require building setbacks from the edge of wetlands?***

Yes. Buildings and structures cannot be placed within 25 feet of any mapped wetland 2 acres or larger.<sup>15</sup>

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of native vegetation)?***

No.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition is used.<sup>16</sup>

## **Subdivision Regulations**

***How are land divisions regulated?***

The Bayfield County Subdivision Control Code regulates State-defined subdivisions (see Section VIII) in unincorporated areas of the County. The ordinance does not apply to land divisions on the Red Cliff Indian Reservation or lands held in public trust by the Federal Government.<sup>17</sup>

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

No.

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

No.

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

No.

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<sup>15</sup> Section 13-1-22 of Zoning Code

<sup>16</sup> Section 13-1-4(a)(71) of Zoning Code

<sup>17</sup> Section 14-1-4 of Subdivision Control Code

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

Unclear. The County has the discretion to require the dedication, reservation, or easement of certain lands for natural resource protection.<sup>18</sup>

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

Yes. Both the General Zoning Code and Land Division Ordinance encourage conservation subdivisions. In limited circumstances, subdivisions designed and developed to maximize the preservation of natural resources are subject to relaxed requirements (e.g., minimum lot area and width).<sup>19</sup>

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

## **Stormwater Management**

***Does the County have its own stormwater management ordinance or policy?***

No.

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<sup>18</sup> Section 14-1-82 of Chapter 1 Subdivision Control Code

<sup>19</sup> Section 13-1-29A of Chapter 1 Zoning Code

The Bayfield County ordinances are available at: <http://www.bayfieldcounty.org/ordinances.asp>

# **Brown County**

## **Zoning**

### ***Introduction***

Brown County does not have a General Zoning Ordinance. All of the townships enforce their own zoning ordinances. The Shoreland and Wetlands Zoning Ordinance (Chapter 22) contains the only wetland conservation provisions; and applies to all unincorporated areas in Brown County and, by contract, the Village of Bellevue.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No. The ordinance does include a goal to protect spawning grounds, fish, and aquatic life and identifies wetland preservation as a means to do so.<sup>20</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes the goal to “further the maintenance of safe and healthful conditions and prevent and control water pollution; and preserve shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>21</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Shoreland-Wetland District protects only shoreland wetlands of 5 acres or more that are identified on the Wisconsin Wetland Inventory dated June 5, 1990, and January 12, 1993. Shoreland wetlands of 2 acres or more that are identified on the WWI are subject to the provisions of the Shoreland and Wetlands Ordinance (Chapter 22).<sup>22</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. The County requires a permit for land disturbing activities of more than 500 square feet within 100 feet of any shoreland wetland.<sup>23</sup>

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. An Agricultural Shoreland Protection Overlay District requires a 35 foot vegetated buffer to be maintained, free of row crops and seeded to grass, alfalfa, or other related vegetation, between the edge of navigable streams and the farmed areas.

### ***Does the ordinance require building setbacks from the edge of wetlands?***

No.

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<sup>20</sup> Chapter 22.03

<sup>21</sup> *Ibid*

<sup>22</sup> Chapter 22.32

<sup>23</sup> Chapter 22.29(1)(b)

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition is used.<sup>24</sup>

## **Subdivision Regulations**

### ***Introduction***

Brown County regulates the following land divisions in unincorporated areas of the County and in any village or city that has agreed to county subdivision review authority under Section 66.0301 of the Wisconsin Statutes:

- State-defined subdivisions;
- A land division creating at least one parcel located within the Brown County Sewer Service Area that is 40 acres or less in size; or creating at least one parcel not located within the Brown County Sewer Service Area that is 10 acres or less in size;
- Combining parcels into one parcel;
- Condominium plats; and
- Replatting existing subdivisions.<sup>25</sup>

In addition, the Shorelands and Wetlands Zoning Ordinance requires County review of land divisions that create at least 3 parcels or a building site of 5 acres or less in the shoreland zone.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

Yes. The ordinance includes the goal “to prevent the destruction and impairment of environmentally sensitive areas.”<sup>26</sup> Wetlands and land within 50 feet of wetlands larger than 2 acres are considered to be environmentally sensitive areas.<sup>27</sup>

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “prevent and control erosion, sedimentation, and other pollution of streams; to safeguard potable water supplies; and to preserve the natural beauty and topography of the county.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>28</sup>

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance states that “no land shall be divided or subdivided if the resulting lots are determined to be unsuitable for a developed use by the Planning Commission staff for reason of flooding or potential flooding, adverse soil or rock formations, severe erosion potential, unfavorable topography, inadequate drainage, inadequate water or sewage disposal capabilities,

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<sup>24</sup> Chapter 22.48(2)(t)

<sup>25</sup> Chapter 21.04

<sup>26</sup> Chapter 21.03(11)

<sup>27</sup> Chapter 21.33

<sup>28</sup> Chapter 21.03

or any other condition likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community.” The suitability of wetlands for development depends on how the County interprets the above language.<sup>29</sup>

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. Environmentally sensitive areas must be depicted on preliminary sketch plans, certified survey maps and final plats. Deed restrictions and conservation easements that protect wetlands must also be identified on these documents.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

Yes. Developers are encouraged to consider the designation of sites for the “preservation of scenic and historic sites, stands of fine trees, marshes, lakes, ponds, watercourses, watersheds, and ravines” in their plat designs<sup>30</sup> It is unclear whether the term “marsh” is interpreted to cover all wetland community types.

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

Yes. Conservation subdivision provisions have been adopted in the ordinance. Permanent open space must comprise at least 30% of the whole subdivision and must be designated on the final plat. Generally, open space must be designated to include all environmentally sensitive areas and wherever possible, should connect existing or potential open space areas on adjoining lands.<sup>31</sup>

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

## **Stormwater Management**

***Does the County have its own stormwater management ordinance or policy?***

Yes.<sup>32</sup>

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<sup>29</sup> Chapter 21.32

<sup>30</sup> Chapter 21.65

<sup>31</sup> Chapter 21.71

<sup>32</sup> [http://www.co.brown.wi.us/i\\_brown/d/county\\_clerk/chap040.pdf](http://www.co.brown.wi.us/i_brown/d/county_clerk/chap040.pdf)

The Brown County Ordinances are available at:

[http://www.co.brown.wi.us/departments/page\\_5fec5eded0f7/?department=e5c0a00e0894&subdepartment=c97a2140c6a9](http://www.co.brown.wi.us/departments/page_5fec5eded0f7/?department=e5c0a00e0894&subdepartment=c97a2140c6a9)

# **Door County**

## **Zoning**

### ***Introduction***

Door County has a General Zoning Ordinance that contains wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring wetlands?***

Yes. The ordinance includes the goal of wetland preservation.<sup>33</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “protect groundwater and surface water; protect the beauty of landscapes; and conserve flora and fauna habitats.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

Yes. The ordinance’s Wetland (W) District protects both shoreland and inland wetlands that are identified on the most recent version of the Wisconsin Wetland Inventory (WWI). The ordinance clarifies that if a wetland is incorrectly mapped as a non-wetland and field conditions demonstrate the area is in fact a wetland, the Zoning Administrator has the authority (following concurrence from Department of Natural Resources staff) to grant or deny a zoning permit in accordance with the regulations applicable to the W District.<sup>34</sup>

No filling, grading, or other land disturbance is allowed in the W District. Land disturbance activities of more than 2,000 square feet is restricted in wetlands not mapped on the WWI (not zoned as a W district). A land disturbance permit cannot be approved if the proposed activity would “alter any wetland.”<sup>35</sup> If a developer wishes to create a new lot on lands including a W district, the lot size must be at least 10 acres in size.

Special protections are also in place for ridge and swale complexes. A unique coastal habitat, ridge and swale complexes are alternating sequences of narrow, sandy ridges and low wetland swales that parallel a lakeshore. In all zoning districts, the ordinance prohibits:

- Altering the natural topography of ridge and swale complexes, however excavation for road construction and for the foundations of buildings and structures is allowed on the ridge ground surface;
- Placing buildings and structures in the swales, except roads may be constructed in the swale under limited scenarios. All necessary buildings and structures must be located on the highest portion of the ridge.<sup>36</sup>

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<sup>33</sup> Chapter 1.04(9)

<sup>34</sup> Chapter 2.03(1)

<sup>35</sup> Chapter 3.14

<sup>36</sup> Chapter 5.08

***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. Buildings and structures in the shoreland zone must comply with the ordinance’s wetland setback requirements (see below).

***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. Natural Area (NA) and Conservation Area (CA) zoning districts, and Planning Residential Development (PRD) provisions promote wetland protection.

The NA district conserves the existing, mostly undeveloped natural areas, including upland areas adjacent to or surrounded by wetlands, through:

- Prohibiting commercial and industrial uses. General agriculture, very low density residential, recreational, and institutional uses are permitted.
- Requiring that new lots be at least 15 acres.<sup>37</sup>

The CA district conserves existing, mostly undeveloped environmentally significant areas, including large wooded tracts, islands, isolated uplands surrounded by wetlands, and areas adjacent to large wetlands by:

- Prohibiting all uses except very low density residential and low intensity recreational uses.
- Requiring that new lots be at least 15 acres.

