

CHAPTER 72
SHORELAND ORDINANCE

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72.01 STATUTORY AUTHORITY. This Ordinance is adopted under the authority of Wis. Stat. §§ 59.69, 59.692, and 281.31.

72.02 FINDING OF FACT. Uncontrolled use of the shorelands and wetlands and pollution of the navigable waters of Sheboygan County would adversely affect the public health, safety, convenience, and general welfare, and would impair the tax base. The Wisconsin legislature has delegated to the County responsibility to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect spawning grounds, fish and aquatic life; to control building sites, placement of structures, and land uses; to discourage development in erosion hazard areas, particularly along the coast of Lake Michigan; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Sheboygan County.

72.03 STATEMENT OF PURPOSE. The purpose of this Ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect spawning grounds, fish, and aquatic life; to control building sites, placement of structure and land uses to discourage development in erosion hazard areas, particularly along the coast of Lake Michigan; and to preserve shore cover and natural beauty.

72.04 TITLE. This Ordinance shall be known, cited, and referenced to as: **CHAPTER 72, SHORELAND ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN.**

72.05 JURISDICTION. Areas regulated by this Ordinance shall include shorelands and wetlands of all navigable waters, as "navigable waters" is defined in Wis. Stat. § 281.31(2)(d) in the unincorporated areas of Sheboygan County which are:

- (1) Within one thousand feet (1,000') of the ordinary high water mark (OHWM) of navigable lakes, ponds, or flowages, or to the outer perimeter of contiguous mapped wetlands which extend beyond the one thousand feet (1,000') above and for which the applicable town board has filed a consent resolution in accordance with Wis. Stat. § 59.69(5) assigning zoning authority to Sheboygan County for the specific shoreland-wetlands identified on a map made a part of that resolution. Upon filing, such maps shall supplement the official shoreland zoning maps described in Section 72.07 of this Code.
- (2) Within three hundred feet (300') of the ordinary high water mark (OHWM) of navigable waterways, or to the landward side of a floodplain, whichever is greater, or to the outer perimeter of contiguous mapped wetlands which extend beyond the three hundred feet (300') feet above and for which the applicable town board has filed a consent resolution in accordance with Wis. Stat. § 59.69(5) assigning zoning authority to Sheboygan County for the specific shoreland-wetlands identified on a map made a part of that resolution. Upon filing, such maps shall supplement the official shoreland zoning maps described in Section 72.07 of this Code.

Lakes, ponds, flowages, or waterways in Sheboygan County shall be presumed to be navigable if they are designated on the shoreland and wetland maps described in Sections 72.07 and 72.08 of this Code. If evidence to the contrary is presented (i.e. that they are navigable or that they are not navigable), the Department shall make the determination whether or not the waters in question are navigable under the laws of Wisconsin. The Department shall also make the determination of the location of the ordinary high water mark (OHWM). The Department may contact the Southeast District Headquarters of the DNR for assistance in the determination of navigability or the location of the ordinary high water mark (OHWM).

72.06 COMPLIANCE.

- (1) The use of any land or water; the size, shape, and placement of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, and dredging of any lands; the cutting or

removal of shoreland vegetation; and, the subdivision of lots on any area within the boundaries of the districts created and regulated by this Ordinance shall be in full compliance with the terms of this Ordinance and all other applicable local, state, or federal regulations. (See Sections 72.14 and 72.19 of this Code for standards applicable to pre-existing, non-conforming uses.) Property owners, builders, and contractors are responsible for all Ordinance and code compliance and for reasonable care in construction or other development.

- (2) 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 Wis. Stat. § 13.48(13). Activities that are carried out under the direction and supervision of the Department of Transportation in connection with highway bridge or other transportation project design, location, construction, reconstruction, maintenance, and repair are not subject to the provisions of this Ordinance, provided the requirements of Wis. Stat. § 30.2022 are complied with. Activity where not exempt under Wis. Stat. § 30.2022 and the activity of County and local highways and bridges shall comply with this Ordinance and follow the procedure established in Wis. Admin. Code Ch. TRANS 207, pursuant to an agreement with the DNR, and a Shoreland/Floodplain Zoning Permit shall not be required.

Notwithstanding the above, the permit and hearing fees set may be waived for such governmental applicants or agencies thereof, including special purpose units of government (e.g. sanitary and utility districts, lake management districts, school districts, housing authorities, public utilities).

- (3) Unless specifically exempted or prohibited by law, all maps, plats, or descriptions which are prepared by Sheboygan County or which are prepared by individuals or entities pursuant to this Chapter shall be oriented and referenced to the Sheboygan County Coordinate Grid as defined as the Sheboygan County Coordinate Monumentation System at Section 71.26 of this Code.

72.07 SHORELAND DISTRICTS AND BOUNDARIES. The areas of Sheboygan County regulated by this Ordinance as described in Sections 72.05 and 72.06 of this Code are hereby divided into two (2) districts as defined and described in the following Sections 72.09 and 72.10.

The boundaries of the districts shall follow the boundaries illustrated on the following maps which are hereby adopted and made a part of this Ordinance and which are on file with the Department: "Shoreland Zoning Map, Sheboygan County, Wisconsin" and the supporting Wisconsin Wetland Inventory Maps for Sheboygan County as revised by the DNR and presented to the County in April 2009 and as presented most recently at the public hearing held by the Sheboygan County Planning, Resources, Agriculture, and Extension Committee on July 9, 2009.

72.08 LOCATING BOUNDARIES. Where an apparent discrepancy exists between the boundaries shown on the maps described in Section 72.07 of this Code and actual field conditions at the time the maps were adopted, the Department shall contact the District Headquarters of the DNR to determine if the boundaries as mapped are in error. If the DNR staff concur with the Department that a particular area was incorrectly mapped, the Department shall have the authority to immediately grant or deny a Shoreland/Floodplain Zoning Permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors on the official zoning map, the Department shall be responsible for initiating a map amendment within a reasonable period of time, but not to exceed one (1) year following the determination. Notwithstanding the foregoing, all portions of land subject to this Chapter depicted on a certain map designated as the "April 8, 2003, Sheboygan County Highway Department Town of Mosel Permanent Easement Right-of-way Project No. 463395 Map" on file in the office of the Planning and Resources department shall be designated as being in the Shoreland District.

72.09 SHORELAND-WETLAND DISTRICT. This District includes all shorelands subject to regulation under Sections 72.05 and 72.06 of this Code which are designated as wetlands on the wetland inventory maps that have been adopted and made a part of this Ordinance in Section 72.07 of this Code.

- (1) PURPOSE. The purpose of the Shoreland-Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and aquatic life, and to preserve shore cover and natural beauty. Development in wetlands should be limited and, when

development is permitted, it shall occur in a manner that minimizes the adverse impacts upon the wetland.

- (a) Wetlands are seldom suitable as building sites for the following reasons:
 - 1. On-site sewage disposal systems will not function because of high ground water.
 - 2. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed and purified by the soil.
 - 3. Foundations, roads, and other pavements crack due to poor support capabilities and frost action.
 - 4. Flooding is common in spring and other times of high water.
- (b) Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse.
- (c) Wetlands serve as water storage areas and, therefore, minimize flooding and costly flooding damages.
- (d) Wetlands biologically treat and purify water and, therefore, prevent water pollution.

(2) PERMITTED USES. The following uses shall be allowed, subject to the other general shoreland zoning regulations as applicable throughout this Code, the provisions of Wis. Stat. chs. 30 and 31 and the provisions of other state and federal laws, if applicable.

- (a) Activities and uses which do not require the issuance of a Shoreland/Floodplain Zoning Permit, but which must be carried out without filling, flooding, draining, dredging, ditching, tiling, or excavating:
 - 1. Hiking, fishing, trapping, swimming, boating, and hunting, including the construction of blinds for water fowling.
 - 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. Peat mining is prohibited since it involves substantial excavation and may harm wetland values.
 - 3. The practice of silviculture, including the planting, thinning, and harvesting of timber.
 - 4. The pasturing of livestock and the construction and maintenance of fences.
 - 5. The cultivation of agricultural crops.
 - 6. The construction and maintenance of piers, docks, and walkways, including those built on pilings.
 - 7. The maintenance, repair, replacement, and reconstruction of existing town and county highways and bridges.
- (b) Uses which do not require the issuance of a Shoreland/Floodplain Zoning Permit and which may involve filling, flooding, draining, dredging, ditching, tiling, or excavating to the extent specifically provided below:
 - 1. Temporary water level stabilization measures, in the practice of silviculture, 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, with such conditions to be determined by a professional forester.

2. Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.
3. Ditching, tiling, dredging, excavating, or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.

(c) Uses which are allowed upon the issuance of a Shoreland/Floodplain Zoning Permit under Section 72.11 of this Code:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation provided that:
 - A. The road cannot as a practical matter be located outside the wetland; and
 - B. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
 - (i) The road is designed and constructed as a maximum sixteen- (16-) foot, single lane roadway with only such depth as is necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;
 - (ii) Road construction activities are carried out in the immediate area of the roadbed only; and
 - (iii) Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done is necessary for the construction or maintenance of the road.
2. The construction and maintenance of non-residential buildings used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals, or used solely as accessory to a permitted use or for some other purpose, both of which are compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetland, provided that:
 - A. Any such building does not exceed five hundred (500) square feet in floor area; and
 - B. No filling, flooding, draining, dredging, ditching, tiling, or excavating may be done.
3. The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private wildlife habitat areas, provided that:
 - A. Any private recreation or wildlife habitat area is used exclusively for that purpose;
 - B. No filling is done; and

- C. Ditching, excavating, dredging, dike, and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- 4. The construction and maintenance of electric, gas, telephone, cable television, water and sewer lines, and related facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, communications, power, sewerage, or water to their members, and the construction or maintenance of railroad lines, provided that:
 - A. The transmission and distribution lines and related facilities, and railroad lines, cannot as a practical matter be located outside the wetland; and
 - B. Any filling, excavating, ditching, or draining that is done is necessary for such construction or maintenance and is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (3) PROHIBITED USES. Any use not listed in Sections 72.09(2), above, is prohibited, unless the wetland or a portion of the wetland is rezoned by an amendment of this Ordinance in accordance with the requirements of Wis. Stat. § 59.692, Wis. Admin. Code Ch. NR 115, and Sections 72.09(4) and 72.28 of this Code. No Conditional Use Permit may be issued for a prohibited use in the Shoreland-Wetland District.
- (4) REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.
- (a) For all proposed text and map amendments to the Shoreland-Wetland District, the District Headquarters of the DNR shall be provided with the following:
 - 1. A copy of every petition for a text or map amendment to the Shoreland-Wetland District within five (5) days of the filing of such petition;
 - 2. Written notice of the public hearing to be held on a proposed amendment, at least ten (10) days prior to such hearing;
 - 3. A copy of the Department's findings and recommendations on each proposed amendment, within ten (10) days after the submission of those findings and recommendations to the County Board; and
 - 4. Written notice of the County Board's decision on the proposed amendment, within ten (10) days after it is issued.
 - (b) A wetland or a portion thereof in the Shoreland-Wetland District shall not be rezoned if 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, the discharge of ground water to a wetland, the recharge of ground water from a wetland to another area, or the flow of ground water 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.
- (c) If the DNR has notified the Department that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Subsection (b), above, that amendment, if approved by the County Board, shall contain the following provision: "This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the County Board's approval of this amendment was mailed to the DNR. During that thirty- (30-) day period, the DNR may notify the County Board that it will adopt a superseding shoreland ordinance for the County under Wis. Stat. § 59.692(6). If the DNR does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure under Wis. Stat. § 59.692(6) is completed or otherwise terminated." The Department shall notify the property owner that the amendment has been stayed.

