

CHAPTER 1

INTRODUCTION

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ZN 1.01 PRELIMINARY CONSIDERATIONS.

(1) AUTHORITY.

This Ordinance is adopted pursuant to the authority granted by the Wisconsin Statutes but not limited to §61.35, §61.351, §61.352, §61.353, §62.23 and §87.30, Wis. Stats. Any mandatory amendments or repeals or recreations to state statutes pertaining to the subject matter of this Ordinance are incorporated in this Ordinance as of the effective date of the amendment, repeal or recreation. The Village Board of Trustees of the Village of Somers, Wisconsin do ordain as follows:

(2) PURPOSE.

- (a) It is the finding of the Village of Somers Board of Trustees that the regulation of land uses within the Village serves to promote the general welfare of its citizens, the quality of the environment, and the conservation of its resources.
- (b) The purpose of this Ordinance is to regulate and encourage the use of land, waters and structures in the Village in a planned and orderly manner so as to promote the public health, safety, morals, prosperity, aesthetics, comfort, convenience and general welfare of the citizens of the Village.

(3) INTENT.

- (a) By the enactment of this Ordinance, it is the intent and objective of the Village Board of Trustees pursuant to the authority cited in Section ZN 1.01(1) of this Ordinance those areas falling within the jurisdiction of this to accomplish the following within:
 - 1 Regulate the use of all lands, buildings, structures and waters in the Village of Somers so as to determine, establish, regulate and restrict:
 - a The areas within which agriculture, forestry, industry, trades, business and recreation may be conducted;
 - b The areas in which residential uses may be regulated or prohibited;
 - c The areas in and along or in or along natural water courses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and location of buildings may be prohibited or restricted.
 - 2 Designate certain areas, uses or purposes which may be subjected to special regulation.
 - 3 Determine, establish, regulate and restrict the location, set back, side yard,

height, bulk, number of stories and size of buildings and other structures.

- 4 Determine, establish, regulate and restrict the location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- 5 Determine, establish, regulate and restrict trailer camps or tourist camps and motels or both and mobile home parks.
- 6 Regulate population density and distribution
- 7 Determine, establish, regulate and restrict the percentage of any parcel which may be occupied, size of yards, courts and other open spaces.
- 8 Provide healthy surroundings for family life.
- 9 Provide areas for peace and quiet, open space and privacy.
- 10 Determine, establish, regulate and restrict the location of roads and schools.
- 11 Insure adequate highway, utility, health, educational, recreational and other public facilities.
- 12 Lessen congestion in and promote the safety and efficiency of streets and highways; regulate parking, loading and access for safety and efficiency purposes.
- 13 Secure safety from fire, explosions, flooding, panic and other dangers.
- 14 Provide adequate light, air, sanitation and drainage.
- 15 Establish performance standards so as to guard against air and water pollution, unnecessary contamination, noises, vibrations and odors, and also glare, heat, fire, flooding, radiation, and other hazards and nuisances.
- 16 Promote the efficient and economical use of public funds.
- 17 Protect property values and the property tax base.
- 18 Recognize the needs of agriculture, forestry, industry, business and recreation and future growth.
- 19 Further the appropriate use of land and encourage uses of land and other natural resources which are in accordance with their character and adaptability.

- 20 Prevent and control soil erosion, sedimentation and water pollution of the surface and subsurface waters.
- 21 Further the maintenance of safe and healthful water conditions.
- 22 Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects.
- 23 Preserve shore growth and cover and promote the natural beauty of the shoreland and floodplain areas.
- 24 Protect fish and animal life including the spawning, resting, nesting, nursing and feeding areas.
- 25 Implement those municipal, county, watershed, and regional comprehensive plans or components of such plans applicable to and adopted by the Village.
- 26 Obtain the wise use, conservation, development and protection of the Village's water, soil, wetlands, woodlands, wildlife and other natural resources and attain a balance between land uses and the ability of the natural resource space to support and sustain such uses.
- 27 Preserve natural growth and cover; promote, stabilize and protect the natural beauty and amenities of landscape and man-made developments within the Village and encourage the future aesthetic development of the Village.
- 28 Preserve historical sites.
- 29 Preserve neighborhoods, eliminate blight and protect life, health and property.
- 30 Minimize expenditures of public funds for flood control projects.
- 31 Minimize rescue and relief efforts undertaken at the expense of the taxpayers.
- 32 Minimize business interruptions and other economic disruptions.
- 33 Minimize damage to public facilities in the floodplain.
- 34 Minimize the occurrence of future flood blight areas in the floodplain.
- 35 Discourage the victimization of unwary land and homebuyers.
- 36 Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

