



August 30, 2018

Village of Elm Grove  
Tom Harrigan, Zoning and Planning Administrator

Subject: Updates to Shoreland-Wetland and Shoreland Ordinance

Dear Mr. Harrigan:

Thank you for sharing the current version of your shoreland-wetland and Shoreland ordinance. We have reviewed the content with regard to NR 117 and to 2013 Wisconsin Act 80 pertaining to annexed properties in the Village of Elm Grove. There are a few changes needed to the ordinance due to statutory requirements. I did not see a separate shoreland zoning ordinance or any reference to annexed areas, and since the statutory authorizations for shoreland-wetlands zoning and for shoreland zoning for Act 80 annexed properties are different, we require that you make the Act 80 shoreland zoning provisions a separate chapter (ordinance) because shoreland zoning is authorized under Wisconsin Statute 62.233 and shoreland-wetland zoning is authorized under Wisconsin Statute 62.231. We have a few modifications that are needed for compliance with 2013 Wisconsin Act 80 and for NR 117.

Please see the changes below:

Section 355-15: Add this language:

**The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrm.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>**

Section 355-27 A (2) Add the same language:

**The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrm.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>**

Section 335-27 F (1): take out this language, *"if such change affects land in the shoreland."*

In addition, I could not find the following sections of your ordinance

1. Definitions (for example of the shoreland zone)
2. Statutory authority
3. Municipalities and state regulated
4. Abrogation
5. Interpretation to favor NR 117
6. Severability
7. Non-conforming standards for existing structures in the shoreland wetland.

All of these sections can be found in the attached model ordinance.

For areas annexed after May 7, 1982 you are required to adopt the language in Act 80, 2013. We recommend this as a separate chapter.

This chapter should be “**Shoreland Zoning Regulations for Annexed Areas**”. We require that you adopt the attached model (attached) as a separate ordinance. Act 80 requires a setback for all structures of 50’ from the ordinary high water mark and allows for reduced setbacks through averaging for principal structures per 61.353, Wis. Stats. This ordinance applies to shorelands that were annexed by the Village after May 7, 1982.

**I have included a model shoreland-wetland and a separate model shoreland ordinance for your use if that is easier.**

Here is an outline of the procedure to make these changes:

Standard Ordinance Adoption Procedure for Villages/Cities (steps and documentation):

- City/Village Committee drafts ordinance revisions, DNR reviews, comments incorporated.
- Committee sends out a public notice for a public hearing. (send us public notice, and an affidavit of publication of public hearing notice)
- At public hearing, Committee discusses draft ordinance and votes to present to the Village/City Board for adoption.
- Board votes to adopt at a board meeting (send us a Clerk certified copy of adopted ordinance, and ordinance or resolution number)
- City/Village publishes adoption (send us an affidavit for publication).

Please let me know if you have any questions on this information or if I can help with this process.

Sincerely,

Kathi Kramasz  
Water Management Specialist