The PRD provisions provide landowners greater flexibility in developing tracts of land by relaxing requirements (e.g., lot area, lot width, setbacks, and yard size), in exchange for preserving open space and natural resources. The PRD provisions help protect wetlands by:

- Prohibiting the inclusion of wetland acreage when determining maximum residential densities (homes per acre), and
- Encouraging developers to preserve wetlands to meet open space requirements.<sup>38</sup>

***Does the ordinance require building setbacks from the edge of wetlands?***

Yes. No buildings or structures (except those permitted under NR 115) may be placed within 35 feet of any wetland. The setback is reduced to 10 feet for buildings and structures in the Single Family Residential districts (SF20) and (SF30). Field inspections are required to determine the wetland boundary.<sup>39</sup>

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

No.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition is used.

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<sup>37</sup> Chapter 2.03(2)

<sup>38</sup> Chapter 6

<sup>39</sup> Chapter 5.10.

## Subdivision Regulations

### ***Introduction***

The Door County Land Division Ordinance regulates minor and major subdivisions in unincorporated areas of the County creating 10 or fewer parcels. Major subdivisions are those that match the State definition for subdivisions (see Section VIII). Minor subdivisions are land divisions that create 4 or less parcels.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring wetlands?***

Yes. The ordinance includes a goal to “facilitate the protection, and proper use of the County’s soil, water, wetland, woodland, and wildlife resources.”<sup>40</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “minimize erosion, sedimentation, and other pollution of surface and subsurface waters, and to secure safety from flooding and other dangers.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>41</sup>

### ***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Yes. Environmentally sensitive areas, including wetlands, are prohibited from inclusion as suitable development sites and for the placement of buildings and structures.<sup>42</sup>

### ***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. For all land divisions, environmentally sensitive areas must be depicted on certified survey maps and plats. In addition, the County requires the following requirements for major subdivisions:

- The conceptual sketch plan must identify the size and location of wetlands.<sup>43</sup>
- The preliminary plat must include a wetland delineation report and map that is reviewed and approved by the County.<sup>44</sup>

### ***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

### ***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

No.

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<sup>40</sup> Chapter 1.03

<sup>41</sup> Chapter 1.09

<sup>42</sup> Chapter 1.09

<sup>43</sup> Chapter 3.02(3)(a)(6)

<sup>44</sup> Chapter 3.03(2)(r)

*Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?*

No.

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*

No. Wetlands are not defined in the Land Division Ordinance.

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

Yes.<sup>45</sup>

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<sup>45</sup> <http://map.co.door.wi.us/swcd/Storm%20Water%20Policy.pdf>

The Door County Zoning Ordinance is available at:  
[http://map.co.door.wi.us/planning/zoning\\_ordinance.htm](http://map.co.door.wi.us/planning/zoning_ordinance.htm)

The Land Division Ordinance is available at:  
[http://map.co.door.wi.us/planning/land\\_div.htm](http://map.co.door.wi.us/planning/land_div.htm)

# Douglas County

## Zoning

### ***Introduction***

Douglas County has a General Zoning Ordinance and a Shoreland Zoning Ordinance. Both ordinances contain wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No. The Shoreland Zoning Ordinance includes a goal to protect spawning grounds, fish, and aquatic life and identifies wetland preservation as a means to do so.<sup>46</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “prevent and control water pollution and to protect shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>47</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Shoreland-Wetland Overlay District protects only shoreland wetlands of 5 acres or more that are identified on the Wisconsin Wetland Inventory. The ordinance further specifies that if the WWI maps do not depict a wetland when field conditions in fact show that a wetland exists, the Zoning Administrator has the authority (following concurrence from Department of Natural Resources staff) to designate the area as a Shoreland-Wetland Overlay District<sup>48</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

No.

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. The General Zoning Ordinance includes a Resource Conservation District (W-1) to prevent the destruction of natural resources including shorelands and areas “not adequately drained, or which are subject to periodic flooding, where developments would result in hazards to health or safety, would deplete or destroy resources; or be otherwise incompatible with the public welfare.”<sup>49</sup>

The County also uses Shorelands Class Development Standards in its General Zoning Ordinance. This system categorizes lakes into three (3) classes and rivers and streams into a separate class. The standards establish requirements for lot size, width, and depth, shoreline and sideyard

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<sup>46</sup> Section 1.3 of Chapter 8.4 – Shoreland Zoning Ordinance

<sup>47</sup> Section 1.3 of Chapter 8.4 – Shoreland Zoning Ordinance

<sup>48</sup> Section 8.1 of Chapter 8.4 – Shoreland Zoning Ordinance

<sup>49</sup> Section 3.10 of Chapter 8.0 – General Zoning Ordinance

setback distance, and vegetation removal for each class. The system requires large lots, says lake access areas may not include wetlands; and requires greater setbacks than required under State law. For example, Class III and Rivers and Streams are protected by a mandatory 125 foot setback from the ordinary high water mark (OHWM) of the navigable waterway. The Brule, St. Croix, and Eau Claire Rivers are protected by a 200 foot setback.<sup>50</sup>

The Shoreland Zoning Ordinance includes a Wild Lakes overlay zoning district to protect all lakes that do not have habitable residences within 300 feet of the OHWM. Large lots (10 acres per dwelling unit) are required, and all buildings and structures must be setback at least 175 feet from the OHWM.

***Does the ordinance require building setbacks from the edge of wetlands?***

No.

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition is used.<sup>51</sup>

## **Subdivision Regulations**

### ***Introduction***

The Subdivision Control Ordinance and Amendments (Chapter 8.1) regulate all land divisions within the unincorporated areas of Douglas County, except those exempt under Chapter 236, Wis. Stats.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

No.

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance states that “land which is deemed unsuitable for any proposed development by the County Planning Agency for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community

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<sup>50</sup> Section 4.4 of Chapter 8.0 – General Zoning Ordinance

<sup>51</sup> Section 13.2 of Chapter 8.4 – Shoreland Zoning Ordinance

shall not be subdivided.” The suitability of wetlands for development depends on how the County interprets the above language.<sup>52</sup>

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The preliminary sketch plan must depict the boundaries of all wetlands.<sup>53</sup>

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

Yes. The County may require that parks and open spaces be dedicated or reserved for future public uses. In locating these sites, strong consideration must be given to “preserving scenic and historic sites, stands of fine trees, marshes and shorelines.”<sup>54</sup> It is unclear whether the term “marsh” is interpreted to cover all wetland community types.

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

Yes. The Subdivision Control Ordinance includes Cluster and Planned Unit Development provisions. All land that is not used for lots and streets must be protected in perpetuity as open space through dedication to the County or appropriate municipality; or by conveyance to owners of lots in the development. If land is conveyed to owners of lots in the development, a homeowners association or similar legal body must be created to maintain the open space land.<sup>55</sup>

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

## **Stormwater Management**

***Does the County have its own stormwater management ordinance or policy?***

No.

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<sup>52</sup> Section II(G) of Chapter 8.1 – Subdivision Control Ordinance

<sup>53</sup> Section IV(A) of Chapter 8.1– Subdivision Control Ordinance

<sup>54</sup> Section VIII of Chapter 8.1 – Subdivision Control Ordinance

<sup>55</sup> Section VI of Chapter 8.1 – Subdivision Control Ordinance

The Douglas County Ordinances are available at:

<http://wi-douglascounty.civicplus.com/index.aspx?NID=411>

# Iron County

## Zoning

### ***Introduction***

Iron County has a Land Use Ordinance that contains wetland conservation provisions.

### ***Does the stated purpose of the ordinance(s) explicitly include protecting and/or restoring, wetlands?***

No. The ordinance does include a goal to protect spawning grounds, fish, and aquatic life and identifies wetland preservation as a means to do so.<sup>56</sup>

### ***Does the ordinance(s) include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes the goal to “further the maintenance of safe and healthful conditions and prevent and control water pollution; and preserve shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>57</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s shoreland-wetland district protects only shoreland wetlands of 5 acres or more that are identified on the Wisconsin Wetland Inventory dated October 16, 1984.<sup>58</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

No.

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. A Non-Shoreland Resource Conservation District (W-1) is used to prevent the destruction of natural resources and areas not adequately drained and subject to periodic flooding. Permitted uses include low-impact activities such as fish hatcheries and wildlife preserves. Draining activities, dams, grazing, parks, signs, trails, and utilities are authorized by conditional use.

The County also incorporated lakes classification standards in the ordinance. This system categorizes lakes into two (2) classes and rivers and streams to a separate class. and applies to all properties adjacent to navigable lakes, rivers, and streams. Each class protect lakes, rivers, and streams via requirements for lot size, width, and depth, shoreline and sideyard setback distance, and vegetation removal. The standards emphasize large lot sizes.

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<sup>56</sup> Section 1.3.

<sup>57</sup> Section 1.3.

<sup>58</sup> Section 9-1-209

***Does the ordinance require building setbacks from the edge of wetlands?***

No.

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition of is utilized.<sup>59</sup>

## **Subdivision Regulations**

### ***Introduction***

The Land Division Ordinance regulates all divisions of land within the unincorporated areas of Iron County, except those exempted under Chapter 236, Wis. Stats.<sup>60</sup>

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

No.

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance states that “land which is deemed unsuitable for any proposed development by the County Planning Agency for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community shall not be subdivided.” The suitability of wetlands for development depends on how the County interprets the above language.<sup>61</sup>

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The preliminary plat and final condominium plat must depict the boundaries of wetlands.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

Sometimes. For the new construction and conversion to condominiums, no more than 20% of wetland area can be included in determining the minimum square footage of the parcel area.<sup>62</sup>

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<sup>59</sup> Section 14.2

<sup>60</sup> Section 2.0

<sup>61</sup> Section 8-1-2(H)

<sup>62</sup> Section 7.12

*Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?*

No.

*Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?*

No.

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*

Yes. The State wetland definition of is used.<sup>63</sup>

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

No.

