

COPY

ORDINANCE NO. 38-2021

Amending Ch. 338 – Shoreland Zoning, Ordinance 20-2016

The County Board of Supervisors of Green Lake County, Green Lake Wisconsin, duly assembled at its regular meeting begun on the 21st day of December 2021, does ordain as follows:

- 1 WHEREAS, an amendment is necessary to update the County's Shoreland Zoning
- 2 Ordinance.

Roll Call on Ordinance No. 38-2021

Submitted by Land Use Planning & Zoning Committee:

Ayes 11, Nays 0, Absent 2, Abstain 0

*Curt Talma*

Curt Talma, Chair

Passed and Enacted ~~Rejected~~ this 21st day of December, 2021.

*William Boutwell*

William Boutwell, Vice-chair

*Harley Reabe*

County Board Chairman

*Harley Reabe*

Harley Reabe

*Christina A. Otto*

ATTEST: County Clerk

*Charles Buss*

Charles Buss

Approve as to Form:

*Dawn Klockner*

Corporation Counsel

*Don Lenz*

Don Lenz

3 **NOW, THEREFORE, THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY**  
4 **OF GREEN LAKE DOES ORDAIN AS FOLLOWS:**

5 Section 1. Green Lake County Ordinance, No. 20-2016 adopted by the Green Lake  
6 County Board of Supervisors on September 20, 2016 and as amended from time-to-time  
7 is here by amended as follows (additions are in underline, deletions are in ~~strikeout~~):

8  
9 Proposed Amendments to Chapter 338, Shoreland Zoning Ordinance December 2, 2021

10  
11 **Article VI: Building Setbacks, Amendments as follows:**

12 **§ 338-32 Building setbacks.**

13 Permitted building setbacks shall be established to conform to health, safety and  
14 welfare requirements, preserve natural beauty, reduce flood hazards, and avoid water  
15 pollution.

16 A. Shoreland setbacks. Unless exempt under § 338-32A(1), or reduced under § 338-  
17 32B, a setback of 75 feet from the ordinary high-water mark of any navigable  
18 waters to the nearest part of a building or structure shall be required for all buildings  
19 and structures. [Amended 11-12-2019 by Ord. No. 18-2019]

20 (1) Exempt structures. Per § 59.692(1n)(d), Wis. Stats., all of the following structures  
21 are exempt from the shoreland setback standards in § 338-32A:

22 (a) Boathouses located entirely above the ordinary high-water mark and entirely within  
23 the access and viewing corridor that do not contain plumbing and are not used for  
24 human habitation. All boathouses shall adhere to the following conditions:

25 [1] The construction or placement of boathouses below the ordinary high-water mark  
26 of any navigable waters shall be prohibited.

27 [2] Boathouses shall be designed and constructed solely for the storage of watercraft  
28 and related equipment.

29 [3] One boathouse is permitted on a lot or parcel as an accessory structure.

30 [4] Boathouses shall be designed and constructed to not destabilize the existing slope.  
31 Final grades must be at a slope that is naturally stable, depending on soil type. All  
32 boathouse construction projects that require land disturbing activities shall be  
33 authorized in accordance with Section 338-41 of this chapter.

34 [5] Boathouses shall be constructed in conformity with local floodplain zoning  
35 standards. Fill, elevation surveys, or other documentation may be required within

