

CHAPTER 24

SHORELAND-WETLAND ZONING

(Ord. #1106 6/17/2014, Ord. #667 8/4/87)

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24.01 STATUTORY AUTHORIZATION.

- (1) This ordinance is adopted pursuant to the authorization in sections 62.23, 62.231, 62.233, 87.30 and 281.31, Wis. Stats.
- (2) **FINDINGS OF FACT.** Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Chilton 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 further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.
- (3) **PURPOSE.** To promote the public health, safety, convenience and general welfare, this ordinance has been established to:
 - (a) Further the maintenance of safe and healthful conditions;
 - (b) Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters and to maintain storm and flood water capacity;
 - (c) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
 - (d) Prohibit certain uses detrimental to the shoreland-wetland area; and
 - (e) 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.
- (4) **TITLE.** Shoreland-Wetland Zoning Ordinance for the City of Chilton, Wisconsin.

24.02 GENERAL PROVISIONS.

- (1) **COMPLIANCE.** The use of wetlands, and the alteration of wetlands within the shoreland area of the City of Chilton shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 24.04 of this ordinance, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a building permit unless otherwise expressly excluded by a provision of this ordinance.
- (2) **MUNICIPALITIES AND STATE AGENCIES REGULATED.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance 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.

(3) ABROGATION AND GREATER RESTRICTIONS.

(a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Section 62.23 or 87.30, Wis. Stats., which relate to shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(4) INTERPRETATIONS. In their interpretation and application, the provisions of this ordinance shall be held to the 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 ordinance is required by a standard in Chapter NR117, Wis. Adm. Code, and where the ordinance 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 ordinance or in effect on the date of the most recent text amendment to this ordinance.

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

24.03 SHORELAND-WETLAND ZONING DISTRICT.

(1) PURPOSE. This ordinance is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimizes adverse impacts upon the wetland.

(2) OFFICIAL SHORELAND-WETLAND ZONING MAPS. The following maps are hereby adopted and made a part of this ordinance and are on file in the office of the Clerk for the City of Chilton, Wisconsin:

Wisconsin Wetland Inventory Map(s), stamped "FINAL" on October 9, 1985, USCG Topographical Maps

(3) DISTRICT BOUNDARIES.

(a) The shoreland-wetland zoning district includes all wetlands in the City of Chilton, Wisconsin which are five acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance in Section 24.03(2) 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 City

of Chilton shall be presumed to be navigable if they are listed in the Department publication "Surface Water Resources of Calumet County" or 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 ordinance in Section 24.03(2) of this ordinance.

2. Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the flood plain, 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 ordinance in Section 24.03(2) of this ordinance. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, County Soil Survey Maps or other existing community flood plain zoning maps used to delineate flood plain area which have been adopted by the City of Chilton, shall be used to determine the extent of flood plain areas in the City of Chilton.
 - (b) Determination of navigability and ordinary high-water mark shall initially be made by the Building Inspector. When questions arise, the Building Inspector shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.
 - (c) 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 Building Inspector 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 concur with the Building Inspector that a particular area was incorrectly mapped as a wetland, the Building Inspector shall have the authority to immediately grant to deny 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 Building Inspector shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.
- (4) **SETBACK AREA.** There shall be a minimum shoreland setback area of at least fifty feet (50') from the ordinary high water mark, except that construction or placement of a principal building within the shoreland setback area may be allowed if all the following apply:
 - (a) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

- (b) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
- (5) VEGETATION. Within the District Boundaries, properties that contain vegetation shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending thirty-five feet (35') inland from the ordinary high water mark of the navigable water, except as provided in the following:
 - (a) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the property may remove the vegetation, except that if the owner removes all the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
 - (b) A property that is required to maintain or establish a vegetative buffer zone under this section may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no greater than thirty feet (30') wide for every one hundred feet (100') of shoreline frontage and that extends no more than thirty-five feet (35') inland from the ordinary high water mark.
- (6) PERMITTED USES. The following uses are permitted subject to the provisions of chapters 30 and 31 of the 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 building 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 building 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 ditches, where permissible under section 30.20, Wis. Stats., or of other existing drainage systems (such as tiling) 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 build 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 24.06 of this ordinance; and
7. The maintenance, repair, replacement and reconstruction of existing highways and ridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) Uses which are allowed upon the issuance of a building or 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 under Section 24.03(4), of this ordinance, 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 24.06(c) of this ordinance;
 - 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 road bed 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 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 Section 24.03(4) (c) of this ordinance; 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, gas and sewer distribution lines, and related facilities provided that;

- a. The transmission and distribution lines and related facilities 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 24.06(c) of this ordinance.
5. The construction and maintenance of railroad lines provided that:
- a. The railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Only limited wetland alteration 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 as listed in Section 24.06(c) of this ordinance.

(7) PROHIBITED USES.

- (a) Any use not listed in Section 24.03(6) of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 24.06 of this ordinance.
- (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.

24.04 NONCONFORMING STRUCTURES AND USES.

- (1) The existing lawful use of a structure, building or property, or its accessory use, which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
- (2) Notwithstanding Section 62.23(7)(h), Wis. Stats., the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this ordinance adopted under section 62.231, Wis. Stats. or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under section 62.231(5), Wis. Stats. Section 62.23(7)(h), Wis. Stats., applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this ordinance or amendment.

24.05 ADMINISTRATIVE PROVISIONS.

(1) **BUILDING INSPECTOR.** The Building Inspector shall have the following duties and powers:

- (a) Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- (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 A.M. and 6 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 10 days after they are granted or denied, to the appropriate district office of the Department.
- (f) Investigate and report violations of this ordinance to the appropriate City planning agency and the district attorney, corporation counsel or municipal attorney.