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<sup>63</sup> Section 14.2

The Iron County ordinances are available at:

[http://165.189.60.65/docs\\_by\\_cat\\_type.asp?doccatid=138&locid=180](http://165.189.60.65/docs_by_cat_type.asp?doccatid=138&locid=180)

# Kenosha County

## Zoning

### ***Introduction***

Kenosha County has a General Zoning Ordinance that contains wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

Yes. The ordinance seeks to obtain the wise use, conservation, development and protection of the county's water, soil, wetlands, woodlands, wildlife and other natural resources and attain a balance between land uses and the ability of the natural resource space to support and sustain such uses.<sup>64</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “further the maintenance of safe and healthful water conditions; and prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects; protect fish and animal life including the spawning, resting, nesting, nursing and feeding areas; and preserve natural growth and cover; promote, stabilize and protect the natural beauty and amenities of the landscape.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

Yes. A Lowland Resource Conservancy – C-1 (LRC) district protects shoreland wetlands that are 5 acres or larger identified on the Wisconsin Wetland Inventory maps.<sup>65</sup> Inland wetlands can also be protected under

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. If a lot or parcel is located partially within a LRC district and an adjoining use district, the area of the lot in the LRC district may not be used to meet the lot area requirements of the adjoining district. The placement of sewage systems, holding tanks, and private wells are prohibited. The ordinance also requires a conditional use permit for the follow permitted uses allowed under State law.<sup>66</sup>

- Roads necessary to conduct silvicultural and agricultural activities;
- Nonresidential buildings for wildlife management;
- Park and recreation areas;
- Railroad lines;
- Utilities; and
- Wildlife ponds.

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<sup>64</sup> Section 12.01-3 (26)

<sup>65</sup> Section 12.25-1

<sup>66</sup> Section 12.25-1

***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. A Rural Cluster Development (RCD) overlay district preserves rural landscape character, sensitive natural areas (including wetlands), farmland and other large areas of open space, while permitting residential development at low, rural densities. Lands zoned as general agriculture (A-2), rural residential (R-1), and upland resource conservancy (C-2) may be included in the district. Other requirements include:

- Only 20% of wetlands and floodplain may count toward the calculation of density standards.
- All groups of buildings (clusters) must be setback 35 feet from wetlands, floodplains, and watercourses.
- At least 60% of the RCD site must consist of common open space that is part of a larger contiguous and integrated open space system.
- All wetlands, floodplains, unique wildlife habitat areas, steep slopes over 12%, 100% of lowland environmental corridors, and at least 80% of upland primary environmental corridors must be contained in common open space.
- Natural features must be maintained in their natural condition, unless restoration or enhancement activities are performed to improve their natural functions and ecosystem services.<sup>67</sup>

***Does the ordinance require building setbacks from the edge of wetlands?***

Sometimes. The RCD district requires that all cluster groups be setback at least 35 feet from wetlands. In addition, appropriate erosion control and stormwater management measures must be used in all new development. The stormwater management ordinance grants discretion to the County to require protective areas (a type of a setback) any time an adverse impact is expected to wetlands.<sup>68</sup> If a setback is required, the protective area distances described in Chapter NR 151 of the Wisconsin Administrative Code must be followed.

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Sometimes. NR 151.12(5)(d)(3)(b) states that “adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained” when land disturbance occurs within a protective area.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition is used.<sup>69</sup>

## **Subdivision Regulations**

***How are land divisions regulated?***

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<sup>67</sup> See Section 12.26-6.

<sup>68</sup> Section 12.08-2(a)(9) of the Kenosha County Zoning Ordinance and Chapter 17.06-1 of the Kenosha County Stormwater Management, Erosion Control, and Illicit Discharge Ordinance.

<sup>69</sup> Section 14.2

The Subdivision Control Ordinance regulates all land divisions within the unincorporated areas of Kenosha County, except those exempted under Chapter 236, Wis. Stats.<sup>70</sup> The General Zoning Ordinance also contains land division requirements.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

Yes. The ordinance includes a goal of “obtaining the wise use, conservation, protection, and proper development of the County’s soil, water, wetland, woodland, and wildlife resources.”<sup>71</sup>

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects; protect groundwater and surface water, fish and wildlife habitat, and natural scenic beauty; and to attain a proper adjustment of land use and development to the supporting and sustaining natural resource base.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>72</sup>

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. For areas slated to be served by soil absorption waste disposal systems, no area can be subdivided if it contains “lands made, altered, or filled with non-earth materials within the last 10 years; lands having groundwater within 7 feet of the natural undisturbed surface; and lands drained by farm drainage tile or farm ditch systems.” The suitability of wetlands for development depends on how the County interprets the above language.<sup>73</sup>

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The high water elevations of wetlands must be identified on the preliminary plat and certified survey map.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

Yes. The General Zoning Ordinance requires that when designing a plat “every effort must be made to contain lands zoned C-1 Lowland Resource Conservancy District in outlots to be owned and controlled by a community association.”<sup>74</sup>

A stormwater permit is also required for subdivision plats. The stormwater ordinance requires developers to avoid and minimize wetland impacts to the maximum extent practicable.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

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<sup>70</sup> See Section 14.02-1.

<sup>71</sup> Section 14.01-4(a)

<sup>72</sup> Section 14.01-4(a)

<sup>73</sup> Section 14.02-6

<sup>74</sup> Section 12.25-1

Yes. Every effort must be made to contain lands zoned as Lowland Resource Conservancy in outlots to be owned and controlled by a community association.<sup>75</sup>

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

Yes. The General Zoning Ordinance includes a Rural Cluster Development (RCD) overlay district that facilitates the development of conservation subdivisions. See Zoning section above for details on the RCD overlay district.<sup>76</sup>

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. Wetlands are defined; however, a different definition is used. The ordinance defines wetlands as “those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to a high water table.”<sup>77</sup>

## **Stormwater Management**

***Does the County have a stand-alone ordinance or policy?***

Yes.<sup>78</sup>

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<sup>75</sup> Section 12.25-1

<sup>76</sup> See Section 12.26-6.

<sup>77</sup> Section XI

<sup>78</sup> The Kenosha County Stormwater Management, Erosion Control, and Illicit Discharge Ordinance is available at: <http://www.co.kenosha.wi.us/corpc/documents/MCKC17.pdf>

The Kenosha County Zoning Ordinance is available at:  
<http://www.co.kenosha.wi.us/corpc/ordinances/MCKC12.pdf>

The Land Division Ordinance is available at:  
<http://www.co.kenosha.wi.us/corpc/ordinances/MCKC14.pdf>

# **Kewaunee County**

## **Zoning**

### ***Introduction***

Kewaunee County does not have a General Zoning Ordinance. All of the townships enforce their own zoning ordinances. The Shoreland Zoning Ordinance contains the only wetland conservation provisions; and applies to all unincorporated areas in Kewaunee County.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No. The ordinance includes a goal to protect spawning grounds, fish, and aquatic life, and identifies wetland preservation as a means to do so.<sup>79</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes the goal to “further the maintenance of safe and healthful conditions and prevent and control water pollution; and preserve shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>80</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance protects only shoreland wetlands identified on the Wisconsin Wetland Inventory that are 5 acres or larger. The ordinance further specifies that if the WWI maps do not depict a wetland when field conditions in fact show that a wetland exists, the Zoning Administrator has the authority (following concurrence from Department of Natural Resources staff) to designate the area as a Shoreland-Wetland Overlay District.<sup>81</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

No.

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

No.

### ***Does the ordinance require building setbacks from the edge of wetlands?***

No.

### ***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of native vegetation)?***

Not applicable.

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<sup>79</sup> Section 1.32(1)

<sup>80</sup> Section 1.31

<sup>81</sup> Section 9.1

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*  
Yes. The State wetland definition of is used.

## **Subdivision Regulations**

### ***Introduction***

Kewaunee County does not have a Land Division Ordinance; however, land division requirements are contained in the Shoreland Zoning Ordinance. Land divisions that create 3 or more parcels or building sites of 5 acres each or less in the shoreland zone are regulated by these provisions.<sup>82</sup>

*Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?*

Yes. The land division requirements are contained within the shoreland zoning ordinance and are subject to the same purpose statement (see above).

*Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?*

Yes. The land division requirements are contained within the shoreland zoning ordinance and are subject to the same purpose statement (see above).

*Are wetlands explicitly mentioned as an unsuitable development and/or land division site?*

No.

*Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?*

No.

*Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?*

No.

*Does the ordinance encourage or require that wetlands be dedicated and/or reserved to the County or appropriate municipality for open space, parks, or other purposes?*

No.

*Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?*

Yes. Planned Residential Unit Development provisions relax requirements, such as for lot area, lot width, setbacks, and yard size, in exchange for the perpetual preservation of open space land that is not used for lots and streets.<sup>83</sup>

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*

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<sup>82</sup> Section 3.1

<sup>83</sup> Section 3.22

No.

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

No.

The Kewaunee County ordinances are not available online (as of May 26, 2010).

# Manitowoc County

## Zoning

### ***Introduction***

Manitowoc County has a General Zoning Ordinance, Shoreland Zoning Ordinance, and an Agricultural Shoreland Management Ordinance. Each ordinance contains wetland conservation provisions.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The General Zoning Ordinance includes goals “to protect rural land resources; and conserve the scenic beauty of the countryside.”<sup>84</sup> The Shoreland Zoning ordinance includes goals to “prevent and control water pollution, protect spawning beds, fish, and aquatic life, preserve shore cover and natural beauty, and provide for the movement and storage of floodwaters.”<sup>85</sup> The Agricultural Shoreland Management Ordinance includes a goal “to protect the surface and groundwater of the County by regulating local land and water resource management practices.”<sup>86</sup>

These ordinances do not acknowledge the benefits of protecting and restoring wetlands for these purposes.

