

Why does Brown County have Environmentally Sensitive Areas?

With the creation of the State of Wisconsin Administrative Code Chapter NR 121 (Areawide Water Quality Management Plans) in 1979, the Wisconsin Department of Natural Resources established the formal guidelines under which the water quality management planning process would be conducted in Wisconsin to implement the federal Clean Water Act. That process included the identification of areas with very poor surface water quality (including Brown County) and the requirement that each area develop a water quality management plan.

Each plan had to include the identification of “sewer service areas” within the poor surface water quality areas and the identification of “major areas unsuitable for the installation of waste treatment systems because of physical or environmental constraints.” NR 121 also states that “areas to be considered for exclusion from the sewer service area because of the potential for adverse impacts on the quality of the waters of the state from both point and nonpoint sources of pollution include, but are not limited to, wetlands, shorelands, floodways and floodplains, steep slopes, highly erodible soils, and other limiting soil types, groundwater recharge areas, and other such physical constraints.” This is the basis for environmentally sensitive areas (ESAs) in Brown County. ESAs in Brown County are regulated through the Brown County Sewage Plan and Chapter 21 (Land Division and Subdivision Ordinance) of the Brown County Code of Ordinances in order to improve the surface water quality of Brown County and ultimately meet the requirements of the federal Clean Water Act.



What are Environmentally Sensitive Areas?

Environmentally Sensitive Areas (ESAs) include parts of the landscape generally associated with surface water features, which should be protected from intensive development. They include all lakes, rivers, streams, wetlands, floodways, and other locally designated significant and unique natural resource features.

Within Brown County, the regulated ESAs and setback from ESAs (if applicable) include:

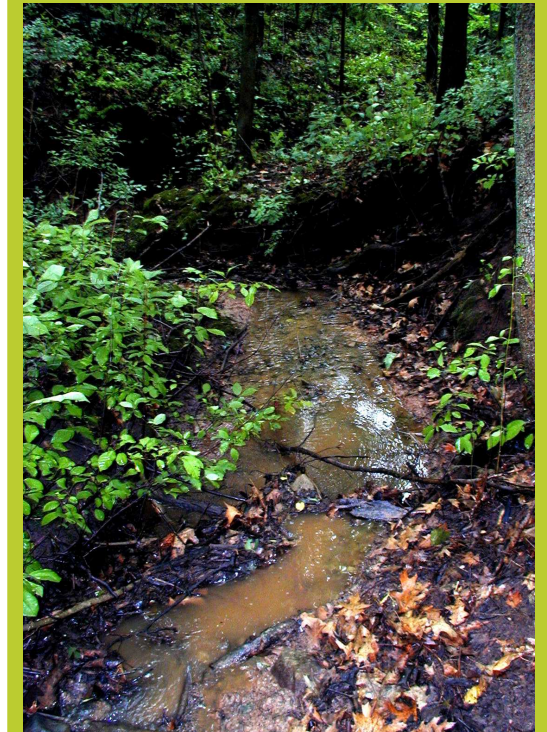
- All wetlands 2 acres or less,
- All wetlands greater than 2 acres + 35' setback,
- All floodways + 35' setback or 75' setback from ordinary high water mark (OHWM), whichever is greater,
- All navigable waterways + 75' setback from ordinary high water mark of each bank when no flood study is available,
- All waterways determined to be non-navigable, but are identified as streams (perennial or intermittent) on USGS or Brown County GIS maps+ 35' setback from top of each bank,
- Slopes 20% or greater + 20' setback from the top and bottom of slope when the slope extends into any of the listed ESAs or their associated setback buffers,
- Other site-specific natural features.

If you are proposing development (including any filling, grading, scraping, or construction near any of the listed features, you are encouraged to contact the Brown County Planning Commission (BCPC) division of the Brown County Planning and Land Services Department as early in the process as possible to determine if there may be ESAs on your property. The BCPC is open during regular office hours (8:00 a.m. – 4:30 p.m. Monday – Friday) and is available to discuss ESAs with you.

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Brown County, WI

Shoreland Zoning and Environmentally Sensitive Area Summary

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What is the Shoreland Zone?

Shorelands are the areas of interface between land and water. In its natural condition, shorelands are comprised of thick and diverse vegetation that protect lakes, rivers, and streams by filtering out pollutants and sediments. Natural shorelands also provide scenic beauty and critical habitat for fish and wildlife. However, shorelands are very susceptible to small changes in the surrounding environment.

Wisconsin requires counties to administer a shoreland zoning ordinance for all unincorporated areas of the state under Section 281.31 and 59.692 of the Wisconsin State Statutes and Wisconsin Administrative Code NR 115. Section 281.31 states the purpose of shoreland zoning is 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 areas subject to shoreland zoning include all lands within 300 feet of the ordinary high water mark of navigable rivers and streams, lands within 1,000 feet of a flowage or natural lake or pond, or to the landward side of a floodplain if it extends beyond the 300 foot or 1,000 foot zone. A waterway is assumed to be navigable if shown on USGS topographic maps, the WDNR Surface Water Resources publication, or the digital Brown County surface water layer. A waterway may be determined to be "non-navigable" only through a formal Brown County or WDNR determination by qualified staff.



What is regulated in the Shoreland Zone?

Within Brown County, shorelands (and shoreland wetlands) are regulated under Chapter 22 – Shorelands and Wetlands. The administration of the program is through the Zoning office of the Brown County Planning and Land Services Department. Chapter 22 states, the use of any land or water; the size, shape, and placement of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging, the cutting of shoreland vegetation, and the subdivision of lots within the shoreland zone are all subject to review and permitting through the Brown County Zoning Office.

Other specific regulations include minimum lot sizes of 10,000 square feet for publicly sewered development and 20,000 square feet for privately sewered development and new structures must generally be set back a minimum of 75' from the ordinary high watermark (OHWM) of the navigable waterway. Additionally, a vegetative buffer must be maintained from the OHWM to 35' landward to provide filtration. However, the removal of dead, diseased, or dying trees and shrubbery within the 35' vegetative buffer is allowed, and a property owner may create a clear view corridor of no more than 30' wide over a 100' distance.

"A stream is navigable in fact if it is navigable by a canoe or other small craft on a reoccurring basis (i.e. annually during spring thaw) and has a discernible bed and banks. Obstacles or interruptions to navigation such as brush, fallen trees, tight meanders, do not make a stream non-navigable."
(DeGayner v. DNR (70 Wis.2d 936 – 1975))

Can I develop in the Shoreland Zone?

Yes; however, due to the intricacies associated with development or redevelopment within the shoreland zone, property owners or their contractors should consult with the Brown County Zoning Office (a division of the Brown County Planning and Land Services Department) to determine how being within the shoreland zone could affect the proposed development or redevelopment as early in the process as possible and preferably prior to the actual purchase of the lot. The Brown County Zoning Office is open during regular office hours (8:00 a.m. – 4:30 p.m. Monday – Friday) and is available to discuss potential shoreland zone-compliant development options with you.

During construction within the shoreland zone, it is critical the prime contractor and all the subcontractors follow the regulations associated with proper erosion control and stormwater management to prevent construction site sediments from washing into the surface water resource. After construction, it is the homeowner's responsibility to understand that along with the natural beauty and recreation opportunities associated with a home in the shoreland zone, there are equally important responsibilities to future generations of shoreland property owners and the wildlife dependent on a healthy lake, river, pond, or stream.