

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 any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council and the City 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 Sec. 1-1-7, "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 City, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

SEC. 13-3-41 DEFINITIONS.

- (1) 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.
- (2) 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) Department. The Wisconsin Department of Natural Resources.
 - (4) 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.
 - (5) 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.

- (6) 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.
- (7) 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.
- (8) 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)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 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. 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. The City Plan Commission created under Section 62.23(1), Wis. Stats.
- (11) Regional Flood. 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 one hundred (100) years.
- (12) Shorelands. Lands within the following distances from the ordinary high-water mark 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.
- (13) 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.
- (14) Special Exception or Conditional Use. A use which is permitted by this Ordinance provided that certain conditions specified in the Chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the Common Council.

- (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.