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CHAPTER 72

SHORELAND-FLOODPLAIN ORDINANCE

72.01 STATUTORY AUTHORITY. This Ordinance is adopted under the authority of sec. 59.971, Stats., in order to satisfy the requirements of secs. 59.971 and 87.30, Stats., and to implement secs. 59.97, 59.99, 144.26, and 236.45, Stats.

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

72.03 STATEMENT OF PURPOSE. For the purpose of promoting and protecting the public life, health, safety, convenience, and general welfare, and to:

(a) Minimize expenditures of public monies for costly flood control projects as well as rescue and relief efforts, and protect life and property from the perils of flooding.

(b) Minimize business interruptions which usually result in the loss of local incomes.

(c) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets, and bridges.

(d) Minimize the occurrence of future flood blight areas on floodplains.

(e) Discourage the victimization of unwary land and home buyers.

(f) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

(g) Control building sites, placement of structures, and land uses through:

(1) Limiting structures to areas where soil and geological conditions will provide a safe foundation.

(2) Establishing minimum lot sizes to provide adequate area for on-site sewage disposal facilities.

(3) Separating incompatible land uses.

(4) Prohibiting certain uses detrimental to the shoreland area or adversely affecting floodplain capacities.

(5) Prescribing flood protection measures where appropriate.

(6) Setting special restrictions in the erosion hazard areas along the coast of Lake Michigan and establishing a setback line designed to minimize losses over a fifty- (50-) year period.

(h) Protect spawning grounds, fish, and aquatic life through:

(1) Conserving and preserving wetlands and their natural functions, and other fish and aquatic habitat.

(2) Regulating pollution sources.

(3) Controlling shoreline alterations, dredging, lagooning, grading, and filling.

(i) Preserve shore cover and natural beauty through:

(1) Restricting the removal of natural shoreland cover.

(2) Regulating shoreline encroachment by structures.

(3) Controlling shoreland excavation and other earth moving activities.

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

72.05 JURISDICTION. Areas regulated by this Ordinance shall include all lands that would be inundated by the regional flood and/or the five hundred- (500-) year flood for certain critical use facilities; and shorelands and wetlands of all navigable waters, as "navigable waters" is defined in secs 144.26(2)(d), Stats., in the unincorporated areas of Sheboygan County which are:

(a) Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds, or flowages, or to the outer perimeter of contiguous mapped wetlands which extend beyond the one thousand (1,000) feet above and for which the applicable town board has filed a consent resolution in accordance with sec. 59.97(5), Stats., 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 72.24 of this Code.

(b) Within three hundred (300) feet of the ordinary high water mark 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 (300) feet above and for which the applicable town board has filed a consent resolution in accordance with sec. 59.97(5), Stats., 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 72.24 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 72.24, 72.25, 72.26, and 72.27 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. 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.

72.06 SHORELAND-FLOODPLAIN DISTRICT BOUNDARIES. The shorelands and floodplains in the unincorporated areas of Sheboygan County are hereby divided into the following districts:

- (a) Shoreland-Wetland District.
- (b) Shoreland District.
- (c) Floodway District.
- (d) Flood Fringe District.
- (e) General Floodplain District.

The boundaries of the above districts shall be those areas designated on a map and described in Sections 72.24, 72.25, 72.26, 72.27, 72.28, and 72.29 of this Code.

72.07 COMPLIANCE.

(a) 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 shall be in full compliance with the terms of this Ordinance and all other applicable local, state, or federal regulations. (See Sections 72.23, 72.34, and 72.35 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.

(b) 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 if sec. 13.48(13), Stats., applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Department of Transportation are exempt when sec. 30.12(4)(a), Stats., applies. The construction, reconstruction, maintenance, and repair of state highways and bridges where not exempt under sec. 30.12(4)(a), Stats., and the construction, reconstruction, maintenance, and repair of County and local highways and bridges shall comply with this Ordinance and follow the procedure established in TRANS 207, Wisconsin Administrative Code, 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 forth in Section 72.45 of this Code shall 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).

(c) Compliance with the provisions of this Ordinance shall not be grounds for the removal of lands from the floodplain districts unless:

(1) Such lands are filled to a height of at least two (2) feet above the elevation of the regional flood (flood protection elevation) for the particular area and are contiguous to other lands lying outside the floodplain districts;

(2) An amendment to the applicable water surface profiles, floodplain zoning maps, and ordinances has been adopted by the County Board;

(3) Approval has been granted by the DNR pursuant to this Ordinance; and

(4) Where required, an "official letter of map amendment" has been issued by the Federal Emergency Management Agency.

72.08 STATUTE OF LIMITATIONS

(a) As required by sec. 59.692(1t), Stats., 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 72.23 of this Code shall apply to such non-conforming buildings or structures.

(b) 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:

(1) The building or structure that is in violation has been in place more than ten (10) years before enforcement action was initiated;

(2) That the building or structure (and its use, if the use is non-conforming) has remained essentially unchanged for at least ten (10) years;

(3) 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.

72.09 ABROGATION AND GREATER RESTRICTIONS.

(a) This Ordinance supersedes all provisions of any county zoning ordinance enacted under secs. 59.97, 59.971, and 87.30, Stats., which relates to shorelands and floodplains. However, where another county ordinance is more restrictive than the provisions contained in this Ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This Ordinance shall not require approval or be subject to disapproval by any town or town board.

(c) 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.

(d) 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.

(e) 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 sec. 59.971, Stats., and which is at least as restrictive as this Ordinance [see sec. 59.971(7), Stats.].

72.10 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 NR 115 or NR 116, Wisconsin Administrative Code, and where the Ordinance provision is unclear, the provision shall be interpreted in light of 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.

72.11 SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

72.12 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection [based upon a once per one hundred- (100-) year flood frequency and a once per five hundred- (500-) year flood frequency for "Critical Use Facilities" as defined in NR 116, Wisconsin Administrative Code], and erosion hazard protection [based upon a fifty- (50-) year period] intended to be provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by manmade or natural causes such as ice jams or bridge openings restricted by debris; or, recession rates and Lake Michigan coastal erosion may accelerate beyond those historically recorded. Therefore, this Ordinance does not imply that areas outside of the delineated floodplain or erosion hazard areas or land uses permitted within the floodplain or along the Lake Michigan coast will be totally free from flooding or erosion and associated damages. Nor shall this Ordinance create a liability on the part of or be a cause of action against Sheboygan County or any office or employee thereof for any flood, erosion, or other water-related damages that may result from reliance on this Ordinance.

72.13 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 at least thirty (30) days 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.

72.14 MAINTENANCE. Work performed under a Sheboygan County 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 72.46 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.

Sheboygan County 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.

72.15 BUILDING SITES AND DIMENSIONS.

(a) The dimensions of all building lots hereinafter created shall be subject to the provisions of the SHEBOYGAN COUNTY SUBDIVISION ORDINANCE, except that:

(1) 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 (100) feet, with at

least one hundred (100) feet at the water's edge for
lots that abut navigable waters.

