

CHAPTER 3

Shoreland-Wetland Zoning

<u>Article A</u>	<u>Statutory Authorization Findings of Fact, Statement of Purpose and Title</u>
13-3-1	Statutory Authorization
13-3-2	Findings of Fact
13-3-3	Title of Chapter
13-3-4 through 13-3-5	Reserved for Future Use
<u>Article B</u>	<u>General Provisions</u>
13-3-10	Compliance
13-3-11	Municipalities and State Agencies Regulated
13-3-12	Abrogation and Greater Restrictions
13-3-13	Interpretation
13-3-14	Severability
13-3-15	Annexed Areas
13-3-16 through 13-3-19	Reserved for Future Use
<u>Article C</u>	<u>Shoreland-Wetland Zoning District</u>
13-3-20	Official Shoreland-Wetland Zoning Maps
13-3-21	District Boundaries
13-3-22	Permitted Uses
13-3-23	Prohibited Uses
13-3-24	Nonconforming Structures and Uses
13-3-25 through 13-3-29	Reserved for Future Use
<u>Article D</u>	<u>Administrative Provisions</u>
13-3-30	Zoning Administrator
13-3-31	Zoning Permits
13-3-32	Certificates of Compliance
13-3-33	Conditional Use Permits for Wetland Areas
13-3-34	Fees
13-3-35	Recording
13-3-36	Revocation
13-3-37	Board of Appeals
13-3-38	Amending Shoreland-Wetland Zoning Regulations
13-3-39	Reserved for Future Use

Article E

Penalties; Definitions

13-3-40
13-3-41

Enforcement and Penalties
Definitions

ARTICLE A

Statutory Authorization, Findings of Fact, Statement of Purpose and Title

SEC. 13-3-1 STATUTORY AUTHORIZATION.

This Chapter is adopted pursuant to the authorization in Sections 61.35, 61.351, 87.30 and 144.26, Wis. Stats.

SEC. 13-3-2 FINDINGS OF FACT.

Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the Village of Marshall would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (a) Promote the public health, safety, convenience and general welfare;
- (b) Maintain the storm and flood water storage capacity of wetlands;
- (c) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (e) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

SEC. 13-3-3 TITLE OF CHAPTER.

Shoreland-Wetland Zoning Ordinance/ Chapter for the Village of Marshall, Wisconsin.

SEC. 13-3-4 THROUGH SEC. 13-3-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-3-10 COMPLIANCE.

The use of wetlands and the alteration of wetlands within the shoreland area of the Village of Marshall shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-3-25 of this Chapter for the standards applicable to non conforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

SEC. 13-3-11 MUNICIPALITIES AND STATE AGENT REGULATED.

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 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 Section 30.12(4) (a), Wis. Stats., applies.

SEC. 13-3-12 ABROGATION AND GREATER RESTRICTIONS.

- (a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Section 61.35, 62.23 or 87.30, Wis. Stats., which relates to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

SEC. 13-3-13 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-3-14 SEVERABILITY.

Should any portion of this Chapter be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

SEC. 13-3-15 ANNEXED AREAS.

The shoreland zoning provisions of Dane County in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Dane County shoreland zoning provisions are incorporated by reference or the purpose of administering this Chapter and are on file in the office of the municipal zoning administrator.

SEC. 13-3-16 THROUGH SEC. 13-3-19 RESERVED FOR FUTURE USE.

ARTICLE C

Shoreland-Wetland Zoning District

SEC. 13-3-20 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Village Clerk-Treasurer:

- (a) Wisconsin Wetland Inventory map stamped "Final" on August 29, 1992.
- (b) United States Geological Survey maps dated April, 1976.
- (c) Floodplain zoning maps titled "Flood Insurance Rate Map," dated December 16, 1980.

SEC. 13-3-21 DISTRICT BOUNDARIES.

- (a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the Village of Marshall, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-20 and which are:
 - (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village of Marshall shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-20 of this Chapter.
 - (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-20. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the Village.
- (b) **Determinations of Navigability.** Determinations of navigability and ordinary high water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department or the final determination of navigability or ordinary high-water mark.
- (c) **Discrepancies.** When an apparent discrepancy exists between the shoreland wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator, that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

- (d) **Filled Wetlands.** Wetlands which are filled prior to Aug. 29, 1989, the date on which the Village received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this Chapter.
- (e) **Wetlands Landward of a Bulkhead Line.** Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under Sec. 30.11, Wis. Stats., are not subject to this Chapter.

SEC. 13-3-22 PERMITTED USES.

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and Federal laws, if applicable:

- (a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
 - (4) The pasturing of livestock;
 - (5) The cultivation of agricultural crops; and
 - (6) The construction and maintenance of duck blinds.
- (b) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
 - (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (3) The maintenance and repair of existing drainage to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
 - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural

- functions of the shoreland-wetland listed in Section 13-3-38(c) of this Chapter; and
- (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:
 - a. The road cannot, as a practical matter, be located outside the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-38(c) of this Chapter;
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only; and
 - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (2) The construction and maintenance of nonresidential buildings provided that:
 - a. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. The building does not exceed five hundred (500) square feet in floor area; and
 - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
 - (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and
 - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of

- improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines and water, as and water distribution lines, sewage collection lines, and related facilities and the construction and maintenance of railroad lines provided that:
- a. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-38 (c) of this Chapter.

SEC. 13-3-23 PROHIBITED USES.

