

ORDINANCE NO. 276

**AN ORDINANCE TO CREATE IN SECTION 17.10 ENTITLED DEFINITIONS
A DEFINITION OF BUILDING, ACCESSORY AND
REPEAL AND RE-CREATE SECTION 17.385
ENTITLED R-4 LOW DENSITY RESIDENTIAL DISTRICT
WITHIN THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE**

WHEREAS, the Wisconsin Legislature adopted and the Governor signed 2013 Wisconsin Act 80 which became effective on December 14, 2013; and

WHEREAS Wisconsin Act 80 dramatically changes the law relating to shoreland zoning ordinances applicable to shoreland that is or was annexed after May 7, 1982 or that is part of land incorporated as a city or village that was subject to a county shoreland ordinance at the time of incorporation; and

WHEREAS, this legislation removes any county oversight or regulation of shorelands within cities and establishes some minimum requirements for city shoreland zoning; and

WHEREAS, the Village zoning code needs minor revisions to comply with the new statutory regulations; and

WHEREAS, upon receipt of the Village Attorney's recommendation, the Village Board initiated this amendment to the Village of Oconomowoc Lake Village Code and referred the matter to the Village Plan Commission for report and recommendation; and

WHEREAS, upon receipt of the Village Plan Commission's recommendation, the Village Board of Trustees held a public hearing on May 17, 2014, after providing all required notice, as required by §17.62(5)(a) of the Village of Oconomowoc Lake Village Code; and

WHEREAS, the Village Board for the Village of Oconomowoc Lake finds that the public necessity, convenience, general welfare and good zoning practice requires the Village Board to amend, change or supplement the regulations established by the Village of Oconomowoc Lake Zoning Code as described herein.

NOW, THEREFORE, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.10 entitled "Definitions," the definition of "BUILDING, ACCESSORY" is hereby created to read as follows:

BUILDING, ACCESSORY

A building, which is on the same lot as a principal or main building or structure and the use of which is customarily incidental to the use of the principal structure in the zoning District. For example a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory buildings include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

SECTION 2: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.385 entitled "R-4 LOW DENSITY RESIDENTIAL DISTRICT," is hereby repealed and re-created to read as follows:

17.385 R-4 LOW DENSITY RESIDENTIAL DISTRICT

All lands that were annexed by the Village after May 7, 1982 and prior to annexation were subject to a county Shoreland zoning ordinance, under the authority granted by Sections 61.353 of the Wisconsin Statutes, are subject to the following:

- (1) PRINCIPAL USE. Single-Family dwelling
- (2) CONDITIONAL USES. Those uses permitted in §17.53, 17.54, and 17.56, subject to the procedures and standards as outlined in §17.50, 17.51, and 17.52.
- (3) BUILDING, MAIN.
 - (a) Height. Not to exceed height described in definition of "Building Height, Height of Main Building"
 - (b) Area. Minimum 2,000 total sq. ft. living space above grade excluding basement
with a
Minimum first floor 1,000 sq. ft. living space above grade excluding basement if main building is 2 or 3 stories above grade

The calculation of area does not include any portion of a basement floor ("basement floor") being very broadly defined for purposes of this provision to include the entire floor area of any floor that has a

lower elevation at any point than the lowest grade abutting the building, even if the floor includes exposed or walk-out features. This is intended to be more restrictive than the term “building area” as defined in Section 17.10.)

- (c) Street Setback. From Road Right-of-Way: Minimum 25 ft.
- (d) Offset. Minimum 15 ft.
- (e) Waterfront Setback. Minimum 50 ft.
- (f) Wetland Setback. Minimum 25 ft.
- (g) Maximum F. A. R. Maximum first floor F. A. R. of 2,000 sq. ft. or 15% of that lot used for construction whichever is greater.
The term “floor area ratio” or F.A.R. shall be used to indicate the total floor area of all buildings allowed on a lot, expressed as a percentage ratio to the total area of the lot (but not including the area of any outlot); i.e., an F.A.R. of one hundred percent (100%) allows a floor area equal to the total area of the lot, an F.A.R. of fifty percent (50%) allows a floor area of one-half the total area of the lot, etc. (“outlot” being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation).

(4) BUILDING, ACCESSORY.

- (a) Height. Maximum 16 ft.
- (b) Setback. From Road Right-of-Way: Minimum 25 ft.
- (c) Offset. Minimum 15 ft.
- (d) Distance to residence on adjoining lot
Minimum 40 ft.
- (e) Wetland Setback. Minimum 25 ft.
- (f) Accessory Structure Location.

No accessory building shall be located between the

main building and the high water mark or on an outlot (“outlot” being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation).

(g) Maximum Accessory Building F.A.R.

The total first floor area of accessory buildings shall not exceed 3% of the area of the lot. An attached garage shall not be included in the 3% limitation. The term “floor area ratio” or F.A.R. shall be used to indicate the total floor area of all accessory buildings allowed on a the lot, expressed as a percentage ratio to the total area of the lot (but not including the area of any outlot); i.e., an F.A.R. of one hundred percent (100%) allows a floor area equal to the total area of the lot, an F.A.R. of fifty percent (50%) allows a floor area of one-half the total area of the lot, etc. (“outlot” being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation). Notwithstanding this 3% limitation, larger accessory building floor areas are permitted on lots that are subject to a conditional use permit, if specifically granted by conditional use permit, and subject to compliance with the requirements of the conditional us permit.

(h) Accessory Building Architecture.

All accessory buildings shall be constructed in a way that the exterior appearance is compatible with the design, style, architecture and appearance of the main building on the lot. This determination shall be made by the Architectural Control Board as described in Section 17.60 of this ordinance.

(j) Accessory Building Use.

In no case shall an accessory building be used for purposes not allowed in the R-4 District or used for human habitation or authorized by conditional use

(j) Accessory Building Quantity.

In no case shall more than one accessory building be allowed on a lot.

(5) LOT.

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|------------|------------------------|
| (a) Width. | Minimum 120 ft. |
| (b) Area. | Minimum 30,000 sq. ft. |

(6) ADDITIONAL PROVISIONS:

(a) Any person who owns shoreland property that contains vegetation shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high-water mark of the navigable water, except as provided in (b).

(b) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property remove such vegetation, except that if the owner removes all of the vegetation as described herein within the vegetative buffer zone, the owner shall reestablish vegetation within the vegetative buffer zone.

(c) A person who is required to maintain or establish a vegetative buffer zone under (a) or (b) shall be allowed to remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and that extends no more than 35 feet inland from the ordinary high-water mark.

(d) For the purposes of this sections (a), (b), and (c), vegetative buffer zone is defined as land that extends from the ordinary high-water mark to 35 feet inland.

(e) A shoreland setback area of at least 50 feet from the ordinary high-water mark, except as provided in (f). For purposes of this section and section (f), structures shall include fences, ice fishing, shanties, accessory structures other than boathouses, minor structures, and retaining walls not approved by the Wisconsin Department of Natural Resources (DNR) and principal building means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

(f) Construction or placement of a principal building within the shoreland setback area established under (e) shall be allowed if all of the following apply:

(1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

(2) The principal building is constructed or placed within a distance equal to the average setback of the principal building adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.

(i) For purposes of this section structures shall include fences, ice fishing shanties, accessory structures other than boathouses, minor structures, and retaining walls not approved by the Wisconsin Department of Natural Resources (DNR).

(ii) For purposes of this section, principal building means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

(g) Shoreland regulations do not apply to lands adjacent to an artificially constructed drainage ditch, pond, or storm water retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural water body

SECTION 3: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.