

ORDINANCE #01-20

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AN ORDINANCE AMENDING ZONING CODE RELATED  
TO RIVER FRONTAGE SETBACK

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WHEREAS, the City of Berlin Plan Commission has held a public hearing regarding the ordinance change, as set forth herein, on December 23, 2019; and

WHEREAS, the Plan Commission has recommended to the Common Council for approval of the ordinance change, as set forth herein.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

Sec. 82-25 of the Code of Ordinances of the City of Berlin is hereby repealed and restated as follows:

**Sec. 82-25. - River frontage setback.**

(1) *Definitions.* The following terms or words used in this section mean:

*Boathouse* means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls, or any combination of these structural parts.

*Footprint* means the land covered by a structure at ground level measured on a horizontal plane. The footprint of a structure includes the horizontal plane bounded by the furthest exterior wall and eave, if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports) having a single-horizontal plane, the footprint is bounded by the furthest portion of the structure projected to natural grade.

Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade.

*Ordinary high-water mark* means 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. Determinations of navigability and ordinary high-water mark location shall be made by the zoning administrator.

(2) *Setback.* Unless exempt under section 82-25(1)(a), a setback of 40 feet for R-1 and R-2 districts and 10 feet for other zoning districts from the ordinary high-water mark of the Fox River to the nearest part of a building or structure shall be required for all buildings and structures.

(a) *Exempt structures.* All of the following structures are exempt from the river frontage setback in section 82.25(2), so long as they are otherwise in compliance with

floodplain zoning standards in chapter 82, article VI and shoreland-wetland standards in chapter 82, article VIII:

1. Boathouses located entirely above the ordinary high-water mark that do not contain plumbing and are not used for human habitation.
  - a. The construction or placement of boathouses below the ordinary high-water mark of any navigable waters shall be prohibited.
  - b. Boathouses shall be designed and constructed solely for the storage of boats and related equipment.
  - c. One boathouse is permitted on a lot or parcel as an accessory structure.
  - d. Boathouses constructed where the existing slope is more than 50% shall be designed to not destabilize the existing slope. Final grades must be at a slope that is naturally stable, depending on soil type.
  - e. Boathouses shall be one story with sidewalls not exceeding 10 feet in height and a footprint not to exceed 16 feet in width by 24 feet in depth.
  - f. Boathouse roofs shall be designed with a pitched roof having a maximum slope of 4/12 and in no case shall be designed for use as a deck, observation platform, or for other similar uses.
  - g. Earth-toned color shall be required for all exterior surfaces of a boathouse.
  - h. The main door shall face the water.
  - i. Patio doors, fireplaces, and other features, inconsistent with the use of the structure exclusively as a boathouse, are not permitted.
2. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two meters or less in diameter.
3. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with Ch. SPS Comm 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.

4. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
5. In cases of steep slopes, a rail system (i.e., tram or lift) in addition to a stairway, shall be permitted as long as the rail system is mounted to or immediately adjacent to the existing stairway.
6. Devices or systems used to treat runoff from impervious surfaces.

(b) *Existing Exempt Structures.* Existing exempt structures in violation of the river frontage setback in section 82.25(2) may be maintained, repaired, replaced, restored, rebuilt, and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure, and so long such activity is otherwise in compliance with floodplain zoning standards in chapter 82, article VI and shoreland-wetland standards in chapter 82, article VIII. The expansion of a structure beyond the existing footprint may be permitted if the expansion is necessary to comply with applicable state and federal requirements.

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

ROLL CALL VOTE:

CITY OF BERLIN

\_\_\_\_\_ AYES  
 \_\_\_\_\_ NAYS  
 \_\_\_\_\_ ABSENT

BY: \_\_\_\_\_  
 Richard D. Schramer, Mayor

APPROVED AS TO FORM:

ATTEST: \_\_\_\_\_  
 Jodie Olson, City Clerk

\_\_\_\_\_  
 Matthew G. Chier, City Attorney