



Legislation Details (With Text)

**File #:** 17096      **Version:** 3      **Name:** Waterfront setback  
**Type:** Ordinance      **Status:** Passed  
**File created:** 1/12/2010      **In control:** PLAN COMMISSION  
**On agenda:** 2/23/2010      **Final action:** 2/23/2010  
**Enactment date:** 3/13/2010      **Enactment #:** ORD-10-00024

**Title:** AMENDED SUBSTITUTE Amending Sec. 28.04(19)(b)1. and 28.04(19)(c) of the Madison General Ordinances to change the application of the existing development pattern setback calculation.

**Sponsors:** Mark Clear, Jed Sanborn, Joseph R. Clausius, Paul E. Skidmore, Steve King, Michael Schumacher, Bryon A. Eagon, Lauren Cnare

**Indexes:**

**Code sections:**

**Attachments:** 1. Voeltz Comment 011410.pdf, 2. Legistar 17096 Frequently Asked Questions, 3. Comment 020810.pdf, 4. Version 1, 5. 2-23-10 Registration 17096.pdf, 6. Version 2

Date	Ver.	Action By	Action	Result
2/23/2010	2	COMMON COUNCIL	Refer	Fail
2/23/2010	3	COMMON COUNCIL	Adopt	Pass
2/8/2010	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING	Pass
1/25/2010	1	COMMITTEE ON THE ENVIRONMENT (ended 6/2020)	Return to Lead with the Following Recommendation(s)	Pass
1/21/2010	1	PLAN COMMISSION	Refer	
1/21/2010	1	PLAN COMMISSION	Refer	
1/19/2010	1	COMMON COUNCIL	Refer	Pass
1/12/2010	1	Attorney's Office/Approval Group	Referred for Introduction	

**Fiscal Note**

No appropriation is required.

**Title**

**AMENDED SUBSTITUT**E Amending Sec. 28.04(19)(b)1. and 28.04(19)(c) of the Madison General Ordinances to change the application of the existing development pattern setback calculation.

**Body**

**DRAFTER'S ANALYSIS:** This amendment changes the determination of waterfront setback for zoning lots with non-residential uses where additions, alterations or expansions are made to an existing building.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Paragraph 1. of Subdivision (b) entitled "General Regulations" of Subsection (19) entitled "Waterfront Development" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is hereby repealed and recreated to read as follows:

- "1. The principal building setback from the water shall be:
  - a. For all zoning lots where the principal use is residential, where the zoning lot is vacant, or where proposed development consists of the construction of a new principal building, the setback from the water shall be not less than the average setback of the five (5) developed zoning lots to each side of the proposed zoning lot.

- b. For all other zoning lots, the applicant shall choose, for the location of any additions, alterations, or expansions of an existing principal building, a setback from the water that is not less than **seventy-five (75) feet** ~~the setback calculated in (a)~~ or the setback of the existing building that is being added to, altered, or expanded.”

2. Subdivision (c) entitled “Waterfront Development Less than 500 Square Feet” of Subsection (19) entitled “Waterfront Development” of Section 28.04 entitled “General Provisions” of the Madison General Ordinances is amended to read as follows:

“(c) Waterfront Development Less than 500 Square Feet. All development less than 500 square feet in floor area on lots where the principal use is residential use on the water side of an existing building, including additions, alterations or expansions to an existing building, shall conform to the setback requirements in Sec. 28.04(19)(b)1.a. above.”

EDITOR’S NOTE:

Current Sec. 28.04(19) reads as follows:

“(19) Waterfront Development.

- (a) Statement of Purpose. This subsection is established to further the maintenance of safe and healthful conditions, prevent and control water pollution, protect spawning grounds, fish and aquatic life by controlling building sites, the placement of structures and land users and reserving shore cover and natural beauty for all waterfront and shoreland development.
- (b) General Regulations. The following regulations shall apply to all new development except a Civic Auditorium Complex. No building permit shall be issued for any new development of a waterfront or shoreland zoning lot without first obtaining a conditional use permit therefore. For purposes of this section, new development shall be a new principal building, an addition or additions to an existing principal building totaling in excess of five hundred (500) square feet of floor area during any ten (10) year period, or an accessory building. The conditional use permit shall be issued pursuant to the procedure set forth in Section 28.12(11) of this ordinance. In addition to the review standards set forth in Subdivision (g) therein all waterfront development shall be subject to the following standards.
  1. For purposes of this section, the existing development pattern shall mean the average setback of the five (5) developed zoning lots to each side of the proposed development lot. For all zoning lots, the principal building setback shall be not less than the existing development pattern.
  2. Upon the filing of an application for a conditional use permit, the development plan shall show a complete inventory of shoreline vegetation in any area proposed for building, filling, grading or excavating. In addition, the development plan shall indicate those trees and shrubbery which will be removed as a result of the proposed development. The cutting of trees and shrubbery shall be limited in the strip thirty-five (35) feet inland from the normal waterline. On any zoning lot not more than thirty percent (30%) of the frontage shall be cleared of trees and shrubbery. Within the waterfront setback requirements tree and shrub cutting shall be limited by consideration of the effect on water quality, protection and scenic beauty, erosion control and reduction of the effluents and nutrients from the shoreland.
  3. Any building development for habitation shall be served with public sanitary sewer.
  4. Filling, grading and excavation of the zoning lot may be permitted only where protection against erosion, sedimentation and impairment of fish and aquatic life has been assured.
  5. Where the City’s adopted Master Plan includes a pedestrian walkway or bike path along the shoreline, the proposed development shall not interfere with its proposed location.
  6. Construction of marine retaining walls or bulkhead may be permitted providing such construction does not protrude beyond the established shoreline of the adjacent properties. Said retaining walls and bulkheads will be permitted only for the purpose of preventing shoreline recession. The filling and grading of the shoreline shall occur only in the construction of such retaining walls or bulkheads.
  7. In addition to complying with the above standards, boathouses shall not be constructed

for human habitation.

(c) Waterfront Development Less than 500 Square Feet. All development less than 500 square feet in floor area on the water side of an existing building, including additions to an existing building, shall conform to the setback requirements in Sec. 28.04(19)(b)1. above.”