(2) Lots served by municipal sanitary sewer or other County and State approved off-site cluster or common sewage disposal system shall not be less than ten thousand (10,000) square feet, nor shall the average lot width be less than sixty-five (65) feet, with at least sixty-five (65) feet at the water's edge for lots that abut navigable waters.

(b) The "Average Lot Width" shall be measured in the manner set forth in Comm 85, Wisconsin Administrative Code.

(c) 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.

(d) 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 72.17(b) of this Code.

(e) The total square footage, in ground floor area, of all proposed or existing principal and accessory structures [e.g. main buildings, garages, sheds, decks, patios, and boathouses, but excluding walkways and stairways which do not exceed four (4) feet in width (or wider if necessary to comply with handicapped accessibility requirements) and driveways] 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.

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

72.16 EXISTING UNDEVELOPED SUBSTANDARD LOTS.

(a) 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 (65) feet

in width, with at least sixty-five (65) feet 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:

(1) The lot shall be deemed suitable for the installation of on-site sewage disposal systems, according to the provisions of the SHEBOYGAN COUNTY SANITARY ORDINANCE.

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

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

(4) 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 SHEBOYGAN COUNTY SUBDIVISION ORDINANCE.

(b) 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 (50) feet in width, with at least fifty (50) feet 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:

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

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

(3) 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 SHEBOYGAN COUNTY SUBDIVISION ORDINANCE.

(c) The "Average Lot Width" shall be measured in the manner set forth in Comm 85, Wisconsin Administrative Code.

72.17 PROCESSES TO ACHIEVE REDUCED LOT SIZES AND SETBACKS.

(a) 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 72.46 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 72.38 of this Code).

(b) 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 SHEBOYGAN COUNTY SUBDIVISION ORDINANCE.

72.18 SETBACKS.

(a) Setbacks from the Water. (NOTE: Setbacks hereunder are to be measured at right angles from lot lines or the ordinary high water mark, 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.)

(1) Inland Navigable Waters.

A. 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 (75) feet from the ordinary high water mark 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 chs. 30 and 31, Stats., or which are to be located below the ordinary high water mark, 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.

B. Reduced Setbacks. "Regulated setback structures" include all structures located less than seventy-five (75) feet from the ordinary high water mark of any inland navigable waters other than those exempted from the setback requirement of Section 72.18(a)(1)A of this Code. Regulated setback structures shall be considered to be nonconforming. Such structures may be expanded or relocated within the regulated setback only if a Shoreland-Floodplain Conditional Use Zoning Permit is issued. In addition to the site-specific conditions imposed by the Resources Committee pursuant to Section 72.39 of this Code, prerequisites for issuance of a Conditional Use Permit shall include:

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

2. 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 72.23;

3. No expansion closer to the ordinary high water mark than the existing structure may be permitted; and

4. All regulated setback structures or portions thereof less than thirty seven and one-half (37½) feet from the ordinary high water mark 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 72.38 of this Ordinance.

(2) Lake Michigan.

A. 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 (2) feet 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 (2½) feet horizontal distance for every one (1) foot vertical distance. [To illustrate, 50 year design life H 2 feet per year

recession rate = 100 foot setback. If on the 50
foot high bluff; $2\frac{1}{2}$ feet (stable slope angle) H
50 feet (bluff height) = 125 foot setback. TOTAL
SETBACK = 225 feet (100 + 125).]

B. 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 (100) feet from the ordinary high water mark 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 Section 72.18(a)(2)A, above, all Principal Buildings as herein defined shall be set back two hundred twenty-five (225) feet from the ordinary high water mark 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 chs. 30 and 31, Stats., or which are to be located below the ordinary high water mark, 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.

C. 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 (50) feet and, therefore, that the stable slope angle setback (2½:1) would be less than the one hundred twenty-five (125) feet established above. Measurement of the stable slope angle setback shall be made from the ordinary high water mark perpendicular to the shoreline. There shall

be two such measurements for every one hundred (100) feet of shoreline at points not less than fifty (50) feet 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 72.38 of this Code, a modification of the erosion hazard setback upon presentation by the applicant of acceptable engineering studies documenting:

1. Lower recession rates;
2. More stable slope conditions;
3. Plans for structural protection against wave attack; and
4. Plans for stabilization of the bluff or shoreline.

(3) 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.

(4) Boathouses. Boathouses shall not extend below, or more than thirty (30) feet landward of, the ordinary high water mark 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 (12) feet 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. as 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.

(5) 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.

(6) Stairways, Walkways, Piers, and Wharves. Stairways and walkways and that portion of piers and wharves landward of the ordinary high water mark 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 (4) feet wide (outside dimension) for single- and two-family residential uses. For multi-family residential, commercial, industrial, institutional, and recreational uses, the four (4) feet standard may be exceeded only upon the granting of a Conditional Use Permit pursuant to Section 72.39 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 72.39 of this Code.

(7) 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 Section 72.18(a)(6), above.

(8) On-Site Private Sewage Disposal Systems. On-site private sewage disposal systems shall be set back at least fifty (50) feet from the ordinary high water mark of navigable waters, and shall fully conform with the requirements of the SHEBOYGAN COUNTY SANITARY ORDINANCE.

(9) 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 approved by the County Resources Committee, pursuant to Section 72.39 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.

(b) 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.

72.19 REMOVAL OF SHORE VEGETATION.

(a) 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.

72.19(b)

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(b) Tree and shrubbery cutting in a strip paralleling the shoreline and extending fifty (50) feet inland from all points along the ordinary high water mark of the surface waters shall be limited in accordance with the following provisions, and no Shoreland-Floodplain Zoning Permit shall be required therefor:

(1) 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.

(2) 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 (10) feet in width.

(3) Any path, road, or passage within the fifty (50) feet strip shall be constructed and surfaced in a manner to effectively resist and retard erosion, but preserve natural beauty.

(c) As an alternative to (b), 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:

(1) Will not cause erosion, sedimentation, or destruction of natural, cultural, historical, endangered, or archeological resources; and

(2) 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.

(d) 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.

72.20 FILLING, DREDGING, LAGOONING, GRADING, DITCHING,
AND EXCAVATING.

(a) General Standards. Filling, dredging, lagooning, grading, ditching, or excavating which does not require a permit under Sections 72.20(b) or 72.26 of this Code is permitted in the shoreland area provided that:

(1) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.

(2) Filling, dredging, lagooning, grading, ditching, or excavating in a shoreland-wetland area meets the requirements of Section 72.26(b) of this Code.

(3) 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.

(4) 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.

(b) Permit Required. Except as provided in Section 72.20(c), below, of this Code, a Shoreland-Floodplain Zoning Permit is required:

(1) For development anywhere in a mapped floodplain.

