

18.03 SHORELAND-WETLAND ZONING DISTRICT. (1) DISTRICT BOUNDARIES OF SHORELAND-WETLANDS. (a) The Shoreland-Wetland District includes all wetlands in the Village which are 5 acres or more in size and are shown on the final Wetland Inventory Map that has been adopted and made a part of this chapter in sec. 18.01(10) and which are:

1. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village shall be presumed to be navigable if they are listed in the Department publication "Surface Water Resources of Wood County" or are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been made a part of this chapter in sec. 18.01(10).

2. 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 in sec. 18.01(10). Floodplain zoning maps adopted in sec. 18.01(10) of this chapter shall be used to determine the extent of floodplain areas.

(b) 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.

(c) When an apparent discrepancy exists between the Shoreland-Wetland District boundary shown on the Official 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 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 land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the Official Zoning Maps, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.

(d) Under §144.26(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule, wetland zoning ordinances required under §61.351, Wis. Stats., and Wis. Adm. Code NR 117 do not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river.
2. Those parts of the drainage ditches adjacent to such lands were not navigable streams before ditching.
3. Such lands are maintained in nonstructural agricultural use.

(2) PERMITTED USES IN SHORELAND-WETLANDS. 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:

(a) 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.

6. The construction and maintenance of duck blinds.

(b) 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 systems, where permissible under §30.20, Wis. Stats., to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Ch. 30, Wis. Stats., 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 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 sub. (4)(a) below.

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) Uses which are allowed upon the issuance of a conditional use 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 Village street system, the provision of essential utility and emergency services or to provide access to uses permitted under this subsection, 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 wet- land listed in sub. (4)(a) below.

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.

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 500 square feet in floor area.

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 subparagraph 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 subparagraph are allowed only where such construction and maintenance meets the criteria in par. (c)1. above.

d. 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.

4. The construction and maintenance of electric and telephone transmission lines and water, gas and sewer lines, and related facilities and the construction and maintenance of railroad lines provided that:

a. The transmission and distribution lines and related 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.

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 sub. (4)(a) below.

(3) PROHIBITED USES IN SHORELAND-WETLANDS. (a) Any use not listed in sub. (2) above is prohibited unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with sub. (4) below and sec. 18.07 of this chapter.

(b) 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.

(4) REZONING SHORELAND-WETLANDS. (a) Rezoning of a shoreland-wetland shall require amendment of the Final Wisconsin Wet-land Inventory Map, adopted in sec. 18.01(10) of this chapter pursuant to procedures established in sec. 18.07 of this chapter. In order to insure that any amendment will be consistent with the shore land protection objectives of §144.26, Wis. Stats., the village shall not rezone a wetland in a shore land-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water 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 soil 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.

(b) Upon notification of a proposed amendment as required by sec. 18.07 of this chapter, if the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in par. (a) above, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.

(c) If the Department notifies the Plan Commission, in writing, that a proposed amendment may have a significant adverse impact upon any of the criteria listed in par. (a) above that proposed amendment, if approved by the Village, shall not become effective until more than 30 days have elapsed since written notice of the Village Board approval was mailed to the Department, as required by sec. 18.07 of this chapter. If within the 30 day period, the Department notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under §61.351(6), Wis. Stats., the proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the Village Board decision on the proposed amendment shall advise the petitioner of the provisions of this subsection.