72.10 SHORELAND DISTRICT.

- (1) DESIGNATION. This District includes all shorelands subject to regulation under Sections 72.05 and 72.06 of this Code which are not designated as wetlands on the "Shoreland Zoning Map" and wetland inventory maps cited in Section 72.07 of this Code.
- (2) PURPOSE. The purpose of the Shoreland District is to protect waters by providing for safe and orderly shoreland development. In this District, residential, recreational, and conservancy uses are permitted and a limited number of commercial uses are allowed as conditional uses. All permitted uses or conditional uses are subject to the general provisions of this Ordinance and all other applicable laws and regulations.
- (3) PERMITTED USES.
 - (a) Any use permitted under Section 72.09(2) of this Code, except that if the use requires the issuance of a Shoreland/Floodplain Zoning Permit under Section 72.09, it requires a Shoreland/Floodplain Zoning Permit under this Section as well.
 - (b) Single-family detached dwellings, including mobile homes that meet the definition and standards set forth in Section 72.27 of this Code, provided a Shoreland/Floodplain Zoning Permit under Section 72.11 of this Code is issued.
 - (c) Parks and playgrounds, provided a Shoreland/Floodplain Zoning Permit under Section 72.11 of this Code is issued.
 - (d) Accessory uses, provided a Shoreland/Floodplain Zoning Permit under Section 72.11 of this Code is issued.
 - (e) Boathouses, provided they meet the standards of Section 72.15(1)(d) of this Code, provided a Shoreland/Floodplain Zoning Permit under Section 72.11 of this Code is issued.
 - (f) Signs, subject to the conditions as set forth hereafter at Subsection (5), below.
- (4) CONDITIONAL USES. The following uses, if permitted or approved pursuant to the underlying municipal zoning and other land use ordinances, are permitted upon the issuance of a Conditional Use Permit according to the procedure set forth in Section 72.12 of this Code. Unless a greater distance is specified, any of the following commercial, recreational, governmental, or cultural structures hereafter approved as conditional uses shall be at least one hundred feet (100') from a residence other than that of the owner of the establishment, his/her agent, or employee, seventy-five feet (75') from a residential property line, and twenty-five feet (25') from any other lot line.

- (a) All private inland lake access points providing access from more than two (2) dwelling units on back lots or building sites which do not front directly on the lake ("funnel subdivisions"). Such private access points shall have a minimum of fifty feet (50') in width at the ordinary high water mark (OHWM) for each of the first two (2) dwelling units served, plus an additional ten feet (10') of width for each additional dwelling unit served. The Resources Committee may attach conditions governing on-site storage of watercraft in length, types, and other specifications. That Committee shall consider the size, shape, depth, present and potential use of the lake, and the effect of the private access on public rights in navigable waters.
- (b) Two- (2-) family dwellings.
- (c) Multiple-family dwellings.
- (d) Planned Unit Developments, planned, designed, and developed in conformance with Section 71.24 of the Subdivision ordinance.
- (e) Public, parochial, and private schools.
- (f) Churches and similar places of religious worship.
- (g) Professional offices.
- (h) Governmental and cultural uses such as fire and police stations, community centers, municipal buildings, libraries, cemeteries, and museums.
- (i) Golf courses and country clubs.
- (j) Hotels, resorts [including two (2) or more seasonal dwelling units on a single lot for rent or lease], motels, restaurants, dinner clubs, taverns, and other private or public clubs.
- (k) Recreational camps and campgrounds, provided all buildings shall be at least one hundred feet (100') from the lot line. Recreational camps shall conform to Wis. Admin. Code Ch. H 75 and campgrounds shall conform to Wis. Admin. Code Ch. H 78.
- (l) Individual gift and retail specialty shops customarily found in recreational areas.
- (m) Marinas, boat liverys, bait shops, sports equipment stores, watercraft and marine motor sales and service stores, and fish farms.
- (n) Agricultural uses, provided that the following conditions shall apply in addition to any other conditions that may be established by the Resources Committee:
 - 1. Farm animals shall be housed at least one hundred feet (100') from any residential structure on a non-farm lot.
 - 2. Any non-residential structure shall be located at least fifty feet (50') from a property line.
 - 3. New farm buildings housing animals, and all new barnyards or feedlots, shall be located at least one hundred feet (100') from any navigable water and shall be located so that manure will not drain into any navigable water. (Waste collection and disposal systems may be required to prevent manure from draining into any navigable water.)
 - 4. The standards set forth in Chapter 73, FLOODPLAIN ZONING ORDINANCE of this Code shall apply hereto.

- (o) Warehouses, provided that the underlying zoning is industrial or commercial and that the following conditions shall apply in addition to any other conditions that may be established by the Resources Committee:
1. All structures over one thousand (1,000) square feet in area shall be set back at least one hundred feet (100') from the ordinary high water mark (OHWM) of navigable waters.
 2. All parking lots, support and accessory facilities, and other impervious surfaces that, in the aggregate, exceed five thousand (5,000) square feet in area shall be set back at least one hundred feet (100') from the ordinary high water mark (OHWM) of navigable waters.
 3. Stormwater management and erosion control plans (prepared in accordance with Wis. Admin. Code Chs. NR 151 and NR 152 or Chapter 78 of this Code regardless of whether a permit might otherwise be required, whichever is more restrictive) shall be submitted for developments in which parking lots, support and accessory facilities, and other impervious surfaces, in the aggregate, exceed ten thousand (10,000) square feet in area. Such plans shall discourage direct stormwater discharge to the navigable waters, or shall provide for adequate detention/retention or pretreatment.
 4. The storage, processing, or manufacture of any materials hazardous, explosive, or otherwise injurious to humans, animals, vegetation, ground, and surface waters shall be prohibited.
 5. Motor vehicle service and repair facilities shall be prohibited.
- (p) Light Industry, provided that the following conditions shall apply in addition to any other conditions that may be established by the Resources Committee:
1. Only previously existing structures or other developments may be converted to light industrial uses.
 2. The underlying municipal zoning is industrial or commercial.
 3. All structures over one thousand (1,000) square feet in area shall be set back at least one hundred feet (100') from the ordinary high water mark (OHWM) of navigable waters.
 4. All parking lots, support and accessory facilities, and other impervious surfaces that, in the aggregate, exceed five thousand (5,000) square feet in area shall be set back at least one hundred feet (100') from the ordinary high water mark (OHWM) of navigable waters.
 5. Stormwater management and erosion control plans for the site shall be required and implemented. The plans and implementation shall be reviewed and approved by the Sheboygan County Land and Water Conservation Department (LWCD) for existing developments in which parking lots, support and accessory facilities, and other impervious surfaces, in the aggregate, exceed ten thousand (10,000) square feet in area. The plans and their implementation shall be based on Best Management Practices (BMPs) and shall be designed and installed to handle the largest storm event possible considering the physical constraints of the existing property prior to the planning and construction of additional impervious surfaces. The plans shall discourage direct stormwater discharge to the navigable waters, or shall provide for adequate detention/retention or pretreatment. In addition, the plans shall include an "Operation and Maintenance

Plan” that establishes monitoring and maintenance requirements for the BMPs to ensure the BMPs will operate as designed and thereby protect the waters of the state. BMPs shall be constructed prior to the start of the industrial/manufacturing operation pending soil and weather conditions.

6. Outdoor storage of raw materials, finished products, and waste materials/process by-products shall be prohibited or otherwise screened from view and covered to prevent off-site migration via wind or water.
7. The storage, processing, or manufacture of any materials which are hazardous, explosive, or otherwise injurious to humans, animals, vegetation, ground, and surface waters shall be prohibited.
8. Motor vehicle service and repair facilities shall be prohibited.

- (q) Non-metallic mining, provided all provisions of Chapter 78 are adhered to regardless of whether a permit is required and provided that the activity has a set-back of three hundred (300') feet from the OHWM.
- (r) Regulated setback structures as further conditioned under Section 72.16(1)(2)2 of this Code.

(5) SIGNS.

- (a) Subject to Section 72.19, no sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a Shoreland/Floodplain Zoning Permit except those signs listed in Subsection (c), below. No more than two (2) signs of any type enumerated below will be allowed on the premises for each individual business legally located on the premises.
- (b) Signs permitted in the Shoreland District with a Shoreland/Floodplain Zoning Permit.
 1. Directory signs. Indicating the direction and distance to a business, recreational facility, or service available at a specific location within the County. Such signs shall not be more than eight (8) square feet in gross area, be more than five (5) miles from the location to which it relates, or be within three hundred feet (300') of an existing residence. There shall not be more than two (2) such signs relating to any one (1) use in the approaching direction along any one (1) highway. Such signs may be placed at the right-of-way line of the highway.
 2. Signs attached to a commercial and/or industrial building advertising a business conducted or a service available on the premises. No sign shall exceed forty (40) square feet in gross area, be higher than four feet (4') above the top of the roof line, and exceed the maximum height limitation permitted in the District.
 3. Ground signs advertising commercial and/or industrial businesses on the premises. Such signs shall not exceed twelve (12) square feet in gross area. There shall be no more than one (1) sign for the highway and/or navigable waterway upon which the property faces. Such signs may be placed at the right-of-way line of the highway. Ground signs which face a navigable waterway must be seventy-five feet (75') from the ordinary high water mark (OHWM).
- (c) Signs permitted in the Shoreland District without a Shoreland/Floodplain Zoning Permit. The following signs do not need a permit, but are subject to regulations as specified.

1. Signs advertising a customary home occupation or professional office. Such signs shall not exceed six (6) square feet in gross area, shall be attached to the building, and, if illuminated, shall be indirectly lighted.
2. Agricultural signs pertaining to the production or sale of agricultural products on a farm shall not exceed thirty-two (32) square feet in gross area for any one (1) farm.
3. Signs advertising the sale, lease, or rental of the premises upon which the sign is temporarily located shall not exceed twenty (20) square feet in gross area.
4. Signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress shall not exceed one hundred (100) square feet in gross area, and shall be removed thirty (30) days after completion of construction or prior to occupancy, whichever is sooner.
5. Official signs, such as traffic control, parking restrictions, danger, and aids to service or safety, including utilities.
6. Memorial signs or tablets with the name of buildings and date of erection shall not exceed twenty (20) square feet in gross area.
7. Political and campaign signs may be erected not earlier than thirty (30) days prior to the election and shall be removed within fifteen (15) days following said election. Such sign shall not exceed sixteen (16) square feet in gross area. No sign shall be located within fifteen feet (15') of the public right-of-way at a street intersection, nor over any street right-of-way.
8. Neighborhood identification signs. A sign, masonry wall, landscaping, or other similar material and feature may be combined to form a display for neighborhood or subdivision identification provided that the legend of such sign or display shall consist only of the neighborhood or subdivision name.