(2) For any filling or grading of any area which is within three hundred (300) feet of the ordinary high water mark of a navigable waterway and which has surface drainage toward the water and on which there is either:

A. Any filling or grading on slopes of twenty percent (20%) or more; or

B. Filling or grading of more than one thousand (1,000) square feet on slopes of twelve percent (12%) to twenty percent (20%); or

C. Filling or grading of more than two thousand (2,000) square feet on slopes of twelve percent (12%) or less.

(3) Before constructing, dredging, or commencing work on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within three hundred (300) feet of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

(c) 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 Section 72.20(b) of this Code.

72.21 CONDITIONS ATTACHED TO PERMIT. In granting Shoreland-Floodplain Zoning Permits, the Department may attach reasonable conditions in addition to the provisions specified in Section 72.39 of this Code, 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 Sections 72.30 through 72.33 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.

72.22 GRAVEL PITS AND OTHER EARTH MATERIAL EXTRACTION OPERATIONS. Gravel pits and other mineral or earth material extraction operations shall:

(a) Maintain a twenty-five- (25-) foot setback from all lot lines and rights-of-way.

(b) Provide a final restoration plan including grade stabilization and erosion control elements employing acceptable soil conservation standards, such as seeding, sodding, mulching, terracing, riprapping, or other structural or vegetative elements deemed necessary by the Department.

(c) Establish a final horizontal:vertical grade slope of 2:1 or flatter prior to being discontinued and restored. However, no slope shall exceed the normal angle of repose (slippage) of the soil involved unless acceptable engineering plans and specifications therefor be prepared by a registered professional engineer or landscape architect. This provision shall not apply to solid rock quarries.

72.23 NON-CONFORMING USES AND STRUCTURES. The lawful use of a structure or land, existing at the time this Ordinance or when any subsequent Ordinance amendment takes effect, which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

(a) Non-conforming structures 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 72.38 of this Code.

(b) 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 72.15(e) 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 72.38 of this Code.

(c) 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 Sections 72.30, 72.31, 72.32, and 72.33 of this Code.

(d) 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.

(e) If a non-conforming use or the use of a non-conforming structure is discontinued for twelve (12) consecutive months, any future use of the structure or land shall conform to this Ordinance.

(f) Except as set forth for flood fringe areas in Section 72.35 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 72.38 of this Code.

(g) 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 72.38 of this Ordinance. 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:

(1) 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.

(2) 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 Section 72.34 of this Code.

(3) 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 Conservation Department, prior to permit issuance. The plan shall include an implementation schedule and shall comply with the following requirements:

A. If not connected to public sewer, the non-conforming structure's septic system shall be evaluated in accordance with Comm 83.055(2), Wisconsin Administrative 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.

B. 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.

C. Stormwater and runoff shall be controlled in compliance with the current version of *"The Wisconsin Stormwater Manual."*

D. Exterior building materials shall be colored as to make the structure visually inconspicuous.

E. Any grading, filling, or dredging associated with reconstruction or repair must

comply with Section 72.20 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 72.18 of this Code.

72.23(g)(3)F.

1/18/94, 8/15/95, 5/21/96, 6/18/97

F. 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*."

(4) 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.

(5) 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, or flood, and only that portion of the non-conforming structure that has been destroyed may be reconstructed.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

72.24 SHORELAND DISTRICTS. The shoreland areas of Sheboygan County, as described in Sections 72.05 and 72.06 of this Code, are hereby divided into two (2) districts as defined in the following Sections 72.26 and 72.27.

(a) The SHORELAND-WETLAND DISTRICT.

(b) The SHORELAND DISTRICT.

The boundaries of the shoreland districts shall follow the boundaries illustrated on the following maps which are hereby adopted and made a part of this Ordinance and are on file with the Department: "Shoreland Zoning Map, Sheboygan County, Wisconsin" and the supporting Final Wisconsin Wetland Inventory Maps for Sheboygan County prepared by the DNR on September 29, 1982, and as revised on April 18, 1987.

72.25 LOCATING SHORELAND-WETLAND BOUNDARIES. Where an apparent discrepancy exists between the Shoreland-Wetland District shown on the maps described in Section 72.24 of this Code and actual field conditions at the time the maps were adopted, the Department shall contact the Southeast District Headquarters of the DNR to determine if the Shoreland-Wetland District as mapped is in error. If the DNR staff concur with the Department that a particular area was incorrectly mapped as a wetland, 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.

72.26 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 72.24 of this Code.

(a) Purpose and Findings of Fact. 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.

(1) Wetlands are seldom suitable as building sites for the following reasons:

A. On-site sewage disposal systems will not function because of high ground water.

B. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed and purified by the soil.

C. Foundations, roads, and other pavements crack due to poor support capabilities and frost action.

D. Flooding is common in spring and other times of high water.

(2) Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse.

(3) Wetlands serve as water storage areas and, therefore, minimize flooding and costly flooding damages.

(4) Wetlands biologically treat and purify water and, therefore, prevent water pollution.

(b) Permitted Uses. The following uses shall be allowed, subject to the general shoreland zoning regulations in Sections 72.18 through 72.22 of this Code, the provisions of chs. 30 and 31, Stats., and the provisions of other state and federal laws, if applicable.

(1) 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:

A. Hiking, fishing, trapping, swimming, boating, and hunting, including the construction of blinds for water fowling.

B. 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.

C. The practice of silviculture, including the planting, thinning, and harvesting of timber.

D. The pasturing of livestock and the construction and maintenance of fences.

E. The cultivation of agricultural crops.

F. The construction and maintenance of piers, docks, and walkways, including those built on pilings.

G. The maintenance, repair, replacement, and reconstruction of existing town and county highways and bridges.

(2) 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:

A. 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.

B. Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.

C. 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.

(3) Uses which are allowed upon the issuance of a Shoreland-Floodplain Zoning Permit under Section 72.42 of this Code:

A. The construction and maintenance of roads which are necessary to conduct

silvicultural activities or are necessary for
agricultural cultivation, provided that:

1. The road cannot as a practical matter be located outside the wetland; and

2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:

aa. 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;

bb. Road construction activities are carried out in the immediate area of the roadbed only; and

cc. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done is necessary for the construction or maintenance of the road.

B. 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:

1. Any such building does not exceed five hundred (500) square feet in floor area; and

2. No filling, flooding, draining, dredging, ditching, tiling, or excavating may be done.

C. 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:

1. Any private recreation or wildlife habitat area is used exclusively for that purpose;

2. No filling is done; and

3. 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.

D. 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:

1. The transmission and distribution lines and related facilities, and railroad lines, cannot as a practical matter be located outside the wetland; and

2. 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.

(c) Prohibited Uses. Any use not listed in Sections 72.26(b)(1), (2), or (3), 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 sec. 59.97(5)(e), Stats., NR 115, Wisconsin Administrative Code, and Sections 72.26(d) and 72.40 of this Code.

