

ORDINANCE NO. 692-041023

Amending and Recreating Chapter 260 of the Village of Waterford's Code of Ordinances. Piers.

The Village Board of the Village of Waterford, Racine County, Wisconsin, do ordain as follows:

§ 260-1 Definitions.

The definitions contained in Wis. Stat. § 30.01, as the same may be amended from time to time, shall apply to all terms contained in this chapter, unless otherwise specifically set forth in this section. For purposes of this chapter, the following terms are defined as follows:

LINE OF NAVIGATION

The three-foot depth or a greater depth contour, if required, for boats in use or appropriate for the use on the waterway, based on the normal summertime low levels on the waterway or summer minimum levels where established by the DNR.

ORDINARY HIGH WATERMARK

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

PIER

Any structure extending into navigable waters from the shore of such navigable waters, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from the watercraft and may include a temporary boat hoist without roof or walls.

RIPARIAN

An owner of land abutting a stream or lake.

SIMILAR OR RELATED STRUCTURES AND FACILITIES

Includes seasonal or permanent boat shelters or boat hoists.

WETLAND

An area where water is at, near or above the land surfaces long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

WHARF

Any structure in navigable waters, extending along the shore and generally connected with uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from the watercraft.

§ 260-2 Establishment of pierhead line.

- A. Until such time that the Village establishes and the DNR approves a pierhead line on the Fox River within the Village which meets the requirements of Wis. Stat. §§ 30.11 and 30.13, and this chapter can be amended accordingly, no pier, wharf or similar or related structure or facility may exist beyond the greater of:
- (1) Boat length;
 - (2) A three-foot water depth contour; or
 - (3) A greater depth contour if required for the watercraft berthed.
- B. Piers, wharves and similar or related structures or facilities may not in any case interfere with public rights on the waterways and the rights of other riparian owners.

§ 260-3 Construction procedure.

Any person desiring to construct any pier, wharf or similar or related structures or facilities on the Fox River within the Village shall follow the procedures as follows.

§ 260-4 Permit required; cancellation or revocation.

- A. No person may hereinafter construct, place or extend, enlarge or replace a pier, wharf or similar or related structure or facility or multi-pier development on the Fox River within the Village without first applying for and obtaining a permit from the Village for that portion of the river within the Village. Piers, wharves and similar or related structures or facilities which are legally placed as of October 14, 1991 (the date of the adoption of this chapter), which are removed and replaced seasonally, are not subject to permits or permit fees so long as any nonconformity with the requirements of this chapter are not expanded pursuant to § 260-5R.

- B. Any person, developer, firm or corporation desiring to erect, construct, place, extend, replace or repair any pier, wharf or similar or related structure or facility or multi-pier development below the ordinary high watermark of the Fox River within the Village shall make and file in the office of the Building Inspector a written application for permit. Developments with conceptual approval shall not be exempt from this requirement. The application shall describe the real estate, pier, wharf or similar or related structure or facility or multi-pier development or extension thereof in detail, together with its location in regard to the shoreline, pierhead line and bulkhead line if established, ordinary high watermark location, water depth contours, extent of wetland vegetation and with the distance to all property lines of the abutting neighboring riparian lands, giving the details of the dimensions and kinds of materials, details of fueling and any sewage disposal facilities or other accessory construction, if applicable, together with drawings and any additional details and specifications that the Building Inspector may require. The application shall contain the name, residence, post office address, telephone number and the signature of the riparian owner of the shoreline on whose behalf the application is made and shall also state the name, residence, post office address and telephone number of the applicant, if different. The riparian owner and/or applicant shall also provide the Village Clerk with the names and addresses of the abutting neighboring riparian owners with this application for permit.
- C. The Building Inspector shall review and grant or deny the permit application for its conformity with this Chapter of the Village Code.
- D. The fee for such permit shall be as described in the Village permit fee schedule.
 - (1) To preserve and protect the property and property values within the Village.
 - (2) To preserve and protect the Fox River.
 - (3) To protect and clarify public interests and riparian rights on the Fox River within the Village by:
 - (a) Prohibiting piers and similar structures in environmentally sensitive aquatic habitats.
 - (b) Limiting the number and location of piers and similar structures so as to avoid conflicting uses of adjacent properties.
 - (c) Preventing safety hazards and controlling pier construction so as to promote uniformity and preserve natural shoreline aesthetics.
- E. In the event the pier, wharf or similar or related structure or facility or multi-pier development for which a permit has been granted shall not be erected, constructed, placed, extended or maintained in accordance with the plans, specifications, details and drawings submitted or in accordance with any conditions imposed on the permit or in the event such pier, wharf or similar or related structure or facility or multi-pier development shall not be used, it is used in a manner detrimental to the general public or interferes with the rights of the neighboring riparian owners, or adversely affects a critical or significant fish or wildlife habitat area, the Village Board may cancel and revoke the permit, provided it shall first hold a hearing after fixing a time and place of hearing and shall cause a written notice thereof to be issued and delivered or mailed to the holder of such permit and also to the abutting neighboring riparian owners not less than seven days before the time fixed for such hearing.

