

MODEL SHORELAND ZONING REGULATIONS FOR CITIES AND VILLAGES

This ordinance is based on a model ordinance developed by the League of Wisconsin Municipalities for regulating shoreland areas annexed after May 7, 1982 or incorporated after April 30, 1994 in accordance with Sections 61.353 (for villages) and 62.233 (for cities) of the Wisconsin Statutes. Chapter NR 117 of the Wisconsin Administrative Code also requires cities and villages to enforce regulations protecting wetlands within shoreland areas. A link to a model shoreland-wetland zoning ordinance for cities and villages is available on the Wisconsin Department of Natural Resources (DNR) webpage: <http://dnr.wi.gov/topic/ShorelandZoning/documents/NR117model.pdf>

Under Sections 62.233 and 61.353 of the Statutes, cities and villages are required to enact shoreland setback requirements and regulations limiting the removal of vegetation along the shoreline in areas annexed after May 7, 1982 or incorporated after April 30, 1994 no later than July 1, 2014. Until such regulations are enacted, county shoreland zoning regulations in effect at the time of annexation or incorporation remain in effect, and are enforced by the city or village.

The attached model ordinance is intended to be incorporated as a section in an existing city or village zoning ordinance. The attached regulations do not include provisions for appeals, variances, severability, nonconforming uses and structures, and similar considerations which would typically be addressed in other sections of a full zoning ordinance. Please contact SEWRPC if you would like examples of other zoning ordinance sections.

Please contact SEWRPC at (262) 547-6721 or sewrpc@sewrpc.org if you have any questions or would like a Word version of the model ordinance.

2.14 Shoreland Regulations (Insert in “General Provisions” Section of Zoning Ordinance)

A. Applicability. This Section applies to the following shoreland areas:

1. A shoreland that was annexed by the City/Village of _____ after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Sec. 59.692 of the Wisconsin Statutes.
2. A shoreland that before incorporation by the City/Village of _____ was part of a town that was subject to a county shoreland zoning ordinance under Section 59.692 of the Wisconsin Statutes if the date of incorporation was after April 30, 1994.
3. Shoreland areas regulated by this ordinance shall include all the lands in the City/Village of _____ that are:
 - a. Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds, or flowages. Lakes, ponds, and flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources (DNR) Surface Water Data viewer available on the DNR website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps.
 - b. Within 300 feet of the ordinary high water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, or other existing floodplain zoning maps approved by the DNR shall be used to delineate floodplain areas.
 - c. Determinations of navigability and ordinary high water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the DNR for a final determination of navigability or ordinary high water mark.
4. Pursuant to Section 61.353 or 62.233 of the Wisconsin Statutes, this Section does not apply to lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural navigable water body.

B. Setbacks from Navigable Waters

1. Principal Building Setbacks: All principal buildings shall be set back at least 50 feet from the ordinary high water mark.
2. Adjustment of Shore Yards: A setback less than that required by subsection B.1 may be allowed if all of the following apply:
 - a. The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.
 - b. The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high water mark, whichever distance is greater.

C. Boathouses. Boathouses accessory to permitted and conditional uses may be located within a shoreyard, provided all the following requirements are met:

1. A boathouse shall not be closer than ___ feet to the ordinary high water mark of a navigable water; shall not exceed ___ boathouse per shoreyard lot; shall not

exceed ___ feet in height above the ordinary high water mark elevation; shall not exceed ___ square feet in horizontal area covered; and shall not be closer than ___ feet to any side lot line. In no case, however, shall boathouses be allowed to project beyond the ordinary high water mark.

2. A boathouse shall be constructed in such a manner as to orient the main opening of the boathouse toward the body of water. The use of a boathouse for human habitation is prohibited. No plumbing facilities may be provided in or for a boathouse.
3. A boathouse shall be located entirely within the access and viewing corridor allowed under Section 2.14.E.3.
4. The roof of a boathouse may be used as a deck provided that:
 - a. The boathouse has a flat roof.
 - b. The roof has no side walls or screens.
 - c. The roof may have a railing, provided it meets all building code requirements.

D. Accessory Structures Other Than Boathouses. Accessory structures may be placed in side and street yards, provided they meet all other applicable requirements of the Zoning Ordinance and the Village/City Municipal Code.

E. Vegetative Buffer Zone. A vegetative buffer zone shall be maintained in the shoreland area in accordance with the following requirements:

1. A person who owns shoreland property that contains vegetation must maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high water mark of the navigable water, except as provided in subsections E.2 and 3 below.
2. If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the invasive, dead, or diseased vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
3. A person who is required to maintain or establish a vegetative buffer zone under this subsection may remove all of the vegetation in a part of that zone in order to establish a viewing and access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage.

Related Definitions (Include in “Definitions” section of the zoning ordinance):

Principal Building

The main building or structure on a single lot or parcel of land, including any attached garage or attached porch.

Shoreland

The area within the following distances from the ordinary high water mark of navigable waters, as defined under Section 281.31(2)(d) of the Wisconsin Statutes: (1) 1,000 feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the high-water mark of the lake; or (2) 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. (See Section 59.692(1)(b) of the Wisconsin Statutes.)