

## Article C: Shoreland-Wetland Zoning District

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### Sec. 13-3-20 Official Shoreland-Wetland Zoning Maps.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Village Clerk-Treasurer:

- (a) Wisconsin Wetland Inventory map stamped "Final" on \_\_\_\_\_.
- (b) United States Geological Survey maps dated \_\_\_\_\_.
- (c) "Floodplain Insurance Study Map".

### Sec. 13-3-21 District Boundaries.

- (a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the Village of Elmwood, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-20 and which are:
  - (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village of Elmwood 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 in Section 13-3-20 of this Chapter.
  - (2) Within three hundred (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 in Section 13-3-20. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the Village.
- (b) **Determinations of Navigability.** Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.
- (c) **Discrepancies.** When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the 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 the Department staff concurs 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 land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in Sections 13-3-21(d) and 13-3-21(e), the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

## Sec. 13-3-22 Permitted Uses.

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- (a) **No Wetland Alteration.** Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
  - (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
  - (2) 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;
  - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
  - (4) The pasturing of livestock;
  - (5) The cultivation of agricultural crops; and
  - (6) The construction and maintenance of duck blinds.
- (b) **Wetland Alteration Restricted.** Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
  - (1) 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;
  - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
  - (3) The maintenance and repair of existing drainage to restore pre-existing 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;
  - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  - (6) 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 the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-3-37(c) of this Chapter; and
  - (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

- (c) **Permit Required.** Uses which are allowed upon the issuance of a simple zoning permit and which may include wetland alterations only to the extent specifically provided below:
- (1) 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 in this Section, provided that:
    - a. The road cannot, as a practical matter, be located outside the wetland;
    - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-37(c) of this Chapter;
    - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
    - d. Road construction activities are carried out in the immediate area of the roadbed only; and
    - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
  - (2) The construction and maintenance of nonresidential buildings provided that:
    - a. 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;
    - b. The building cannot, as a practical matter, be located outside the wetland;
    - c. The building does not exceed five hundred (500) square feet in floor area; and
    - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
  - (3) 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:
    - a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
    - b. 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 is allowed;
    - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and
    - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
  - (4) The construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, and sewage collection lines, and related facilities and the construction and maintenance of railroad lines provided that:
    - a. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

- b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
- c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-37 (c) of this Chapter.

### **Sec. 13-3-23 Prohibited Uses.**

- (a) **Rezoning Required.** Any use not listed in Section 13-3-22 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-37 of this Chapter.
- (b) **Other Prohibited Uses.** 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.

### **Sec. 13-3-24 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 the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (a) **Reconstruction and Repair.** The shoreland-wetland provisions of this ordinance authorized by Sec. 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 Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.
- (b) **Nonconforming Use Discontinued.** If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
- (c) **Nonconforming Use Without a Structure.** 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 Sections 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.
- (d) **Boathouses.** 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 Sec. 30.121, Wis. Stats.
- (e) **Nuisances.** Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

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**Sec. 13-3-25 through Sec. 13-3-29      Reserved for Future Use.**