(d) Prohibited Signs.

1. Abandoned signs. All signs or sign messages shall be removed by the owner or lessee of the premises upon which an on-premise sign is located when the business it advertises is no longer conducted; or for an off-premise sign, when lease payment and rental income are no longer provided. If the owner or lessee fails to remove the sign, the Department shall give the owner sixty (60) days' written notice to remove said sign. Upon failure to comply with this notice, the Department shall cause removal to be executed, the expenses of which shall be assessed to the tax roll of the property on which the abandoned sign is located.
2. Portable or trailer signs.
3. Flashing or moving signs. No sign shall be permitted which is animated by means of flashing, scintillating, blinking, or traveling lights of over fifteen (15) watts per lamp, and no animated sign may be located within three hundred feet (300') of any illuminated traffic control or warning light. Changeable message signs are not subject to this restriction. Signs with physically moving components visible from the public right-of-way are not permitted except for those which revolve around a vertical axis at speeds less than seven (7) revolutions per minute.
4. Swing signs.

5. Floodlighted signs. Reflection illuminated signs whose light source is positioned so that twenty-five (25%) or more of its light intensity is visible from a public right-of-way by vehicular traffic or whose light source is visible from residential property are prohibited.
 6. Unclassified signs which:
 - A. bear or contain statements, words, or pictures of obscene, pornographic, or immoral subjects; or
 - B. which are an imitation of, or resemble in shape, size, copy, or color, an official traffic sign or signal are prohibited.
- (e) Larger signs or a greater number of signs may be permitted upon the issuance of a Conditional Use Permit by the Resources Committee under Section 72.12 of this Code.

72.11 SHORELAND/FLOODPLAIN ZONING PERMITS. Unless specifically exempted, a Shoreland/Floodplain Zoning Permit shall be obtained from the Department before any new land use, change in use, or development, as defined in Section 72.28 of this Code which is allowed under Sections 72.09(2)(c); 72.10(3)(a), (b), (c), (d), (e), and (f) may be initiated.

- (1) PROCEDURES. An application for a Shoreland/Floodplain Zoning Permit shall be made to the Department upon forms furnished and shall include the following data:
 - (a) Name, address, and phone number of the applicant and property owner, and contractor, if available.
 - (b) Legal description of the property and type of proposed use.
 - (c) A sketch showing the dimensions of the lot and locations of buildings from lot line, center line of abutting highways, and high water mark of any abutting watercourse, floodplain or wetland boundary or district, and regional flood, lowest floor, and fill elevations in NGVD.
 - (d) All information concerning any private water or on-site sewage disposal system to be installed, including a sketch showing surveyed location of wells, streams, lakes, buildings, privies, and septic tank systems within one hundred feet (100') of proposed sewage disposal site.
 - (e) Any information that is required by Chapter 73, FLOODPLAIN ZONING ORDINANCE of this Code. It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state, and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
- (2) CONDITIONS ATTACHED TO PERMIT. In granting Shoreland/Floodplain Zoning Permits, the Department may attach reasonable conditions, including but not limited to:
 - (a) The smallest amount of disturbed or bare ground shall be exposed for the shortest time feasible and temporary vegetation and/or mulching be properly applied as deemed necessary. Vegetative cover shall not be removed until immediately before excavation commences.
 - (b) Diversions, silting basins, terraces, or any other prescribed methods to reduce erosion and retard sedimentation be constructed.
 - (c) Dredging to a firm bottom be required before filling.

- (d) Dredging/lagooning be conducted in such a manner as to avoid creation of a "fish trap."
 - (e) Fill materials be stabilized according to accepted engineering standards.
 - (f) Fill materials will not restrict a floodway or appreciably reduce the storage capacity of a floodplain, according to Chapter 73, FLOODPLAIN ZONING ORDINANCE of this Code.
 - (g) Sides of a channel or artificial watercourse be stabilized according to accepted engineering standards to prevent slumping.
 - (h) Sides of a channel or artificial watercourse be constructed with horizontal:vertical side slopes of 3:1 or flatter in sand or gravel and 2:1 or flatter in other soils, unless bulkheads or riprapping are provided.
 - (i) No permit may be conditioned or withheld based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract with a third party under which the third party is engaging in a lawful use of the property.
- (3) MAINTENANCE. Work performed under a Shoreland/Floodplain Zoning Permit shall be maintained in good condition and, except for maintenance dredging, no further authorization is required for ordinary maintenance. (See Section 72.27 of this Code, definition of "Substantial Improvement.") However, any work performed other than ordinary maintenance shall require issuance of a new Shoreland/Floodplain Zoning Permit.

Shoreland/Floodplain Zoning Permits for work which will require periodic maintenance dredging will authorize such maintenance dredging for a specified time period as set by the Department, but not to exceed ten (10) years. The extent of such maintenance dredging shall not exceed the design specifications of the original project. The holder of said permit shall give thirty (30) days advance notice to the Department each time such maintenance dredging is to be performed.

- (4) TRANSFER OF PERMITS AND TIME LIMITATIONS. Issued permits express the assent of Sheboygan County so far as concerns the public rights and the general public interest.

Although issued to a specific party, the assent is not limited to execution of the work by the party and the permit may be availed of by the assignees or purchasers of the property affected, provided the terms of the permit are strictly complied with. Notification of the transfer and the agreement of the new owner to comply with the permit requirements shall be furnished by the new owner to the Department in writing at the time of transfer of the permit.

Permits shall be valid for a period of one (1) year from the date of issue, and the work permitted shall be completed prior to the expiration date.

Extension for additional periods of up to one (1) year may be granted by the Department subject to the following conditions:

- (a) Extension requests shall be made in writing to the Department prior to the expiration date.
- (b) Permits shall be reviewed by the Department for compliance with current local, county, state, and federal requirements. If not in compliance, the extension shall be denied.

72.12 CONDITIONAL USE (a.k.a. SPECIAL EXCEPTIONS) PERMITS.

- (1) APPLICATION. Permission for conditional uses specified in this Ordinance shall be allowed only upon application to the Department, on forms furnished by the Department, and issuance of a Conditional Use Permit by the Resources Committee following the same notice, hearing,

and other procedures set forth for the Board of Adjustments in Wis. Stat. § 59.694 and Chapter 76 of this Code.

- (2) EVALUATION. In passing upon a proposed conditional use application, the Committee shall evaluate the effect of the proposed use upon:
 - (a) Maintenance of safe and healthful conditions.
 - (b) Prevention and control of water pollution, including erosion and sedimentation.
 - (c) Existing topography, drainage, and vegetative cover.
 - (d) Location to floodways and floodplains.
 - (e) Erosion potential based on percent slope, soil type, and vegetative cover.
 - (f) Existing and future access roads.
 - (g) Existing and future traffic and parking needs.
 - (h) Degree of site disturbance and its impact upon adjoining natural resource areas (e.g. wetlands, archaeological features, preserves, wildlife habitat).
 - (i) Compatibility with adjacent uses.
 - (j) Suitability for waste disposal and potable water supply.
 - (k) Natural scenic beauty.
 - (l) Conformance with other applicable codes and ordinances.

- (3) OTHER CONDITIONS. The Resources Committee may attach such conditions, in addition to those required elsewhere in this Ordinance [including those set forth for Shoreland/Floodplain Zoning Permits at Sections 72.11(2), (3), and (4)] as it deems necessary in furthering the purpose of this Ordinance. Violation of any such established conditions shall be deemed a violation of this Ordinance. Such conditions may include specifications for, without limitation because of specific enumeration:
 - (a) Type and extent of shore cover.
 - (b) Increased setbacks and yards.
 - (c) Specific sewage disposal and water supply facilities.
 - (d) Landscaping, planting screens, and buffer yards.
 - (e) Period of operation.
 - (f) Extent and duration of site disturbance.
 - (g) Operational control.
 - (h) Access and parking.
 - (i) Surety bonding.
 - (j) Deed restrictions.
 - (k) Location of structures.
 - (l) Type of construction.
 - (m) Floodproofing measures.

- (4) As a basis for its determination, the Resources Committee may require the applicant to furnish, in addition to the information required for a permit, the following data:
 - (a) A plan map drawn to a reasonable scale showing contours and elevations, soil types, ground water conditions, bedrock, ordinary high water mark (OHWM), slopes, and vegetative cover.
 - (b) Location of existing and proposed buildings, parking areas, access roads, walkways, piers, open spaces, and landscaping.
 - (c) Specifications for areas of proposed filling, dredging, lagooning, or grading.
 - (d) Plans of sewage disposal and water supply facilities.
 - (e) Floodproofing measures.
 - (f) Any of the floodplain data described in Chapter 73 of this Code deemed necessary by the Committee.

- (5) When a Committee-approved conditional use is not carried out or does not continue in conformance with the conditions of the original approval, the conditional use shall be terminated and the permit revoked by action of the Committee.
- (6) STATE REVIEW. Written notice must be made to the District Headquarters of the DNR at least ten (10) days prior to hearings on proposed conditional uses, and copies of decisions thereon shall be provided to that office within ten (10) days after they are granted or denied.

72.13 BUILDING SITES AND DIMENSIONS. Any Shoreland/Floodplain Zoning Permit or Conditional Use Permit issued hereunder shall have as applicable these additional requirements:

- (1) The dimensions of all building lots hereinafter created shall be subject to the provisions of the SHEBOYGAN COUNTY SUBDIVISION ORDINANCE, except that:
 - (a) Lots served by private on-site sewage disposal systems shall not be less than twenty thousand (20,000) square feet, nor shall the average lot width be less than one hundred feet (100'), with at least one hundred feet (100') at the water's edge for lots that abut navigable waters.
 - (b) Lots served by municipal sanitary sewer or other County and State approved off-site cluster or common sewage disposal systems shall not be less than ten thousand (10,000) square feet, nor shall the average lot width be less than sixty-five feet (65'), with at least sixty-five feet (65') at the water's edge for lots that abut navigable waters.
- (2) The "Average Lot Width" shall be measured in the manner set forth in Wis. Admin. Code Ch. Comm 85.
- (3) If an existing town ordinance relating to the dimensions of building sites is more restrictive than this Ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- (4) Only one (1) principal structure and one (1) principal use shall be permitted on a single parcel, lot, or tract of land unless expressly approved by the Department on an individual basis for such uses as Planned Unit Developments, condominiums, or other clustered projects, in accordance with the provisions of Section 72.15(2) of this Code.
- (5) The total square footage, in ground floor area, (including but not limited to eaves, overhangs, chimneys, etc.) of all proposed or existing principal and accessory structures [for example: main buildings, garages, sheds, patios, boathouses, and decks (including cantilevered or upper-story decks)] on any one (1) lot shall not exceed twenty percent (20%) of the total lot area, in furtherance of this Ordinance's environmental and aesthetic purposes set forth in Section 72.03 of this Code. For the purposes of this Subsection, the following are excluded from the calculation of total square footage:
 - (a) Arbors (as defined in Section 72.27 of this Code), provided that ground coverage consist entirely of vegetation or organic mulch material and furniture (for example: benches, tables, etc.) shall not be incorporated in the arbor structure, and with:
 - 1. Vertical posts of four inches (4") by four inches (4") or less in size set a minimum of four feet (4') on center,
 - 2. Beams with a maximum dimension of two inches (2") by eight inches (8") set with their narrowest dimension on edge, and
 - 3. Joists, having a maximum width of two inches (2") in the narrowest dimension, set on edge with a minimum spacing of sixteen inches (16") on center;
 - (b) Walkways and stairways, except if necessary to comply with handicapped accessibility requirement, which do not exceed four feet (4') in width; and

(c) Driveways.

