

Sec. 74-165. Use regulations.

Principal uses and their essential principal services specified for a district are permitted uses within the district:

- (1) Principal uses specified for a district.

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- (3) Fences. No fence shall be permitted in any district above the height of two and one-half feet above the plane through the mean centerline roadway grades within the triangular space formed by any two existing or proposed intersection street or alley right-of-way lines and a line joining points on such lines located 50 feet from their point of intersection.

Fences are permitted on the property lines, but shall not in any case exceed a height of six feet in the side and rear yards; shall not exceed a height of six feet in the street yard and shall not be closer than two feet to any existing right-of-way.

In the shoreyard, fences are required to meet the shoreyard setback except as specified in sec. 74-174B).3.h.

Fences along freeways are permitted on the property lines but shall not exceed a height of ten feet.

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Sec. 74-174. Shoreland regulations.

In compliance with NR115 the following Shoreland Zoning Standards shall control the use of shorelands to afford the protection of water quality as specified in NR 102, NR 103 and Wis. Stats. ch. 281. In addition to any other applicable general use, site, permitting requirements or sanitary regulations, the following shoreland restrictions and regulations shall apply to:

A). *Areas to be regulated.*

1. All unincorporated land lying within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the unincorporated areas of Walworth County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Walworth County" or are shown on the United States geological survey quadrangle maps or other zoning base maps. The County Zoning Administrator will make navigability determinations and ordinary high water mark determinations related to shoreland zoning matters as needed. The County Zoning Administrator will contact the regional DNR office if assistance is required with such a determination.
2. All unincorporated lands lying within 300 feet of the ordinary high water mark of navigable rivers or streams, or the landward side of the floodplain, whichever is greater. Rivers and streams in Walworth County 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 referenced in section 74-177 of this ordinance. If evidence to the contrary is presented; the County Zoning Administrator shall make the initial determination whether or not the river or stream in question is navigable under laws of this State. The County Zoning Administrator will make navigability determinations and ordinary high water mark determinations related to shoreland zoning matters as needed. The County Zoning Administrator shall contact the appropriate district DNR office for a determination of navigability or ordinary high water mark. will contact the regional DNR office if assistance is required with such a determination. Flood hazard boundary maps, or flood insurance study maps (or soil maps or

other existing County maps used to delineate floodplain areas which have been adopted by Walworth County) shall be used to determine the extent of the floodplain of rivers or streams in Walworth County.

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- B). *Shoreland setbacks.* The following setbacks shall be established to conform to health, safety, and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.
1. Except where exempt below, a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a structure shall be required for all structures. Retaining walls and fences are structures ~~and shall meet the 75 foot shore yard setback.~~

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3. Exempt structures. All of the following structures are exempt from the shore yard setback standards in sub 1. above. All structures, except a boathouse, lighting, those applicable structures listed in ~~NR 115.05(1)(b)1m, 59.692(1n)(d)~~ and ~~stairways~~ a stairway, walkway, or rail system which are necessary to provide pedestrian access to the shoreline, shall require a setback of at least 75 feet from the ordinary high-water mark although a greater setback may be required where otherwise regulated by the floodplain provisions of this ordinance or other more restrictive ordinances. Existing exempt structures that were legally constructed may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the envelope of the existing structure. Expansion beyond the footprint is permitted if the expansion is required to comply with applicable state and Federal requirements.

a. Boathouse:

- (1) A boathouse located on slopes of 12 percent or less is permitted to be located within the shore yard setback requirement, shall not extend below the ordinary high water mark, shall be located so as to minimize earth disturbing activities and shoreland vegetation removal, shall be located within the viewing and access corridor, and shall be designed exclusively for the storage of watercraft and related marine equipment and shall not be used for human habitation or commercial purposes. The roof pitch of the boathouse shall not exceed a 4:12 pitch and side walls shall not exceed ten feet measured from the lowest finished grade along the structure to the eave of the structure; shall not exceed 400 square feet in horizontal area covered, and shall not be closer than three feet to any side lot line. Railings shall not be placed on top of the boathouse, nor shall boathouse roofs be designed to provide general outdoor living space, i.e., as a deck. Only one boathouse is permitted on a lot as an accessory structure. A boathouse with rooms above or within, used for purposes other than the storage of watercraft and related marine equipment, shall not be deemed to be a boathouse. Fireplaces, patio doors, plumbing, heating, cooking facilities, or any features inconsistent with the use of the structure exclusively as a boathouse are not permitted in or on boathouses. The roof of a boathouse may be used as a deck provided that the boathouse has an existing flat roof and if the existing flat roof has no side walls or screens and the existing flat roof may have a railing that meets the Department of Safety and Professional Services standards.