***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s shoreland-wetland overlay district protects only shoreland wetlands of 5 acres or more that are identified on the Wisconsin Wetland Inventory.<sup>87</sup>

***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

No.

***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

Yes. Conservancy (C-1) and Natural Area (NA) zoning districts are used to prevent the destruction of natural resources. Permitted uses include low-impact activities such as fish hatcheries and wildlife preserves. Single family residences are allowed in the NA district. Draining activities, dams, grazing, parks, signs, trails, and utilities are authorized by conditional use.<sup>88</sup>

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<sup>84</sup> Chapter 8.01 – General Zoning Ordinance

<sup>85</sup> Chapter 9.02(3) Shoreland / Floodplain Zoning Ordinance

<sup>86</sup> Chapter 27.01(3) - Agricultural Shoreland Management Ordinance

<sup>87</sup> Chapter 9.04(3)(e) Shoreland / Floodplain Zoning Ordinance

<sup>88</sup> Chapter 9.02(4) Shoreland / Floodplain Zoning Ordinance

An Agricultural Shoreland Management Ordinance prohibits agricultural runoff and the placement of dry lots, feedlots, and livestock holdings in a designated agricultural shoreland corridor (a 20 foot area from the ordinary high water mark of navigable waterways).<sup>89</sup>

***Does the ordinance require building setbacks from the edge of wetlands?***

No.

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition is used.<sup>90</sup>

## **Subdivision Regulations**

### ***Introduction***

A Subdivision Ordinance (Chapter 12) regulates all divisions of land within the unincorporated areas of Manitowoc County, except those exempted under Chapter 236, Wis. Stats.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

No.

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance states “no land shall be subdivided or split which is held unsuitable for the proposed use by the Manitowoc County Planning and Park Commission for reason of flooding, inadequate drainage, rock formation, unfavorable topography, inadequate sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the subdivision.”<sup>91</sup> The suitability of wetlands for development depends on how the County interprets the above language.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

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<sup>89</sup> Chapter 27.04 – Agricultural Shoreland Management Ordinance

<sup>90</sup> Section 9-1-220 Shoreland / Floodplain Zoning Ordinance

<sup>91</sup> Chapter 12.01(5) of Subdivision Regulations

Yes. Lands that are “unsuitable for development because of poor drainage, floodable conditions, soil conditions, or for any other reasons, such portion shall be dedicated to Manitowoc County or appropriate municipality, or in lieu thereof, the subdivider shall, at his expense, prepare and submit for the Commission’s approval, engineering plans and proposals which will insure the public health, safety, and general welfare” are protected.<sup>92</sup>

*Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?*

No.

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*

No.

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

No.

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<sup>92</sup> Chapter 12.04(7) of Subdivision Regulations

The Manitowoc County Shoreland / Floodplain Zoning Ordinance is available at:  
<http://www.manitowocounty.com/Upload/8/Chapter%2009%20Current.pdf>

The Subdivision Regulations are available at:  
<http://www.manitowocounty.com/Upload/8/Chapter%2012%20Current.pdf>

# Marinette County

## Zoning

### ***Introduction***

Marinette County has a General Zoning Code and a Shoreland-Wetland Zoning Ordinance. Only the Shoreland-Wetland Zoning Ordinance contains wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No. The Shoreland-Wetland Zoning Ordinance does include a goal to protect spawning grounds, fish, and aquatic life and identifies wetland preservation as a means to do so.<sup>93</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes the goal to “further the maintenance of safe and healthful conditions, prevent and control water pollution, and to preserve shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Shoreland-Wetland District protects only shoreland wetlands of 2 acres or more identified on the Wisconsin Wetland Inventory. The ordinance clarifies that if a wetland is incorrectly mapped as a non-wetland and field conditions demonstrate the area is in fact a wetland, the Zoning Administrator immediately has the authority (following concurrence from Department of Natural Resources staff) to grant or deny a zoning permit in accordance with the regulations applicable to the Shoreland-Wetland District.<sup>94</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. The Conservancy Zoning District protects wetlands 2 acres or less in the shoreland zone. The WWI maps for the County only identify wetlands 2 acres or more.

Marinette County also uses a lake and river classification system to encourage large lot sizes adjacent to navigable lakes, rivers and streams.

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

No.

### ***Does the ordinance require building setbacks from the edge of wetlands?***

No.

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<sup>93</sup> Chapter 21.01(3)

<sup>94</sup> Chapter 21.09(4)(a)(1)

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***  
Yes. The State wetland definition is used.<sup>95</sup>

## **Subdivision Regulations**

### ***Introduction***

The Land Division and Subdivision ordinance (Chapter 23) regulates all land divisions and building sites of nine (9) contiguous acres or less within the unincorporated areas of Marinette County, except those exempt under Chapter 236, Wis. Stats. No wetland conservation provisions are contained in Chapter 23. Land divisions in the shoreland zone are required to comply with the additional requirements contained in Chapter 21.04 of the Shoreland-Wetland Zoning Ordinance.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

No.

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Yes. The Shoreland-Wetland Zoning Ordinance requires that each lot is designed to include a buildable area of at least 12,500 square feet of contiguous upland. Buildable area is defined as the lands “suitable for construction of a structure(s), and the area that does not include the shoreland setback, sideyard setback and road setback areas, easements, wetlands and floodways.”<sup>96</sup>

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. For land divisions in the shoreland zone, the preliminary sketch plan and plat must depict the boundaries of wetlands.<sup>97</sup>

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

Sometimes. In the shoreland zone, the County’s requirement that each lot is designed to include a “buildable area” (see above) dictates that developers must avoid wetlands in the land division.<sup>98</sup>

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<sup>95</sup> Chapter 21.02(60)

<sup>96</sup> Chapter 21.04(5)

<sup>97</sup> Chapter 21.04(8)

<sup>98</sup> Chapter 21.04(5)

*Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?*

No.

*Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?*

No.

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*

No.

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

No.

The Marinette County Shoreland / Wetland Zoning Ordinance is available at:

[http://www.marinettecounty.com/i\\_marinette/d/chapter\\_21.pdf](http://www.marinettecounty.com/i_marinette/d/chapter_21.pdf)

The General Zoning Code is available at:

[http://www.marinettecounty.com/i\\_marinette/d/chapter\\_17.pdf](http://www.marinettecounty.com/i_marinette/d/chapter_17.pdf)

The Land Division and Subdivision Regulations are available at:

[http://www.marinettecounty.com/i\\_marinette/d/chapter\\_23.pdf](http://www.marinettecounty.com/i_marinette/d/chapter_23.pdf)

## **Milwaukee (City of)**

### **Zoning**

#### ***Introduction***

Because all of Milwaukee County is incorporated, land use and environmental protection is regulated by the City of Milwaukee. The City has a General Zoning Ordinance that includes State shoreland zoning requirements.

#### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

#### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “further the maintenance of safe and healthful water conditions; prevent and control erosion, sedimentation and other pollution of surface and subsurface waters; prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects; and to protect environmentally sensitive areas.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>99</sup>

#### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Shoreland-Wetland Overlay Zone protects only shoreland wetlands of 2 acres or more that are identified on the Wisconsin Wetland Inventory dated March 29, 1989.<sup>100</sup>

#### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

No.

#### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

No.

#### ***Does the ordinance require building setbacks from the edge of wetlands?***

No.

#### ***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

#### ***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

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<sup>99</sup> Chapter 295-103

<sup>100</sup> Chapter 295-1013

## Subdivision Regulations

### ***Introduction***

The City's Subdivision Ordinance (Chapter 119) regulates all land divisions, except those exempt under Chapter 236 of the Wisconsin State Statutes. Land divisions must be approved by the Common Council.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “further the maintenance of safe and healthful water conditions; prevent and control erosion, sedimentation and other pollution of surface and subsurface waters; prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects; and to protect environmentally sensitive areas.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>101</sup>

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

No.

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

No.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

No.

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

No.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

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<sup>101</sup> Chapter 119-1

## Stormwater Management

*Does the County have its own stormwater management ordinance or policy?*

Yes.<sup>102</sup>

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<sup>102</sup> The Stormwater Management Regulations (Chapter 120) are available at:  
<http://cctv25.milwaukee.gov/code/volume1/ch120.pdf>

The City of Milwaukee ordinances are available at:  
<http://www.city.milwaukee.gov/TableofContents1179.htm>

# Oconto County

## Zoning

### ***Introduction***

Oconto County has a General Zoning Ordinance that contains wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring wetlands?***

No.

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “further the orderly use of land and the conservation of natural resources; to conserve the value of land and buildings in Oconto County; and to provide for the enhancement and protection of the surface and ground waters.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>103</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

Yes. The ordinance’s Conservancy District protects both shoreland and inland wetlands of 2 acres or more that are identified on the Wisconsin Wetland Inventory dated May 9, 10, and 11, 1989. The ordinance clarifies that if a wetland is incorrectly mapped as a non-wetland and field conditions demonstrate the area is in fact a wetland, the Zoning Administrator has the authority (following concurrence from Department of Natural Resources staff) to grant or deny a zoning permit in accordance with the regulations applicable to the Conservancy District.<sup>104</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. The ordinance states that the County may require excavation, fill, grading, and pond construction activities to comply with the State water quality standards for wetlands which are identified in Chapter NR 103 of the Wisconsin Administrative Code.<sup>105</sup> NR 103 describes the water quality related *functional values* and uses of wetlands that must be maintained in order to "protect, preserve, restore and enhance the quality of waters in wetlands and other waters of the state influenced by wetlands."

