

**Sec. 106-102. S-W shoreland-wetland district.**

(a) *Statutory authorization; findings of fact; statement of purpose; title.*

- (1) *Statutory authorization.* This section is adopted pursuant to the authorization in Wis. Stats. §§ 62.23, 62.231, 87.30 and 144.26.
- (2) *Findings of fact.* Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the city would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The state legislature 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 section 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.* This section shall be known as the "Shoreland-Wetland Zoning Ordinance for the City of Brillion, Wisconsin."

(b) *General provisions.*

- (1) *Compliance.* The use of wetlands, and the alteration of wetlands within the shoreland area of the city shall be in full compliance with the terms of this section and other applicable local, state or federal regulations. (However, see subsection (d) of this section for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this section.
- (2) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this section and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.12 (4)(a) applies.

(3) *Abrogation and greater restrictions.*

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

(4) *Interpretation.* In their interpretation and application, the provisions of this section 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 section is required by a standard in Wis. Admin. Code ch. NR 117, and where the ordinance provision is unclear the provision shall be interpreted in light of the ch. NR 117 standards in effect on the date of the adoption of this section or in effect on the date of the most recent text amendment to this section.

(c) *Purpose; boundaries; uses.*

(1) *Purpose.* This section 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 section and are on file in the office of the city clerk:

- a. Wisconsin Wetland Inventory Map, stamped "FINAL" on October 9, 1985.
- b. Flood plain maps. Flood Boundary and Floodway Map. 6/15/81.
- c. USGS Topographic maps. Adopted date 1974.

(3) *District boundaries.*

a. The shoreland-wetland zoning district includes all wetlands in the city which are five acres or more and are shown on the final wetland inventory map that has been adopted and made part of this section in subsection (2) above and which are:

1. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the city 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 section in subsection (2) above.

2. Within 300 feet of the ordinary high-water mark of navigable waters or streams, or to be 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 incorporated by reference and made a part of this section in subsection (2) above. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, Flood Boundary-Floodway Maps, County Soil Survey Maps or other existing community floodplain zoning maps used to delineate floodplain area which have been adopted by the city shall be used to determine the extent of floodplain areas in the city.
    - b. 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 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 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 concur 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 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.
- (4) *Permitted uses.* The following uses are permitted subject to the provisions of Wis. Stats. chs. 30 and 31, 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, 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 ditches, where permissible under Wis. Stats. § 30.20, 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 Wis. Stats. ch. 30, 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 subsection (f)(3) of this section; and
  7. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- c. Uses which are allowed upon the issuance of a zoning 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 subsection (c)(4) of this section, provided that:
  - i. The road cannot, as a practical matter, be located outside the wetland;
  - ii. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in subsection (f)(3) of this section;
  - iii. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
  - iv. Road construction activities are carried out in the immediate area of the roadbed only; and
  - v. Any wetland alteration must be necessary for the construction or maintenance of the road.
2. The construction and maintenance of nonresidential buildings provided that:
  - i. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or wetland or aquatic animals;
  - ii. The building cannot, as a practical manner, be located outside the wetland;
  - iii. The building does not exceed 500 square feet in floor area; and
  - iv. 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, 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:
  - i. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
  - ii. 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;

- iii. 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)(4)c.1. of this section; and
- iv. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, and 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 collection lines, and related facilities and the construction and maintenance of railroad lines provided that:

- i. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland;
- ii. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
- iii. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in subsection (f)(3) of this section.

(5) *Prohibited uses.*

- a. Any use not listed in subsection (c)(4) of this section is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this section in accordance with subsection (f) of this section.
- 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.

(d) *Nonconforming structures and uses.*

- (1) The lawful use of a building, structure or property which existed at the time this section, or an applicable amendment to this section, took effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:
- (2) Notwithstanding Wis. Stats. § 62.23(7)(h), the repair reconstruction, renovation, remodeling or expansion of a legal non conforming structure in existence at the time of adoption or subsequent amendment of this section adopted under Wis. Stats. § 62.231(5), or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under Wis. Stats. § 62.231(5). Wis.

Stats. § 62.23(7)(h) 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 section or amendment.

- (3) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this section.
- (4) 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 section adopted under Wis. Stats. § 62.231 or 61.351 may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.
- (5) 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 Wis. Stats. § 30.121.
- (6) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

(e) *Administrative provisions.*

- (1) *Zoning administrator.* The zoning administrator shall have the following duties and powers:
  - a. Advise applicants as to the provisions of this section and assist them in preparing permit applications and appeal forms.
  - b. Issue permits and certifications of compliance and inspect properties for compliance with this section.
  - 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, permits, appeals for a map or text interpretation, and map or text amendments within ten days after they are granted or denied, to the appropriate district office of the department.
  - f. Investigate and report violations of this section to the appropriate city planning agency and the district attorney, corporation counsel or municipal attorney.
- (2) *Zoning permits.*
  - a. *When required.* Unless another section of this section 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 subsection (h)(2) of this section, or any change in the use of an existing building or structure is initiated.

b. *Application.* An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the city and shall include, for the purpose of proper enforcement of these regulations, the following information:

1. *General information:*

- i. Name, address and telephone number of applicant, property owner contractor, where applicable.
- ii. Legal description of the property and a general description of the proposed use or development.
- iii. 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:

- i. Dimensions and area of the lot;
- ii. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
- iii. Location of any existing or proposed on-site sewage systems or private water supply systems;
- iv. Location of the ordinary high-water mark of any abutting navigable waterways;
- v. Boundaries of all wetlands;
- vi. Existing and proposed topographic and drainage features and vegetative cover;
- vii. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate flood-plain areas;
- viii. Location of existing or future access roads; and
- ix. Specifications and dimensions for areas of proposed wetland alteration.

c. *Expiration.* All permits issued under the authority of this section shall expire one year from the date of issuance.