(d) Rezoning of Lands in the Shoreland-Wetland District.

(1) For all proposed text and map amendments to the Shoreland-Wetland District, the Southeast District

Headquarters of the DNR shall be provided with the following:

A. 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;

B. Written notice of the public hearing to be held on a proposed amendment, at least ten (10) days prior to such hearing;

C. 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

D. Written notice of the County Board's decision on the proposed amendment, within ten (10) days after it is issued.

(2) 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:

A. Storm and flood water storage capacity;

B. 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;

C. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters;

D. Shoreline protection against soil erosion;

E. Fish spawning, breeding, nursery, or feeding grounds;

F. Wildlife habitat; or

G. Areas of special recreational, scenic, or scientific interest, including scarce wetland types.

(3) 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 Section 72.26(d)(2) of this Code, 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 sec. 59.971(6), Stats. If the DNR does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure under sec. 59.971(6), Stats., is completed or otherwise terminated." The Department shall notify the property owner that the amendment has been stayed.

72.27 SHORELAND DISTRICT.

(a) 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 72.24 of this Code.

(b) 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 serving recreational needs are allowed as conditional uses. These uses are consistent with maximum recreational use of the water and its shorelands. All permitted uses or conditional uses are subject to the general provisions of this Ordinance, and all other applicable laws and regulations.

(c) Permitted Uses.

(1) Any use permitted under Section 72.26(b) of this Code.

(2) Single-family detached dwellings, including mobile homes that meet the definition and standards set forth in Section 72.46 of this Code.

(3) Parks and playgrounds.

(4) Accessory uses.

(5) Boathouses, provided they meet the standards of Section 72.18(a)(4) of this Code.

(d) Conditional Uses. The following uses, if permitted or approved pursuant to the underlying municipal zoning ordinances, are permitted upon the issuance of a Conditional Use Permit according to the procedure set forth in Section 72.39 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 (100) feet from a residence other than that of the owner of the establishment, his/her agent, or employee, seventy-five (75) feet from a residential property line, and twenty-five (25) feet from any other lot line.

(1) 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 (50) feet in width at the ordinary high water mark for each of the first two (2) dwelling units served, plus an additional ten (10) feet 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.

(2) Two- (2-) family dwellings.

(3) Multiple-family dwellings.

(4) Planned Unit Developments, planned, designed, and developed in conformance with Section 71.24, SHEBOYGAN COUNTY SUBDIVISION ORDINANCE.

(5) Public, parochial, and private schools.

(6) Churches and similar places of religious worship.

(7) Professional offices.

(8) Governmental and cultural uses such as fire and police stations, community centers, municipal buildings, libraries, cemeteries, and museums.

(9) Golf courses and country clubs.

(10) 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.

(11) Recreational camps and campgrounds, provided all buildings shall be more than one hundred (100) feet from the lot line. Recreational camps shall conform to H 75, Wisconsin Administrative Code, and campgrounds shall conform to H 78, Wisconsin Administrative Code.

(12) Individual gift and retail specialty shops customarily found in recreational areas.

(13) Marinas, boat liveries, bait shops, sports equipment stores, watercraft and marine motor sales and service stores, and fish farms.

(14) Signs which are larger or in greater number than are permitted in Section 72.27(e) of this Code, provided that such signs are found to be necessary to adequately inform the public.

(15) Agricultural uses, provided that the following conditions shall apply in addition to any other conditions that may be established by the Resources Committee:

A. Farm animals shall be housed at least one hundred (100) feet from any residential structure on a non-farm lot.

B. Any non-residential structure shall be located at least fifty (50) feet from a property line.

C. New farm buildings housing animals, and all new barnyards or feedlots, shall be located at least three hundred (300) feet 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.)

72.27(d)(15)D.

1/18/94, 7/18/00

D. The standards set forth in Section 72.31(b)(1) of this Code shall apply hereto.

(16) Warehouses, provided that the underlying zoning has been industrial or commercial prior to June 1, 2000, and that the following conditions shall apply in addition to any other conditions that may be established by the Resources Committee:

A. All structures over one thousand (1,000) square feet in area shall be set back at least one hundred (100) feet from the ordinary high water mark (OHWM) of navigable waters.

B. 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 (100) feet from the ordinary high water mark (OHWM) of navigable waters.

C. Stormwater management and erosion control plans (prepared in accordance with Chapter 71, *Sheboygan County Subdivision Ordinance*) 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.

D. The storage, processing, or manufacture of any materials hazardous, explosive, or otherwise injurious to humans, animals, vegetation, ground, and surface waters shall be prohibited.

E. Motor vehicle service and repair facilities shall be prohibited.

Date accessed/printed: July 25, 2001

(e) Signs.

(1) 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 (3), 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.

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(2) Signs permitted in the Shoreland District with a Shoreland-Floodplain Zoning Permit.

A. 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 (300) feet 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.

B. 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 (4) feet above the top of the roof line, and exceed the maximum height limitation permitted in the District.

C. 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 (75) feet from the ordinary high water mark.

(3) 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.

A. 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.

B. 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.

C. 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.

D. 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.

E. Official signs, such as traffic control, parking restrictions, danger, and aids to service or safety, including utilities.

F. Memorial signs or tablets with the name of buildings and date of erection shall not exceed twenty (20) square feet in gross area.

G. 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 (15) feet of the public right-of-way at a street intersection, nor over any street right-of-way.

H. 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.

(4) Prohibited Signs.

A. 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.

B. Portable or trailer signs.

C. 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 (300) feet 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.

D. Swing signs.

E. 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.

F. Unclassified signs which:

aa. bear or contain statements, words, or pictures of obscene, pornographic, or immoral subjects; or

bb. which are an imitation of, or resemble in shape, size, copy, or color, an official traffic sign or signal are prohibited.

(5) 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 72.39 of this Code.

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(6) Existing non-conforming signs. An existing sign which, upon adoption of this Ordinance, does not conform with the provisions of this Ordinance, shall be considered an existing non-conforming sign. Use of the sign may continue until such time as it is damaged by vandalism, fire, explosion, flood, or other calamity, or age, to the extent that more than fifty percent (50%) of the sign has been destroyed, or its value diminished to that extent by dilapidation. It shall not be restored except as to comply with the sign provisions of this Ordinance.

72.28 FLOODPLAIN DISTRICTS.

(a) The regional [one hundred- (100-) year] floodplain areas are hereby divided into three (3) districts defined as follows:

(1) The FLOODWAY DISTRICT consists of the channel of a waterway and those portions of the floodplain adjoining the channel that are required to carry and discharge the regional flood waters.

(2) The FLOOD FRINGE DISTRICT consists of 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.