(6) Accessory structures shall not be constructed or placed until their principal structure is present or under construction.

72.14 EXISTING UNDEVELOPED SUBSTANDARD LOTS. Any Shoreland/Floodplain Zoning Permit or Conditional Use Permit issued hereunder shall have as applicable these additional requirements:

(1) SUBSTANDARD LOTS INTENDED TO BE SERVED BY PRIVATE ON-SITE SEWAGE DISPOSAL SYSTEMS. An existing undeveloped substandard lot intended to be served by a private on-site sewage disposal system which is at least ten thousand (10,000) square feet in area and is an average of sixty-five feet (65') in width, with at least sixty-five feet (65') in width at the water's edge for lots that abut navigable waters, may be used as a building site for one (1) single family dwelling upon issuance of a Shoreland/Floodplain Zoning Permit if it meets the following requirements:

(a) The lot shall be deemed suitable for the installation of on-site sewage disposal systems, according to the provisions of the SANITARY ORDINANCE, Chapter 70, of this Code.

(b) Such use is permitted in the zoning district, pursuant to either this Ordinance or any local ordinance.

(c) The lot is of record in the Register of Deeds' Office prior to the effective date of this Ordinance.

(d) The lot is in separate ownership from abutting lands. If abutting lands (whether developed or undeveloped) and the undeveloped substandard lot are owned by the same owner, the abutting lots in common ownership shall be considered a single parcel (merged) and the substandard lot shall not be sold or used without full compliance with the terms of this Ordinance and the SUBDIVISION ORDINANCE, Chapter 71, of this Code.

(2) SUBSTANDARD LOTS SERVED BY MUNICIPAL SANITARY SEWER OR OTHER COUNTY AND STATE APPROVED OFF-SITE CLUSTER OR COMMON SEWAGE DISPOSAL SYSTEM. An existing substandard lot served by such sanitary sewer facilities which is at least seven thousand five hundred (7,500) square feet in area and is an average of fifty feet (50') in width, with at least fifty feet (50') in width at the water's edge for lots that abut navigable waters, may be used as a building site for one (1) single-family dwelling upon issuance of a Shoreland/Floodplain Zoning Permit if it meets the following requirements:

(a) Such use is permitted in the zoning district, pursuant to either this Ordinance or any local ordinance.

(b) The lot is of record in the Register of Deeds' Office prior to the effective date of this Ordinance.

(c) The lot is in separate ownership from abutting lands. If abutting lands (whether developed or undeveloped) and the undeveloped substandard lot are owned by the same owner, the abutting lots in common ownership shall be considered a single parcel (merged) and the substandard lot shall not be sold or used without full compliance with the terms of this Ordinance and the SUBDIVISION ORDINANCE, Chapter 71, of this Code.

(3) The "Average Lot Width" shall be measured in the manner set forth in Wis. Admin. Code Ch. Comm 85.

72.15 PROCESSES TO ACHIEVE REDUCED LOT SIZES AND SETBACKS.

- (1) VARIANCES. In some instances where an individual lot or small tract of land has unique characteristics (i.e. unique terrain or vegetation) which would result in "unnecessary hardship" as defined in Section 72.27 of this Code if the owner were required to comply with one or more of the requirements for minimum lot size, width, and setback, the Board of Adjustments may grant a variance (see Section 72.26 of this Code).
- (2) PLANNED UNIT DEVELOPMENTS (i.e. CLUSTERS, CONDOMINIUMS, COOPERATIVES). Development, planned as a unit, is intended to encourage and promote flexibility, ingenuity, and efficiency in the land development process and, perhaps, to permit smaller lots and setbacks where the physical layout of the lots is so arranged as to better enhance waterfront aesthetics, preserve natural shoreland vegetation, and control runoff, erosion, and other pollution, than would be expected if the lots were developed conventionally and without the special conditions placed upon the Planned Unit Development at the time of its approval.

Planned Unit Developments shall be designed, approved, and developed as set forth in Section 71.24 of the SUBDIVISION ORDINANCE.

72.16 SETBACKS. Any use of property within a Shoreland-Wetland District whether or not a Shoreland District shall have as applicable these additional requirements:

- (1) SETBACKS FROM THE WATER. [NOTE: Setbacks hereunder are to be measured at right angles from lot lines or the ordinary high water mark (OHWM), horizontally, to the closest projection of the structure or integral part thereof, including attached decks, porches, balconies, attached covered stairs and landings, chimneys, such architectural projections as sills, eaves, and belt courses, and attached garages.]

(a) Inland Navigable Waters.

1. Required Setbacks. All structures, except playground apparatus, piers, wharves, boat hoists, boathouses, patios, open fences, bridges, dams, and walkways and stairways which are necessary to provide pedestrian access to the shoreline, shall require a setback of at least seventy-five feet (75') from the ordinary high water mark (OHWM) although a greater setback may be required where otherwise regulated by the floodplain provisions of this Ordinance or other more restrictive ordinances.

Structures which require authorization or permits from the DNR pursuant to Wis. Stat. chs. 30 and 31 or which are to be located below the ordinary high water mark (OHWM), namely bridges, dams, culverts, piers, wharves, navigational aids, and waterway crossings of transmission lines shall comply with all applicable federal, state, county, and local regulations, but shall not require the issuance of a Shoreland/Floodplain Zoning Permit where the standards of this Ordinance are complied with.

2. Reduced Setbacks. "Regulated setback structures" include all structures located less than seventy-five feet (75') from the ordinary high water mark (OHWM) of any inland navigable waters other than those exempted from the setback requirement of Subsection (1)(a)1, above. Regulated setback structures shall be considered to be nonconforming. Such structures may be expanded or relocated within the regulated setback only if a Conditional Use Permit is issued. In addition to the site-specific conditions pursuant to Section 72.12 of this Code, prerequisites for issuance of a Conditional Use Permit shall include:

- A. The structure must either have been erected prior to October 27, 1970, or have been erected pursuant to a permit issued under this Ordinance;

- B. All other provisions of this Ordinance not in conflict with this Section shall apply to any such expansion or relocation, including by way of illustration but not limitation Section 72.19;
- C. No expansion closer to the ordinary high water mark (OHWM) than the existing structure may be permitted; and
- D. All regulated setback structures or portions thereof less than thirty seven and one-half feet (37-1/2') from the ordinary high water mark (OHWM) shall be removed.

Any setback less than that of the existing structure shall only be permitted upon the granting of a variance by the Board of Adjustments, in accordance with Section 72.26 of this Code.

(b) Lake Michigan.

1. Findings of Fact. Lake Michigan possesses unique ecological characteristics, water level fluctuations, and erosion hazards, not found on other surface waters in Sheboygan County.

The coast north of the City of Sheboygan consists almost entirely of steep bluffs ±50 feet in height; the coast south of the City consists almost entirely of low dunes and beaches. Despite this contrast, long-term recession (erosion) rates of ±2 feet per year have been recorded along both coastal reaches.

To protect property and life and minimize costly damage, the setback from Lake Michigan shall be based upon the long-term recession rate of two feet (2') per year and a fifty- (50-) year period as the useful life of a typical residence. In addition, on steep bluffs it shall also be necessary to determine an additional setback distance based upon a stable slope angle of two and one-half feet (2-1/2') horizontal distance for every one foot (1') vertical distance. [To illustrate, 50-year design life × 2 feet per year recession rate = 100-foot setback if on the 50 foot high bluff; 2-1/2 feet (stable slope angle) × 50 feet (bluff height) = 125-foot setback. TOTAL SETBACK = 225 feet (100 + 125).]

2. Required Setbacks. All structures, except playground apparatus, piers, wharves, boat hoists, boathouses, patios, open fences, bridges, dams, and walkways and stairways which are necessary to provide pedestrian access to the shoreline, shall be set back at least one hundred feet (100') from the ordinary high water mark (OHWM) for the entire coastal reach extending from the NORTH COUNTY LINE TO THE SOUTH COUNTY LINE.

Additionally, to achieve the added degree of protection for major structural investments as described in Subsection (1)(b)1, above, all Principal Buildings as herein defined shall be set back two hundred twenty-five feet (225') from the ordinary high water mark (OHWM) for the coastal reach extending from the CITY OF SHEBOYGAN NORTH TO THE NORTH COUNTY LINE.

Structures which require authorization or permits from the DNR pursuant to Wis. Stat. chs. 30 and 31 or which are to be located below the ordinary high water mark (OHWM), namely bridges, dams, culverts, piers, wharves, navigational aids, and waterway crossings of transmission lines shall comply with all applicable federal, state, county, and local regulations, but shall not require the issuance of a Shoreland/Floodplain Zoning Permit where the standards of this Ordinance are complied with.

3. Procedure to Reduce Setback of Principal Buildings. For the coastal reach extending from the CITY OF SHEBOYGAN NORTH TO THE NORTH COUNTY LINE, a lesser setback may be achieved for the principal building on an individual site where it is determined by a registered professional engineer or surveyor that the height of the bluff is less than fifty feet (50') and, therefore, that the stable slope angle setback (2-1/2:1) would be less than the one hundred twenty-five feet (125') established above. Measurement of the stable slope angle setback shall be made from the ordinary high water mark (OHWM) perpendicular to the shoreline. There shall be two such measurements for every one hundred feet (100') of shoreline at points not less than fifty feet (50') apart. The setback shall be a line connecting these two points, or such line extended.