- (2) A boathouse located on slopes greater than 12 percent is permitted to be located within the shore yard setback requirement, shall not extend below the ordinary high water mark, shall be located so as to minimize earth disturbing activities and shoreland vegetation removal, shall be located within the viewing and access corridor, and shall be designed exclusively for the storage of watercraft and related marine equipment and shall not be used for human habitation or commercial purposes. The roof pitch of the boathouse shall not exceed a 4:12 pitch and side walls shall not exceed ten feet measured from the lowest finished grade along the structure to the eave of the structure; shall not exceed 150 square feet in horizontal area covered, and shall not be closer than three feet to any side lot line. Railings shall not be placed on top of the boathouse, nor shall boathouse roofs be designed to provide general outdoor living space, i.e., as a deck. Only one boathouse is permitted on a lot as an accessory structure. A boathouse with rooms above or within, used for purposes other than the storage of watercraft and related marine equipment, shall not be deemed to be a boathouse. Fireplaces, patio doors, plumbing, heating, cooking facilities, or any features inconsistent with the use of the structure exclusively as a boathouse are not permitted in or on boathouses. The roof of a boathouse may be used as a deck provided that the boathouse has an existing flat roof and if the existing flat roof has no side walls or screens and the existing flat roof may have a railing that meets the Department of Safety and Professional Services standards.

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c. Stairway, walkway, and/or rail system:

- (1) ~~Stairway~~A stairway, walkway or rail system and that portion of piers and wharves landward of the ordinary high water mark are exempt from the shoreland setback requirement provided that the structure is necessary to access the shoreline and is located within the access/viewing corridors. Further, the structure shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction. The structure shall be no more than 60 inches wide; open railings are permitted only where required by safety concerns; canopies, roofs, and closed railings/walls on such structures are prohibited; landings for stairways or docks are permitted only where required by safety concerns and shall not exceed 25 feet in area.

- ~~(2) A previous public shore path parallel to the shore, for pedestrian travel only, within the pre-1974 pedestrian easement of Geneva Lake is permitted provided the structure is located so as to minimize earth disturbing activities and shoreland vegetation removal during construction. The structure shall be no more than 36 inches wide; railings are permitted only where required by safety concerns, such railings shall be of an open design; canopies, roofs and closed railings/walls on such structures are prohibited. Stairways, 36 inches wide are permitted only where required due to steep slopes and safety concerns. Landings for stairways are permitted only where required by safety concerns and shall not exceed 12 square feet in area.~~

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h. A fence that is all of the following:

(1) No taller than 15 feet.

(2) Located no less than 2 feet landward of the ordinary high water mark.

(3) Located entirely outside of a highway right-of-way, no less than 10 feet from the edge of a roadway, and no more than 40 feet from the edge of a roadway or highway right-of-way, whichever is greater.

(4) Generally perpendicular to the shoreline.

hi. Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. An expansion of a structure beyond the existing footprint is permitted if the expansion is necessary to comply with applicable state or Federal requirements. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

G). *Substandard structures.* Substandard (nonconforming structure per NR 115) shore yard setback for a principal structure. Section 74-219 may be modified to permit the vertical expansion of a substandard shore yard setback for a principal structure to a height of 35 feet. An existing principal structure that was legally constructed but that does not comply with the required shore yard setback requirement shall comply with all of the following requirements:

1. The height is limited to 35 feet if any part of the structure is located less than 75 feet from the ordinary high water mark.

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7. Maintenance, repair, replacement or vertical expansion of structures that were authorized by variance. (Wis. Stats. § 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 15 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. An expansion of a structure beyond the existing footprint is permitted if the expansion is necessary to comply with applicable state or Federal requirements.

Sec. 74-241. Appeals and applications.

Appeals to the board of adjustment may be taken by any persons aggrieved or by any officer, department, board, or bureau of the county or municipality affected by the decision of the zoning administrator. Such appeals shall be filed in the office of the zoning administrator within 30 days after the date of written notice of the decision or order of the zoning administrator. Applications may be made by the owner or leasee of the structure, land, or water to be affected at any time and shall be filed in the office of the zoning administrator. Such appeals and applications shall include the following:

- (1) Name and address of the appellant or applicant and all abutting opposite property owners of record.
- (2) Plat of survey prepared by a registered land surveyor in the State of Wisconsin or other map drawn to scale and approved by the county zoning administrator showing all of the information required under section 74-248 for a zoning permit.
- (3) Additional information required by the deputy zoning administrator, county zoning administrator, board of adjustment or county zoning agency.

- (4) Fee receipt from the zoning administrator. No fee will be required for a variance when the request includes only the public shore path parallel to the shore, for pedestrian travel only, within the pre-1974 pedestrian easement of Geneva Lake provided the structure is located so as to minimize earth disturbing activities and shoreland vegetation removal during construction and the structure is no more than 36 inches wide with no railings, canopies, roofs, or walls included.
- (5) With regards to floodplain appeals, the board shall review all data related to the appeal. This may include permit application and attachments per section 74-248, floodplain determination data per section 74-166, and other data submitted with the application, or submitted to the board with the appeal. For appeals of floodplain determinations, the board shall follow the procedure herein, consider Committee recommendations, and either uphold the denial or grant the appeal. For appeals concerning increases in regional flood elevation, the board shall uphold the denial where the board agrees with the data showing an increase in flood elevation or grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase in the flood elevation, provided no other reasons for denial exist.