

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 Nichols 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 Nichols, 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 Nichols 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 nonconforming 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 MUNICIPAL TTIES AND STATE AGENCIES 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 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:

- (a) Wisconsin Wetland Inventory map stamped "Final" on October 9, 1985.
- (b) Floodplain zoning maps titled "Wisconsin Wetlands' Inventory," dated October 9, 1985.

SEC. 13-3-21 DISTRICT BOUNDARIES.

- (a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the Village of Nichols, 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 Nichols 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 for 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.

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.