(3) The GENERAL FLOODPLAIN DISTRICT consists of the land which has been or may be hereafter covered by flood water during the regional flood and encompasses both the Floodway and Flood Fringe Districts. (NOTE: This District describes floodlands upon which a floodway has not been determined.)

(b) Within these three (3) Districts, all uses not listed as Permitted Uses shall be prohibited.

(c) The boundaries of the floodplain districts shall follow the most restrictive of either:

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(1) Those areas designated on the "National Flood Insurance Program, Flood Boundary and Floodway Maps" reflecting profiles contained in the FLOOD INSURANCE STUDY FOR SHEBOYGAN COUNTY, WISCONSIN, dated January 1978 authorized by the U.S. Department of Housing and Urban Development, or any adopted amendments thereto;

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(2) That area inundated by the regional flood as shown in the U.S. Army Corps of Engineers report, FLOOD PLAIN INFORMATION - SHEBOYGAN RIVER AND MULLET RIVER, dated August 1971;

(3) That area inundated by the regional flood on all branches of the Milwaukee River as shown in the report, A COMPREHENSIVE PLAN FOR THE MILWAUKEE RIVER WATERSHED - VOLUME TWO (SEWRPC), dated October 1971;

(4) Such reports and associated profiles being herein adopted by reference and made a part thereof by reference, which have been or are hereinafter approved by the DNR and Federal Emergency Management Agency and which are on file with the Department.

72.29 LOCATING FLOODPLAIN BOUNDARIES. Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be determined by the Department using the criteria set forth in (a) and (b), below. Where the Department finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Section 72.40 of this Code. Disputes between the Department and an applicant on the location of the district boundary line shall be settled according to Section 72.38(d) of this Code.

(a) Where flood profiles exist, the location of the district boundary line shall be determined by the Department using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the boundary line location shown on the map and the location indicated by the regional flood elevations and actual field

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conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the boundary line shown on the map and the location indicated by the regional flood elevations. The Department shall have the authority to immediately grant or deny a permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Department shall be responsible for initiating any map amendments required under this Section within a reasonable period of time, but not to exceed one (1) year following the determination.

72.29(b)

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(b) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Department using the scale appearing on the map, visual on-site inspection, and any available information provided by the DNR. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the County Board of Supervisors and the DNR, the Department shall have the authority to grant or deny a Shoreland-Floodplain Zoning Permit.

72.30 SPECIAL PROVISIONS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

(a) No developments shall be allowed which, acting alone or in combination with existing or future similar uses, cause an increase equal to or greater than 0.01 foot in height of the regional flood. Increases equal to or greater than 0.01 foot may be permitted, but only if amendments are made to this Ordinance, the official floodway lines, water surface profile, and floodplain zoning maps, pursuant to Section 72.40 of this Code, provided further that the total cumulative allowable increase in height of the regional flood for any given hydraulic reach of a waterway shall not exceed 1.0 foot, unless a waiver is secured from the Federal Emergency Management Agency.

(b) Owners or operators of all manufactured/mobile home parks and mobile home subdivisions located in the regional floodplain shall file adequate evacuation plans indicating vehicular access and escape routes, including

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mobile home hauler routes, with the appropriate disaster preparedness authorities and shall provide for adequate surface drainage to minimize flood damage.

(c) All mobile homes to be substantially improved, placed, or replaced on a site located in the flood fringe shall be anchored to prevent the flotation, collapse, or lateral movement of the structure due to flooding. Such mobile homes shall meet the residential standards of Section 72.32 of this Code.

(d) All subdivision proposals, as subdivision is defined in the SHEBOYGAN COUNTY SUBDIVISION ORDINANCE, and other proposed new developments exceeding five (5) acres, or where the estimated cost of the proposed development exceeds One Hundred Twenty-five Thousand Dollars (\$125,000.00), shall include within such proposals, regional flood elevation data, and the means to provide adequate surface drainage and to

minimize flood damage. The applicant shall provide all necessary computations to show the effects of the proposal(s) on flood heights, velocities, and floodplain storage. The provisions of Section 72.36 of this Code shall apply hereto.

In those instances where the applicant is not required to provide computations and where inadequate data exist, the available information may be transmitted to the DNR for a determination of the flood protection elevations and for an evaluation of the effects of the proposal on flood heights, velocities, and floodplain storage. All necessary information shall be provided to the Department by the applicant or the applicant's agent.

(e) Utility facilities such as dams, flowage areas, transmission lines, pipelines, and water monitoring devices are permitted subject to regulations pursuant to chs. 30 and 31, Stats., applicable federal regulations, and this Ordinance, and shall not require the issuance of a Shoreland-Floodplain Zoning Permit.

(f) Navigational and drainage aids such as channels, channel markers, buoys, and other such devices are permitted, and shall be subject to the sole regulatory jurisdiction of the DNR, the Federal Emergency Management Agency, and/or the U.S. Army Corps of Engineers. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

(g) Other water-related uses such as docks, piers, wharves, bridges, culverts, and river crossings of transmission lines are permitted subject to any pier or dockline regulations, or any other regulations that are required pursuant to chs. 30 and 31, Stats., applicable federal regulations, and this Ordinance, and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps, or zoning ordinance are made according to Section 72.39 of this Code, but that such uses shall not require the issuance of a Shoreland-Floodplain Zoning Permit.

72.31 FLOODWAY DISTRICT.

(a) Applicability. The provisions of this Section shall apply to all areas within the Floodway District, as shown on the official floodplain zoning maps, and to the

floodway portion of the General Floodplain District, as determined pursuant to Section 72.36 of this Code.

72.31(b)
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(b) Permitted Uses. The following open space uses have a low flood damage potential and, not obstructing flood flows, shall be permitted within the Floodway District and in the floodway portion of the General Floodplain District provided that they are not prohibited by any other ordinance, and provided further that they meet all of the standards contained in Sections 72.26, 72.30, and 72.31(c) of this Code and any Shoreland-Floodplain Zoning Permit required by this Ordinance has been issued by the Department.

(1) Agricultural uses such as general farming, pasturing, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

A. A minimum of fifty (50) feet of land free of row crops and seeded to grass, alfalfa, or other close growing crop shall be maintained between the farmed area and the edge of the waterway; waterway crossings shall be permitted for livestock and shall be of a design deemed appropriate by the County Land Conservation Department. A farmer may be exempt from this Section if soil and water conservation practices are deemed sufficient and no pollution is occurring in the opinion of the County Land Conservation Department and the Department.

B. If there is a pollution problem resulting from the grazing or pasturing of livestock, the farmer/operator will be required to erect a fence within ten (10) feet of the edge of the waterway or otherwise abate the pollution in such a manner as may be determined by the County Land Conservation Department and the Department. If a fence has to be erected, provision will be allowed for watering livestock in the waterway.

(2) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.

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(3) Nonstructural private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

72.31(b)(4)

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(4) Uses or structures accessory to open space uses or those classified as historic structures, providing they are not in conflict with the provisions of Section 72.31(c) of this Code.

