



# COUNTY OF KENOSHA

## Department of Planning and Development

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Department of Planning and Development

### **INFORMATION FOR BUILDING STRUCTURES** **NEAR A NAVIGABLE WATERWAY** **(Lake, Pond, Flowage, River, Stream, Etc.)**

This handout is to provide information and requirements regarding the placement of structures near a navigable waterway of a lake, pond, flowage, river, stream, etc.

#### ◆ WHAT IS A NAVIGABLE BODY OF WATER?

- The Wisconsin Supreme Court has defined navigable bodies of water to be:

*A body of water that has a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. (ie. a stream which is navigable by skiff or canoe during normal spring high water is navigable in fact under the laws of the state though it may be dry during other seasons.)*

- The Kenosha County Department of Planning and Development uses the Wisconsin Department of Natural Resources to determine if a waterway is navigable.

#### ◆ WHAT IS AN ORDINARY HIGH WATER MARK (OHWM)?

- The Wisconsin Department of Natural Resources defines an OHWM as:

*The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.*

- The Kenosha County Department of Planning and Development uses the Wisconsin Department of Natural Resources to determine the OHWM.
- If a waterway has been determined to be navigable then **all structures (ie. decks, non-open type fences, patios, residences, accessory buildings - sheds & garages...)** except navigational aids, piers, retaining walls, open rail type fences, stairs necessary for shoreline access, and boat launching facilities (one boathouse) **shall be setback 75 feet from the Ordinary High Water Mark (OHWM).** Shore yard setback averaging and/or a variance may permit a lesser setback. Call the Department of Planning and Development for further information.

- Any questions related to the placement of navigational aids, piers and boat launching facilities, except boathouses, should be addressed to the DNR. You should refer to the DNR brochure called, "Pier Planner", for requirements regarding the placement of piers.

◆ **WHAT ARE THE REQUIREMENTS FOR CUTTING TREES AND SHRUBBERY ADJACENT TO A NAVIGABLE BODY OF WATER?**

- The cutting of trees and shrubbery shall be regulated to protect natural beauty, control erosion and reduce the flow of effluents, sediments and nutrients from the shoreland area. In the strip of land 35 feet wide inland from the ordinary high water mark, no more than 30 feet in any 100 feet (30%) shall be clear-cut. In shoreland areas more than 35 feet inland, trees and shrubbery cutting shall be governed by the consideration of the effect on water quality and consideration of sound forestry practices and soil conservation practices. The tree and shrubbery cutting regulations required by this paragraph shall not apply to the removal of dead, diseased or dying trees or shrubbery. Paths and trails shall not exceed ten (10) feet in width and shall be so designed and constructed as to result in the least removal and disruption of shoreland cover and the minimum impairment of natural beauty.

◆ **WHAT ARE THE REQUIREMENTS FOR BUILDING A BOATHOUSE?**

- The requirements for a boathouse, as stated in the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance, are as follows:

*Boathouses accessory to permitted uses used strictly for the storage of boats and water related recreational accessories to be used by the owner or occupant of any given parcel may be located within a shore yard but shall not be closer to a lake, stream, pond, or wetland than the ordinary high water mark (OHWM) and shall not exceed one (1) boathouse on the premise for each shoreland lot; shall not exceed the height of twelve (12) feet above the existing shoreline grade except when bluff and/or steep slope conditions exist, (in such cases, it shall not exceed the height of the top grade elevation of said shoreland lot); shall not exceed five hundred and seventy-six (576) square feet in horizontal area covered; shall not be closer than three (3) feet to any side lot line; and the boathouse shall be constructed in such manner as to orient the main opening of the boathouse toward the lake.*

- The roof of a boathouse is not permitted to be used as a deck for recreational use.
- The Kenosha County Department of Planning and Development requires the issuance of a zoning permit for the construction of a boathouse. For permit process information please refer to the handout titled, "Permitting Process for Additions to Existing Structures, Accessory Structures, Decks, Pools, and/or Fences".

◆ **WHAT ARE THE REQUIREMENTS FOR BUILDING A SINGLE-FAMILY RESIDENCE?**

- Please refer to the handout titled, "Permitting Process for New Residential Construction".

◆ **WHAT ARE THE REQUIREMENTS FOR SHORE PROTECTION AND THE PLACEMENT OF FILL NEAR A WATERWAY OR IN THE FLOODPLAIN FRINGE OVERLAY DISTRICT?**

- Please refer to the handout titled, "Permitting Process for Shore Protection and the Placement of Fill Near a Waterway or in the Floodplain Fringe Overlay District."

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**IMPORTANT TELEPHONE NUMBERS**

Kenosha County Center Department of Planning & Development 19600 - 75 <sup>th</sup> Street, Post Office Box 520 Bristol, Wisconsin 53104-0520	
Division of County Development (including Sanitation & Land Conservation) .....	<b>857-1895</b>
Facsimile #.....	857-6508
Public Works Division of Highways.....	857-1870
Administration Building Division of Land Information .....	653-2622
Brighton, Town of .....	878-2218
Bristol, Town of .....	857-2368
Paris, Town of .....	859-3006
Randall, Town of .....	877-2165
Salem, Town of .....	843-2313
Utility District .....	862-2371
Somers Town of .....	859-2822
Wheatland, Town of .....	537-4340
Wisconsin Department of Natural Resources - Sturtevant Office .....	884-2300
Wisconsin Department of Transportation - Waukesha Office .....	548-8722