The Board of Adjustments may approve, as a variance under the provisions of Section 72.26 of this Code, a modification of the erosion hazard setback upon presentation by the applicant of acceptable engineering studies documenting:

- A. Lower recession rates;
 - B. More stable slope conditions;
 - C. Plans for structural protection against wave attack; and
 - D. Plans for stabilization of the bluff or shoreline.
- (c) Existing Mobile Homes and Recreational Vehicles. Existing mobile homes and recreational vehicles used for human occupancy which are mobile and not designated as permanent or taxed the same as real estate shall be removed and set back the prescribed distance to comply with requirements of the above Sections.
- (d) Boathouses. Boathouses shall not extend below, or more than thirty feet (30') landward of, the ordinary high water mark (OHWM) and shall be designed exclusively for the storage of watercraft and related marine equipment and shall not be used for human habitation or commercial purposes. A boathouse with rooms above or within, used for purposes other than the storage of watercraft and related marine equipment, shall not be deemed to be a boathouse. Fireplaces, patio doors, plumbing, heating, cooking facilities, or any features inconsistent with the use of the structure exclusively as a boathouse, are not permitted in or on boathouses. Boathouses shall not be more than twelve feet (12') tall. Railings shall not be placed on top of the boathouse, nor shall boathouse roofs be designed to provide general outdoor living space, i.e. a deck. Boathouses shall not be established where the existing slope is more than twenty percent (20%). Only one (1) boathouse is permitted on a lot as an accessory structure.
- (e) Patios. Patios are exempted from the shoreland setback requirements provided that the structure shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction and to be visually screened as viewed from the adjacent waterway and public thoroughfares. Further, no permanent benches or tables shall be attached to the patio; the patio shall not exceed a height of six (6) inches above the original grade, and canopies, roofs, and railings on such structures are prohibited.
- (f) Stairways, Walkways, Piers, and Wharves. Stairways and walkways and that portion of piers and wharves landward of the ordinary high water mark (OHWM) are exempted from the shoreland setback requirements provided that the structure is necessary to access the shoreline because of steep slopes, impending turf destruction and erosion, or wet, unstable soils. Further, the structure shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction and to be visually inconspicuous and screened by vegetation as viewed from the adjacent waterway and public thoroughfares. The structure shall conform with all applicable

handicapped accessibility requirements and unless inconsistent therewith, shall not be more than four feet (4') wide (outside dimension) for single- and two-family residential uses. For multi-family residential, commercial, industrial, institutional, and recreational uses, the four feet (4') standard may be exceeded only upon the granting of a Conditional Use Permit pursuant to Section 72.12 of this Code. Open railings are permitted only where required by safety concerns; canopies, roofs, and closed railings/walls on such structures are prohibited; stairways shall be supported on piles or footings rather than being excavated from erodible soils on steep slopes or a bluff face; and landings are permitted only where required by safety concerns and shall not exceed forty (40) square feet in area for single- and two-family residential uses. For multi-family residential, commercial, industrial, institutional, and recreational uses, the forty (40) square feet standard may be exceeded only upon the granting of a Conditional Use Permit pursuant to Section 72.12 of this Code.

- (g) Retaining Walls. Retaining walls and terracing shall only be allowed in the shoreline setback area where the applicant demonstrates that there is a current erosion problem that cannot be remedied by resloping and revegetation of the area or other means consistent with natural shoreline aesthetics. Walls and terracing shall only be permitted to the extent that they resolve a continuing erosion problem and shall not be used to provide level outdoor living space in the near-shore area. Elevated stairs or walkways shall be employed to provide shoreline access rather than terracing, as set forth in Subsection (1)(f), above.
- (h) On-Site Private Sewage Disposal Systems. On-site private sewage disposal systems shall be set back at least fifty feet (50') from the ordinary high water mark (OHWM) of navigable waters, and shall fully conform with the requirements of the SANITARY ORDINANCE, Chapter 70, of this Code.
- (i) Playground Apparatus. When enforcing the setback provisions of this Ordinance and the permitted installation of playground apparatus, the owner shall, prior to installing such playground apparatus be required to obtain a Conditional Use Permit pursuant to Section 72.12 of this Code, so that it may determine whether (in order to preserve the view of shore cover and natural beauty as seen from the water) shrubbery or other vegetation should be required to protect the scenic beauty of the area and to ensure that the play equipment will be located as to minimize earth disturbing activities and shoreland vegetation removal.
- (j) Structures With Open or Screened Sides or No Sides.
 - 1. Sheboygan County shall grant special zoning permission for the construction or placement of a structure on property in a shoreland setback area if all of the following apply:
 - A. The part of the structure that is nearest to the water is located at least thirty-five feet (35') landward from the OHWM.
 - B. The total floor area of all of the structures in the shoreland setback area of the property will not exceed two hundred (200) square feet. In calculating this square footage, boathouses shall be excluded.
 - C. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - D. Sheboygan County must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least seventy percent (70%) of the half of the shoreland setback area that is nearest to the water.

- (2) YARDS AND HIGHWAY SETBACKS. Yard setbacks (e.g. front, rear, side) shall be subject to the provisions of the underlying local zoning ordinance or any Sheboygan County zoning

ordinance. Highway setbacks shall also be subject to the provisions of the underlying local zoning ordinance or any Sheboygan County Zoning Ordinance.

72.17 REMOVAL OF SHORE VEGETATION. Any use of property within a Shoreland-Wetland District or a Shoreland District shall have as applicable these additional requirements:

- (1) Regulating removal of vegetation along the shorelands is necessary to protect scenic beauty, control erosion, and reduce effluent and nutrient flow from the land. These provisions shall not apply to dead, diseased, or dying trees or shrubbery at the discretion of the landowner, or to silvicultural thinning upon recommendation of a professional forester.
- (2) Tree and shrubbery cutting in a strip paralleling the shoreline and extending fifty feet (50') inland from all points along the ordinary high water mark (OHWM) of the surface waters shall be limited in accordance with the following provisions, and no Shoreland/Floodplain Zoning Permit shall be required therefor:
 - (a) Natural shrubbery shall be preserved as far as practical to screen existing or proposed development, and where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
 - (b) No more than thirty percent (30%) of the trees within the strip shall be cut by selective cutting or by creating a clear-cut crossing of this strip down to the water's edge, nor shall any such clear-cut to the water's edge exceed ten feet (10') in width.
 - (c) Any path, road, or passage within the fifty feet (50') strip shall be constructed and surfaced in a manner to effectively resist and retard erosion, but preserve natural beauty.
- (3) As an alternative to Subsection (2), above, a special cutting plan allowing greater cutting or thinning may be permitted by the Department in the following manner. The lot owner shall submit to the Department a sketch of the lot, including locations of all structures, parking areas, slopes at not less than five (5) foot contour intervals, existing vegetation, proposed cutting, and proposed replanting. The Department may grant a Shoreland/Floodplain Zoning Permit for that activity only if it finds that the special cutting plans:
 - (a) Will not cause erosion, sedimentation, or destruction of natural, cultural, historical, endangered, or archeological resources; and
 - (b) Will provide substantial screening from the water of dwellings, accessory buildings, and parking areas. Where the plan calls for replacement plantings, the Department may require the applicant to file a performance bond, certified check, sufficient collateral, or other acceptable surety which guarantees the performance of the planned tree or shrubbery planting.
- (4) From the inland edge of the fifty- (50-) foot strip to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management practices and sound soil conservation practices which protect water quality and shoreland aesthetics.

72.18 FILLING, DREDGING, LAGOONING, GRADING, DITCHING, AND EXCAVATING. Any use of property within a Shoreland-Wetland District or a Shoreland District shall have as applicable these additional requirements:

- (1) GENERAL STANDARDS. Filling, dredging, lagooning, grading, ditching, or excavating which does not require a permit is permitted provided that:
 - (a) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.

- (b) Filling, dredging, lagooning, grading, ditching, or excavating in a shoreland-wetland area meets the requirements of Section 72.09(2) of this Code.
 - (c) A state or federal permit is obtained in addition to a permit under this Ordinance, if state or federal laws require the issuance of a permit for the filling, dredging, lagooning, grading, ditching, or excavating that is proposed.
 - (d) Any fill placed in the shoreland area is protected against erosion by the use of riprapping, vegetative cover, fabric fencing, bulkheads, or other soil conservation best management practices.
- (2) PERMIT REQUIRED. Except as provided below, a Shoreland/Floodplain Zoning Permit is required:
- (a) For development anywhere in a mapped floodplain under the jurisdiction of Chapter 73 of this Code.
 - (b) For any filling or grading of any area which is within three hundred feet (300') of the ordinary high water mark (OHWM) of a navigable waterway and which has surface drainage toward the water and on which there is either:
 1. Any filling or grading on slopes of twenty percent (20%) or more; or
 2. Filling or grading of more than one thousand (1,000) square feet on slopes of twelve percent (12%) to twenty percent (20%); or
 3. Filling or grading of more than two thousand (2,000) square feet on slopes of twelve percent (12%) or less.
 - (c) Before constructing, dredging, or commencing work on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within three hundred feet (300') of the ordinary high water mark (OHWM) of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
- (3) SOIL CONSERVATION PRACTICES ON AGRICULTURAL LANDS. Soil conservation practices on agricultural lands such as terraces, runoff diversions, and grassed waterways which are used for runoff and erosion control or sediment retardation shall not require a permit under Subsection (2), above.

72.19 NON-CONFORMING USES AND STRUCTURES. The lawful use of any building, premises, structure, or fixture existing at the time this Ordinance takes effect or when any subsequent Ordinance amendment takes effect, or which was in effect at the time prior versions of this Ordinance were enacted which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- (1) Non-conforming buildings, premises, structure, or fixture may be expanded or enlarged but such expansions/enlargements shall conform with any structural setback lines, yard, height, or access provisions set forth in this Ordinance, and shall not encroach further upon the required shoreland or floodplain setback areas unless a variance is legally granted by the Board of Adjustments, in accordance with Section 72.26 of this Code.
- (2) Structural alterations, repairs, expansions, or enlargements to a non-conforming structure shall neither exceed the twenty percent (20%) lot coverage limitation set forth in Section 72.13(5) of this Code, nor over the life of the structure, exceed fifty percent (50%) of the structure's present equalized assessed value unless it is permanently changed to conform to the requirements of this Ordinance, or unless a variance is granted by the Board of Adjustments in accordance with Section 72.26 of this Code.
- (3) Any alteration, repair, expansion, or enlargement to any non-conforming structure within a floodplain shall only be approved when in full compliance with floodproofing measures pursuant

to all of the standards and criteria set forth in the FLOODPLAIN ZONING ORDINANCE, Chapter 73, of this Code.

- (4) Ordinary maintenance repairs are not considered structural alterations or repairs; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other non-structural components.
- (5) If a non-conforming use is discontinued for a period of twelve (12) consecutive months, any future use of the building, premises, structure, or fixture shall conform to this Ordinance.
- (6) Except as set forth for flood fringe areas as defined in the FLOODPLAIN ZONING ORDINANCE, Chapter 73, of this Code, any non-conforming structure which has been destroyed or damaged before October 14, 1997, by fire, explosion, other Acts of God, or by public enemy to the extent of fifty percent (50%) or more of its present equalized assessed value at the time such damage occurred, shall thereafter be made to conform with the provisions of this Ordinance, unless a variance be specifically granted by the Board of Adjustments in accordance with Section 72.26 of this Code.
- (7) Non-conforming structures destroyed or damaged by the voluntary acts of the owner, occupant, or agent of either may not be reconstructed or repaired without the granting of a variance by the Board of Adjustments in accordance with Section 72.26 of this Code.

