

CHAPTER 29

SHORELAND ZONING

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29.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE AND TITLE

29.01.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in Wis. Stat. sec. 61.35 and 61.353 or 62.23 and 62.233.

29.01.2 FINDING OF FACT AND PURPOSE

Uncontrolled use of shorelands 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:

- (A) Promote the public health, safety, convenience and general welfare;
- (B) Limit certain land use activities detrimental to shorelands; and
- (C) Preserve shore cover and natural beauty by controlling the location of structures in shoreland areas.

29.02 GENERAL PROVISIONS

29.02.1 COMPLIANCE

The use of shorelands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

29.02.2 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Wis. Stat. sec. 13.48(13) applies.

29.02.3 ABROGATION AND GREATER RESTRICTIONS

29.02.3(1) This ordinance supersedes all the provisions of any other applicable municipal ordinance except that where another municipal ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

29.02.3(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

29.02.4 INTERPRETATION

In their interpretation and application, the provisions of this ordinance 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 or Wisconsin Constitution.

29.02.5 SEVERABILITY

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

29.02.6 APPLICABILITY OF SHORELAND REGULATIONS

The Shoreland Zoning regulations apply only to the following shorelands:

- A. A shoreland that was annexed by the City of Boscobel after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Wis. Stat. sec. 59.692; and
- B. A shoreland that before incorporation by the City of Boscobel was part of a town that was subject to a county shoreland zoning ordinance under Wis. Stat. sec. 59.692 if the date of incorporation was after April 30, 1994.

29.02.6(1) Determinations of the ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of ordinary highwater mark.

29.02.6(2) EFFECT OF EXISTING LAND DIVISION, SANITARY, ZONING AND OTHER REGULATIONS.

The lands regulated by this ordinance are subject to all applicable provisions of the City of Boscobel Municipal Code. Where the provisions of this ordinance are more restrictive than other regulations in the Municipal Code, the provisions of this ordinance shall apply.

29.03 SETBACKS FROM THE WATER.

A. Building and Structure Setbacks.

1. All buildings and structures shall be set back at least 50 feet from the ordinary high-water mark.
2. Reduced Principal building setback: A setback less than the 50' setback required from the ordinary high-water mark shall be permitted for a proposed principal structure and shall be determined as follows:
 - a. Where there are existing principal buildings on each adjacent lot, the setback shall equal the average of the distances the two existing principal buildings are setback from the ordinary high-water mark or 35' from the ordinary high-water mark, whichever distance is greater.

29.04 NONCONFORMING STRUCTURES:

A. MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES. An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Municipalities may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

B. MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE. (s. 59.692(1k)(a)2. and (a)4.) A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Municipalities may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

29.05 DEFINITIONS

In this ordinance:

1. "Principal building" means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

2. “Shorelands” means lands within the following distances from the ordinary highwater 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.

3. “Shoreland setback area” means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited.