

## VILLAGE OF LITTLE CHUTE

### ORDINANCE NO. 3, SERIES OF 2014

#### **AN ORDINANCE CREATING CHAPTER 36 SHORELAND-WETLAND ZONING, ARTICLE I SECTION 36-1 THRU 36-32 VILLAGE OF LITTLE CHUTE MUNICIPAL CODE**

**BE IT ORDAINED** by the Village Board of Trustees, Village of Little Chute, Outagamie County, Wisconsin as follows:

**Section 1.** Section 36-1 thru 36-32 Municipal Code, Village of Little Chute, Chapter 36 Shoreland-Wetland Zoning be created to read as follows:

#### **Chapter 36 SHORELAND-WETLAND ZONING**

##### **ARTICLE I. IN GENERAL**

**Sec. 36-1. Statutory authorization.**

**Sec. 36-2. Finding of fact and statement of purpose.**

**Sec. 36-3. General provisions.**

**Sec. 36-4. Compliance.**

**Sec. 36-5. Municipalities and State agencies regulated.**

**Sec. 36-6. Abrogation and greater restrictions.**

**Sec. 36-7. Interpretation.**

**Sec. 36-8. Severability.**

**Sec. 36-9. Applicability of shoreland district regulations.**

**Sec. 36-10. District boundaries.**

**Sec. 36-11. Effect of existing land division, sanitary, zoning and other regulations.**

**Sec. 36-12. Setbacks from the water.**

**Sec. 36-13. Vegetative buffer zone.**

**Sec. 36-14. Definitions.**

**Secs. 36-15—36-32. Reserved.**

##### **Sec. 36-1. Statutory authorization.**

This ordinance is adopted pursuant to the authorization in Wis. Stat. sec. 61.35 and 61.353 or 62.23 and 62.233.

##### **Sec. 36-2. Finding of fact and statement of purpose.**

Uncontrolled use of shorelands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (1) Promote the public health, safety, convenience and general welfare;

- (2) Limit certain land use activities detrimental to shorelands; and
- (3) Preserve shore cover and natural beauty by controlling the location of structures in shoreland areas and restricting the removal of natural shoreland vegetation.

**Sec. 36-3. General provisions.**

**Sec. 36-4. Compliance.**

The use of shorelands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

**Sec. 36-5. Municipalities and State agencies regulated.**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State Agencies are required to comply if Wis. Stat. sec. 13.48(13) applies.

**Sec. 36-6. Abrogation and greater restrictions.**

- (a) This ordinance supersedes all the provisions of any other applicable municipal ordinance except that where another municipal ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

**Sec. 36-7. Interpretation.**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes or Wisconsin Constitution.

**Sec. 36-8. Severability.**

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

**Sec. 36-9. Applicability of shoreland district regulations.**

The Shoreland Zoning District regulations apply only to the following shorelands:

- (a) A shoreland that was annexed by the Village of Little Chute after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Wis. Stat. sec. 59.692; and
- (b) A shoreland that before incorporation by the Village of Little Chute was part of a town that was subject to a county shoreland zoning ordinance under Wis. Stat. sec. 59.692 if the date of incorporation was after April 30, 1994.

**Sec. 36-10. District boundaries.**

The Shoreland District areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the Village of Little Chute that are:

- (a) Within 1,000 feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources Surface Water Data viewer available on the DNR website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps.
- (b) Within 300 feet of the ordinary highwater 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 continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.
- (c) Determinations of navigability and ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary highwater mark.
- (d) Pursuant to Wis. Stat. sec. 61.353(7) or 62.233, the Shoreland Zoning District does not include lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond or retention basin is not hydrologically connected to a natural navigable water body.

**Sec. 36-11. Effect of existing land division, sanitary, zoning and other regulations.**

The lands within the Shoreland Zoning District are subject to all applicable provisions of the Village of Little Chute Municipal Code. Where the provisions of this ordinance are more restrictive than other regulations in the Municipal Code, the provisions of this ordinance shall apply.

**Sec. 36-12. Setbacks from the water.**

- (a) *Principal Building Setbacks.*
  - (1) All principal buildings shall be set back at least 50 feet from the ordinary high-water mark.
  - (2) Adjustment of Shore Yards. A setback less than that required by subsection (a)(1) may be allowed if all of the following apply:
    - a. 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; and
    - b. The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
- (b) *Boathouses.*

Boathouses accessory to permitted and conditional uses may be located within a shoreyard, but:

  - (1) Shall not be closer than 20 feet to the average annual high water elevation of a stream, lake, river, pond or wetland; shall not exceed one boathouse per shoreyard lot; shall not exceed 16 feet in height above the ordinary high water mark; shall not exceed 960 square feet in horizontal area covered; and shall not be closer than 3 feet to any side lot line. In no case, however, shall boathouses be allowed to project beyond the shoreline.
  - (2) Shall be constructed in such a manner as to orient the main opening of the boathouse toward the body of water and shall be used strictly for the storage of boats and water-related recreational accessories. The use of a boathouse for human habitation is prohibited. No plumbing, heating or cooking facilities may be provided in or for a boathouse.
  - (3) Shall not be located in the vegetative buffer zone required in sec. 36-13.
- (c) *Other Accessory Buildings.*

Accessory buildings accessory to permitted and conditional uses may be located within a shoreyard, but:

1. Shall not be closer than 20 feet to the average annual high water mark; shall not exceed one accessory building per shoreyard lot; shall be limited in size to 200 square feet or less in area; shall be at least 10 feet from the principal structure; shall be at least 3 feet from any side lot line; and shall not be greater than 16 feet in height.
2. Shall not be used for human habitation or animal shelter.
3. Shall not be placed in the vegetative buffer zone required in sec. 36-13.

**Sec. 36-13. Vegetative buffer zone.**

Pursuant to Wis. Stat. sec. 61.353(3) or 62.233, a landowner must maintain a vegetative buffer zone, as follows:

- (a) A person who owns shoreland property that contains vegetation must 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 sub. (b).
- (b) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
- (c) A person who is required to maintain or establish a vegetative buffer zone under sub. (a) may 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 extends no more than 35 feet inland from the ordinary high-water mark.

**Sec. 36-14. Definitions.**

In this ordinance:

“*Principal building*” means the main building or structure on a single lot or parcel of land and includes any wall, attached garage, attached deck, attached raised patio or attached porch.

“*Shorelands*” has the meaning given in Wis. Stat. sec. 59.692(1)(b).

“*Shoreland setback area*” has the meaning given in Wis. Stat. sec. 59.692(1)(bn).

**Secs. 36-15—36-32. Reserved.**

Section II: Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or its applications.

Section III: Effective Date. This Ordinance shall become effective on the date of passage and posting.

Introduced: June 18<sup>th</sup> 2014

Approved and Adopted: June 25<sup>th</sup> 2014

Attest: Laurie Decker  
Laurie Decker, Village Clerk

By:

VILLAGE OF LITTLE CHUTE

Michael R. Vanden Berg  
Michael R. Vanden Berg, Village President