Removal of any portion of a structure shall be considered to be an act of destruction. Non-conforming structures destroyed or damaged after October 14, 1997, by violent wind, fire, flood, or vandalism, may be reconstructed or repaired to the size, location, and use it had immediately before the damage occurred, subject to the following conditions:

- (a) A structure that is destroyed or damaged due to a deliberate act by the landowner or by the landowner's agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the provisions of this Ordinance.
- (b) Non-conforming structures in the floodway that are damaged or destroyed by a flood event may not be repaired or reconstructed except in compliance with the FLOODPLAIN ZONING ORDINANCE, Chapter 73, of this Code.
- (c) A plan to mitigate the adverse effects of nonconformity shall be developed and submitted as part of the permit application prior to repair or reconstruction of any destroyed or damaged non-conforming structure. The plan shall be approved by the Department and, if necessary, in consultation with the Land and Water Conservation Department, prior to permit issuance. The plan shall include an implementation schedule and shall comply with the following requirements:
 1. If not connected to public sewer, the non-conforming structure's septic system shall be evaluated in accordance with Wis. Admin. Code § Comm 83.25 and Section 70.21 of this Code. If found to be non-code compliant, the appropriate paperwork necessary to bring the septic system into compliance must be completed prior to permit issuance.
 2. A landscape plan shall be submitted that will effectively control erosion and provide visual screening of the non-conforming structure as seen from the water.
 3. Stormwater and runoff shall be controlled in compliance with the current version of "*The Wisconsin Stormwater Manual*."
 4. Exterior building materials shall be colored as to make the structure visually inconspicuous.

5. Any grading, filling, or dredging associated with reconstruction or repair must comply with Section 72.17 of this Code. Excess fill, rock, or materials associated with reconstruction or repair shall be removed from the site and may not be deposited within the building setback required by Section 72.15 of this Code.
 6. Any construction activities, including mitigation activities required by this Section, shall employ erosion control in compliance with all applicable standards of the current version of the "*Wisconsin Construction Site Best Management Practice Handbook*."
- (d) The landowner shall bear the burden of proof as to the size, location, or use a destroyed or damaged non-conforming structure had immediately before the destruction or damage occurred.
 - (e) Repairs are authorized under this Section only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation and only that portion of the non-conforming structure that has been destroyed may be reconstructed.
- (8) As requests are received for alterations and repairs to non-conforming structures, a record shall be kept which lists the non-conforming structures, their present equalized assessed value, and the cost of those alterations and repairs which have been permitted.
 - (9) A non-conforming use may be extended throughout a building, provided no structural alterations or repairs are made therein, except those required by law or ordinance or such as may be required for safety. For the purpose of this Section, any change in load-bearing walls or any increase in gross floor area shall be deemed to be an alteration or repair.
 - (10) A non-conforming use may be changed to another non-conforming use of the same or greater restriction. Once changed to a non-conforming use of greater restriction, it shall not thereafter be changed to another non-conforming use of the same restriction as the first, but only to one of a greater restriction.
 - (11) A non-conforming use may not be extended or moved to any other part of a parcel of land upon which same was not conducted at the time of the adoption of this Ordinance.
 - (12) Any uses, including but not limited to on-site sewage disposal systems, dumps, junk yards, waste disposal sites, etc., which have been properly determined to be nuisances, or which cause, contribute to, or result in improper nuisance conditions, shall not be permitted to continue as non-conforming.
 - (13) Notwithstanding the foregoing, any non-conforming structure whose damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow mold, infestation, or any whole damage or destruction occurring after March 1, 2006, may be restored to the size, location, and use that it had immediately before the damage or destruction occurred without limitation on the costs of the repair, reconstruction, or improvement. If applicable, State or federal requirements necessitate that the size of the structure be larger than the size it was immediately before the damage or destruction, such larger size shall be allowed.

72.20 ADMINISTRATION.

- (1) This Ordinance shall be administered in accordance with Wis. Stat. §§ 59.69, 59.692, and 87.30, as amended, and in conformance with Wis. Admin. Code Ch. NR 115 and NR 116, as amended.
- (2) The duties of administering this Ordinance as assigned to the Planning & Resources Department (called "Department") employing a full-time professional planner and his/her duly appointed professional planning and zoning staff.

- (3) The Department shall have the authority and power to:
- (a) Advise applicants and answer any question about the provisions of this Ordinance.
 - (b) At all times during reasonable hours, enter upon and inspect any private or public premises for compliance, being clearly in the performance of their duty. If, however, entry be refused after presentation of proper identification, a special inspection warrant may be procured in accordance with Wis. Stat. § 66.0119.
 - (c) Issue permits and approvals where appropriate.
 - (d) Keep the official records of all water surface profiles, documentations of certified elevation, shoreland, wetland, or floodplain zoning maps and ordinances, permits and permit applications, appeals, variances, and amendments related to this Ordinance.
 - (e) Report uncorrected violations of this Ordinance or other applicable regulations to the Sheboygan County Corporation Counsel for appropriate enforcement action.
 - (f) Submit copies of any required data, variances, amendments, case-by-case analyses, annual reports, and any other requested information to the DNR.
 - (g) Submit copies of map and text amendments to the Federal Emergency Management Agency when required.

72.21 FEES. All persons, upon filing an application for permits, changes, and amendments, or Board of Adjustments reviews required pursuant to this Ordinance, shall pay a fee to the Department according to the following schedule:

- Shoreland/Floodplain Zoning Permit - New Construction.....	\$400.00
- Shoreland/Floodplain Zoning Permit	\$450.00
- Conditional Use Permit	\$650.00
- Conditional Use Permit	\$700.00
- Board of Adjustments Hearing Fee.....	\$500.00
- Zoning District Changes & Amendments Hearing Fee	\$300.00
- Renewal, Transfer of Amendment of Shoreland/Floodplain Zoning Permit.....	\$50.00

If in the determination of the Department a permit applicant contemplates construction in an amount of no more than Five Hundred dollars (\$500.00) and the Department determines that the expense related to the issuance of the permit does not require the full fee, the Department, in its discretion, may waive all but Seventy-five Dollars (\$75.00) of the fee.

A double fee may be charged if work is started before a permit is applied for and issued.

72.22 VIOLATIONS AND PENALTIES. Any person who violates, disobeys, neglects, omits, or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, remove the structure or part thereof or discontinue the use which violates the terms of this Ordinance, and restore the affected shorelands or wetlands to their original condition prior to the violation to the fullest extent possible as determined by the Department, within ninety (90) days of such conviction.

Upon failure to do so, the Department may order such removal and restoration. Such removal and restoration may be performed by the County, an agent, or by outside contract, and the cost thereof shall be billed to the owner and be paid within thirty (30) days and if not so paid shall become a delinquent special charge under provision of Wis. Stat. § 66.0627 and shall become a lien on the property, collectible as are other taxes.

Such person also shall, upon conviction, forfeit to the County not less than Twenty Dollars (\$20.00) nor more than Two Thousand Dollars (\$2,000.00), plus the costs of prosecution, for each offense. Each day during which such violation exists 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 the suit of the County, the State of Wisconsin, or any citizen thereof.

72.23 STATUTE OF LIMITATIONS.

- (1) As required by Wis. Stat. § 59.692(1t) where a building or structure violates the dimensional or use standards of this Ordinance, and the violating building or structure has been in place more than ten (10) years before an enforcement action is initiated, such building or structure shall be treated as a legal non-conforming structure. All provisions of Section 72.19 of this Code shall apply to such non-conforming buildings or structures.
- (2) Any property owner asserting as a defense to a charge of violating this Ordinance that the alleged violation has been in place more than ten (10) years before enforcement action was initiated has the burden of proving that:
 - (a) The building or structure that is in violation has been in place more than ten (10) years before enforcement action was initiated;
 - (b) That the building or structure (and its use, if the use is non-conforming) has remained essentially unchanged for at least ten (10) years;
 - (c) That the use of the building or structure has been active and continual for ten (10) years or more. If the use was discontinued for more than twelve (12) months, that use shall not be considered active and continual.

72.24 ABROGATION AND GREATER RESTRICTIONS.

- (1) This Ordinance supersedes all provisions of any prior Ordinance enacted under Wis. Stat. §§ 59.69, 59.692, and 87.30 which relate to shorelands. However, where another County Ordinance is more restrictive than the provisions contained in this Ordinance, that ordinance shall control to the extent of the greater restrictions and not otherwise.
- (2) This Ordinance shall not require approval or be subject to disapproval by any town or town board.
- (3) If an existing town ordinance relating to shorelands is more restrictive than this Ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
- (4) It is not otherwise intended by this Ordinance 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.
- (5) This Ordinance continues in effect, and shall be administered by the annexing municipality, in any shoreland area annexed by a city or village after May 7, 1982, unless the city or village adopts, maintains, and enforces a zoning ordinance which complies with the requirements of Wis. Stat. § 59.692 and which is at least as restrictive as this Ordinance [see Wis. Stat. § 59.692(7)].

72.25 INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County 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 Wis. Admin. Code Chs. NR 115 or NR 116 and where the Ordinance provision is unclear, the provision shall be interpreted in light of Wis. Admin. Code Chs. NR 115 or NR 116 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.

72.26 BOARD OF ADJUSTMENTS. The Sheboygan County Building, Zoning, and Sanitation Board of Adjustments, as established in Chapter 76 of this Code of Ordinances, pursuant to Wis. Stat. § 59.694 is hereby authorized to administer the appropriate judicial functions set forth in this Ordinance. The said Board shall be referred to as the Board of Adjustments in this Ordinance.

- (1) POWERS. Except as specifically provided in this Ordinance or in other Wisconsin laws, no action of the Board of Adjustments shall have the effect of permitting in any district uses prohibited in such district, or otherwise of nullifying the intent or negating any of the provisions of this Ordinance. The Board shall have the following powers:
 - (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Department.
 - (b) To authorize upon appeal in specific cases such variance from the dimensional standards of this Ordinance which would not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in "unnecessary hardship," so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - (c) To interpret upon appeal the meaning or intent of a particular provision of this Ordinance or other ordinances of Sheboygan County.
- (2) APPEALS. Appeals from the decision of the Department concerning the literal enforcement of this Ordinance may be made by a person aggrieved or by any officer, department, board, or bureau of Sheboygan County or the municipality affected by any decision of the Department. Such appeal shall be made within sixty (60) days after the date of written notice of the decision or order of the Department, and shall conform with the rules of the Board.
- (3) VARIANCES. The Board may grant, upon appeal, a variance from the dimensional standards of this Ordinance where an applicant clearly demonstrates that:
 - (a) The property has special conditions not common with other properties in the same neighborhood or district;
 - (b) As a result of these special conditions, the strict application or literal enforcement of the Ordinance will result in an unnecessary hardship and, as such, render compliance unnecessarily burdensome; and
 - (c) What is being proposed is within the spirit and intent of the Ordinance and is not injurious to others.