37 Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(b) To accomplish the above objectives, it is the further intent of the Village Board of Trustees in enacting this Ordinance to hereby:

- 1 Contract with the Kenosha County Office Department of Planning and Development to assist in the administration of these Ordinances.
- 2 Create, as part of this Ordinance, all of the necessary districts, maps, and staffing deemed necessary for achieving all of the objectives of this Ordinance.
- 3 Delineate as clearly as possible those circumstances which when present will qualify as exceptions, to this Ordinance as well as those circumstances in which changes and amendments may be made to the Ordinance or variances granted.
- 4 Delineate, without limitation due to enumeration, those aspects of zoning which are to be prohibited, such as use variances.
- 5 Follow all due process requirements and procedures so as to safeguard the rights of individual landowners.
- 6 Provide for the strict enforcement of this Ordinance.
- 7 Establish a proper system for reviewing and appealing the actions of Village staff relative to land uses.
- 8 This Ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR.
- 9 Make available and distribute all maps, engineering data, and regulations in accordance with the provisions of Wis. Admin. Code §NR 116.20(5).

(4) **TITLE.**

This Ordinance shall be known as, referred to, and cited as the "VILLAGE OF SOMERS, WISCONSIN GENERAL ZONING-AND SHORELAND/FLOODPLAIN ZONING ORDINANCE" and hereinafter referred to as the "Ordinance".

ZN 1.02 INTERPRETATION.

(1) **ADOPTION, APPROVAL AND EFFECTIVE DATE-SHORELAND/FLOODPLAIN AREAS.**

Within those areas defined in this Ordinance as shorelands and floodplains, this Ordinance shall be effective after a public hearing, adoption by the Village Board of Trustees and publication or posting as provided by law. For purposes of this section, this Ordinance in its entirety shall consist of both the text and maps of the various districts in the Village of Somers falling within the shorelands/floodplains areas.

(2) **ADOPTION, APPROVAL AND EFFECTIVE DATE-OTHER AREAS.**

(a) This Ordinance shall be effective after a public hearing; adoption by the Village Board of Trustees; and publication or posting as provided by law.

(3) **JURISDICTION.**

(a) The provisions of this Ordinance shall apply to all structures, land, water and air located within the Village of Somers, Wisconsin, where this Ordinance has been approved pursuant to Section ZN 1.02(2) of this Ordinance.

(b) The provisions of this Ordinance shall nevertheless apply to all structures, lands, water and air within the shoreland jurisdiction of the Village of Somers. The shoreland includes all areas within the following distances from the ordinary high water mark of all navigable waters: one thousand (1,000) feet from a lake, pond or flowage; three hundred (300) feet from a river or stream; or to the landward side of the floodplain, whichever distance is greater. If the navigable water is a glacial pothole lake, the distance shall be measured from the high water mark thereof.

(c) Unless specifically exempted by law, all cities, villages, town governments, and Kenosha County are required to comply with this Ordinance and obtain all necessary permits in those areas described in subsections (a) and (b) above. State agencies are required to comply with §13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.12(4)(a), Wis. Stats., applies.

(4) **PROJECTS IN PROGRESS.**

The provisions of this Ordinance shall not apply to any construction project for which a valid zoning permit has been issued prior to the enactment of this Ordinance, with the provision, however, that construction, has substantially commenced as defined in this Ordinance, within six (6) months after the issuance of the permit and with the further provision, however, that in the case of permits granted in the Shoreland-Floodplain District that substantial construction is completed, as defined in this Ordinance, within fifteen (15) months after the issuance of the permit.

(5) **ABROGATION.**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously

adopted or issued pursuant to law except as provided for in Section ZN 1.02(5) of this Ordinance. Nor is it the intent of this Ordinance to abrogate, impair or interfere with the legal rights of individuals as they may be guaranteed by the state and federal constitutions, statutes, and administrative rules. Claims for such interference may be addressed through the administrative appeals procedure provided for in Section ZN 7.01 of this Ordinance.

(6) LIBERAL CONSTRUCTION.