Oconto County also uses a lakes and rivers classification system to encourage large lots adjacent to navigable waters.

### ***Does the ordinance require building setbacks from the edge of wetlands?***

No.

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<sup>103</sup> Chapter 14.200

<sup>104</sup> Chapter 14.2100

<sup>105</sup> Chapter 14.413(6)

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition of is used.<sup>106</sup>

## **Subdivision Regulations**

### ***Introduction***

The Land Division Ordinance (Chapter 14) regulates all divisions of land within the unincorporated areas of Oconto County, except those exempt under Chapter 236, Wis. Stats.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

Yes. The ordinance includes goals “to prevent destruction of unique environmental areas,” and “to obtain the wise use, conservation, protection, and proper development of the County's soil, water, wetland, woodland, and wildlife resources.”<sup>107</sup>

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals “to prevent and control erosion, sedimentation, and other pollution of air, streams, and ponds; to insure the adequacy of draining facilities; to safeguard potable water supplies; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land; to preserve the natural beauty and topography of the municipality and to insure appropriate development with regard to these natural features; and to prevent destruction of unique environmental areas.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>108</sup>

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance asserts that “no land shall be divided which is held unsuitable for its proposed use for reasons of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage capabilities.” The suitability of wetlands for development depends on how the County interprets the above language.

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The preliminary plat and certified survey map must depict the boundaries of wetlands.<sup>109</sup>

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

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<sup>106</sup> Chapter 14.303(123)

<sup>107</sup> Chapter 13.200(14)

<sup>108</sup> *Ibid*

<sup>109</sup> Chapter 13.700

Yes. If developers do not avoid wetlands in their design of the land division or development site, the County is required to file an objection to any land divisions that conflict with existing wetland resources.<sup>110</sup>

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

Yes. In the parks and open space design standards, the County encourages the preservation of wetlands when developers are designing the land division(s).<sup>111</sup>

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

No.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

No.

## **Stormwater Management**

***Does the County have its own stormwater management ordinance or policy?***

No.

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<sup>110</sup> Chapter 13.400

<sup>111</sup> Chapter 13.1010

The Oconto Zoning Ordinance is available at :

[http://www.co.oconto.wi.us/i\\_oconto/d/zoning\\_ordinance\\_rev\\_9-08.pdf](http://www.co.oconto.wi.us/i_oconto/d/zoning_ordinance_rev_9-08.pdf)

The Land Division Ordinance is available at:

[http://www.co.oconto.wi.us/i\\_oconto/d/land\\_division\\_ordinance.pdf](http://www.co.oconto.wi.us/i_oconto/d/land_division_ordinance.pdf)

# Ozaukee County

## Zoning

### ***Introduction***

Ozaukee County does not have a General Zoning Ordinance. A Shoreland and Floodplain Zoning Ordinance (Chapter 7) contains the only wetland conservation provisions.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No. The Shoreland Zoning Ordinance does include a goal to protect spawning grounds, fish, and aquatic life, and identifies wetland preservation as a means to do so.<sup>112</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “further the maintenance of safe and healthful conditions and prevent and control water pollution, preserve natural beauty, and prevent flood damages.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for this purpose.<sup>113</sup>

### ***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Shoreland-Wetland District protects only “all wetlands located in whole or in part within the shoreland area.” The ordinance indicates that the County must use the most recent version of the Wisconsin Wetland Inventory, air photo interpretations, and field delineations to identify all shoreland wetlands.<sup>114</sup>

### ***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. Wetlands on and within 25 feet of the project site must be identified in applications for a zoning permit. The ordinance does not state whether the permit applicant is required to avoid these wetlands.

### ***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

No.

### ***Does the ordinance require building setbacks from the edge of wetlands?***

Sometimes. The ordinance codified the protective area requirements of Chapter NR 151.12(5)(d) of the Wisconsin Administrative Code. The County requires protective areas only when 1 acre or more is disturbed during construction or other land use activity.<sup>115</sup>

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<sup>112</sup> Chapter 7.0104

<sup>113</sup> *Ibid*

<sup>114</sup> Chapter 7.0602

<sup>115</sup> Section 7.0307

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of native vegetation)?***

Sometimes. NR 151.12(5)(d)(3)(b) states that “adequate sod or self–sustaining vegetative cover of 70% or greater shall be established and maintained” when land disturbance occurs within a protective area.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition of is used.<sup>116</sup>

## **Subdivision Regulations**

### ***Introduction***

Ozaukee County does not have a land division ordinance; however, land division requirements are contained in the Shoreland and Floodplain Zoning Ordinance. The ordinance regulates all land divisions within the shoreland zone, except those exempt under Chapter 236, Wis. Stats.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The land divisions requirements are contained within the shoreland zoning ordinance and are subject to the same purpose statement (see above).

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance states that “no land shall be divided which is held unsuitable for the proposed use by the Environment and Land Use Committee for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities.” The suitability of wetlands for development depends upon how the County interprets the above language.

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The pre-application conference and preliminary plat must depict the boundaries of wetlands.<sup>117</sup>

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

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<sup>116</sup> Chapter 7.10302

<sup>117</sup> Chapter 7.1205

*Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?*

No.

*Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?*

No.

*Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?*

Yes. The State wetland definition is used.<sup>118</sup>

## **Stormwater Management**

*Does the County have its own stormwater management ordinance or policy?*

Yes.<sup>119</sup>

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<sup>118</sup> Chapter 7.10302

<sup>119</sup> <http://www.co.ozaukee.wi.us/Ordinances/Chapter14.pdf>

The Ozaukee County Shoreland and Floodplain Ordinance (Ch. 7) is available at:  
<http://www.co.ozaukee.wi.us/Ordinances/Chapter7.pdf>

# Racine County

## Zoning

### *Introduction*

Racine County has a General Zoning Ordinance that contains wetland conservation provisions.

### *Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?*

Yes. The ordinance seeks to obtain the wise use, conservation, development and protection of the county's water, soil, wetlands, woodlands, wildlife and other natural resources and attain a balance between land uses and the ability of the natural resource space to support and sustain such uses.<sup>120</sup>

### *Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?*

Yes. The ordinance includes goals to “prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects; prevent and control erosion, sedimentation and other pollution of surface and subsurface waters; and preserve and promote the beauty of the county.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>121</sup>

### *Are both shoreland and inland wetlands expressly protected by the ordinance?*

No. The ordinance’s Shoreland-Wetland Overlay District protects only shoreland wetlands of 5 acres or more that are identified on the Wisconsin Wetland Inventory dated December 12, 1984.<sup>122</sup>

### *Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?*

No.

### *Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?*

Yes. A Resource Conservation (RC) district is used to prevent the destruction of natural resources. No buildings or structures are allowed to be placed within the district except those that are accessory to authorized principal and conditional uses.<sup>123</sup>

### *Does the ordinance require building setbacks from the edge of wetlands?*

No.

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<sup>120</sup> Section 20-4(b)(3)

<sup>121</sup> Section 20-4(a)(2)

<sup>122</sup> Section 20-215

<sup>123</sup> Section 20-496

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. The State wetland definition of is used.<sup>124</sup>

## **Subdivision Regulations**

### ***Introduction***

A Subdivision Ordinance (Chapter 18) regulates all land divisions within the unincorporated areas of Racine County, except those exempt under Chapter 236, Wis. Stats.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

Yes. The ordinance includes the goal to “obtain the wise use, conservation, protection and proper development of the county's soil, water, wetland, woodland and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base.”<sup>125</sup>

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals to “prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects; prevent and control erosion, sedimentation and other pollution of surface and subsurface waters; preserve natural vegetation and cover and promote the natural beauty of the county; and restrict building sites on areas covered by poor soils, or in other areas poorly suited for development.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>126</sup>

***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Unclear. The ordinance asserts that “no subdivision or building lot shall be created where the land is held to be unsuitable for its proposed use by the approving authorities by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, slow percolation rate or bearing strength, erosion susceptibility, or high shrink-swell potential.” The suitability of wetlands for development depends upon how the County interprets the above language.

In addition, lands made, altered or filled with earth and nonearth materials within the last ten years cannot be divided into building sites unless the subdivider provides sufficient proof of suitability for development.

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<sup>124</sup> Chapter 7.10302

<sup>125</sup> Section 18-5

<sup>126</sup> *Ibid*

***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The preliminary plat must depict the boundaries of wetlands.

***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

No.

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

Yes. The ordinance encourages developers to design plats to dedicate or reserve wetlands as parks or open spaces.<sup>127</sup>

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

No.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

Yes. Wetlands are defined using an expanded definition of the one used under state law. The ordinance defines wetlands as “those areas in which the water table is at, near or above the existing land surface and are characterized by hydric soils such as peats, mucks, other organic and mineral soils and by the growth of hydrophytes such as sedges, cattails, red osier dogwood and tamarack. Wetlands function as nutrient and sediment traps contributing to the maintenance of good water quality and reducing the threat of flooding. Wetlands protect shoreland areas from erosion by absorbing storm impact and diminishing the scouring action of currents. Wetlands also provide essential breeding, nesting, resting, feeding grounds and predator escape cover for many species of fish and wildlife.”<sup>128</sup>

## **Stormwater Management**

***Does the County have its own stormwater management ordinance or policy?***

No.

