

Memo

To: Plan Commission, Village Board

Fr: Trevor Fuller, Director of Planning and Community Development

Re: ACTION RE: AMENDMENT TO CHAPTER 468: SHORELAND-WETLAND ZONING OF
THE VILLAGE CODE

Date: 20 April 2023

Under Wisconsin Statutes 61.35, 61.351 and Wisconsin Administrative Codes NR 115 (shoreland) and NR 117 (shoreland-wetland), incorporated municipalities are required to have a shoreland zoning and shoreland-wetland ordinance.

The Village of Allouez current Shoreland-Wetland Zoning Ordinance currently has outdated references to chapters that no longer exist or to chapters that do not need to be referenced. Staff has reviewed the chapter and made the necessary updates (see attached). Chapter 180: Bulkhead Lines is also included for reference.

Counsel has yet to review the proposed changes in this chapter. Upon recommendation for approval by Plan Commission, staff will forward to Counsel. Assuming no changes, a public hearing date will be set for a Village Board meeting for review and adoption.

The Plan Commission is asked to review and recommend the Village Board approve, not approve, or approve with changes.

Chapter 468

Shoreland-Wetland Zoning

[HISTORY: Adopted by the Village Board of the Village of Allouez as Ch. 19 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 175.

Bulkhead lines — See Ch. 180.

Construction site erosion control — See Ch. 200.

Stormwater management — See Chs. 385 and 387.

Floodplain zoning — See Ch. 453.

Land divisions — See Ch. 460.

Zoning — See Ch. 475.

§ 468-1 Authority, findings and purpose.

- A. This chapter is adopted pursuant to the authorization in §§ 61.35, 61.351, 87.30 and 281.31, Wis. Stats.
- B. Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:
- (1) Promote the public health, safety, convenience and general welfare;
 - (2) Maintain the stormwater and floodwater storage capacity of wetlands;
 - (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
 - (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
 - (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earthmoving activities.

§ 468-2 General provisions.

- A. Compliance. The use of wetlands and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. (However, see § 468-4 of this chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a shoreland-wetland zoning permit unless

otherwise expressly excluded by a provision of this chapter.

- B. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.
- C. Abrogation and greater restrictions. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under § 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that Chapter 453, Floodplain Zoning, of the Village Code, which is more restrictive than this chapter, shall continue in full force and effect to the extent of the greater restrictions.
- D. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Chapter NR 117 of the Wisconsin Administrative Code, and where the provision in this chapter is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
- E. ~~Annexed areas. The Brown County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's Official Zoning Map. The Brown County shoreland zoning provisions are incorporated by reference for the purpose of administering this subsection and are on file in the office of the Municipal Zoning Administrator.~~

§ 468-3 Shoreland-wetland zoning district.

- A. Shoreland-wetland zoning maps. The following maps are hereby adopted and made part of this chapter and are on file in the office of the Clerk-Treasurer:
 - (1) ~~(1) The Wisconsin Wetland Inventory Map for Allouez, Wisconsin, most recent version developed by the Wisconsin Department of Natural Resources and available through the Surface Water Data Viewer: <https://dnr.wisconsin.gov/topic/Wetlands/inventory.html> Wisconsin wetland inventory maps stamped "Final" on July 22, 1987.~~
 - (2) ~~Floodplain zoning maps as provided in Chapter 453, Floodplain Zoning, § 453-5B, and other data collected from the following sources: Official Map of the Village; Wisconsin State Department of Transportation; Green Bay Metropolitan Sewerage Commission; United States Department of Agriculture, Natural Resources Conservation Service; the Wisconsin Department of Natural Resources; and such other local, state and federal governments, departments, agencies and bodies as may be appropriate.~~
 - (3) ~~United States Geological Survey maps of the De Pere quadrant dated the year of 1954.~~
 - (4) ~~Zoning map titled the "Official Village Zoning Map" dated May 2011.~~
- B. District boundaries.
 - (1) The shoreland-wetland zoning district includes all wetlands in the municipality which are five acres or more and are shown on the final wetland inventory map that has been adopted and made a part of this chapter and which are:
 - (a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds

and flowages in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter.