In the interpretation and application of this Ordinance, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power granted by the Wisconsin Statutes, as may be amended from time to time, or now possessed by the Village of Somers. If a provision of this Ordinance, required by Wis. Admin. Code §NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.

(7) SEVERABILITY AND NON-LIABILITY.

- (a) If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- (b) If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (c) The Village does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation or that those soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Board of Trustees, its agencies or employees for any flood damage, sanitation problems, structural or other damages that may occur as a result of reliance upon and conformance with this Ordinance.

(8) LIMITATION OF ACTION.

Pursuant to §59.69(14), Wis. Stats., a land owner, occupant or other person affected by this Ordinance or amendment thereto who claims that this Ordinance or amendment is invalid because procedures prescribed by the statutes or the Ordinance were not followed shall be forever barred unless the court action is commenced within six (6) months after adoption. Provided, this sub§ shall not apply unless there has been at least one (1) publication of a notice of a zoning hearing in a local newspaper of general circulation and unless a public hearing has been had on the Ordinance or amendment at the time and place specified in such notice.

(9) ZONING MAPS.

The Zoning Maps were adopted and approved with the text as part of this Ordinance and are

available to the public for inspection at the Village Hall and/or in the Department of Planning and Development. These maps were entitled “Kenosha County Zoning Maps” numbered, “Kenosha County - 1” through “Kenosha County - 8”. Kenosha County zoning maps in digital format developed with geographic information systems software and are updated from time to time replaced the hard copy zoning maps and shall be maintained in the Department of Planning and Development. Copies of the zoning maps in digital format shall be made available to the public for inspection, at cost, by the Department of Planning and Development.

(10) **OTHER MAPS.**

- (a) Topographic and Orthophotographic. Village of Somers Department of Planning and Development makes use of topographic and orthophotographic maps in digital format which are updated from time to time and are maintained in the Department of Planning and Development.
- (b) Wetlands. Village of Somers Department of Planning and Development makes use of wetland maps as referenced from the Wisconsin Department of Natural Resources (DNR), maps used by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) or other maps that reflect the best data available.
- (c) Environmental Corridors. Village of Somers Department of Planning and Development makes use of primary and secondary environmental corridor maps and isolated natural resource maps as defined by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) or other maps that reflect the best data available.

(11) **ZONING MAP AMENDMENTS-EFFECTIVE DATE.**

- (a) Amendments to the Zoning Maps shall become effective upon adoption by the Village of Somers Board of Trustees and the filing of proof of publication thereof.

(12) **INTERPRETATION OF DISTRICT BOUNDARIES.**

- (a) Boundaries of the districts set forth in Section ZN 4.02 to Section ZN 4.08 are hereby established as shown on the digital zoning maps as described in Section ZN 1.02(10). No change in a zoning boundary shall be made except after petition, review and approval pursuant to the requirements of Section ZN 8.01 of this Ordinance.
- (b) Boundaries of the basic zoning districts shall be construed to follow Corporate Limits; U.S. Public Land Survey section lines; lot or property lines; centerlines of streets, highways, alleys, easements, navigable bodies of water, and railroad rights-of-way, or such lines extended. Lines which appear to be parallel to any of the aforementioned boundaries of specified distance shall be construed to be parallel as noted. Where the above rules cannot be readily applied, the location of district boundary lines shall be determined by use of the scale shown on the official zoning map.

- (c) Boundaries of the C-1 Lowland Resource Conservancy District, that includes shoreland-wetlands, are shown on the maps referred to in Section ZN 1.02(13)(a) and boundary locations were determined by the criteria set forth in Section ZN 4.07(1)(b).

(13) **ANNEXED LANDS.**

- (a) Pursuant to §59.69(7), Wis. Stats., whenever any area which has been subject to the Village of Somers zoning ordinance petitions to become part of the village, the regulations imposed by the Village of Somers zoning ordinance shall continue in effect, without change, and shall be enforced by the village until such regulations have been changed by official action of the governing body of the village.

(14) **DEFINITIONS.**

For the purpose of this Ordinance, the definitions listed in Appendix "A" shall be used unless otherwise specified. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory. Words not defined in Appendix "A" shall be construed according to any applicable definition set forth in either the State Statutes, Administrative Code or Village Ordinance or in lieu thereof, shall be construed according to accepted land use, scientific, or architectural definition or in lieu thereof, according to their customary dictionary definition.