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<sup>127</sup> Sec. 18-15

<sup>128</sup> Sec. 18-1

The Racine County ordinances are available at:

[http://library6.municode.com/default-test/home.htm?infobase=12370&doc\\_action=whatsnew](http://library6.municode.com/default-test/home.htm?infobase=12370&doc_action=whatsnew)

# **Sheboygan County**

## **Zoning**

### ***Introduction***

Sheboygan County does not have a General Zoning Ordinance. All of the townships enforce their own zoning ordinances. The Shoreland Zoning Ordinance contains the only wetland conservation provisions; and applies to all unincorporated areas in Sheboygan County.

***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

No.

***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes the goal to “further the maintenance of safe and healthful conditions; prevent and control water pollution; to protect spawning grounds, fish and aquatic life; and to preserve shore cover and natural beauty.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>129</sup>

***Are both shoreland and inland wetlands expressly protected by the ordinance?***

No. The ordinance’s Shoreland-Wetland District protects only shoreland wetlands identified on the Wisconsin Wetland Inventory dated September 29, 1982, and April 18, 1987.<sup>130</sup>

***Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?***

Yes. Prior to issuing a shoreland conditional use permit, the County must evaluate the effects of the proposed use upon “the degree of site disturbance and its impact upon adjoining natural resource areas (e.g. wetlands, archaeological features, preserves, wildlife habitat).”<sup>131</sup>

***Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?***

No.

***Does the ordinance require building setbacks from the edge of wetlands?***

No.

***If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?***

Not applicable.

***Are “wetlands” defined in the ordinance, and if so, is the state’s definition of wetlands used?***

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<sup>129</sup> Chapter 72.03

<sup>130</sup> Chapter 72.07

<sup>131</sup> Chapter 72.12(2)(h)

Yes. The State wetland definition of is used.<sup>132</sup>

## **Subdivision Regulations**

### ***Introduction***

The Sheboygan County Subdivision Ordinance (Chapter 71) regulates State-defined subdivisions in unincorporated areas of the County.

### ***Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?***

Yes. The purpose of the ordinance includes the goal to preserve wetlands.<sup>133</sup>

### ***Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?***

Yes. The ordinance includes goals “to conserve soil, water, and forest resources; to reduce erosion damage and sedimentation of surface waters; to prevent downstream flood hazards and loss of life and property due to unmanaged peak flows, volumes, and runoff following the land development process; and to protect the beauty and amenities of the landscape and manmade developments.” The ordinance does not acknowledge the benefits of protecting and restoring wetlands for these purposes.<sup>134</sup>

### ***Are wetlands explicitly mentioned as an unsuitable development and/or land division site?***

Yes. The ordinance states that “no land shall be divided or subdivided for use which is determined to be unsuitable by the Commission because of flooding or potential flooding, wetlands, soil or rock limitations, inadequate drainage, sever erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, incompatible surrounding land use, or any other condition likely to be harmful to the health, safety, or welfare of the future residents or users of the area, or likely to be harmful to the community or the County.” The suitability of wetlands for development depends upon how the County interprets the above language.<sup>135</sup>

### ***Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?***

Yes. The preliminary plat and certified survey map must depict the boundaries of wetlands.<sup>136</sup>

### ***Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?***

Yes. If lands to be subdivided include floodplains or wetlands they must be incorporated within lots or outlots; dedicated to the County or appropriate municipality; or reserved so the County or

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<sup>132</sup> Chapter 72.27(91)

<sup>133</sup> Chapter 71.03(8)

<sup>134</sup> Chapter 71.03(9)(10)(11)(12)

<sup>135</sup> Chapter 71.20

<sup>136</sup> Chapter 71.22(1)(i)

appropriate municipality has the opportunity to acquire the land. These areas must be protected in perpetuity.<sup>137</sup>

In addition, if a site has been designated for open space or park use in the County's Comprehensive Plan, the County requires that the subdivider or developer identify these lands on the final plat; and reserve these lands for a period of three (3) years allowing the County or appropriate municipality the opportunity to acquire the land.<sup>138</sup>

***Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?***

No.

***Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?***

Yes. The Planned Unit Development provisions "encourage and promote flexibility, ingenuity, and efficiency in the land development process, to allow maximum utilization of land, and to provide for variety and compatibility among housing types and non-residential uses. Objectives include providing an enjoyable living environment by preserving existing topography, stands of trees, surface waters, floodplains, wetlands, and similar natural assets and landforms.

***Are "wetlands" defined in the ordinance, and if so, is the state's definition of wetlands used?***

Yes. The State wetland definition is used.

## **Stormwater Management**

***Does the County have its own stormwater management ordinance or policy?***

Yes.

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<sup>137</sup> Chapter 71.14

<sup>138</sup> Chapter 71.15

The Sheboygan County Shoreland Zoning Ordinance is available at :

[http://www.co.sheboygan.wi.us/county\\_depts/planner/ordinances/Shoreland%20Ordinance%208.15.06.pdf](http://www.co.sheboygan.wi.us/county_depts/planner/ordinances/Shoreland%20Ordinance%208.15.06.pdf)

The Subdivision Ordinance is available at:

[http://www.co.sheboygan.wi.us/county\\_depts/cnty\\_clerk/office/code-book/ch71.PDF](http://www.co.sheboygan.wi.us/county_depts/cnty_clerk/office/code-book/ch71.PDF)

The Erosion Control and Stormwater Management Ordinance is available at:

[http://www.co.sheboygan.wi.us/county\\_depts/lwc/erosion\\_stormwater/chp75.pdf](http://www.co.sheboygan.wi.us/county_depts/lwc/erosion_stormwater/chp75.pdf)

## X. Zoning Tables and Figures

<b>Table 1. Summary of Zoning Approaches to Wetland Conservation</b>								
<i>County</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q5</i>	<i>Q6</i>	<i>Q7</i>	<i>Q8</i>
<i>Ashland</i>	No	Yes	No	No	No	No	NA	Yes
<i>Bayfield</i>	No	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Brown</i>	No	Yes	No	Yes	Yes	No	NA	Yes
<i>Door</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Douglas</i>	No	Yes	No	No	Yes	No	NA	Yes
<i>Iron</i>	No	Yes	No	No	Yes	No	NA	Yes
<i>Kenosha</i>	Yes	Yes	Yes	Yes	Yes	<i>Sometimes</i>	<i>Sometimes</i>	Yes
<i>Kewaunee</i>	No	Yes	No	No	No	No	NA	Yes
<i>Manitowoc</i>	No	Yes	No	No	Yes	No	NA	Yes
<i>Marinette</i>	No	Yes	No	Yes	No	No	NA	Yes
<i>Milwaukee</i>	No	Yes	No	No	No	No	NA	Yes
<i>Oconto</i>	No	Yes	Yes	Yes	Yes	No	NA	Yes
<i>Ozaukee</i>	No	Yes	No	Yes	No	<i>Sometimes</i>	<i>Sometimes</i>	Yes
<i>Racine</i>	Yes	Yes	No	No	Yes	No	NA	Yes
<i>Sheboygan</i>	No	Yes	No	Yes	No	No	NA	Yes
<b>Total</b>								
<i>Yes</i>	<b>3</b>	<b>15</b>	<b>4</b>	<b>8</b>	<b>9</b>	<b>3</b>	<b>0</b>	<b>15</b>
<i>No</i>	<b>12</b>	<b>0</b>	<b>11</b>	<b>7</b>	<b>6</b>	<b>10</b>	<b>15</b>	<b>0</b>
<i>Sometimes</i>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>
Question (Q) 1: Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?								
Question (Q) 2: Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?								
Question (Q) 3: Are both shoreland and inland wetlands expressly protected by the ordinance?								
Question (Q) 4: Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?								
Question (Q) 5: Are there other zoning districts, overlay districts, and/or other special provisions that facilitate wetland protection?								
Question (Q) 6: Does the ordinance require building setbacks from the edge of wetlands?								
Question (Q) 7: If setbacks are required, do they need to be maintained as a natural buffer area (e.g. no disturbance of vegetation)?								
Question (Q) 8: Are “wetlands” defined in the ordinance?								