- (a) Any use not listed in Section 13-3-22 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-38 of this Chapter.
- (b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

SEC. 13-3-24 NONCONFORMING STRUCTURES AND USES.

- (a) The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions.
- (b) The shoreland-wetland provisions of this ordinance authorized by Sec. 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland wetland provisions. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.
- (c) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
- (d) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Sections 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.

- (e) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Sec. 30.121, Wis. Stats.
- (f) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

SEC. 13-3-25 THROUGH SEC. 13-3-29 RESERVED FOR FUTURE.

ARTICLE D

Administrative Provisions

SEC. 13-3-30 ZONING ADMINISTRATOR.

The Marshall Village Board is appointed Zoning Administrator for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise. Applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and inspect properties or compliance with this Chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.
- (f) Investigate and report violations of this Chapter to the appropriate Village planning agency and the District Attorney, corporation counsel or Village Attorney.

SEC. 13-3-31 ZONING PERMIT.

- (a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-3-41(b)(4) of this Chapter, or any change in the use of an existing building or structure is initiated.
- (b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the Village and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - (1) General Information.
 - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.
 - c. Whether or not a private water or sewage system is to be installed.
 - (2) Site Development Plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
 - c. Description of any existing or proposed on-site sewage systems or private water supply systems;

- d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Boundaries of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
 - h. Location of existing or future access roads; and
 - i. Specifications and dimensions for areas of proposed wetland alteration.
- (c) **Expiration.** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

SEC. 13-3-32 CERTIFICATES OF COMPLIANCE

- (a) Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Chapter.
 - (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 - (3) The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this Chapter.
- (b) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Village Board.
- (c) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

SEC. 13-3-33 CONDITIONAL USE PERMITS FOR WETLAND

- (a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals, following the procedures in Sections 13-3-36(c), (d) and (e) for hearing and deciding appeals.
- (b) **Conditions.** Upon consideration of the permit application and the standards applicable to the permitted uses in Section 13-3-23(c) of the Chapter, the Board of Appeals shall attach such conditions to a conditional use permit in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter as, listed in Section 13-3-2 of this Chapter. Such conditions may include specifications for, without limitation

because of specific enumeration: type of shore cover; erosion potential; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

SEC. 13-3-34 FEES.

The Village Board, by resolution, shall establish fees for the following:

- (a) Zoning permits.
- (b) Public hearings.
- (c) Legal notice publications.
- (d) Conditional use permits.
- (e) Rezoning petitions.
- (f) Certificates of compliances.

SEC. 13-3-35 RECORDING.

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

SEC. 13-3-36 REVOCATION.

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

SEC. 13-3-37 BOARD OF APPEALS.

- (a) **Appointment.** The Village President shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e) Wis. Stats., consisting of five (5) members subject to confirmation by the Village Board. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.
- (b) **Powers and Duties.** The Board of Appeals shall:
 - (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
 - (2) Hear and decide applications for conditional use permits under this Chapter.
 - (3) May authorize, upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:

- a. That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
 - b. That the hardship is due to special conditions unique to the property; and is no self-created or based solely on economic gain or loss.
 - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter.
 - d. That such variance will not grant or increase any use of property which is prohibited in the zoning district.
- (c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- (d) **Public Hearings.**
- (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 - (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) **Decisions.**
- (1) The final disposition of an appeal or application for a conditional use permit, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, and signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.
 - (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after the decision is issued.

SEC. 13-3-38 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The Village Board may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(4)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:

- (a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the Village planning agency.
- (b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held as required by Section 62.23(7)(4)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.
- (c) In order to insure that the shoreland protection objectives in Section 144.26, Wis. Stats., will be accomplished by the amendment, the Village Board may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (1) Storm and flood water storage capacity;
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.
- (e) The appropriate district office of the Department shall be provided with:
 - (1) A copy of the recommendations and report, if any, of the municipal planning agency on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Village Board; and
 - (2) Written notice of the Village Board's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Village Board, may not become effective until more than thirty (30) days have elapsed since written notice of the Village Board approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under Section 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6) and 61.351(6), Wis. Stats., is completed or otherwise terminated.

ARTICLE E

Penalties; Definitions

SEC. 13-3-40 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by an person, firm, association, corporation (including building contractors or their agents shall be deemed a violation. The Zoning Administrator shall refer violations to the Village Board and the Village Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture as specified in Section 1-1-6, "General Penalties," of this Code of Ordinances, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

SEC. 13-3-41 DEFINITIONS.

- (a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.
- (b) The following terms used in this Chapter mean:
- (1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use, to which it is related, and which is located on the same lot as that of the principal structure or use.
 - (2) Boathouse. As defined in Section 30.121(1), Wis. Stats., 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 structural parts.
 - (3) Class 2 Public Notice. Publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.
 - (4) Conditional Use. - A use which is permitted by this Chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
 - (5) Department. The Wisconsin Department of Natural Resources.
 - (6) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory

- structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- (7) Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
 - (8) Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
 - (9) Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spud poles attached to the bed of the waterway.
 - (10) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(4), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, Shoreland ordinances required under Sections 62.351 and 62.221, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river;
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.
 - (11) Ordinary High Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.
 - (12) Planning Agency. The Plan Commission created under Section 62.23(1), Wis. Stats.
 - (13) Shorelands. Lands within the following distances from the ordinary high watermark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
 - (14) Shoreland-Wetland District. The zoning district, created in this shoreland -wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-11 of this Chapter.
 - (15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area,

setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.

- (16) Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.
- (17) Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (18) Wetland Alteration. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.