- 36 180 days of permit issuance, per § 300-38B(4).
- 37 [6] Boathouses shall be one story with sidewalls not exceeding 10 feet in height and a  
38 footprint entirely within the access and viewing corridor of the vegetative buffer. The  
39 footprint is not to exceed 16 feet in width by 24 feet in depth, with the width running  
40 parallel to the shore.
- 41 [7] Boathouse roofs shall be designed with a pitched roof having a minimum slope of  
42 2/12, a maximum slope of 6/12, and in no case shall be designed for use as a deck,  
43 observation platform, or for other similar uses. Dormers are allowed so long as the  
44 dormer's height does not exceed the height of the main ridge line of the boathouse.  
45 One cupola, no greater than 30 inches in length and width, is allowed on the main  
46 ridge line. Parapet walls are not allowed.
- 47 [8] Earth-toned color shall be required for all exterior surfaces of a boathouse. For the  
48 purpose of this chapter, the color white is an earth-toned color.
- 49 [9] The boathouse's main door shall face the water, and shall be at least 50% of the  
50 width (measured running parallel to the shore) of the boathouse.
- 51 [10] Any features the Department considers inconsistent with the use of the structure  
52 exclusively as a boathouse are not permitted. Examples may include but not be  
53 limited to patio doors, fireplaces, decks, and living quarters.
- 54 [11] Per § 59.692(1o), Wis. Stats., the roof of an existing boathouse may be used as a  
55 deck, provided that the boathouse has a flat roof, has no side walls or screened  
56 walls, and has a railing that meets Department of Safety and Professional Services  
57 standards.
- 58 [12] No boathouse ~~shall have any~~ wall, door, or access opening shall be more than 1/3  
59 transparent or translucent.
- 60 [13] Boathouse roof overhangs shall not project more than 24 inches out from the  
61 boathouse side wall.
- 62 (b) Open-sided and screened structures, such as gazebos, decks, patios, and screen  
63 houses in the shoreland setback area that satisfy the following requirements in  
64 § 59.692(1v), Wis. Stats.
- 65 [1] The part of the structure that is nearest to the water is located at least 35 feet  
66 landward from the ordinary high-water mark.
- 67 [2] The floor area of all the structures in the shoreland setback area will not exceed

68 200 square feet. In calculating this square footage, boathouses shall be excluded.

69 [3] The structure that is the subject of the request for special zoning permission has no  
70 sides or has open or screened sides.

71 [4] The County must approve a plan that will be implemented by the owner of the  
72 property to preserve or establish a vegetative buffer zone that covers at least 70%  
73 of the half of the shoreland setback area that is nearest to the water. Note: The  
74 statutory requirements under § 59.692(1v), Wis. Stats., which require the  
75 establishment of a vegetative buffer for the construction of open-sided structures  
76 are not superseded by § 59.692(1f)(a).

77 Note: Where reference is made to a shoreland vegetative buffer zone, the buffer  
78 shall be designed in accordance with NRCS Interim Standard No. 643A and NRCS  
79 Wisconsin Biology Technical Note 1: Shoreland Habitat. In cases where these  
80 standards provide options, the Land Use Planning and Zoning Department shall  
81 make the determination which option is most appropriate in the design and  
82 execution of the project.

83 ~~[5] The structure must be freestanding and more than five feet from a principal~~  
84 ~~structure.~~

85 ~~[56]An enforceable obligation shall be evidenced by an instrument recorded affidavit~~  
86 ~~must be filed with the Register of Deeds prior to the issuance of a land use permit.~~  
87 ~~This instrument shall include an implementation schedule construction and~~  
88 ~~enforceable obligation on the property owner to establish and maintain the~~  
89 ~~shoreland vegetative buffer zone. acknowledging the limitations on vegetation.~~

90 (c) Broadcast signal receivers, including satellite dishes or antennas that are one  
91 meter or less in diameter and satellite earth station antennas that are two meters or  
92 less in diameter.

93 (d) Utility transmission and distribution lines, poles, towers, water towers, pumping  
94 stations, well pump house covers, private on-site wastewater treatment systems  
95 that comply with Ch. SPS 383, and other utility structures that have no feasible  
96 alternative location outside of the minimum setback and that employ best  
97 management practices to infiltrate or otherwise control stormwater runoff from the  
98 structure.