(5) Extraction of sand, gravel, and/or other materials.

(6) Marinas, boat rentals, docks, piers, wharves.

(7) Railroads, streets, bridges, pipelines, public utilities, and other water-related uses such as culverts and river crossings of transmission lines and any uses subject to regulations pursuant to chs. 30 and 31, Stats.

(c) Standards for Development in Floodway Areas.

(1) All of the provisions of Section 72.30 of this Code shall apply hereto.

(2) Only structures which are accessory to permitted open space uses or are classified as historic structures may be allowed by permit, providing the structures:

A. Are not designed for human habitation.

B. Have a low flood damage potential.

C. Are to be constructed and placed on the building site so as to offer no obstruction to the flow of flood waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of

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flow of flood waters, and will be placed with their longitudinal axis approximately on the same line as those of adjoining structures.

D. Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the waterway.

E. Have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation for the particular area.

(3) Uses permitted by the DNR pursuant to chs. 30 and 31, Stats., provided that the necessary permits are

obtained and amendments approved by Sheboygan County to the official floodway lines, water surface profiles, floodplain zoning maps, and this Ordinance.

(4) Public utilities, streets, and bridges provided that:

A. Adequate floodproofing measures are provided to the flood protection elevation.

B. Construction shall not cause an increase of 0.01 foot or greater in the height of the regional flood, except that reasonable increases up to 1.0 foot may be approved if the amendment procedures and all conditions of Section 72.30 of this Code are met.

C. Sheboygan County amends its water surface profiles, floodplain zoning maps, and this Ordinance to reflect any changes resulting from such construction.

(5) Fills or deposition of materials may be permitted provided that:

A. The provisions of Section 72.30 of this Code are met.

B. Fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the waterway unless a permit has been granted by the DNR pursuant to ch. 30, Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334, has been issued if applicable, and the other requirements of this Section are met.

C. The fill or other materials will be protected against erosion by riprap, vegetative cover, fabric fencing, sheet piling, bulkheading, or other soil conservation best management practices, sufficient to prevent erosion and leachate.

D. Such fills are not associated with private or public solid waste disposal.

(6) Structures in, on, or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open space uses, are prohibited.

(7) The storage of any materials that are buoyant, flammable, explosive, or injurious to property, water quality, human, animal, plant, fish, or other aquatic life is prohibited.

(8) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts are prohibited.

(9) All private or public on-site sewage disposal systems are prohibited, with the exception of portable latrines that are removed during flooding, and systems associated with public recreational areas and licensed campgrounds, that meet the applicable provisions of Comm 83, Wisconsin Administrative Code, which may be permitted in floodway areas.

(10) All wells, whether public or private, which are used to obtain water for ultimate human consumption are prohibited, except those for recreational areas that meet the requirements of local ordinances and NR 111 and NR 112, Wisconsin Administrative Code.

(11) All solid and hazardous waste disposal sites, whether public or private, are prohibited.

(12) Wastewater treatment ponds or facilities are prohibited, except those permitted under NR 110.15(3)(b), Wisconsin Administrative Code.

(13) Sanitary sewer or water supply lines are prohibited, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied or to be occupied.

(14) Any new critical use facilities are prohibited.

72.32 FLOOD FRINGE DISTRICT.

(a) Applicability. The provisions of this Section shall apply to all areas within the Flood Fringe District, as shown on the official floodplain zoning maps, and to those portions

of the General Floodplain District that are determined to be in the flood fringe area pursuant to Section 72.36 of this Code.

(b) Permitted Uses. The following uses shall be permitted uses within the Flood Fringe District and flood fringe portions of the General Floodplain District.

(1) Any uses permitted in Section 72.31(b) of this Code.

(2) Any development may be permitted to the extent that it is not prohibited by this or any other ordinance or any other federal, state, or local regulations and provided that a Shoreland-Floodplain Zoning Permit has been issued by the Department.

(c) Standards for Development in Flood Fringe Areas.

(1) All of the provisions of Section 72.30 of this Code shall apply hereto.

(2) All residential structures which are to be erected, constructed, reconstructed, altered, or moved into the flood fringe shall meet or exceed the following standards:

A. The lowest floor, including the basement or crawlway of a structure, shall be placed on fill at or above the flood protection elevation [a point two feet above the regional flood elevation] for the particular area. The fill shall be one (1) foot or more above the regional flood elevation for the particular area and the fill shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. No permit or variance shall allow any basement or crawlway below the regional flood elevation.

B. Except as provided in C., below, contiguous dryland access shall be provided from a structure to land which is outside of the floodplain, so that any such structure shall be accessible by rescue and relief vehicles during periods of regional flooding. Contiguous dryland access means a road with a surface above the

regional flood elevation and wide enough for wheeled rescue and relief vehicles.

72.32(c)(2)C.
1/18/94

C. In existing developments where existing streets or sewer lines are at elevations which make compliance with B., above, impractical, the Department may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:

1. The Department has written assurance from the appropriate local units of police, fire, and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration, and velocity of the regional flood event; or

2. The Department has an adequate natural disaster plan concurred with by the Division of Emergency Government and approved by the DNR.

(3) Accessory structures or uses, not connected to a principal structure, shall meet all the applicable provisions of Section 72.31(c) of this Code. A lesser degree of protection, compatible with these criteria and the criteria in (4), below, may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood.

(4) Any commercial structure or building which is to be erected, constructed, reconstructed, added to, or moved into the flood fringe area shall meet the requirements of Section 72.32(c)(2), above. Storage yards, parking lots, and other accessory uses may be at lower elevations. However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood. Inundation of yards or parking areas exceeding two (2) feet may be

allowed provided an adequate warning system exists to protect life and property.

(5) Manufacturing and industrial buildings, structures, and their accessory uses shall be elevated or floodproofed, in accordance with Section 72.37 of this Code, to the flood protection elevation. Measures shall be taken to minimize interference with normal plant

operations, especially for waterways having protracted flood durations. Certain accessory uses such as storage yards and parking lots may be at lower elevations, subject to requirements set out in Section (6), below.

(6) The storage or processing of materials that are buoyant, flammable, explosive, or which in times of flooding could be injurious to property, water quality, human, animal, or plant life, shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with Section 72.37 of this Code.

(7) All utilities, streets, and bridges should be designed to be compatible with local comprehensive floodplain development plans; and

A. When failure or interruption of public utilities, streets, and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 72.37 of this Code to the flood protection elevation;

B. Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

(8) All on-site sewage disposal systems shall be floodproofed to the flood protection elevation pursuant to Section 72.37 of this Code and shall meet the applicable provisions of local zoning ordinances, the SHEBOYGAN COUNTY SANITARY ORDINANCE, and Comm 83, Wisconsin Administrative Code.