§ 260-5 Construction and use requirements; existing piers and wharfs.

- A. Riparian owners may construct, place, extend, enlarge or replace piers, wharves or similar or related structures or facilities or multi-pier developments in the waters of the Fox River within the Village in aid of navigation, provided that such piers, wharves, similar or related structures and facilities or multi-pier developments do not interfere with public rights and safety in the waters or with the rights of neighboring riparian owners or occupants and do not adversely affect a critical or significant fish or wildlife habitat area, are subject to any established pierhead line and other requirements of this chapter and must be consistent with the permit and objectives as specified above.
- B. Piers and wharves shall not exceed six feet in width.
- C. Extensions or appurtenances to piers must comply with all of the requirements of this chapter, including all permit requirements.
- D. Construction shall be of materials of white, natural or earthtone colors, aluminum or shall be visually inconspicuous as viewed against the shoreline. Aluminum piers are permissible.
- E. Lighting on a pier, wharf or similar or related structure or facility or multi-pier development shall be down-focused white or yellow lights for safety and to facilitate docking. Intermittent lighting, strobe or similar lighting is prohibited.
- F. New and existing piers, wharves or similar or related structures or facilities or multi-pier developments shall include reflective white or amber safety markers no more than five inches square placed on the farthest corners of the structures.
- G. Any pier, wharf or similar or related structure or facility or multi-pier development extending beyond the natural shore or established bulkhead line shall be so constructed as to allow the free movement of water underneath and in such manner as will not cause the formation of land on the bed of the Fox River within the Village.
- H. Mooring structures and watercraft moored shall be set back a minimum of 10 feet from common riparian rights lines and any additional distance required to confine approach and docking of watercraft to the owner's riparian zone.
- I. There shall be a maximum of four permanently moored, registered watercraft per pier, including lifts. For purposes of this subsection, "permanently moored" is defined as being moored longer than seven consecutive days.

