

SEC. 13-3-37 BOARD OF APPEALS.

- (a) **Appointment.** The Mayor 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 Common Council. 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 in specific cases, such variance from the terms of the Chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this Chapter will result in unnecessary hardship. In the issuance of a variance, the spirit of the Chapter shall be observed and substantial justice done. No variance from the terms of this Chapter 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 Chapter 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 Chapter.
- (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 therefore. 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, 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, 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 Common Council 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)(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 five (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 Plan Commission, 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 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 Common 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 Subsection (c) of this Section, the Department shall so notify the City 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 City Plan Commission on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and
 - (2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the City Plan Commission 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 Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council 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 Common Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Section 62.231(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6), Wis. Stats., is completed or otherwise terminated.

SEC. 13-3-39 RESERVED FOR FUTURE USE.