(9) All wells, whether public or private, shall be floodproofed to the flood protection elevation pursuant to Section 72.37 of this Code and shall meet the applicable provisions of NR 111 and NR 112, Wisconsin Administrative Code.

(10) All solid and hazardous waste disposal sites, whether public or private, are prohibited in flood fringe areas.

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(11) All critical use facilities (except hazardous waste disposal facilities) shall meet the following:

A. Any structure, or any addition to a structure, which is a critical use facility and which is to be erected, constructed, reconstructed, or moved into the five hundred- (500-) year floodplain shall be placed on fill with the finished surface of the lowest floor, excluding basement or crawlway, at or above the five hundred- (500-) year flood protection elevation. If the structure or addition has a basement or crawlway, the surface of the floor of the basement or crawlway shall be at or above the five hundred- (500-) year flood elevation and shall be floodproofed to the five hundred- (500-) year flood protection elevation in accordance with Section 72.37 of this Code. No variance shall be granted to allow the lowest floor of a critical use facility below the five hundred- (500-) year flood elevation or to allow the placement of essential utilities, associated with a critical use facility, below the five hundred- (500-) year flood protection elevation.

B. The fill required in A., above, shall:

1. Be at an elevation not less than one (1) foot above the five hundred- (500-) year flood elevation.

2. Extend at such elevation at least fifteen (15) feet beyond the limits of the structure, including any addition.

3. Provide dryland access to land outside the five hundred- (500-) year floodplain.

C. If existing streets or sewers are at elevations which make compliance with A. and B., above, impractical, the DNR may approve the use

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of other floodproofing measures or methods which floodproof the structure or addition to the five hundred- (500-) year flood protection elevation.

D. If existing streets or sewers are at elevations which make compliance with Section 72.32(c)(11)B.3. of this Code impractical, new

construction, reconstruction, and additions may be permitted where access roads are at an elevation lower than the five hundred- (500-) year flood elevation, provided:

1. The Department has an adequate natural disaster plan concurred with by the Division of Emergency Government and approved by the DNR; or

2. The Department has written assurance from the appropriate local units of police, fire, and emergency services that rescue and relief can be provided to the structures by wheeled vehicles during five hundred- (500-) year flooding, taking into account the anticipated depth, duration, and velocity of the five hundred- (500-) year flood event in the area, thereby protecting human life and health, and minimizing property damage and economic loss.

(12) Hazardous waste disposal facilities, whether public or private, are prohibited in the five hundred- (500-) year floodplain.

72.33 GENERAL FLOODPLAIN DISTRICT

(a) Applicability. The provisions for this District shall apply to all floodplains in Sheboygan County for which regional flood data, as defined in Section 72.46 of this Code, are not available or where regional flood data are available, but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this District, such portions shall be placed in the Flood Fringe or Floodway District, as appropriate.

This District shall also include any lands that have been inundated by any other experienced flood records, maps, and profiles approved by the Department or DNR, or as determined by such factors as an examination of soil types, ice, or erosion scars, or other direct measurement in the field.

(b) Permitted Uses. Those uses permitted in Sections 72.31(b) and 72.32(b) of this Code provided the procedures

of Section 72.33(c), below, are met and a Shoreland-Floodplain Zoning Permit has been issued by the Department where required.

72.33(c)
1/18/94, 3/17/98

(c) Standards for Development in the General Floodplain District. The General Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 72.36 of this Code to determine whether the proposed use is located within a floodway or flood fringe area. If it is determined that a proposed use is located within a floodway, the provisions of Section 72.31 of this Code shall apply. If it is determined that the proposed use is located within the flood fringe, the provisions of Section 72.32 of this Code shall apply.

72.34 EXISTING STRUCTURES IN FLOODWAY AREAS. No expansion or enlargement shall be allowed to any existing structures or the use of any structure or premises which are not in compliance with permitted floodway standards or uses, unless such expansion or enlargement meets all of the following criteria:

(a) The expansion or enlargement to a structure will not increase the amount of obstruction to flood flows pursuant to Section 72.30 of this Code.

(b) Any expansion or enlargement to a structure shall be floodproofed, pursuant to Section 72.37 of this Code, by means other than the use of fill, to the flood protection elevation.

(c) No structural alterations or repairs (not resulting in expansion or enlargement) to a non-conforming structure or structure with a non-conforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use and contiguous dryland access is provided in compliance with Section 72.32(c) of this Code.

(d) If any non-conforming structure or any structure with a non-conforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed, or rebuilt unless permanently

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changed to a conforming use. For the purposes of this Section, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of said structure.

(e) If a non-conforming use or the use of a non-conforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted, and any future use of the property, and any structure thereon, shall be made to conform to the applicable requirements of this Ordinance.

72.34(f)
1/18/94, 3/17/98

(f) No new on-site sewage disposal system, or additions to existing on-site sewage disposal systems, except where an addition has been ordered by the Department to correct a public health hazard, shall be allowed in a floodway area. Any replacement, repair, or maintenance of an on-site sewage disposal system in a floodway area shall meet the applicable provisions of the SHEBOYGAN COUNTY SANITARY ORDINANCE and the Wisconsin Administrative Code, Comm 83.

(g) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair, or maintenance of a well in a floodway area shall meet the applicable provisions of local ordinances and NR 111 and NR 112, Wisconsin Administrative Code.

72.35 EXISTING STRUCTURES IN FLOOD FRINGE AREAS.

(a) All expansions or enlargements which may be permitted by the Department, Resources Committee, or Board of Adjustments to any non-conforming structure or structure with a non-conforming use which do not exceed fifty percent (50%) of its present equalized assessed value shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for the particular use in Section 72.32 of this Code.

(b) No structural alterations or repairs (not resulting in expansion or enlargement) to any non-conforming structure or structure with a non-conforming use which, over the life of the structure, would exceed fifty percent (50%) of its present equalized assessed value shall be allowed unless the entire structure is permanently

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changed to a conforming structure with a conforming use, except as provided in Section 72.23(g) of this Code.

(c) Where compliance with the provisions of Sections (a) and (b), above, would result in unnecessary hardship, and only where the structure will not be either used for human habitation or be associated with a high flood damage potential, the Board of Adjustments, using the procedure in Section 72.38 of this Code, may grant a variance from those provisions, in accordance with criteria listed below. Expansions or enlargements to structures or buildings which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) Human lives are not endangered.

72.35(c)(2)

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(2) Public facilities, such as water or sewer, are not to be installed.

(3) Flood depths will not exceed two (2) feet.

(4) Flood velocities will not exceed two (2) feet per second.

(5) The structure will not be used for storage of materials described in Section 72.32(c)(6) of this Code.

(6) No basement or crawlway floor is below the regional flood elevation for residential or commercial structures.