- J. Subdivisions, multi-unit developments and planned unit developments which share a common waterfront lot, parcel or common area may not place more than one pier or wharf per 100 feet of shoreline. All multi-pier developments and similar or related structures and facilities serving subdivisions, multi-unit developments, planned unit developments, condominiums and homeowners' associations shall be constructed no less than 100 feet from any abutting neighboring lot line.
- K. No easements of access shall be granted over existing lots, and no such easement shall be shown on a subdivision plat, multi-unit development plat, planned unit development plat, condominium plat or in a condominium agreement or homeowners' association agreement, which provides greater access than provided above.
- L. Pursuant to Wis. Stats. § 236.16, subdivisions with water frontage are required to dedicate a public access to waterways which, under this chapter, shall meet with Village, county and DNR approval or be waived by the same.
- M. Piers, wharves and similar or related structures and facilities may be placed and maintained only by riparian owners.
- N. Electrical, fueling and waste disposal facilities for business or commercial facilities shall comply with all applicable state laws, Wisconsin Administrative Codes, DNR and Village codes and any other applicable safety and environmental protection laws. In addition, fuel and waste holding tanks shall be set back from the ordinary high watermark per applicable DNR regulations.
- O. Such pier, wharf and similar or related structure or facility or multi-pier development shall be subject to the pierhead line which may be established pursuant to the provisions of Wis. Stats. § 30.13(3).
- P. All piers, wharves and similar or related structures and facilities or multi-pier developments extending beyond the natural shore or established bulkhead line shall be so maintained as to prevent any part or parts thereof from floating free into the waters of the Fox River and as to prevent the structures from becoming unsafe, unserviceable or unsightly.
- Q. The respective rights of neighboring riparian owners shall be determined so as to give each riparian owner his due proportion of the line of navigation by the extension of lot lines from the shoreline to the line of navigation, by drawing a chord between each pair of property lines at the point where each line meets the shoreline and bisecting the resulting angle (coterminal riparian rights line extension) or by other DNR-approved methods of determining riparian zones. All structures shall be confined within each riparian owner's respective zone.
- R. Every pier, wharf and similar or related structure, facility or multi-pier development constructed, placed, extended or replaced on the Fox River within the Village in violation of this chapter is declared to be a public nuisance, and the construction thereof may be enjoined and the maintenance may be abated by action initiated by the Village.
- S. Any pier, wharf, similar or related structure, facility or multi-pier development existing in place as of October 14, 1991 (the date of adoption of this chapter), and registered with the Village Clerk on or before June 30, 1992, shall be considered to meet the requirements of this chapter. Such structure may be repaired or replaced as long as any nonconformity with the requirements of this chapter is not expanded.
- T. Any person or developer who owns real estate abutting the shoreline of the Fox River within the Village shall register the length, width, construction and side yard setbacks of any of his or her or its piers, wharves or similar or related structures or facilities or multi-pier developments with the Village Clerk on or before June 30, 1992, along with a color photograph of the structure. Any such structure in place as of October 14, 1991, and registered before June 30, 1992, shall be considered to meet the requirements of this chapter. Any pier, wharf or similar or related structure or facility or multi-pier development not registered by June 30, 1992, shall be required to comply with the terms of this chapter.
- U. Any pier, wharf or similar or related structure or facility or multi-pier development which is legally placed as of October 14, 1991, and which does not conform to this chapter shall be considered permissible and preexisting and shall not constitute an unlawful obstruction of navigable waters so long as the structures are registered as provided herein before June 30, 1992, and are otherwise consistent with applicable Village and DNR regulations and laws.

§ 260-6 Prohibitions and exceptions.
[Amended 1-24-2011 by Ord. No. 567]

- A. Any pier, wharf and similar or related structure or facility or multi-pier development extending into navigable waters beyond the limits set forth herein constitutes an unlawful obstruction of navigable waters.
- B. Beyond the requirements within this chapter, riparian owners shall further comply with any requirements of Wis. Stats. Ch. 30 and Wis. Admin. Code Ch. NR 326, administered by the DNR.
- C. Notwithstanding noncompliance with any requirement or limitation set forth in § 260-5, the Plan Commission may recommend, and the Village Board may approve, a pier permit for an applicant who obtains a pier permit from the DNR pursuant to Wis. Stats. ch. 30 and Wis. Admin. Code ch. NR 326 if the applicant grants a permanent easement to the Village that provides public access to and allows public use of the pier(s) permitted by the DNR. Under this subsection, the applicant may reserve the number of permanent slips for the applicant's private use approved by the DNR and the Village Board. **[Amended 6-27-2011 by Ord. No. 576]**

§ 260-7 Violations and penalties.

Except as otherwise provided herein, any person found in violation of any provision of this chapter or any order, rule or regulation made

hereunder shall be subject to a penalty as provided in Chapter 1, Article II, of this Municipal Code.

Introduced: April 10, 2023

Passed and Adopted: April 10, 2023

BY ORDER OF THE VILLAGE BOARD

Don Houston, President

ATTEST:

Rachel Ladewig, Clerk

Drafted: Zeke Jackson