- (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 either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter. ~~Floodplain zoning maps adopted in Subsection A(2) shall be used to determine the extent of floodplain areas.~~
 - (2) 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 Department for a final determination of navigability or ordinary high-water mark.
 - (3) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary, as mapped, is in error. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a shoreland-wetland zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.
- C. Permitted uses. The following uses are permitted subject to the provisions of Chs. 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:
- (1) Activities and uses which do not require the issuance of a shoreland-wetland zoning permit, provided that no wetland alteration occurs:
 - (a) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (c) The practice of silviculture, including the planting, thinning and harvesting of timber;
 - (d) The pasturing of livestock;
 - (e) The cultivation of agricultural crops; and
 - (f) The construction and maintenance of duck blinds.
 - (2) Uses which do not require the issuance of a shoreland-wetland zoning permit and which may involve wetland alterations only to the extent specifically provided below:
 - (a) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - (b) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (c) The maintenance and repair of existing drainage systems to restore preexisting levels of drainage,

including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;

- (d) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (e) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (f) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district, provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in § 468-6C of this chapter; and
 - (g) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- | (3) Uses which are allowed upon the issuance of a shoreland-wetland zoning permit and which may include wetland alterations only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under this Subsection C, provided that:
 - [1] The road cannot, as a practical matter, be located outside the wetland;
 - [2] The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in § 468-6C of this chapter;
 - [3] The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - [4] Road construction activities are carried out in the immediate area of the roadbed only; and
 - [5] Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (b) The construction and maintenance of nonresidential buildings, provided that:
 - [1] The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - [2] The building cannot, as a practical matter, be located outside the wetland;
 - [3] The building does not exceed 500 square feet in floor area; and
 - [4] Only limited filling and excavating necessary to provide structural support for the building are allowed.
 - (c) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - [1] Any private development allowed under this subsection shall be used exclusively for the permitted purposes;

- [2] Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures are allowed;
 - [3] The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meet the criteria in Subsection C(3)(a) of this section; and
 - [4] Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (d) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines, provided that:
- [1] The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - [2] Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - [3] Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in § 468-6C of this chapter.

D. Prohibited uses.

- (1) Any use not listed in Subsection C of this section is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with § 468-6 of this chapter.
- (2) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

§ 468-4 **Nonconforming structures and uses.**

The lawful use of a building, structure or property which existed at the time this chapter, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- A. The shoreland-wetland provisions of this chapter authorized by § 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to § 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.
- B. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this chapter.
- C. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this chapter adopted under § 61.351, Wis. Stats., may be continued although such use does not conform to the provisions of this chapter. However, such nonconforming use may not be extended.
- D. The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats.

E. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

§ 468-5 **Administrative provisions.**

A. ~~Zoning Administrator. The Zoning Administrator is authorized to administer and enforce this chapter. The Building Inspector is appointed Zoning Administrator for the purpose of administering and enforcing this chapter.~~ The Zoning Administrator shall have the following duties and powers:

- (1) Advise applicants as to the provisions of this chapter and assist them in preparing permit applications and appeal forms.
- (2) Issue permits and certificates of compliance and inspect properties for compliance with this chapter.
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (5) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied to the appropriate district office of the Department.
- (6) Investigate and report violations of this chapter to the appropriate municipal planning agency and the District Attorney or Village Attorney.

B. ~~Shoreland-wetland~~ zZoning permits.

(1) When required. Unless another section of this chapter specifically exempts certain types of development from this requirement, a shoreland-wetland zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in § 468-8 of this chapter, or any change in the use of an existing building or structure is initiated.

(2) Application. An application for a shoreland-wetland zoning permit shall be made to the Zoning Administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulations, the following information:

(a) General information.

- [1] Name, address, and telephone number of applicant, property owner and contractor, where applicable.
- [2] Legal description of the property and a general description of the proposed use or development.
- [3] Whether or not a private water supply or sewage system is to be installed.

(b) Site development plan. The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

- [1] Dimensions and area of the lot;
- [2] Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
- [3] Description of any existing or proposed on-site sewage systems or private water supply systems;
- [4] Location of the ordinary high-water mark of any abutting navigable waterways;

- [5] Boundaries of all wetlands;
 - [6] Existing and proposed topographic and drainage features and vegetative cover;
 - [7] Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
 - [8] Location of existing or future access roads; and
 - [9] Specifications and dimensions for areas of proposed wetland alteration.
- (c) Expiration. All permits issued under the authority of this chapter shall expire 12 months from the date of issuance.

C. Certificates of compliance.

- | (1) Except where no shoreland-wetland zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, subject to the following provisions:
 - (a) The certificate of compliance shall show that the building or premises or part thereof and the proposed use thereof conform to the provisions of this chapter.
 - (b) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 - (c) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning or conditional use permit, provided that the building or premises and proposed use thereof conform to all the provisions of this chapter.
- (2) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing body.
- (3) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of adoption of this chapter, certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.