(2) **ZONING/LAND USE/BUILDING PERMITS.**

(a) **WHEN REQUIRED.** Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning/land use building permit shall be obtained from the Building Inspector before any new development, as defined in Section 24.08(a), of this ordinance, or any change in the use of any existing building or structure is initiated.

(b) **APPLICATION.** An application for a building permit shall be made to the Building Inspector upon forms furnished by the City 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 center line of all abutting streets or highways;
- c. Location 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. Location and landward limit of all wetlands;
- f. Existing and proposed topographic and drainage features and vegetative cover;
- g. Location of flood plain and floodway limits on the property as determined from flood plain zoning maps used to delineate flood plain areas;
- h. Location of existing or future access roads; and
- i. Specifications and dimensions for areas of proposed wetland alteration.

(3) **EXPIRATION.** All permits issued under the authority of this ordinance shall expire one (1) year from the date of issuance.

(4) **CERTIFICATES OF COMPLIANCE.**

(a) Except where no building 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 Building Inspector 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 ordinance.
2. Application for such certificate shall be concurrent with the application for a building permit.

3. The certificate of compliance shall be issued within 10 days after the completion of the work specified in the building/conditional use permit, providing the building or premises or proposed use thereof conforms with all the provisions of this ordinance.

(b) The Building Inspector may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established therefore, by the City Council.

(c) Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the 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 ordinance.

(d) APPLICATION. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the Building Inspector and a conditional use permit has been granted by the Board of Appeals following the procedures in Sections 24.05(8)(b), (c), and (d), of this ordinance, for hearing and deciding appeals.

(e) CONDITIONS. Upon consideration of the permit application and the standards applicable to the permitted uses in Section 24.03(4)(c) of this ordinance, the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in Section 24.01(3) of this ordinance. 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 building permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

(5) FEES. NOTE: The City Council may, by resolution or ordinances adopt fees for the following:

- (a) Building Permits
- (b) Certificates of Compliance
- (c) Public hearings
- (d) Legal notice publications.

(e) Conditional Use Permits.

(6) RECORDING. Where a building permit or conditional use permit is approved, an appropriate record shall be made by the Building Inspector of the land use and structures permitted.

(7) REVOCATION. Where the conditions of a building permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

(8) BOARD OF APPEALS. The Board of Appeals shall be that body created pursuant to Section 16.20.

(a) 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 ordinance.

2. Hear and decide applications for conditional use permits.

3. May authorize upon appeal in specific cases, such variance from the terms of the ordinance as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship. In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance from the terms of this ordinance shall be granted which is contrary to the public interest. A variance may be granted where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. The granting of a variance shall not have the effect of granting or extending any use of property which is prohibited in that zoning district by this ordinance.

(b) 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 building inspector or other administrative official. Such appeals shall be taken within twenty (20) days 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 Building Inspector 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.

(c) 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, 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 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

(d) 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, 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 permit.

2. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

24.06 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The City may from time to time, alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of Section 62.23(7)(d)2, Wis. Stats., 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 5 days of the submission of the proposed amendment to the City Planning agency;

(b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the city planning agency, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.

(c) In order to insure that the shoreland protection objectives in Section 144.26, Stats., will be accomplished by the amendment, the City Council 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 Section 24.06(c), of this ordinance, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment. The appropriate district office of the Department shall be provided with:

1. A copy of the recommendations and report, if any, of the City planning agency on the proposed text or map amendment, within 10 days after the submission of those recommendations to the City Council; and
2. Written notice of the City Council's action on the proposed text or map amendment within 10 days after the action is taken.

(e) If the Department notifies the City Planning agency in writing that criteria listed in Section 24.06(c), of this ordinance, that proposed amendment, if approved by the City Council, may not become effective until more than 30 days have elapsed since written notice of the City Council approval was mailed to the Department, as required by Section 24.06(1) of this ordinance. If within the 30 days period, the Department notifies the City Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Section 62.231, Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231, Wis. Stats., is completed or otherwise terminated.

24.07 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 ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Building Inspector shall refer violations to the City Planning agency and the district attorney, corporation counsel or municipal 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 ordinance shall be subject to a forfeiture of not less than \$1.00 nor more than \$100.00 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this

ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State, or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

24.08 DEFINITIONS.

For the purpose of administering and enforcing this ordinance, 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 districts unless otherwise specified, shall be measured horizontally.

(a) The following terms used in this ordinance mean:

1. “Accessory structure or use” means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related and which is located on the same lot as that of the principle structure or use.
2. “Boathouse” as defined in Section 30.12(1), Wis. Stats., 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 structural parts.
3. “Department” means the Wisconsin Department of Natural Resources.
4. “Development” means 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.
5. “Drainage system” means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
6. “Environmental control facility” means 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.
7. “Fixed houseboat” as defined in Section 30.12(1), Wis. Stats., means 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 spudpoles attached to the bed of the waterway.

8. “Navigable waters” means Lake Superior, Lake Michigan, all natural inland lakes with 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)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section (61.351/62.231), 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.

9. “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 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.

10. “Planning Agency” means the City Plan Commission created under Section 62.23(1), Wis. Stats., a board of public land commissioners or a committee of the municipality’s governing body which acts on matters pertaining to planning and zoning.

11. “Regional flood” means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every 100 years.

12. “Shorelands” means lands within the following distances from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the flood plain, whichever distance is greater.

13. “Shoreland-wetland district” means 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 ordinance as described in Section 24.02(2) of this ordinance.

14. “Special exception or conditional use” means a use which is permitted by this ordinance 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 City Council.

15. “Unnecessary hardship” means 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 ordinance.

16. “Variance” means 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 ordinance.

17. “Wetlands” means 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” means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.