

Ch 53 Zoning- Shoreland Proposed Revisions (Acts 167 & 391)

Revisions will comply with amendments required by Acts 167 & 391.

Italicized and bold type is to be added. Type that has a strikethrough is to be deleted.

• ARTICLE II. - GENERAL PROVISIONS

• Sec. 53-31. - Areas to be regulated.

- (4) 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 office of the department for a final determination of navigability or ordinary high-water mark. ***The county may work with surveyors with regard to s. 59.692(1h) Wis. Stats.***

Sec. 53-35. - Abrogation and greater restrictions.

- (6) ***This chapter may not establish shoreland zoning standards that requires any of the following:***
- (a) ***Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibit or regulate outdoor lighting in shorelands if the lighting is designed or intended for residential use.***
 - (b) ***An inspection or upgrade of a structure before the sale or other transfer of the structure may be made.***
- (7) ***The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the Department of Natural Resources has issued all required permits or approvals authorizing the construction or maintenance under s. 30, 31, 281, or 283 Wis Stats.***

Sec. 53-38. Relaxation of standards for persons with disabilities.

The zoning administrator may issue a special permit to relax the standards of this ordinance in order to provide reasonable accommodations as required by provisions of the federal and state law. Such relaxation shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practical, be terminated when the facility is no longer used by the disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility. An affidavit for the reasonable accommodation shall be filed with the Register of Deeds.

ARTICLE VI. - MINIMUM LOT SIZE AND SETBACKS

• DIVISION 2. - SETBACKS

• Sec. 53-181. - Shoreland setbacks.

(b) Exempt structures. All of the following structures are exempt from the shoreland setback standards in subsection (a):

- (1) Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation. ***The roof of a boathouse may be used as a deck provided that:***
- (a) ***The boathouse has a flat roof.***
 - (b) ***The roof has no side walls or screens.***
 - (c) ***The roof may have a railing that meets the Department of Safety and Professional Services standards.***

(7) ***Devices or systems used to treat runoff from impervious surfaces.***

(c) ***Existing exempt structures. 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. Expansion of a structure beyond the existing***

footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.

- **Sec. 53-182. - Reduced principal structure setbacks.**

Existing development pattern means that principal structures exist within 250 feet of the proposed principal structure in both directions along the shoreline. Where there is an existing development pattern, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot within 250 feet of the proposed principle structure. The shoreland setback may not be reduced to less than 35 feet from the ordinary high water mark of any navigable waters.

A setback less than the 75' required setback 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 structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:

- (1) Both of the existing principal structures are located on adjacent lot to the proposed principal structure.*
- (2) Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.*
- (3) Both of the existing principal structures are located less than 75' from the ordinary high water mark.*
- (4) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.*

ARTICLE VIII. - FILLING, GRADING, EXCAVATING, ETC.

- **Sec. 53-241. - General standards.**

Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 53-242 may be allowed in the shoreland area provided that:

(5) No filling or grading shall be done from the ordinary high water mark to 35 feet back unless necessary to establish or re-establish the vegetative buffer.

- **Sec. 53-243. - Soil conservation practices and agricultural drainage maintenance.**

(b)(4)A ~~ten~~ *thirty-five* foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

ARTICLE IX. - IMPERVIOUS SURFACE STANDARDS

- **Sec. 53-272. - Calculation of impervious surface.**

Calculation of impervious surface. Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of ~~that portion~~ of the lot or parcel ~~that is within 300 feet of the ordinary high-water mark~~, and multiplied by 100. Impervious surfaces described in 53-275 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

ARTICLE X. - NONCONFORMING USES AND STRUCTURES

Sec. 53-304. - Maintenance repair, replacement or vertical expansion of nonconforming principal structures.

An existing ~~principal~~ structure that was lawfully placed when constructed but that does not comply with the required building 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. Expansion of a structure beyond the existing footprint may be allow if the expansion is necessary to comply with applicable state or federal requirements.

- **Sec. 53-305. - Lateral expansion of nonconforming principal structure within the setback.**

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 53-181 ~~and 53-182~~ may be expanded laterally, provided that all of the following requirements are met:

- **Sec. 53-306. - Expansion of a nonconforming principal structure beyond setback.**

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 53-181 ~~and 53-182~~, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per section 53-181 ~~or 53-182~~ and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this section, but may be required per article IX of this chapter.

- **Sec. 53-308. - Maintenance of nonconforming accessory structures.**

~~Accessory structures that were legally constructed before the adoption of this chapter may be maintained and repaired but may not be expanded or rebuilt unless authorized by Wis. Stats. § 59.692(1s), or unless they are made to conform to all other provisions of this chapter.~~

Maintenance, repair, replacement or vertical expansion of structures that were authorized by variance. A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 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. Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.

- **Sec. 53-310. - Mitigation.**

(a)A plan to mitigate for the adverse effects of construction, on a waterfront property, within the shoreland area of a navigable body of water is required under other sections of this chapter. The number of mitigation points necessary for a land use permit depends on the type, size and location of the construction activity. The Monroe County Zoning Department must approve a mitigation plan and an affidavit shall be filed with the property deed. The following activities will be awarded the number of points indicated:

- (1)The removal of a ~~legal~~ nonconforming structure, which is nonconforming because it does not meet the requirements of section 53-181 and which is 125 square feet or less in area2 points.
- (2)The removal of a ~~legal~~ nonconforming structure, which is nonconforming because it does not meet the requirements of section 53-181 and which is greater than 125 square feet in area3 points.
- (3)The implementation of a shoreland vegetative buffer zone under section 53-212 which is on the property of the proposed construction3 points.
- (4)Reserved.
- (5)Use of exterior building materials or treatments that are inconspicuous and blend with the natural setting of the site1 point.
- (6)Removal of waterward improvements (seawalls, dockage, artificial sand beaches, etc.) and/or restoration of emergent aquatic vegetation2 points.

- (7) Any other mitigation that is deemed appropriate by the zoning administrator may be used to meet the mitigation requirements of subsection (a) of this section.
- (b) A shoreland mitigation affidavit shall be signed and recorded at the Monroe County Register of Deeds Office prior to the issuance of the zoning permit for the expansion or improvement of a ~~legal~~ nonconforming principal structure which requires mitigation under section 53-305.
- ~~(c) Except as provided in subsection 53-53-302(b), legal nonconforming accessory buildings and structures are limited to ordinary maintenance and repair and shall not be improved or expanded.~~
- (d) An impervious surface maximum as established in section 53-274 is permitted as long as the following standards are met:
- (1) Three mitigation points from subsections (a)(1)—(7) of this section are obtained.
 - (2) The mitigation plan affidavit is recorded at the register of deeds office.
 - (3) Impervious surfaces cannot exceed 15 percent within 0—35 feet from the ordinary high-water mark of a navigable body of water.
- (e) Expansion of a ~~legal~~ nonconforming structure, which is located a minimum of 35 feet from the ordinary high-water mark must meet the following:
- (1) Three mitigation points from subsections (a)(1)—(7) are obtained.
 - (2) The mitigation plan affidavit is recorded at the register of deeds office.

- **ARTICLE XII. - DEFINITIONS**
- **Sec. 53-361. - Defined terms.**

Facility means any property or equipment of a public utility, as defined in s. 196.01 (5) Wis. Stats., or a cooperative association organized under PCS 185 Wis. Admin. Code for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets *unless specifically designed, constructed and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Stats., or sidewalks as defined in s. 340.01(58), Wis. Stats., are not considered impervious surfaces.*