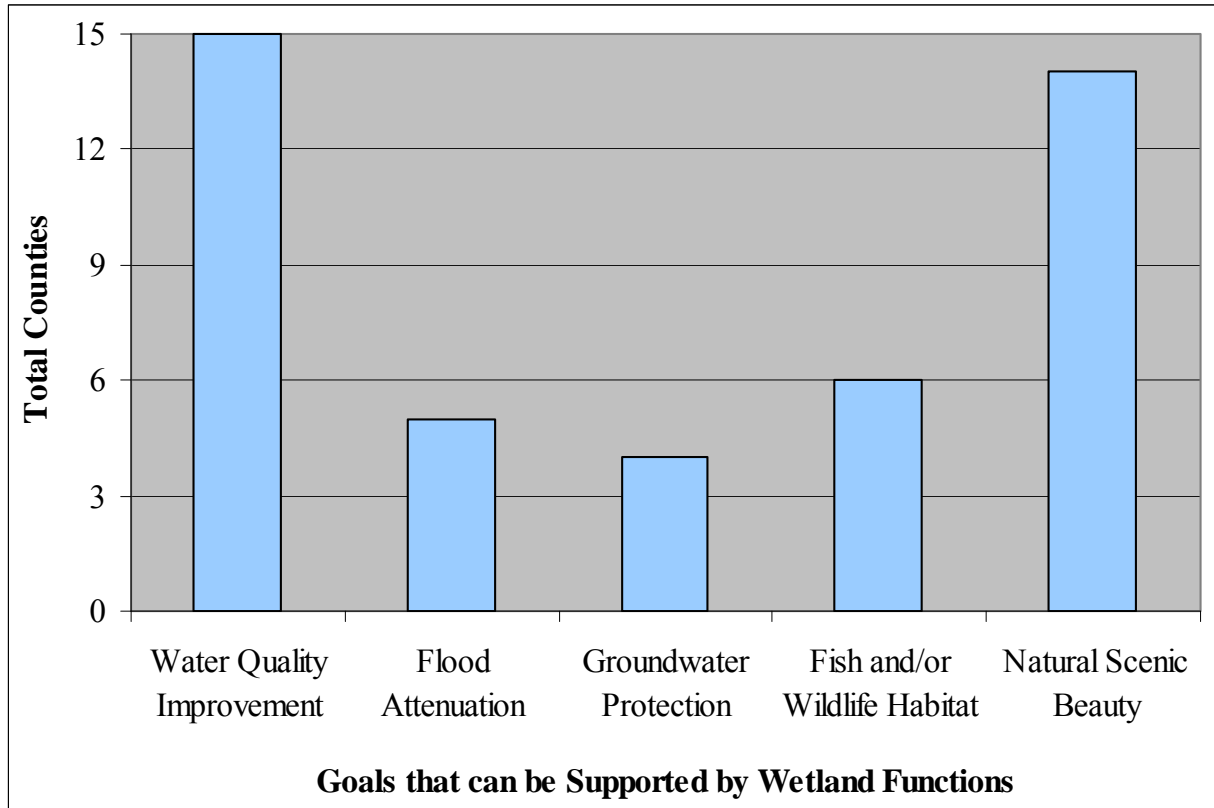
**Table 2. Does the Stated Purpose of Ordinance Explicitly Include Protecting and/or Restoring Wetlands?**

<i>County</i>	<i>Explicitly Mentioned</i>	<i>Identified as Means to Realize a Stated Goal*</i>	<i>Not Identified</i>
<i>Ashland</i>		<b>x</b>	
<i>Bayfield</i>			<b>x</b>
<i>Brown</i>		<b>x</b>	
<i>Door</i>	<b>x</b>		
<i>Douglas</i>		<b>x</b>	
<i>Iron</i>		<b>x</b>	
<i>Kenosha</i>	<b>x</b>		
<i>Kewaunee</i>		<b>x</b>	
<i>Manitowoc</i>			<b>x</b>
<i>Marinette</i>		<b>x</b>	
<i>Milwaukee</i>			<b>x</b>
<i>Oconto</i>			<b>x</b>
<i>Ozaukee</i>		<b>x</b>	
<i>Racine</i>	<b>x</b>		
<i>Sheboygan</i>			<b>x</b>
<b>Total</b>	<b>3</b>	<b>7</b>	<b>5</b>
* All counties identified wetland preservation to help "protect spawning grounds, fish, and aquatic life."			

**Table 3. Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?**

<i>County</i>	<i>Water Quality Improvement</i>	<i>Flood Attenuation</i>	<i>Groundwater Protection</i>	<i>Fish and/or Wildlife Habitat</i>	<i>Natural Scenic Beauty</i>
<i>Ashland</i>	X				X
<i>Bayfield</i>	X			X	X
<i>Brown</i>	X				X
<i>Door</i>	X			X	X
<i>Douglas</i>	X				X
<i>Iron</i>	X				X
<i>Kenosha</i>	X	X	X	X	X
<i>Kewaunee</i>	X				X
<i>Manitowoc</i>	X	X	X	X	X
<i>Marinette</i>	X				X
<i>Milwaukee</i>	X	X			X
<i>Oconto</i>	X		X		
<i>Ozaukee</i>	X	X			X
<i>Racine</i>	X	X	X	X	X
<i>Sheboygan</i>	X			X	X
<b><i>Total</i></b>	<b>15</b>	<b>5</b>	<b>4</b>	<b>6</b>	<b>14</b>

**Figure 1. Summary of Counties Identifying Goals that can be Supported through Wetland Conservation**



<b>Table 4. Does the County Protect Both Shoreland and Inland Wetlands?</b>		
<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>	<b>x</b>	
<i>Brown</i>		<b>x</b>
<i>Door</i>	<b>x</b>	
<i>Douglas</i>		<b>x</b>
<i>Iron</i>		<b>x</b>
<i>Kenosha</i>	<b>x</b>	
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>	<b>x</b>	
<i>Ozaukee</i>		<b>x</b>
<i>Racine</i>		<b>x</b>
<i>Sheboygan</i>		<b>x</b>
<b>Total</b>	<b>4</b>	<b>11</b>
<b>Percentage</b>	<b>27%</b>	<b>73%</b>

**Table 5. Does the ordinance include shoreland-wetland district requirements that exceed State minimum standards?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>	<b>x</b>	
<i>Brown</i>	<b>x</b>	
<i>Door</i>	<b>x</b>	
<i>Douglas</i>		<b>x</b>
<i>Iron</i>		<b>x</b>
<i>Kenosha</i>	<b>x</b>	
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>	<b>x</b>	
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>	<b>x</b>	
<i>Ozaukee</i>	<b>x</b>	
<i>Racine</i>		<b>x</b>
<i>Sheboygan</i>	<b>x</b>	
<b>Total</b>	<b>8</b>	<b>7</b>
<b>Percentage</b>	<b>53%</b>	<b>47%</b>

<b>Table 6. Are Wetland Setbacks Required?</b>			
<i>County</i>	<i>Yes</i>	<i>No</i>	<i>Sometimes</i>
<i>Ashland</i>		<b>x</b>	
<i>Bayfield</i>	<b>x</b>		
<i>Brown</i>		<b>x</b>	
<i>Door</i>	<b>x</b>		
<i>Douglas</i>		<b>x</b>	
<i>Iron</i>		<b>x</b>	
<i>Kenosha</i>			<b>x</b>
<i>Kewaunee</i>		<b>x</b>	
<i>Manitowoc</i>		<b>x</b>	
<i>Marinette</i>		<b>x</b>	
<i>Milwaukee</i>		<b>x</b>	
<i>Oconto</i>		<b>x</b>	
<i>Ozaukee</i>			<b>x</b>
<i>Racine</i>		<b>x</b>	
<i>Sheboygan</i>		<b>x</b>	
<b>Total</b>	<b>2</b>	<b>11</b>	<b>2</b>
<b>Percentage</b>	<b>13.3%</b>	<b>73.3%</b>	<b>13.3%</b>

## XI. Land Division Tables and Figures

<b>Table 7. Summary of Subdivision Regulation Approaches to Wetland Conservation</b>									
<i>County</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q5</i>	<i>Q6</i>	<i>Q7</i>	<i>Q8</i>	<i>Q9</i>
<i>Ashland</i>	No	No	Yes	No	No	Yes	No	No	NA
<i>Bayfield</i>	No	No	No	No	No	Yes	Yes	No	NA
<i>Brown</i>	Yes	Yes	Unclear	Yes	Yes	Yes	Yes	No	NA
<i>Door</i>	Yes	Yes	Yes	Yes	No	No	No	Yes	NA
<i>Douglas</i>	No	No	Unclear	Yes	Yes	Yes	Yes	No	NA
<i>Iron</i>	No	No	Unclear	Yes	Sometimes	No	No	Yes	Yes
<i>Kenosha</i>	Yes	Yes	Unclear	Yes	Yes	No	No	Yes	No
<i>Kewaunee</i>	No	No	No	No	No	No	Yes	No	NA
<i>Manitowoc</i>	No	No	Unclear	No	No	Yes	No	No	NA
<i>Marinette</i>	No	No	Yes	Yes	Sometimes	No	No	No	NA
<i>Milwaukee</i>	No	Yes	No	No	No	No	No	No	NA
<i>Oconto</i>	Yes	Yes	Unclear	Yes	Yes	Yes	No	No	NA
<i>Ozaukee</i>	No	Yes	Unclear	Yes	No	No	No	Yes	Yes
<i>Racine</i>	Yes	Yes	Unclear	Yes	No	No	No	Yes	No
<i>Sheboygan</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
<b>Total</b>									
<b>Yes</b>	<b>6</b>	<b>8</b>	<b>4</b>	<b>10</b>	<b>5</b>	<b>6</b>	<b>5</b>	<b>4</b>	<b>3</b>
<b>No</b>	<b>9</b>	<b>7</b>	<b>3</b>	<b>5</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
<b>Unclear</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Sometimes</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Question (Q) 1: Does the stated purpose of the ordinance explicitly include protecting and/or restoring, wetlands?									
Question (Q) 2: Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?									
Question (Q) 3: Are wetlands explicitly mentioned as an unsuitable development and/or land division site?									
Question (Q) 4: Are there requirements to identify the size, location, and/or quality of wetlands prior to receipt of a land division approval?									
Question (Q) 5: Does the ordinance require developers to avoid and minimize wetland impacts in the design of the land division and/or development site?									
Question (Q) 6: Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?									
Question (Q) 7: Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?									
Question (Q) 8: Are “wetlands” defined in the ordinance?									
Question (Q) 9: If so, is the state’s definition of wetlands used?									

