

Title III, Chapter 11

Shoreland Zoning in Annexed Areas [Ord. No. 2021-590 Created 5.24.2021]

§	11.01	Statutory Authorization, Findings of Fact, Statement of Purpose and Title
§	11.02	General Provisions
§	11.03	Setbacks from the Water
§	11.04	Nonconforming Structures
§	11.05	Definitions

11.01 **Statutory Authorization, Findings of Fact, Statement of Purpose and Title**

- (1) Statutory Authorization. This Chapter is adopted pursuant to the authorization in Wis. Stat. sec. 61.35 and 61.353.
- (2) Finding of Fact and Purpose. Uncontrolled use of shorelands and pollution of the navigable waters of the Village 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 shorelands.

11.02 **General Provisions**

- (1) Compliance. The use of shorelands within the Village shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning or building permit unless otherwise expressly excluded by a provision of this Chapter.
- (2) 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 Wis. Stat. sec. 13.48(13) applies.
- (3) Abrogation and Greater Restrictions.
 - (a) The lands regulated by this Chapter are subject to all applicable provisions of the Village of Poynette Municipal Code. Where the provisions of this Chapter are more restrictive than other regulations in the Municipal Code, the provisions of this Chapter shall apply.
 - (b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (4) 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 Village and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin

Statutes or Wisconsin Constitution.

- (5) Severability. Should any portion of this Chapter be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.
- (6) Applicability of Shoreland Regulations. This Chapter applies only shorelands annexed by, or otherwise incorporated within, the Village of Poynette after May 7, 1982.
- (7) Determinations of the Ordinary Highwater Mark Location. 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.
- (8) Violation and Penalties. It shall be unlawful to construct or use any structure in violation of any of the provisions of this Chapter. In case of any violation, the Village Board, Plan Commission, Zoning Administrator, or any person who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Chapter, in accordance with Title III – Chapter 2, Section 2.13.18.

11.03 Setbacks from the Water

- (1) Minimum Setback. All buildings, and all other structures defined in Section 11.05, shall be set back at least 50 feet from the ordinary high-water mark, except as provided in subsection (2).
- (2) Permitted Modifications. Subsection (1) does not prohibit or restrict any of the following:
 - (a) The construction or placement of a principal building within any shoreland setback area established under subsection (1) if all of the following apply:
 1. The principal building will be constructed or placed on a lot or parcel of land that is immediately adjacent on each side to lots or parcels of land containing principal buildings.
 2. The principal building will be constructed or placed within a distance equal to the average setback of the principal buildings on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
 - (b) The maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of any of the following, provided that the building footprint is not expanded:
 1. a nonconforming structure,
 2. a structure lawful encroaching on a setback area by operation of a variance granted before July 13, 2015, or
 3. a building in existence for more than 10 years.
 - (c) The construction, maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of any of the following:

1. A boathouse, as defined in §30.01(1d), Wis. Stats. that is located entirely above the ordinary high-water mark.
2. A broadcast signal receiver, including a satellite dish, or an antenna that is no more than one meter in diameter and a satellite earth station antenna that is no more than 2 meters in diameter.
3. A utility transmission line, utility distribution line, pole, tower, water tower, pumping station, well pumphouse cover, or private on-site wastewater treatment system that complies with ch. SPS 383, Wis. Admin. Code., and any other utility structure for which no feasible alternative location outside of the setback exists and which is constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.
4. A walkway, stairway, or rail system that is necessary to provide pedestrian access to the shoreline and is no more than 60 inches in width.
5. An open sided or screened structure such as a gazebo, deck, patio, or screen house that meets all of the following:
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
 - b. The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.
 - c. The structure has no sides or has open or screened sides.
 - d. The owner has entered into a legally binding plan that will be implemented by the owner to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

11.04 **Nonconforming Structures**

- (1) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback in Section 11.03 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure, unless a footprint expansion is necessary to comply with the applicable state or federal requirements. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded to extend no more than 35 feet above the grade level.

11.05 **Definitions**

For the purpose of this Chapter, the following definitions shall apply:

- (1) “Nonconforming structure” means any building, or other structure, that was lawfully established prior to the date of this ordinance’s adoption, but that would not conform to one or more current regulations within this Chapter.

- (2) “Principal building” means a building in which is conducted, or in which it is intended to be conducted, the main or principal use of the lot on which it is located, and includes any attached garage, attached porch, or similar attached structure.
- (3) “Shorelands” mean all lands that are:
 - (a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources Surface Water Data viewer available on that agency’s website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps; and/or
 - (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. Floodplains are as designated on the floodplain zoning map of the Village, per Title III – Chapter 3.
- (4) “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 buildings and other structures has been limited or prohibited.
- (5) “Structure” means any manmade object with form, shape, and utility, either permanently or temporarily attached to, placed upon or set into the ground.