D. Fees. The municipal governing body may, by resolution, adopt fees for the following:

- | (1) Shoreland-wetland Zoning permits.
 - (2) Certificates of compliance.
 - (3) Public hearings.
 - (4) Legal notice publications.
 - (5) Conditional use permits.
 - (6) Rezoning petitions.
- | E. Recording. Where a shoreland-wetland zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.
- | F. Revocation. Where the conditions of a shoreland-wetland zoning permit or conditional use permit are

violated, the permit shall be revoked by the Board of Appeals.

- G. Board of Appeals. The Village President shall appoint a Board of Appeals under § 62.23(7)(e), Wis. Stats., consisting of five members subject to confirmation by the municipal governing body. The Board of Appeals shall adopt rules for the conduct of its business as required by § 62.23(7)(e)3, Wis. Stats.
- (1) Powers and duties. The Board of Appeals:
 - (a) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.
 - (b) Shall hear and decide applications for conditional use permits.
 - (c) May authorize upon appeal a variance from the dimensional standards of this chapter where an applicant convincingly demonstrates that:
 - [1] Literal enforcement of the terms of this chapter will result in unnecessary hardship for the applicant;
 - [2] The hardship is due to special conditions unique to the property and is not self-created or based solely on economic gain or loss;
 - [3] Such variance is not contrary to the public interest as expressed by the purpose of this chapter; and
 - [4] Such variance will not grant or increase any use of property which is prohibited in the zoning district.
 - (2) Appeals to the Board. Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision, or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The Zoning Administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.
 - (3) Public hearings.
 - (a) Before making a decision on an appeal or application, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may present testimony in person, by agent, or by attorney.
 - (b) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.
 - (4) Decisions.
 - (a) The final disposition of an appeal or application for a conditional use permit before the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Board Chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application for a conditional use.
 - (b) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

§ 468-6 Amendments.

The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this chapter in accordance with the requirements of § 62.23(7)(d)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:

- A. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five days of the submission of the proposed amendment to the municipal planning agency.
- B. All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held after Class 2 notice as required by § 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.
- C. In order to ensure that this chapter will remain consistent with the shoreland protection objectives of § 281.31, Wis. Stats., the municipal governing body may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - (1) Stormwater and floodwater storage capacity;
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- D. Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection C of this section, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.
- E. The appropriate district office of the Department shall be provided with:
 - (1) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment within 10 days after the submission of those recommendations to the municipal governing body.
 - (2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.
- F. If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection C of this section, that proposed amendment, if approved by the municipal governing body, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the Department, as required by Subsection E of this section. If, within the thirty-day period, the Department

notifies the municipality that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided by § 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under § 61.351(6), Wis. Stats., is completed or otherwise terminated.

§ 468-7 Enforcement; violations and penalties.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, or corporation (including building contractors or their agents), shall be deemed a violation. The Zoning Administrator shall refer violations to the municipal planning agency and the District Attorney or Village Attorney, who shall prosecute such violations. Any person, firm, association, or corporation who or which violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$10 nor more than \$50 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to § 87.30(2), Wis. Stats.

§ 468-8 Definitions and word usage.

- A. For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.
- B. The following terms used in this chapter shall have the meanings indicated:

ACCESSORY STRUCTURE OR USE

A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

BOATHOUSE

As defined in § 30.01(1d), Wis. Stats., a structure with one or more walls or sides that has been used for one or more years for the storage of watercraft and associated materials, regardless of the current use of the structure.

CERTIFICATE OF COMPLIANCE

Certificate of compliance means a certification by the Zoning Administrator stating that the construction and the use of land or a building is in compliance with all of the sections of this chapter.

CLASS 2 PUBLIC NOTICE

Publication of a public hearing notice under Ch. 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.

CONDITIONAL USE

A use which is permitted by this chapter provided that certain conditions specified in this chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.

DEPARTMENT

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

DRAINAGE SYSTEM

One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

ENVIRONMENTAL CONTROL FACILITY

Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

FIXED HOUSEBOAT

As defined in § 30.01(1r), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

NAVIGABLE WATERS

Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

- (1) Under § 281.31(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under § 61.351 or 62.231, Wis. Stats., and Ch. NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river;
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (c) Such lands are maintained in nonstructural agricultural use.
- (2) Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable in fact under the laws of this state though it may be dry during other seasons.

