(c) **Vegetation.** To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following:

1. The county shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

**Note:** In developing and applying ordinances which apply to shoreland areas, local units of government must consider other applicable law and programs affecting the lands to be regulated, e.g., law and management practices that apply to state and county forests and lands entered under forest cropland and managed forest land programs, and ss. 59.692 (2) (a) and 59.69 (4) (a), Stats.

2. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

   a. The county may allow routine maintenance of vegetation.

   b. The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors, provided that the combined width of all access and viewing corridors on a riparian lot or parcel may not exceed the lesser of 30 percent of the shoreline frontage or 200 feet.

   c. The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR–226), provided that vegetation removal be consistent with these practices.

   d. The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed under the permit be replaced by replanting in the same area as soon as practicable.
Wisconsin prohibit the control of vegetation. Restoration permits are needed to control vegetation disturbance.

NR 115.03(7m) (7m) “Routine maintenance of vegetation” means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

B. DNR model ordinance language from December 14, 2010

7.0 VEGETATION (NR 115.05(1)(c))

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

7.2 ESTABLISHMENT OF A VEGETATIVE BUFFER ZONE. (NR 115.05(1)(c)2.) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows.

(1) The county may allow routine maintenance of vegetation.

(2) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors, provided that the combined width of all access and viewing corridors on a riparian lot or parcel may not exceed the lesser of 30 percent of the shoreline frontage or 200 feet.

(3) The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in s. NR 1.25 (2) (b), and described in

Note: Information regarding native plants, shoreland and habitat management is available from the University of Wisconsin–Extension publications website: http://clean-water.uwex.edu/pubs/index.htm.
Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.

(4) The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed under the permit be replaced by replanting in the same area as soon as practicable.

(5) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

Policy Option:

7.3 CUTTING MORE THAN 35 FEET INLAND From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

C. Additional Resources

Appendix 1 contains the following vegetation removal and retention resources recommended by the WCCA shoreland committee:

- Vegetative removal flow chart
- Shoreland Buffer Vegetation Removal and Replacement application
First, the NR 115 and model ordinance provide minimum standards. Counties may be more restrictive regarding vegetation and all other shoreland zoning topics. In fact many counties already are more restrictive. For instance, a 2007 report lists 12 Wisconsin counties with vegetative buffers greater than 35 feet deep; some up to 275 feet deep.¹

Two definitions are related to the vegetation section:

1. “Routine maintenance of vegetation” straight from NR 115.
2. Vegetative buffer zone: Generally contains three layers of native vegetation: trees, shrubs and ground cover. Counties could also reference the shoreland habitat standard in 643A NRCS which provides that shoreland habitat means “area adjacent to a waterbody or watercourse in a non-agricultural setting that is vegetated with a diverse mixture of native species that can include grasses, grass-like species, forbs, shrubs, and trees.”
   

Following these state minimum vegetation standards may not achieve the goals in ch. 281.31 of Wisconsin Statutes which are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty. The following Figure illustrates the buffer widths research has found are necessary to protect water quality and provide core wildlife habitat.

Options to further the goals of ch. 281.31 are:

1. Deeper buffers, especially if you have a lake or water classification scheme. A 2007 report lists 12 counties with vegetative buffers greater than 35’ deep; some up to 275’ deep. Many counties set their buffer depth at 25 feet less than their shoreland setback to allow room for construction equipment, without unnecessarily removing buffers.

2. Allow no more than a 30’ wide viewing access corridor (VAC) for lots greater than 100’ wide.
3. Allow only selective cutting in VAC, such as dead, diseased and dying trees and invasive plants.
4. Mitigation affidavits should be required related to buffer violations or building an addition to nonconforming structures and related mitigation. If you’re removing invasive species or dying and diseased plants as part of a mitigation plan, these removals are also recorded via affidavit. “A mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.”115.05(g)(5)d
5. Reference the mitigation section that has more details about restoration plans including specific species of plants and planting densities.
6. The county may allow routine maintenance of vegetation. This means counties also have the option to leave out 7.2(1) from the model ordinance that allows routine maintenance. If a county does this they will not need the “routine maintenance” definition. Another option for counties is to allow routine maintenance of existing lawns and removal of trees only to protect/maintain utilities such as power lines and septic systems. Or routine maintenance of vegetation could be defined as removal or pruning of limbs on live trees.

Many small viewing access corridors

Allowing many small viewing access corridors (VAC) on the same lot makes it difficult to determine what is a VAC, and what is not. Options for addressing this problem include:

- If the lot is less than 100’, then a landowner gets 30% of total lot width as the VAC.
- Allow no more than a 30’ wide VAC for lots greater than 100’ wide.
- Some counties, including Lincoln County, allow VACs on large lots to be combined via CUP (or special permit) and then require no-touch on the remainder of the buffer on the lot.
- If a landowner desires a larger VAC based on common ownership of contiguous lots, the county may require that the commonly owned lots be combined into a single lot.

Buffers on agricultural and forested parcels

Each county can consider having different vegetative buffer zone standards for agricultural and forested parcels because most counties have difficulties enforcing these practices on agricultural land. See the best management practices for riparian areas in Chapter 5 of “Wisconsin Forest Management Guidelines” at:

http://dnr.wi.gov/forestry/publications/guidelines/PDF/chapter5.pdf referenced in 115.05(c)2.c.
As an example, adjacent to farmland there are trees growing near a navigable stream that has been ditched. Can the trees be removed? Some counties including Langlade County say in their ordinance that the property is exempt from shoreland vegetation standards if the landowner is in compliance with agricultural BMPs. The landowner is considered in compliance with agricultural BMPs if the land is enrolled in a farm plan approved by the County Land and Water Conservation Department (LWCD). LWCD employees work with landowners, inspect, and give the P&Z an approval when the landowner complies with standards.