(3) *Certificates of compliance.*

a. Except where no zoning 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 section.
  2. Application for such certificate shall be concurrent with the application for a zoning permit.
  3. The certificate of compliance shall be issued within ten days after the completion of the work specified in the zoning permit, providing the building or premises and proposed use thereof conforms with all the provisions of this section.
- b. The zoning administrator 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 zoning administrator 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 section.
- (4) *Fees.*
- a. Zoning permits. (Fees as determined by the zoning administrator.)
  - b. Certificates of compliance.
  - c. Public hearings.
  - d. Legal notice publications.
- (5) *Recording.* Where a zoning permit is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.
- (6) *Revocation.* Where the conditions of a zoning permit are violated, the permit shall be revoked by the board of appeals.
- (7) *Board of appeals.*
- a. *Members.* The city mayor shall appoint a board of appeals under Wis. Stats. § 62.23(7)(e) consisting of five members subject to confirmation by the common council. The board of appeals shall adopt rules as required by Wis. Stats. § 62.23(7)(e)3.
  - b. *Powers and duties.* The board of appeals:
    1. Shall hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement or administration of this section.
    2. May authorize upon appeal in specific cases, such variance from the dimensional 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 section 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 section 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 of this section.

- 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 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 Wis. Stats. ch. 985, 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 days prior to all public hearings on issues involving shoreland-wetland zoning.
- e. *Decisions.*
  - 1. The final disposition of an appeal, 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 prosecution.
  - 2. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the department within ten

days after the decision is issued.

- (f) *Amending shoreland-wetland zoning regulations.* The city council may from time to time, alter, supplement or change the district boundaries and the regulations contained in this section in accordance with the requirements of Wis. Stats. § 62.23(7)(d)2. and the following:
- (1) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the department within five days of the submission of the proposed amendment to the city planning agency;
  - (2) 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 Wis. Stats. § 62.23(7)(d)2. The appropriate district office of the department shall be provided with written notice of the public hearing at least ten days prior to such hearing.
  - (3) In order to insure that the shoreland protection objectives in Wis. Stats. § 144.26 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:
    - a. Storm and flood water storage capacity;
    - b. 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;
    - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
    - d. Shoreline protection against soil erosion;
    - e. Fish spawning, breeding, nursery or feeding grounds;
    - f. Wildlife habitat; or
    - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
  - (4) 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 (3) above, the department shall so notify the city of its determination either prior to or during the public hearing held on the proposed amendment.
  - (5) The appropriate district office of the department shall be provided with:
    - a. A copy of the recommendations and report, if any, of the city planning agency on the proposed text or map amendment, within ten days after the submission of those recommendations to the city council; and
    - b. Written notice of the city council's action on the proposed text or map amendment within ten days after the action is taken.

- (6) If the department notifies the city planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection (3) above, 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 (f)(5) of this section. If within the 30-day period, the department notifies the city council that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the city under Wis. Stats. § 62.231(6), the proposed amendment may not become effective until the ordinance adoption procedure under section 62.231(6) is completed or otherwise terminated.
- (g) *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 section in violation of the provisions of this section, by any person, firm[,] association or, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator 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 section shall be subject to a forfeiture per section 1-17 of this Code together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this section is a public nuisance and 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 Wis. Stats. § 87.30(2).
- (h) *Definitions.*
- (1) For the purpose of administering and enforcing this section the terms or words used herein shall be interpreted as follows: Words used 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.
- (2) The following terms used in this section mean:
- Accessory structure or use* means 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.
- Boathouse*, as defined in Wis. Stats. § 30.121(1), 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.
- Department* means the Wisconsin Department of Natural Resources.
- 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 addition or substantial alterations to building, structures or accessory structures; the placement of building or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations and the deposition or extraction of earthen materials.

*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.

*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.

*Fixed houseboat*, as defined in Wis. Stats. § 30.121(1), 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.

*Navigable waters* means 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 Wis. Stats. § 144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stats. § 62.231 and Wis. Admin. Code ch. NR 117 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 agriculture use.

*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 characteristic.

*Planning agency* means the city plan[ning] commission created under Wis. Stats. § 62.23(1), a board of public land commissioners or a committee of the municipality's governing body which acts on matter pertaining to planning and zoning.

*Regional flood* means a flood determined to be representative of large

floods known to have generally occurred in the state and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every 100 years.

*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 floodplain, whichever distance is greater.

*Shoreland-wetland district* means the zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the inventory maps which have been adopted and made part of this section as described in subsection (c)(2) of this section.

*Unnecessary hardship* means that circumstances 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 section.

*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 section.

*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.

*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.

(Ord. No. O-86-1, § 1, 4-28-86; Ord. No. OR00-11, § I, 5-22-2000)

**Editor's note:** Ord. No. O-86-1, § 1, adopted April 28, 1986, has been included herein as § 106-102 at the direction of the city.

Secs. 106-103--106-117. Reserved.