99 (e) One A-walkway, stairway or rail system is allowed per lot or parcel. Walkways,  
100 stairways or rail systems are exempt from Section 338-41. F thru H. of this chapter.  
101 A walkway, stairway or rail system shall be permitted, provided:

- 102 [1] The structure shall be located within the access and viewing corridor and designed  
103 so as to minimize earth disturbing activities and shoreline vegetation removal  
104 ~~during construction.~~
- 105 [2] The structure shall not exceed a maximum of 60 inches in width, including railings,  
106 and shall not branch out within the shoreland setback. Landings, as part of the  
107 shoreline access system, shall be limited to a maximum of 40 square feet and no  
108 more than 60 inches wide.
- 109 [3] Railings are permitted only where required by safety concerns, state statutes, or  
110 state regulations.
- 111 [4] Canopies and/or roofs on such structures are prohibited.
- 112 [5] ~~A~~ Stairways shall be supported on piles or footings rather than being excavated  
113 from erodible soils, steep slopes, or similar conditions of concern.
- 114 [6] A walkway and associated stairs, excavated from underlying soils, is allowed on  
115 slopes no greater than 25% to provide pedestrian access to the shoreline.
- 116 ~~[6] The structure shall be limited to a maximum of 60 inches in width, including railings.~~  
117 ~~Landings as part of the shoreline access system shall be limited to a maximum of~~  
118 ~~40 square feet and no more than 60 inches wide.~~
- 119 [7] Standards for removal of shoreline vegetation shall be complied with, per Article  
120 VII.
- 121 [8] In cases of steep slopes, a rail system (i.e., tram or lift) in addition to a stairway,  
122 shall be permitted as long as the rail system is mounted to or immediately adjacent  
123 to the existing stairway and can be located entirely within the viewing access and  
124 viewing corridor per § 338-37B.
- 125 (f) Devices or systems used to treat runoff from impervious surfaces.
- 126 (2) Existing Exempt Structures. Per § 59.692(1k)(a)2m, Wis. Stats., existing exempt  
127 structure may be maintained, repaired, replaced, restored, rebuilt, and remodeled  
128 provided the activity does not expand the footprint and does not go beyond the  
129 three-dimensional building envelope of the existing structure. The expansion of a  
130 structure beyond the existing footprint may be permitted if the expansion is  
131 necessary to comply with applicable state and federal requirements. Note: Section  
132 59.692(1k)(a)2m, Wis. Stats., prohibits counties from requiring any approval or  
133 imposing any fee or mitigation requirement for the activities specified in § 338-  
134 32A(2). However, it is important to note that property owners may be required to

135 obtain permits or approvals and counties may impose fees under ordinances  
136 adopted pursuant to other statutory requirements, such as floodplain zoning,  
137 general zoning, sanitary codes, building codes, or even stormwater erosion control.

138 B. Reduced principal structure setback (§ 59.692(1n), Wis. Stats.). A setback less  
139 than the seventy-five-foot required setback from the ordinary high-water mark shall  
140 be permitted for a proposed principal structure and shall be determined as follows:

141 (1) Where there are existing principal structures in both directions, the setback shall  
142 equal the average of the distances the two existing principal structures are set back  
143 from the ordinary high-water mark, provided that all of the following are met:

144 (a) Both of the existing principal structures are located on an adjacent lot to the  
145 proposed principal structure.

146 (b) Both of the existing principal structures are located within 250 feet of the proposed  
147 principal structure and are the closest structure.

148 (c) Both of the existing principal structures are located less than 75 feet from the  
149 ordinary high-water mark.

150 (d) The average setback shall not be reduced to less than 35 feet from the ordinary  
151 high-water mark of any navigable water.

152 (e) Note: § 59.692(1d)(a), Wis. Stats., requires counties to adopt the standards  
153 consistent with § 338-32B(1) for reducing the shoreland setback.

154 (2) Functional appurtenances that are accessory structures, such as open porches or  
155 decks, that are attached to the proposed principal structure and proposed at time of  
156 permit application, must comply with the reduced principal structure setback but  
157 shall not be used in the calculation of the reduced principal structure setback.  
158 **[Added 11-12-2019 by Ord. No. 18-2019]**

159 C. In addition to the shoreland setback standards in Subsections A and B above,  
160 buildings and structures shall comply with the following setback standards.

161 (1) Side yard: twelve-foot minimum for lots at least 85 feet wide.