### E. Frequently Asked Questions (FAQs)

**Q:** Is a permit required for removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed under the permit be replaced by replanting in the same area as soon as practicable?

**A:** There is ambiguity between NR 115.05(c)2.a. and NR 115.05(c)2.d. Counties may choose whether to require permits for removal of vegetation in these instances. It is suggested that county ordinances clarify the definition of “routine maintenance of vegetation” to either include or not include removal of exotic and invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard. The example vegetation removal and retention application in this guidebook should be edited by the county to match their decision about whether permits are required. If counties require administrative permits for these removals, WCCA suggests the permits have little or no associated cost.

**Q:** Do you need a permit for removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors?

**A:** Not according to NR 115.05(1)(c)2.b. However, counties may require a permit for this activity.
Q: Do you need a permit for additional vegetation management activities in the vegetative buffer zone beyond those listed in NR 115.05(1)(c)2.a-d?

A: Yes. According to NR 115.05(1)(c)2.e. a permit is required. The permit shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
Chapter 1:

Appendix
7.0 Vegetative Removal

Vegetation To Be Removed
Is > 35' From O.H.W.M.?*

Yes

Is This Routine Maintenance
Per 16.2(15) 7.2(1)

Yes

Is Parcel In Which Removal
≥ 10 Acres In Size Per 7.2(3)

Yes

Per 7.2(3)
Is Removal Consistent With Forest
Management Practices Per NR
1.25(2)(b) As Per

Yes

Is Removal Consistent With Forest
Management Practices FR-226

Yes

Allowed
Note: County May Require Permit Through Ordinance

No

No

Prohibited

No

Per 7.2(4)
Is This Removal Performed To:
1. Manage Exotic or Invasive Species
2. Damaged Vegetation
3. Remove Or Control Disease

Yes

Replacement
Required

No

Is Vegetation Removal Done To
Create Access Or View Corridor
≤ 30% of Shore Frontage or ≤ 200'
Whichever Is Less 7.2(2)

Yes

Is This A County
Permitted Activity
Which Takes Place
In Buffer Per 7.2(5)

No

Prohibited

Yes

Permitted Require Maintenance/
Monitoring & Enforceable
Recorded Restriction Per 7.2(5)

No

Prohibited

*O.H.W.M. = Ordinary High Water Mark
Shoreland Buffer Vegetation Removal and Replacement Application

This permit is REQUIRED by WI Admin Code NR115.05(1)(c)2. d. & e. and Section of the County Ordinance prior to the removal of any vegetation within the shoreland buffer zone, which extends from the ordinary high water mark (generally the water’s edge) inland thirty-five (35) feet. This permit is NOT required if the parcel where the vegetation to be removed is ten (10) or more acres in area. (Please contact at __________________). If soil disturbance/grading will be required to complete this project STOP at this point and contact ________________________.

The undersigned hereby makes application for a Vegetation Removal and Replacement Permit and agrees that all activities shall be in accordance with the requirements of the County General Code of Ordinances and all other applicable ordinances and the laws of the State of Wisconsin., and agree that all replacement plantings will be maintained and preserved as required in NR115.05(1)(c)2.e.

Pursuant to Chapter __________ Ordinance, __________ County __________________ Department employees assigned to inspect properties shall have access to said properties to make inspections.

If within ________ months of the date of issuance the proposed activities are not completed, this permit shall expire unless a renewal has been granted by ____________________________ Ordinance prior to the removal of any vegetation within the shoreland buffer zone, which extends from the ordinary high water mark (generally the water’s edge) inland thirty-five (35) feet. This permit is NOT required if the parcel where the vegetation to be removed is ten (10) or more acres in area. (Please contact ____________________ at __________________________________________________).

1. Reason for vegetation removal request: □ Invasive/Exotic □ Other □ Safety Hazard □ Diseased □ Damaged □ Access/View Corridor
2. Layer(s) of vegetation to be removed (check all that apply): □ Ground cover □ Shrub layer □ Tree layer
3. Species or common name of plants/shrubs/trees to be removed & quantity of each:

4. Species or common name of plants/shrubs/trees to replace those removed & quantity of each. Please be aware that only plants/shrubs/trees native to this area of Wisconsin may be planted in the buffer area. (To determine whether proposed plants are native see **website link below): ______________________________

5. On a separate sheet, diagram the lot or parcel showing the ordinary high water mark, property lines, location of any structures, and the location of the vegetation that is to be removed and replaced. Include location and description of measures used to control potential erosion and sedimentation.

6. Activities for removal will begin on or about ______________________ and be completed no later than ______________________.

7. The required number of replacement plants will be completed no later than ______________________.

** Visit http://wisplants.uwsp.edu/namesearch.html, search by common name and look at status to determine whether proposed plants are Native/Introduced/Invasive

For Office Use Only

For Office Use Only

For Office Use Only

Permit Issued by ____________________________ Date ___________ Fee $__________________ Make checks payable to County __________ Date Started ______________________

Permit Denied for the Following Reasons: __________________________________________

Inspections

<table>
<thead>
<tr>
<th>Date</th>
<th>Inspector</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

M:\Forms\ShorlndBufrVegRemovReplaceApp.doc