ORDINARY HIGH-WATER MARK

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

PLANNING AGENCY

The Village Plan Commission established under § 5-9 of the Village Code.

SHORELANDS

Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

SHORELAND-WETLAND DISTRICT

The zoning district, created in this chapter, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this chapter.

UNNECESSARY HARDSHIP

That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

VARIANCE

An authorization granted by the Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this chapter.

WETLAND ALTERATION

Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

WETLANDS

Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

ZONING ADMINISTRATOR

The Building Inspector or designee in charge of reviewing project plans for the Village of Allouez.

Chapter 180

BULKHEAD LINES

[HISTORY: Adopted by the Village Board of the Village of Allouez as Ch. 20 of the Village Code. Amendments noted where applicable.]

§ 180-1. Purpose.

The establishment of bulkhead lines is in the public interest, and the same are hereby reaffirmed as established pursuant to the provisions of § 30.11, Wis. Stats.

§ 180-2. Bulkhead lines established.

- A. East shore of Fox River. There are established the bulkhead lines on that part of the east shore of the Fox River lying within the Village of Allouez, Brown County, Wisconsin, as portrayed on a certain map which is made a part hereof, and which bulkhead lines are more particularly described as follows:

Commencing at a point "222" (being a certain point established by the U.S. Engineer Office, War Department, Milwaukee, Wisconsin, File No. 3-N-31, appearing on Sheet No. -8, Harbor Lines, Green Bay Harbor, Wisconsin, recorded August 7, 1969, as part of Document #699035, in the office of the Register of Deeds for Brown County, Wisconsin), thence South 45°40'00" East a distance of 272 feet; thence South 15°20'00" West a distance of 300 feet; thence South 36°20'00" West a distance of 396 feet; thence South 68°20'00" West a distance of 770 feet; thence South 41°14'00" West a distance of 254 feet to point "S" (as appears on Sheet No. -9, Harbor Lines, Green Bay Harbor, Wisconsin, as recorded in Brown County Records); thence South 14°19'13" West a distance 314 feet; thence South 37°19'00" West a distance of 414 feet; thence South 76°09'00" West a distance of 249 feet to the point ending (said point of ending being also South 80°09'00" West a distance of 420 feet from point "H-32" as appears on Sheet No. - 9, Harbor Lines, Green Bay Harbor, Wisconsin, as recorded in Brown County Records).

Commencing at the northwest corner of Lot 1, (3 CSM 483, as recorded in the Office of the Register of Deeds for Brown County, Wisconsin), thence North 86°28'00" West a distance of 83.8 feet; thence South 28°09'00" West a distance of 357.6 feet; thence South 31°58'00" West a distance of 52.0 feet; thence North 58°02'00" West a distance of 37.5 feet to the place of beginning of said bulkhead line; thence North 29°44'00" East a distance of 310.0 feet; thence North 9°36'00" West a distance of 228.0 feet; thence North 27°34'00" East a distance of 327.0 feet; thence North 59°52'00" East a distance of 83.0 feet; thence South 76°08'00" East a distance of 133.0 feet; thence North 37°19'00" East a distance of 194.0 feet to the point of ending on the existing bulkhead line, being also North 8°39'00" East a distance of 92.0 feet from the Northeast corner of Outlot 1, 10 CSM 363, which is also North 76°09'00" East a distance of 249 feet from the point of ending (Point "T") of the Bulkhead Line adopted in 1971 as it appears on sheet No. 9, Harbor Lines, Green Bay Harbor, Wisconsin. The line segment from Point "T" North 76°09'06" East a distance of 249.0 feet as shown on the attached plan sheet is abandoned.

Commencing at the northwest corner of Lot 1 (3 CSM 483 as recorded in the Office of the Register of Deeds for Brown County, Wisconsin), thence North 86°28'00" West a distance of 83.8 feet; thence South 28°09'00" West a distance of 357.6 feet; thence South 31°58'00" West a distance of 52.0 feet; thence North 58°02'00" West a distance of 37.5 feet to the place of beginning of said bulkhead line; thence South 30°19'00" West a distance of 109.2 feet; thence South 26°50'00" West a distance of 197.7 feet; thence South 23°45'00" West a distance of 1506.7 feet; thence South 27°36'00" West a distance of 363.3 feet to the point of ending of said bulkhead line; thence South 62°24'00" East a distance of 50.0 feet; thence North 26°01'00" East a distance of 363.3 feet; thence North 37°11'00" East a distance of 129.3 feet; thence South 64°00'00" East a distance of 33.0 feet to the southwest corner of Lot 21, Plat of Miramar in the Village of Allouez as recorded with the Register of Deeds, Brown County, Wisconsin.

Commencing at point "222", being a certain point established by the U.S. Engineer Office, War Department,

Milwaukee, Wisconsin, File 3-N-31, appearing on Sheet No. -8, Harbor Lines, Green Bay Harbor, Wisconsin recorded August 7, 1969, as part of Document #699035, in the Register of Deeds for Brown County, Wisconsin, thence N24°53'0"W, a distance of 89.56 feet to Point #1 on the MMA, INC. Drawing No. 1 entitled Bulk Head Line dated 1/21/10; thence N40°03'57"W, a distance of 1.72 feet to Point #2 on said drawing; thence N09°56'49"E, a distance of 85.14 feet to Point #3 on said drawing; thence N10°34'37"E, a distance of 77.52 feet to Point #4 on said drawing; thence N29°46'11"E, a distance of 5.56 feet to Point #5 on said drawing; thence N06°58'20"E, a distance of 4.40 feet to Point #6 on said drawing; thence N06°58'20"E, a distance of 145.25 feet to Point #7 on said drawing; thence N05°02'20"E, a distance of 6.98 feet to Point #8 on said drawing; thence S87°50'38"E, a distance of 22.45 feet of Point #9 on said drawing; thence N03°15'09"E, a distance of 83.77 feet to Point #10 on said drawing; thence N03°09'51"E, a distance of 166.62 feet to Point #11 on said drawing; thence S87°41'47"E, a distance of 9.71 feet to Point #12 on said drawing; thence N01°32'02"E, a distance of 230.32 feet to Point #13 on said drawing; thence N01°54'35"E, a distance of 75.16 feet to Point #14 on said drawing; thence N05°00'56"W, a distance of 165.70 feet to Point #15 on said drawing; thence N08°53'09"E, a distance of 82.78 feet to Point #16 on said drawing; thence N12°36'31"E, a distance of 55.45 feet to Point #17; thence N09°15'28"W, a distance of 207.25 feet to Point #18 on said drawing; thence N00°40'32"W, a distance of 54.67 feet to Point #19 on said drawing; thence N09°41'07"W, a distance of 89.36 feet to Point #20 on said drawing; thence N00°31'44"W, a distance of 65.99 feet to Point #21 on said drawing and being the line between the Village of Allouez and the City of Green Bay; thence N63°44'17"W, along an extension of the line between the Village of Allouez and the City of Green Bay, a distance of 16.38 feet to Point #22 and being the point of intersection with the mapped Combined Pierhead and Bulkhead Line that appears on Sheet No. -8, Harbor Lines, Green Bay Harbor, Wisconsin recorded August 7, 1969, as part of Document #699035, in the Register of Deeds for Brown County, Wisconsin.

- B. West shore of East River. There is established a bulkhead line on that part of the west shore of the East River lying within the Village of Allouez, Brown County, Wisconsin, as portrayed on a certain map which is made a part hereof, and which bulkhead line is more particularly described as follows:

Commencing at the southwest corner of Lot 32, J.W. Woodruff's Subdivision as recorded in the office of the Register of Deeds, Brown County, Wisconsin; thence South 64°18'00" East a distance of 280 feet to the place of beginning of said bulkhead line; thence South 15°39'00" East a distance of 254 feet; thence South 43°35'00" East a distance of 280 feet; thence South 60°35'00" East a distance of 388 feet; thence South 72°45'00" East a distance of 515 feet; thence South 39°49'00" East a distance of 210 feet; thence South 10°32'00" East a distance of 320 feet; thence South 8°41'00" West a distance of 405 feet to the point of ending of said bulkhead line; thence North 64°16'00" West a distance of 247 feet to the northwest corner of Lot 32, E.K. Ansorge's Plat of Plainview as recorded with the Register of Deeds, Brown County, Wisconsin.

- C. Said bulkhead lines became established when they were approved by the Wisconsin Department of Natural Resources, and copies of this chapter and of the map were filed in the offices of the Wisconsin Department of Natural Resources, the Clerk-Treasurer of the Village of Allouez, and the Register of Deeds of Brown County.

§ 180-3. Review fees.¹

Any person requesting a reestablished bulkhead line shall submit the maps and legal descriptions required by § 30.11, Wis. Stats., and shall deposit a nonrefundable fee as provided in Chapter 225, Fees and Charges, to cover the Village's administration and review.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).