162 (2) Side yard: ten-foot minimum for lots less than 85 feet wide.

163 (3) Street yard: twenty-five-foot minimum.

164 (4) Rear yard: None. In the case of corner lots, the rear yard shall be the opposite the  
165 shorter of the two street frontages.

166 (-4-5) Walkways no more than 36 inches wide and driveways shall be exempt from  
167 § 338-32C(1) through (3). This does not exempt these structures from § 338-32A,  
168 or other standards of this chapter. [Added 11-12-2019 by Ord. No. 18-2019]

169 D. In addition to the shoreland setback standard in Subsections A and B above,  
170 fences shall comply with the following:

171 (1) All fences, no greater than eight feet in height, may be allowed along any lot line  
172 excluding the street right-of-way line and the side lot lines within the street-yard  
173 setback.

174 (2) Open style fences (greater than 50% open space), no greater than four feet in  
175 height, may be allowed along the street right-of-way line and alongside lot lines  
176 within the street-yard setback.

177 (3) Open style agricultural fences, no greater than eight feet in height, are allowed  
178 without a land use permit.

179 E. In addition to the shoreland setback standard in Subsections A and B above,  
180 retaining walls shall comply with the following:

181 (1) Retaining and decorative/landscape walls may be allowed in the street-yard, side-  
182 yard and rear-yard with a minimum zero setback.

183 (2) Retaining walls, greater than six (6) feet in height, shall be designed by a  
184 professional engineer. Stamped engineered plans shall be submitted to the Land  
185 Use Planning & Zoning Department as part of the land use permit application.

186 F. In addition to the shoreland setback standard in Subsection A and B above, roof  
187 overhangs may project no more than 12 inches into a required side and/or street  
188 setback. No projections are allowed into the setback as required in Subsection A.  
189 [Added 11-12-2019 by Ord. No. 18-2019]

190 **Article VIII: Land Disturbing Activity, Amendments as follows:**

191 § 338-40 Land disturbing activity.  
192 [Amended 11-12-2019 by Ord. No. 18-2019]

193 Filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in  
194 accordance with the provisions of § NR 115.04, Wis. Adm. Code, the requirements of  
195 Ch. 30, Wis. Stats., and other state and federal laws where applicable, and only if done  
196 in a manner designed to improve natural scenic beauty and minimize erosion,  
197 sedimentation, and impairment of fish and wildlife habitat.

198 A. ~~Shoreline protection activities authorized by a state permit may be allowed without~~  
199 ~~a land use permit.~~

200 B. ~~Nonstructural projects approved by County Land Conservation Department to~~  
201 ~~remedy significant existing erosion problems may be exempt from land use permitting~~  
202 ~~requirements.~~

203 **§ 338-41** General standards.

204 **[Amended 11-12-2019 by Ord. No. 18-2019]**

205 The filling, grading, lagooning, dredging, ditching, or excavating of any lands in the  
206 shoreland area requires a land use permit, unless otherwise exempt in this chapter. A  
207 project may be permitted in the shoreland area provided that:

208 A. It is not done within the shoreland vegetative buffer zone unless necessary for  
209 allowed vegetative activities, establishing or expanding the vegetative buffer, ~~or for~~  
210 the construction of an exempt structure, to remove retaining walls to re-establish  
211 natural grade, or to repair natural shoreline damage. Natural shoreline damage  
212 must be repaired within 1 year of the damaging event.

213 B. It is done in a manner designed to minimize erosion, sedimentation, and  
214 impairment of fish and wildlife habitat.

215 C. Filling, grading, lagooning, dredging, ditching, or excavating in a Shoreland-  
216 Wetland District meets the requirements of § 338-18B and C of this chapter.

217 D. All applicable federal, state, and local authority is obtained in addition to a permit  
218 under this chapter.

219 E. Any fill placed in the shoreland area is protected against erosion by the use of  
220 riprap, vegetative cover, or a bulkhead.

221 F. ~~The s~~Slopes for the project site are less than 40050% (1:24). Land disturbing  
222 activities in the shoreland area where the slope is equal to or greater than ~~40050%~~  
223 (1:24) are prohibited.