In every case where a variance from the regulations has been granted by the Board, the minutes of the Board shall affirmatively show that an "unnecessary hardship" exists; and the records of the Board shall clearly show in what particular and specific respects an "unnecessary hardship" is created. In addition, the record shall show any recommendations made available by the local municipality in which the property is located.

For the purposes of this Section, "unnecessary hardship" means any unique and extreme inability to conform to the requirements of this Ordinance due to a special condition affecting a particular property, which was not self-created and is not solely related to economic gain or loss. Unnecessary hardship is present only where, in the absence of a variance, no reasonable use can be made of the property (see Section 72.27 of this Code, "Definitions"). If a variance is granted to allow expansion or enlargement of an existing structure in a flood fringe area, the Board of Adjustments shall notify the property owner that increased flood insurance premiums and risk to property and lives may result.

A variance:

- (d) Shall not permit any change in established flood elevations or profiles.

- (e) Shall not be granted for a use that is common to a group of adjacent lots or premises.
- (f) Shall not have the effect of allowing or expanding a use or structure which is prohibited in that zoning district by this Ordinance.

[In cases (d), (e), and (f), above, the proper remedy is an amendment to the maps and/or text of this Ordinance in accordance with Section 72.28 of this Code.]

- (g) Shall not be granted where hardship is due to the plight of the applicant rather than features of the property.
- (h) Shall not permit a lower degree of flood protection than the flood protection elevation.
- (i) Shall not allow any basement or crawlway below the regional flood elevation for residential or commercial structures, or allow the lowest floor of a critical use facility below the five hundred- (500-) year flood elevation or the placement of essential utilities, associated with a critical use facility, below the five hundred- (500-) year flood protection elevation.
- (j) Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
- (k) Shall not be granted solely on the basis of economic gain or loss.
- (l) Shall not be granted for a self-created hardship.

(NOTE: A legally granted variance shall not be deemed to create a "non-conforming lot" or "non-conforming structure" as defined in Section 72.27 of this Code.)

(4) APPEALS OF PERMIT DENIALS.

- (a) The Board of Adjustments shall review all records constituting the basis for the appeal of permit denial. This data may include (where appropriate):
 - 1. Permit application data.
 - 2. Floodway/flood fringe determination data provided under the FLOODPLAIN ZONING ORDINANCE, Chapter 73, of this Code.
 - 3. Data listed in the FLOODPLAIN ZONING ORDINANCE, Chapter 73, of this Code where the applicant has not submitted this information to the Department.
 - 4. Other data submitted to the Department with the permit application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
 - 1. Follow the established rules of the Board.
 - 2. Consider Department recommendations.
 - 3. Either uphold the denial or grant the appeal.

(5) STATE REVIEW. Written notice must be made to the Southeast District Headquarters of the DNR at least ten (10) days prior to hearings on proposed variances, appeals for map or text interpretations, and appeals of permit denials, and copies of such decisions shall be provided to that office within ten (10) days after they are granted or denied.

72.27 DEFINITIONS. Unless specifically defined below, words, terms, or phrases used in this Ordinance shall be as defined in Chapters 70, 71, and 73 of the Code of Ordinances, Wis. Stat. chs. 29, 30, 31, 144, 236; Wis. Stat. § 59.69, 59.692, and 87.30; and Wis. Admin. Code Chs. NR 115, NR 116, Comm 83, and Comm 85, or, if not defined therein, shall be interpreted so as to give them the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, words in the singular number include the plural numbers. The word "shall" is mandatory, not permissive. All distances, unless specified otherwise, shall be measured horizontally.

- (1) **A ZONES.** Those areas shown on the Official Floodplain Zoning Maps which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) **ACCESSORY BUILDING.** A subordinate structure on the same lot as the principal building or use and devoted to a use incidental to the principal use or structure. (See **PRINCIPAL STRUCTURE** and **PRINCIPAL USE**.)
- (3) **ACCESSORY STRUCTURE or USE.** A facility, structure, building, or use which is accessory or incidental to the principal use of a property, structure, or building.
- (4) **ARBOR.** A frame structure consisting of vertical posts having beams attached to and connecting the posts at the top of the structure, supporting a roof composed of open joists. Roof or wall enclosures other than lattice or trellis are prohibited.
- (5) **BASE FLOOD.** A flood having a one percent (1%) chance of being equaled or exceeded in any given year as published by FEMA as part of an FIS and depicted on a FIRM.
- (6) **BASE FLOOD ELEVATION.** An elevation equal to that which reflects the height of the base flood.
- (7) **BASEMENT.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level on all sides.
- (8) **BEST MANAGEMENT PRACTICES (BMPs).** The Stormwater Management Technical Standards as defined by the Wisconsin Department of Natural Resources currently posted at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>, and any subsequent amendments thereto.
- (9) **BUILDING.** See **STRUCTURE**.
- (10) **BULKHEAD.** An upright structure to dissipate wave energy or retard erosion which can be placed against the base of a dune or bluff or stand free to have fill placed behind it.
- (11) **BULKHEAD LINE.** A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the DNR pursuant to Wis. Stat. § 30.11 and which allows limited filling between the ordinary high water mark (OHWM) and the bulkhead line, except where such filling is prohibited by the floodway and wetland provisions of this Ordinance.
- (12) **CAMPGROUND.** Any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units or which is advertised or represented as a camping area.
- (13) **CAMPING UNIT.** Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent, or other mobile recreational vehicle.
- (14) **CERTIFICATE OF COMPLIANCE.** A certification that the construction and the use of land or a building, the elevation of fill, or the lowest floor of a structure is in compliance with all of the provisions of this Ordinance.

- (15) **CHANNEL.** A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
- (16) **CLASS II PUBLIC NOTICE.** Publication of a public hearing notice under Wis. Stat. ch. 985 in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing or event noticed.
- (17) **CONDITIONAL USE.** A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use, as specified in this Ordinance and authorized by the Resources Committee. (Also called "special exception.")
- (18) **CRAWLWAYS or CRAWLSPACE.** An enclosed area below the first usable floor of a building, generally less than five feet (5') in height used for limited access to plumbing and electrical utilities.
- (19) **CRITICAL USE FACILITY.** A facility used for an activity for which flooding may pose an unacceptable risk. For purposes of this Ordinance, the term "critical use facility" is limited to the following: hazardous waste disposal facilities as defined in Wis. Admin. Code Ch. NR 181.04(26) public water supply or public water treatment facilities, hospitals, group homes for the mentally or physically handicapped or impaired, prisons, nursing homes, and police, fire, and emergency service operations.
- (20) **DECK.** An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.
- (21) **DEPARTMENT.** The Sheboygan County Planning & Resources Department, employing a full-time professional planner, and his/her duly appointed professional planning and zoning staff, charged with the duties of administering this Ordinance and other planning and zoning legislation, operating under the jurisdiction of the Resources Committee of the Sheboygan County Board of Supervisors.
- (22) **DEVELOPMENT.** Any manmade change to improved or unimproved real estate, including, but not limited to, construction of, or additions or substantial improvements to, buildings, other structures, or accessory uses; the placement of manufactured/mobile homes; mining; dredging; filling; grading; excavating; ditching; lagooning; drilling operations; storage, deposition, or extraction of materials; but excluding tiling for agricultural purposes outside of the Shoreland-Wetland District.
- (23) **DNR.** Wisconsin Department of Natural Resources.
- (24) **DRAINAGE SYSTEM.** One (1) or more artificial ditches, tile drains, or similar devices which collect surface runoff or ground water and convey it to a point of discharge.
- (25) **DRYLAND ACCESS.** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (26) **ENCROACHMENT.** Any fill, structure, equipment, building, use or development in the floodway.
- (27) **EXISTING MANUFACTURED/MOBILE HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets is completed before the effective date of shoreland and floodplain management regulations adopted by Sheboygan County).

- (28) **EXPANSION TO EXISTING MANUFACTURED/MOBILE HOME PARK.** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be placed. This includes installation of utilities, either final site grading or pouring of pads, or the construction of streets.
- (29) **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA) or Department of Housing and Urban Development (HUD).
- (30) **FIVE HUNDRED-YEAR (500-YEAR) FLOOD.** A flood which may be expected to occur or be exceeded on a particular lake or waterway once in every five hundred (500) years.
- (31) **FIVE HUNDRED-YEAR (500-YEAR) FLOOD PROTECTION ELEVATION.** An elevation two feet (2') above the five hundred-year (500-year) flood elevation.
- (32) **FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas caused by:
- (a) The overflow or rise of inland waters.
 - (b) The rapid accumulation or runoff of surface waters from any source.
 - (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan.
 - (d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (33) **FLOOD FREQUENCY.** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring on the average once in a specified number of years or as a percent change of occurring in any given year.
- (34) **FLOODFRINGE.** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.
- (35) **FLOOD HAZARD BOUNDARY MAP.** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (36) **FLOOD INSURANCE RATE MAP (FIRM).** A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (37) **FLOOD INSURANCE STUDY.** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps that accompany the Flood Insurance Study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

- (38) **FLOODPLAIN.** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.
- (39) **FLOODPLAIN ISLAND.** A natural geologic land formation within the floodplain that is surrounded but not covered by floodwater during the regional flood.
- (40) **FLOODPLAIN MANAGEMENT.** Policy and procedures to ensure wise use of floodplains including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (41) **FLOOD PROFILE.** A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a waterway.
- (42) **FLOODPROOFING.** Floodproofing involves any combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to properties, water and sanitary facilities, structures, and contents of buildings in flood hazard areas.
- (43) **FLOOD PROTECTION ELEVATION.** The flood protection elevation shall correspond to a point two feet (2') of freeboard above the water surface profile associated with the regional flood and the official floodway lines. (See also **FREEBOARD**.)
- (44) **FLOOD STORAGE.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (45) **FLOODWAY.** The channel of a waterway and those portions of the floodplain adjoining the channel required to carry and discharge the flood water or flood flows associated with the regional flood.
- (46) **FREEBOARD.** A factor of safety usually expressed in terms of a certain number of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development, and aggradation of the waterway bed.
- (47) **GUESTHOUSE.** An accessory structure comprised only of a bedroom, bathroom, and sitting area but shall not be intended for more than occasional human occupancy.
- (48) **HABITABLE STRUCTURE.** Any structure or portion thereof used or designed for human habitation.
- (49) **HEARING NOTICE.** Publication or posting meeting the requirements of Wis. Stat. ch. 985. For appeals, a Class 1 Notice published once, at least one (1) week [seven (7) days] before the hearing is required. For all zoning ordinances and amendments, a Class 2 Notice published twice, once each week consecutively the last of which at least one (1) week [seven (7) days] before the hearing.
- (50) **HIGH FLOOD DAMAGE POTENTIAL.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure and its contents.
- (51) **HISTORIC STRUCTURE.** Any structure that is:
- (a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
 - (c) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.
- (52) **INCREASE IN REGIONAL FLOOD HEIGHT.** A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction co-efficients, and discharge.
- (53) **LAND USE.** Any development (see definition of).
- (54) **LEEVE.** A continuous dike or embankment of earth constructed parallel to a waterway to prevent flooding of certain areas of land.
- (55) **LIGHT INDUSTRY.** Manufacturing which uses predominantly previously prepared materials, finished products, or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products. Light industry does not include basic industrial processing and manufacturing of raw or extracted material and storage of or manufacturing processes using flammable, explosive, offensive, or otherwise potentially hazardous materials.
- (56) **MANUFACTURED/MOBILE HOME.** A structure transportable in one or more sections which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (57) **MOBILE RECREATIONAL VEHICLE.** A vehicle which is built on a single chassis four hundred (400) square feet or less when measured at the largest horizontal projection designed to be self-propelled, carried or permanently towable by a licensed light-duty vehicle, is licensed for highway use if registration is required, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Manufactured homes that re towed or carried onto a parcel of land but do not remain capable of being towed or carried including park mobile homes do not fall within the definition of "mobile recreational vehicles."
- (58) **NGVD or NATIONAL GEODETIC VERTICAL DATUM (MEAN SEA LEVEL).** Elevations referenced to mean sea level datum, 1929 adjustment.
- (59) **NAVIGABLE WATERS.** Lake Michigan, all natural inland lakes within Sheboygan County, Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this County.

