

# State of Wisconsin



2015 Assembly Bill 603

Date of enactment: **February 29, 2016**

Date of publication\*: **March 1, 2016**

## 2015 WISCONSIN ACT 167

AN ACT *to renumber and amend* 59.692 (1k) (a) 5.; *to amend* 59.692 (1k) (b); and *to create* 59.692 (1k) (a) 2m., 59.692 (1k) (am) 2. and 3., 59.692 (1k) (bm) and 59.692 (1n) of the statutes; **relating to:** restrictions in a county shoreland zoning ordinance on activities within the shoreland setback area.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 59.692 (1k) (a) 2m. of the statutes is created to read:

59.692 (1k) (a) 2m. Except as provided in pars. (b) and (bm), requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a structure listed under sub. (1n) (d) that was legally constructed wholly or partially within the shoreland setback area if the activity does not expand the footprint of the existing structure.

**SECTION 2m.** 59.692 (1k) (a) 5. of the statutes, as created by [2015 Wisconsin Act 55](#), is renumbered 59.692 (1k) (am) (intro.) and amended to read:

59.692 (1k) (am) (intro.) Establishes The department may not impair the interest of a landowner in shoreland property by establishing a shoreland zoning standard, and a county may not impair the interest of a landowner in shoreland property by enacting or enforcing a shoreland zoning ordinance. that establishes standards for impervious surfaces unless the all of the following apply:

1. The standards provide that a surface is considered pervious if the runoff from the surface is treated by a device or system, or is discharged to an internally drained

pervious area, that retains the runoff on or off the parcel to allow infiltration into the soil.

**SECTION 3m.** 59.692 (1k) (am) 2. and 3. of the statutes are created to read:

59.692 (1k) (am) 2. If the standards allow a greater amount of impervious surface on areas with highly developed shorelines than areas with shorelines that are not highly developed, as determined by the department, the standards also require an area with highly developed shorelines to include at least 500 feet of shoreline and require that one of the following applies:

a. The area is composed of a majority of lots with more than 30 percent impervious surface area, as calculated by the county and approved by the department.

b. The area is composed of a majority of lots that are less than 20,000 square feet in area.

c. The area is located on a lake and served by a sewerage system, as defined in s. 281.01 (14).

3. The standards prohibit considering a roadway, as defined in s. 340.01 (54), or a sidewalk, as defined in s. 340.01 (58), as impervious surfaces.

**SECTION 4.** 59.692 (1k) (b) of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

59.692 (1k) (b) A county shoreland zoning ordinance shall allow an activity specified under par. (a) 2. and 2m. to expand the footprint of a nonconforming structure or a structure listed under sub. (1n) (d) if the expansion is

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

necessary for the structure to comply with applicable state or federal requirements.

**SECTION 5.** 59.692 (1k) (bm) of the statutes is created to read:

59.692 (1k) (bm) A county shoreland zoning ordinance may prohibit an activity specified under par. (a) 2m. from expanding a structure listed under sub. (1n) (d) beyond the 3-dimensional building envelope of the existing structure.

**SECTION 6.** 59.692 (1n) of the statutes is created to read:

59.692 (1n) (a) In this subsection, "setback" means the distance that a shoreland setback area extends from the ordinary high-water mark.

(am) Except as provided under pars. (b), (bm), (c), and (d), a county shoreland zoning ordinance shall establish a setback of 75 feet.

(b) Except as provided in pars. (bm) and (c), if the closest principal structure in each direction along the shoreline to a proposed principal structure exists on an adjacent lot and within 250 feet of the proposed principal structure and both of the existing principal structures are set back less than 75 feet from the ordinary high-water mark, a county shoreland zoning ordinance shall establish a setback equal to the average of the distances that those structures are set back from the ordinary high-water mark but no less than 35 feet.

(bm) If a principal structure exists on an adjacent lot and within 250 feet of a proposed principal structure in only one direction along the shoreline, is the closest principal structure to the proposed principal structure, and is set back less than 75 feet from the ordinary high-water mark, a county shoreland zoning ordinance may establish a setback equal to the average of 75 feet and the distance that the existing structure is set back from the ordinary high-water mark but no less than 35 feet.

(c) 1. Except as provided in subd. 2., if the closest principal structure in each direction along the shoreline

to a proposed principal structure exists on an adjacent lot and within 200 feet of the proposed principal structure and both of the existing principal structures are set back more than 75 feet from the ordinary high-water mark at or farther landward from the setback that was required at the time each structure was built, a county shoreland zoning ordinance may establish a setback equal to the average of the setbacks required for those structures at the time they were built.

2. Subdivision 1. does not apply if the resulting setback limits the placement of the proposed principal structure to an area on which the structure cannot be built.

(d) A county shoreland zoning ordinance may not prohibit the construction of any of the following structures within the 75-foot setback requirement under par. (am):

1. A boathouse, as defined in s. 30.01 (1d), that is located entirely above the ordinary high-water mark.

2. A structure that satisfies the requirements in sub. (1v).

3. A fishing raft for which the department has issued a permit under s. 30.126.

4. A broadcast signal receiver, including a satellite dish, or an antenna that is no more than one meter in diameter and a satellite earth station antenna that is no more than 2 meters in diameter.

5. A utility transmission line, utility distribution line, pole, tower, water tower, pumping station, well pump-house cover, private on-site wastewater treatment system that complies with ch. 145, and any other utility structure for which no feasible alternative location outside of the setback exists and which is constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.

6. A walkway, stairway, or rail system that is necessary to provide pedestrian access to the shoreline and is no more than 60 inches in width.