224 G. For land disturbing activities that are on slopes less than 50% but greater than  
225 12%, the land use permit shall not be issued until a construction site erosion control  
226 permit, designed in accordance with Section 284-8.B. and 284-9.B thru D of the  
227 County's Construction Site Erosion Control and Stormwater Management  
228 Ordinance, is obtained by the property owner from the Land Conservation  
229 Department.

230 H. For land disturbing activities that are on slopes less than 12%, the land use permit  
231 shall not be issued until a construction site erosion control permit, designed in

232 accordance with Section 284-8.B.(1 thru 5) and 284-9.A of the County's  
233 Construction Site Erosion Control and Stormwater Management Ordinance, is  
234 obtained by the property owner from the Land Conservation Department.

235 **§ 338-44 (Reserved) Permit not required.**

236 **A. Shoreline protection projects, which include land disturbing activities, authorized by**  
237 **a State permit.**

238 **B. Nonstructural projects, which include land disturbing activities, approved by County**  
239 **Land Conservation Department to remedy significant existing erosion problems**  
240 **may be allowed without a land use permit.**

241 **Article IX: Impervious Surfaces, Amendments as follows:**

242 **§ 338-49 Treated impervious surfaces.**

243 **D. Where reference is made to a rain garden, the rain garden shall be designed,**  
244 **installed, and maintained in accordance with Wisconsin DNR Publication, PUB-WT-776-**  
245 **2018, "Rain Gardens: A Guide for Homeowners and Landscapers."**

246 **§ 338-50 Existing impervious surfaces.**

247 **For existing impervious surfaces that were lawfully placed when constructed but do not**  
248 **comply with the impervious surface standard in § 338-47 or the maximum impervious**  
249 **surface standard in § 338-48, the property owner may do any of the following:**

250 **A. Maintain and repair the existing impervious surfaces;**

251 **B. Replace existing impervious surfaces with similar surfaces within the three-**  
252 **dimensional space of the structure existing building envelope;**

253 **Article XII: Mitigation, Amendments as follows:**

254 **§ 338-60 Mitigation.**

255 **When a land use permit, issued under this chapter, requires mitigation according to**  
256 **§ 338-32A(2) and §§ 338-48 and 338-58, the property owner must submit a complete**  
257 **permit application that includes a mitigation plan.**

258 **E. Where reference is made to a rain garden, the rain garden shall be designed,**  
259 **installed, and maintained in accordance with Wisconsin DNR Publication, PUB-WT-**  
260 **776-2018, "Rain Gardens: A Guide for Homeowners and Landscapers ~~how-to~~**  
261 **~~manual for homeowners.~~ [Amended 11-12-2019 by Ord. No. 18-2019]**

262 **Article XVII: Definitions, Amendments as follows:**

263 **§ 338-78 Definitions.**

264 **ACCESS AND VIEWING CORRIDOR**

265 A strip of vegetated land that allows safe pedestrian access to the shore extending  
266 waterward from the 75 foot shoreland building setback through the vegetative buffer  
267 zone.

268 PLUMBING

269 A system of pipes, drains, fittings, valves, valve assemblies, and devices installed in a  
270 building for the distribution of water for drinking, heating and washing, and the removal  
271 of waterborne wastes and the skilled trade of working with pipes, tubing and plumbing  
272 fixtures in such systems. For the purpose of this chapter, plumbing includes piping,  
273 and associated fixtures that convey gases as well as liquids.

274 REMODEL

275 The process where an existing structure undergoes structural reorganization,  
276 alteration or renewal without increasing the existing structure's footprint.

277 Section 2. This ordinance shall become effective upon passage and publication.

278 Section 3. The repeal and recreation of any section herein shall not have any effect on  
279 existing litigation and shall not operate as an abatement of any action or proceeding then  
280 pending or by virtue of the repealed sections.

281 Section 4. All ordinances and parts of ordinances in conflict herewith are hereby  
282 repealed.