However, jurisdiction under this Chapter does 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 non-navigable streams before ditching or had no previous stream history; and
- (c) Such lands are maintained in nonstructural agricultural use.

Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient, on an annually recurring basis, to support navigation by a recreational craft of the shallowest draft [*Muench v. Public Service Commission*, 261 Wis. 492 (1952) and *DeGayner & Co., v. Department of Natural Resources*, 70 Wis. 2d. 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable in fact under laws of this State though it may be dry during other seasons.

- (60) **NEW CONSTRUCTION.** For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purposes of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (61) **NONCONFORMING LOT.** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Ordinance, but which fails thereafter to conform to the requirements of the zoning district. (NOTE: A legally granted "variance" pursuant to Section 72.26 of this Code shall not be deemed to create a "nonconforming lot." When a variance is granted, it becomes a conforming lot.)
- (62) **NONCONFORMING STRUCTURE.** A structure which, relative to setback, height, area, or bulk, was lawful prior to the adoption, revision, or amendment of this Ordinance, but which fails thereafter to conform to the requirements of the zoning district. (NOTE: A legally granted "variance" pursuant to Section 72.26 of this Code shall not be deemed to create a "nonconforming structure.")
- (63) **NONCONFORMING USE.** A use or activity which was lawful prior to the adoption, revision, or amendment of this Ordinance, but which fails thereafter to conform to the requirements of the zoning district.
- (64) **OBSTRUCTION TO FLOW.** Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.
- (65) **OFFICIAL FLOODPLAIN ZONING MAPS.** That map adopted and made part of this Ordinance as described in Section 73.05(2) of this Code which has been approved by the DNR and FEMA.
- (66) **OFFICIAL LETTER OF MAP AMENDMENT (LOMA).** Official notification from the Federal Emergency Management Agency that a Flood Insurance Study Map or other adopted flood boundary map has been amended and that the property owner may or may not be exempt from the National Flood Insurance Program requirements.
- (67) **OPEN SPACE USE.** Those uses having a relatively low flood damage potential and not involving structure.
- (68) **ORDINARY HIGH WATER MARK (OHWM).** The point on the bank or shore up to which the presence and action of water is so continuous as to leave a distinctive mark by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Erosion scars, transitions in vegetation from aquatic to terrestrial types, cobbled beaches below the current waterline, and evidence of even-aged stands of woody vegetation paralleling contours or below the existing water line may all be indicators of current or historic ordinary high water marks (OHWM). Only one (1) OHWM indicator need be present to establish an OHWM, but a number of indicators may be interpreted together to locate it at a given site. When the bank or shore is of such character that it is difficult or impossible to ascertain the

point of OHWM, recourse may be had to the opposite bank of a waterway or to similar places on the shore of a lake or flowage to determine whether a given stage of water is above or below the OHWM.

Notwithstanding the above, and for zoning purposes only, the Ordinary High Water Mark (OHWM) for the coastal reach of Lake Michigan extending from the CITY OF SHEBOYGAN SOUTH TO THE SOUTH COUNTY LINE shall be determined by an elevation at 582.7 feet NGVD (National Geodetic Vertical Datum, also known as MSL, Mean Sea Level), an elevation equivalent to 581.4 feet IGLD (International Great Lakes Datum), as determined by the Bureau of Water Regulation & Zoning, Wisconsin Department of Natural Resources. Elevations shall be determined by a registered professional surveyor, employing not less than five (5) uniformly distributed points of elevation, tied to a fixed reference point. The OHWM shall be a line connecting these points.

- (69) **PERSON.** An individual, group of individuals, partnership, firm, corporation, association, state, county, city, village, township, sanitary district, or other government corporation.
- (70) **PIER.** A structure extending channelward, or more or less perpendicular out from the shore, with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Generally any construction whose dimensions and accessories go beyond what is reasonably necessary to berth watercraft or load or unload cargo or passengers is not authorized as a pier by statute; see Wis. Stat. ch. 30.)
- (71) **PRINCIPAL BUILDING.** A building in which the principal authorized use of the lot on which it is located is conducted. (See **ACCESSORY BUILDING.**)
- (72) **PRINCIPAL USE.** The primary or predominant use of any lot (e.g. residential, commercial, industrial, conservation, institutional, etc.).
- (73) **PRIVATE SEWAGE SYSTEM.** A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure, or a system located on a different parcel than the structure.
- (74) **PUBLIC UTILITIES.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, storm sewer, and natural gas.
- (75) **REASONABLY SAFE FROM FLOODING.** Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (76) **RECREATIONAL VEHICLE.** A vehicular-type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping, and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.
- (77) **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 on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that the regional flood may occur or be exceeded. During a typical thirty-year (30-year) mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence. (See also **BASE FLOOD.**)
- (78) **SHORELAND DISTRICT.** Lands within the following distances from the ordinary high water mark (OHWM) of navigable waters: One thousand feet (1,000') from a lake, pond, or flowage,

or, where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater; and, three hundred feet (300') from a river or stream, or to the landward side of the floodplain, or, where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater.

- (79) **SHORELAND-WETLAND DISTRICT.** The zoning district, created as a part of this Ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this Ordinance.
- (80) **SIGN.** Any device, display, or structure which is used to inform, advertise, identify, display, or direct attention to an object, person, institution, organization, business, product, service, event, or location by means of words, letters, numbers, figures, design, symbols, fixtures, colors, illumination, or projected images.
- (81) **START OF CONSTRUCTION.** The date the building permit was issued provided the actual start of construction, repair, reconstruction, habilitation, addition, placement, or other improvement was within one hundred (180) days of the permit date. The actual start means either the first placement of permanent construction on a site such as the pouring of the slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.
- (82) **STORAGE CAPACITY OF A FLOODPLAIN.** The volume of space above an area of floodplain land that can be occupied by flood water of a given stage at a given time regardless of whether the water is moving.
- (83) **STRUCTURE.** Anything constructed, erected, or relocated from another premises, that is either permanently or temporarily attached to or resting on or in either the ground, stream, lake bed, or another structure. "**Structures**" shall include, but not be limited to, buildings (regardless of size or use); mobile homes and manufactured homes and dwellings; patios, stairways, walkways, parking lots, bridges, decks, and gazebos; swimming pools, hot tubs/spas, and playground apparatus; above-ground or underground storage tanks (excluding on-site private sewage disposal systems); and, signs, masts, towers, and satellite dishes [greater than one (1) meter in diameter]. Such small, movable structures as birdhouses, bird feeders, planter boxes, picnic tables, lawn furniture, portable grills, and flagpoles shall be exempt from setback requirements.
- (84) **SUBDIVISION.** Has the meaning given in Wis. Stat. § 236.02(12).
- (85) **SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the equalized assessed value of the structure before the damage occurred.
- (86) **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either:
- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

- (b) Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places.

Ordinary maintenance repairs are not considered structural repairs or alterations. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

- (87) **UNNECESSARY HARDSHIP.** That circumstance where uniquely and extremely special conditions, which were not self-created, and which are not solely related to economic loss or gain, so affect a particular property that no reasonable use can be made of it and that make strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance.
- (88) **UTILITIES.** Any public or private facilities, such as water wells, water and sewage pumping stations, waste water collection and/or treatment/disposal systems, and any facilities owned or operated by a public utility as defined by Wis. Stat. § 196.01.
- (89) **VARIANCE.** An authorization granted by the Sheboygan County Board of Adjustments which allows a deviation from the dimensional standards of this Ordinance when, because of the particular physical surroundings, shape, size, or topographical condition of the property, compliance with the Ordinance would result in an unnecessary hardship, as distinguished from a mere inconvenience or a desire for a greater economic return.

More specifically, the Board may grant, upon appeal, a variance from the dimensional standards of this Ordinance where an applicant clearly demonstrates that:

- (a) The property has special conditions not common with other properties in the same neighborhood or district;
 - (b) As a result of these special conditions, the strict application or literal enforcement of the Ordinance will result in an unnecessary hardship and, as such, render compliance unnecessarily burdensome; and
 - (c) What is being proposed is within the spirit and intent of the Ordinance and is not injurious to others.
- (90) **VIOLATION.** The failure of a structure or other development to be fully compliant with the Shoreland Zoning Ordinance, a structure or other development without required permits.
 - (91) **WATERSHED.** The entire region contributing runoff or surface water to a watercourse or body of water.
 - (92) **WELL.** Means an excavation opening in the ground made by digging, boring, drilling, driving, or other methods to obtain groundwater regardless of its intended use.
 - (93) **WETLANDS.** Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
 - (94) **WHARF.** A structure extending along, and more or less parallel to, the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Generally any construction whose dimensions or accessories go beyond what is reasonably necessary to berth watercraft or load or unload cargo or passengers is not authorized as a wharf by statute; see Wis. Stat. ch. 30.)

- (95) **WISCONSIN ADMINISTRATIVE CODE.** The rules of administrative agencies having rule-making authority in Wisconsin published in a loose-leaf, continual revision system as directed by Wis. Stat. §§ 35.93 and Wis. Stat. ch. 227 including subsequent amendments to those rules.

72.28 **CHANGES AND AMENDMENTS.**

- (1) The County Board of Supervisors may, from time to time, alter, supplement, or change the boundaries of use districts and the regulations contained in this Ordinance in the manner provided by law.
- (2) Amendments to this Ordinance may be made upon petition of any interested party in accordance with the provisions of Wis. Stat. § 59.692(2). Such petitions shall include any necessary data required by the FLOODPLAIN ZONING ORDINANCE, Chapter 73, of this Code.
- (3) Written notice to the Southeast District Headquarters of the DNR shall be made at least ten (10) days prior to hearings on map or text amendments, and copies of such decisions shall be provided to that office within ten (10) days after they are granted or denied. For floodplain amendments only, no map or text amendment may take effect until approved by the DNR.

72.29 **SEVERABILITY.** Should any part of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.