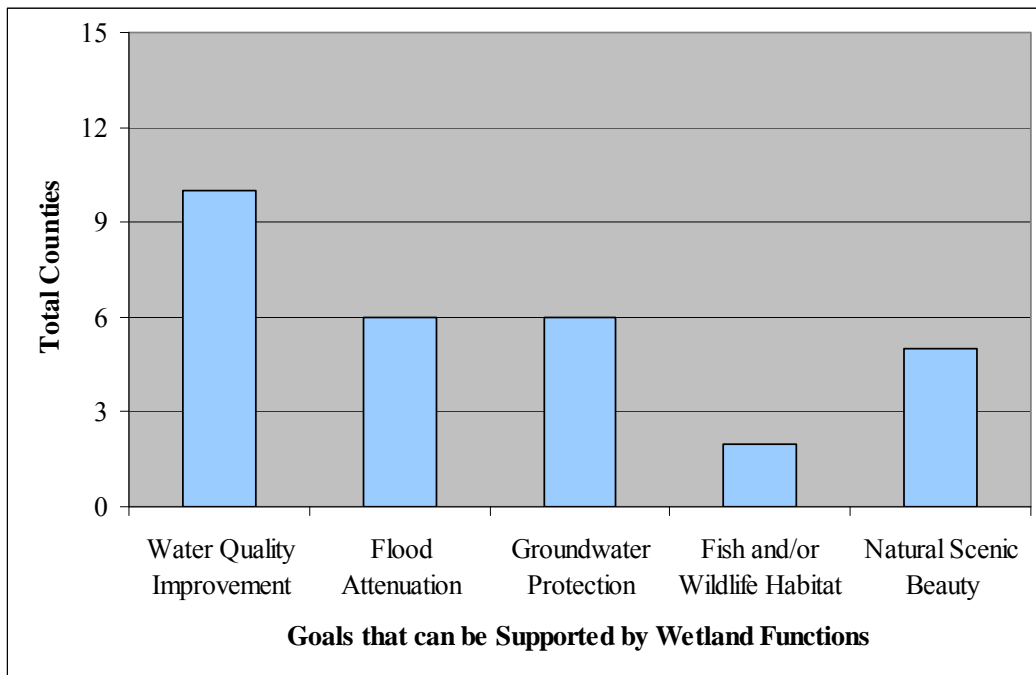
**Table 8. Does the Stated Purpose of Ordinance Explicitly Include Protecting and/or Restoring Wetlands?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>		<b>x</b>
<i>Brown</i>	<b>x</b>	
<i>Door</i>	<b>x</b>	
<i>Douglas</i>		<b>x</b>
<i>Iron</i>		<b>x</b>
<i>Kenosha</i>	<b>x</b>	
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>	<b>x</b>	
<i>Ozaukee</i>		<b>x</b>
<i>Racine</i>	<b>x</b>	
<i>Sheboygan</i>	<b>x</b>	
<b>Total</b>	<b>6</b>	<b>9</b>
<b>Percentage</b>	<b>40%</b>	<b>60%</b>

**Table 9. Does the ordinance include other goals and objectives that can be supported through wetland protection and restoration?**

<i>County</i>	<i>Water Quality Improvement</i>	<i>Flood Attenuation</i>	<i>Groundwater Protection</i>	<i>Fish and/or Wildlife Habitat</i>	<i>Natural Scenic Beauty</i>
<i>Ashland</i>					
<i>Bayfield</i>					
<i>Brown</i>	<b>x</b>		<b>x</b>		<b>x</b>
<i>Door</i>	<b>x</b>	<b>x</b>	<b>x</b>		
<i>Douglas</i>					
<i>Iron</i>					
<i>Kenosha</i>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<i>Kewaunee</i>	<b>x</b>				<b>x</b>
<i>Manitowoc</i>					
<i>Marinette</i>					
<i>Milwaukee</i>	<b>x</b>	<b>x</b>	<b>x</b>		
<i>Oconto</i>	<b>x</b>		<b>x</b>		
<i>Ozaukee</i>	<b>x</b>	<b>x</b>			<b>x</b>
<i>Racine</i>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<i>Sheboygan</i>	<b>x</b>	<b>x</b>			
<b>Total</b>	<b>10</b>	<b>6</b>	<b>6</b>	<b>2</b>	<b>5</b>

**Figure 2. Summary of Counties Identifying Goals that can be Supported through Wetland Conservation**



**Table 10. Are wetlands explicitly mentioned as an unsuitable development and/or land division site?**

<i>County</i>	<i>Yes</i>	<i>No</i>	<i>Unclear</i>
<i>Ashland</i>	<b>x</b>		
<i>Bayfield</i>		<b>x</b>	
<i>Brown</i>			<b>x</b>
<i>Door</i>	<b>x</b>		
<i>Douglas</i>			<b>x</b>
<i>Iron</i>			<b>x</b>
<i>Kenosha</i>			<b>x</b>
<i>Kewaunee</i>		<b>x</b>	
<i>Manitowoc</i>			<b>x</b>
<i>Marinette</i>		<b>x</b>	
<i>Milwaukee</i>		<b>x</b>	
<i>Oconto</i>			<b>x</b>
<i>Ozaukee</i>			<b>x</b>
<i>Racine</i>			<b>x</b>
<i>Sheboygan</i>	<b>x</b>		
<b>Total</b>	<b>3</b>	<b>4</b>	<b>8</b>
<b>Percentage</b>	<b>20%</b>	<b>27%</b>	<b>53%</b>

**Table 11. Are developers required to avoid and minimize wetland impacts in the design of the land division and/or development site?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>		<b>x</b>
<i>Brown</i>	<b>x</b>	
<i>Door</i>	<b>x</b>	
<i>Douglas</i>	<b>x</b>	
<i>Iron</i>	<b>x</b>	
<i>Kenosha</i>	<b>x</b>	
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>	<b>x</b>	
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>	<b>x</b>	
<i>Ozaukee</i>	<b>x</b>	
<i>Racine</i>	<b>x</b>	
<i>Sheboygan</i>	<b>x</b>	
<b>Total</b>	<b>10</b>	<b>5</b>
<b>Percentage</b>	<b>67%</b>	<b>33%</b>

**Table 12. Are developers required to avoid and minimize wetland impacts in the design of the land division and/or development site?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>		<b>x</b>
<i>Brown</i>	<b>x</b>	
<i>Door</i>		<b>x</b>
<i>Douglas</i>	<b>x</b>	
<i>Iron</i>	<b>x</b>	
<i>Kenosha</i>	<b>x</b>	
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>	<b>x</b>	
<i>Ozaukee</i>		<b>x</b>
<i>Racine</i>		<b>x</b>
<i>Sheboygan</i>	<b>x</b>	
<b>Total</b>	<b>6</b>	<b>9</b>
<b>Percentage</b>	<b>40%</b>	<b>60%</b>

**Table 13. Does the ordinance encourage that wetlands be dedicated and/or reserved to the County, or preserved by the landowner for the purpose of open space, parks, or other reasons?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>	<b>x</b>	
<i>Bayfield</i>	<b>x</b>	
<i>Brown</i>	<b>x</b>	
<i>Door</i>		<b>x</b>
<i>Douglas</i>	<b>x</b>	
<i>Iron</i>		<b>x</b>
<i>Kenosha</i>		<b>x</b>
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>	<b>x</b>	
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>	<b>x</b>	
<i>Ozaukee</i>		<b>x</b>
<i>Racine</i>		<b>x</b>
<i>Sheboygan</i>		<b>x</b>
<b>Total</b>	<b>6</b>	<b>9</b>
<b>Percentage</b>	<b>40%</b>	<b>60%</b>

**Table 14. Does the ordinance contain requirements that facilitate the development of conservation or cluster subdivisions?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>	<b>x</b>	
<i>Brown</i>	<b>x</b>	
<i>Door</i>		<b>x</b>
<i>Douglas</i>	<b>x</b>	
<i>Iron</i>		<b>x</b>
<i>Kenosha</i>		<b>x</b>
<i>Kewaunee</i>	<b>x</b>	
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>		<b>x</b>
<i>Ozaukee</i>		<b>x</b>
<i>Racine</i>		<b>x</b>
<i>Sheboygan</i>	<b>x</b>	<b>x</b>
<b>Total</b>	<b>5</b>	<b>10</b>
<b>Percentage</b>	<b>33%</b>	<b>67%</b>

<b>Table 15. Are “wetlands” defined in the ordinance?</b>		
<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>		<b>x</b>
<i>Brown</i>		<b>x</b>
<i>Door</i>		<b>x</b>
<i>Douglas</i>		<b>x</b>
<i>Iron</i>	<b>x</b>	
<i>Kenosha</i>	<b>x</b>	
<i>Kewaunee</i>	<b>x</b>	<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>		<b>x</b>
<i>Ozaukee</i>		<b>x</b>
<i>Racine</i>	<b>x</b>	
<i>Sheboygan</i>	<b>x</b>	
<b>Total</b>	<b>5</b>	<b>10</b>
<b>Percentage</b>	<b>33%</b>	<b>67%</b>

**Table 16. If so, is the state's definition of wetlands used?**

<i>County</i>	<i>Yes</i>	<i>No</i>
<i>Ashland</i>		<b>x</b>
<i>Bayfield</i>		<b>x</b>
<i>Brown</i>		<b>x</b>
<i>Door</i>		<b>x</b>
<i>Douglas</i>		<b>x</b>
<i>Iron</i>	<b>x</b>	
<i>Kenosha</i>		<b>x</b>
<i>Kewaunee</i>		<b>x</b>
<i>Manitowoc</i>		<b>x</b>
<i>Marinette</i>		<b>x</b>
<i>Milwaukee</i>		<b>x</b>
<i>Oconto</i>		<b>x</b>
<i>Ozaukee</i>	<b>x</b>	<b>x</b>
<i>Racine</i>		<b>x</b>
<i>Sheboygan</i>	<b>x</b>	
<b>Total</b>	<b>3</b>	<b>12</b>
<b>Percentage</b>	<b>20%</b>	<b>80%</b>