(d) Any new, addition to, replacement, repair, or maintenance of an on-site sewage disposal system in a flood fringe area shall meet all the applicable provisions of the SHEBOYGAN COUNTY SANITARY ORDINANCE and the Wisconsin Administrative Code, Comm 83.

(e) Any new, addition to, replacement, repair, or maintenance of a well in a flood fringe area shall meet the applicable provisions of this Ordinance and NR 111 and NR 112, Wisconsin Administrative Code.

(f) Except as provided in Sections 72.32(c)(11) and (12) of this Code, alterations and repairs to critical use facilities in the five hundred- (500-) year floodplain

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existing prior to the effective date of this Ordinance may be allowed after securing DNR approval. Any existing structure which is a critical use facility and which is to be altered or repaired in the five hundred- (500-) year floodplain shall:

(1) Have a flood hazard warning and evacuation plan prepared which will be implemented to provide for the evacuation during the five hundred- (500-) year flood of all areas of the critical use facility which lie below the five hundred- (500-) year flood protection elevation.

(2) Restrict the use of any floor that is below the five hundred- (500-) year flood protection elevation to facilities or activities not associated with a high flood damage potential. For example, such facilities or activities for a hospital could include administrative or educational areas and staff or patient lounges, but could not include critical or intensive care units, the hospital's power plant, electrical distribution systems, and emergency generators.

72.35(f)(3)

(3) Have dryland access to land outside the five hundred- (500-) year floodplain, providing existing streets or sewers are at elevations which make compliance with this standard practical. Where this is impractical, the Department may, with the approval of the DNR, allow for the continued use of the existing structure or building provided:

A. The Department has an adequate natural disaster plan concurred with by the Division of Emergency Government and approved by the DNR; or

B. The Department has written assurance from the appropriate local units of police, fire, and emergency services that rescue and relief can be provided to the structures by wheeled vehicles during five hundred- (500-) year flooding, taking into account the anticipated depth, duration, and velocity of the five hundred- (500-) year flood event in the area, thereby protecting human life and health, and minimizing property damage and economic loss.

(4) Have a registered professional engineer or architect certify that the existing structure or building is capable of withstanding the forces of a five hundred- (500-) year flood.

72.36 PROCEDURES FOR DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS. When any developments are proposed within a General Floodplain District, a determination shall be made to establish the boundaries of the floodway and determine whether floodway or flood fringe uses apply and, where applicable, to determine the regional flood elevation.

For development proposals in the General Floodplain District, the applicant shall:

(a) Submit, as certified by a registered professional engineer or surveyor, two (2) copies of an aerial photograph, or a plan which accurately locates the floodplain proposal with respect to the floodplain district limits, channel of waterway, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations, and floodproofing measures.

(b) Furnish any of the following additional information as is deemed necessary by the DNR for evaluation of the

effects of the proposal upon flood flows and to determine the boundaries of the floodway and, where applicable, the regional flood elevation.

(1) A typical valley cross section showing the channel of the waterway, the floodplain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development, and historic high water information.

(2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities, soil types; and other pertinent information.

(3) Profile showing the slope of the bottom of the channel or flow line of the waterway.

(4) Specifications for building construction and materials, floodproofing, filling, dredging, water supply, and sanitary facilities.

The Department shall transmit one (1) copy of the above information to the DNR along with a written request to have that agency provide technical assistance to establish regional flood elevations and, where applicable, provide floodway data. Where the provisions of Section 72.30(d) of this Code apply, the applicant shall provide all required information and computations.

72.37 FLOODPROOFING. Floodproofing measures such as the following shall be designed consistent with the regional flood to protect the structure to the flood protection elevation for the particular area to withstand the flood pressures, velocities, uplift and impact forces, and other factors associated with the regional flood. The applicant shall submit a plan or document certified by a registered professional engineer or surveyor that the floodproofing measures are adequately designed to protect to the flood protection elevation for the particular area before a permit or variance may be issued. All floodproofing shall provide anchorage to resist flotation and lateral movement and ensure that the structural walls and floors are watertight to the flood protection

elevation and the interior remains completely dry during flooding without human intervention.

Floodproofing measures could include:

72.37(a)
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(a) Installation of watertight doors, bulkheads, and shutters.

(b) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris.

(c) Use of waterproof coatings, membranes, asphalt, or mortars to reduce seepage of water through walls.

(d) Addition of mass or weight to structures to prevent flotation.

(e) Placement of essential utilities above the flood protection elevation.

(f) Pumping facilities and/or subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.

(g) Construction of water supply and waste treatment systems to prevent the entrance of flood waters (i.e. waterproof coatings on risers or manholes; bolt-down manhole lids with rubber seals).

(h) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

72.38 BOARD OF ADJUSTMENTS. The Sheboygan County Building, Zoning, and Sanitation Board of Adjustments, as established in Chapter 76, Sheboygan County Code of Ordinances, pursuant to sec. 59.99, Stats., 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.

(a) 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:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Department.

(2) 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.

(3) To interpret upon appeal the meaning or intent of a particular provision of this Ordinance or other ordinances of Sheboygan County.

(b) 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.

(c) Variances. The Board may grant, upon appeal, a variance from the dimensional standards of this Ordinance where an applicant clearly demonstrates that:

(1) The property has special conditions not common with other properties in the same neighborhood or district;

(2) 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

(3) 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 72.45 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:

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

(2) Shall not be granted for a use that is common to a group of adjacent lots or premises.

(3) 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 (1), (2), and (3), above, the proper remedy is an amendment to the maps and/or text of this Ordinance in accordance with Section 72.40 of this Code.]

(4) Shall not be granted where hardship is due to the plight of the applicant rather than features of the property.

(5) Shall not permit a lower degree of flood protection than the flood protection elevation.

(6) 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.

(7) 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.

(8) Shall not be granted solely on the basis of economic gain or loss.

(9) Shall not be granted for a self-created hardship.

72.38(d)

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(NOTE: A legally granted variance shall not be deemed to create a "non-conforming lot" or "non-conforming structure" as defined in Section 72.46 of this Code.)

(d) Mapping Disputes. The following procedure shall be used by the Board of Adjustments in disputes of a floodplain zoning district boundary:

(1) In flood district boundaries when the location of the flood fringe or floodway district boundary is established by approximate or detailed engineering studies, the flood elevations or flood profiles for the point in question shall be the governing factor in locating the district boundary. If no elevations or profiles are available to the Board, any other available evidence may be examined.

(2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Adjustments and, if he chooses, submit his own technical evidence.

(3) The Board shall not allow deviations from the boundary line as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect, approval has been granted by the DNR, and an official letter of map amendment has been issued by the Federal Emergency Management Agency.

(e) Appeals of Permit Denials.

(1) The Board of Adjustments shall review all records constituting the basis for the appeal of permit denial. This data may include (where appropriate):

A. Permit application data.

B. Floodway/flood fringe determination data provided pursuant to Section 72.36 of this Code.

C. Data listed in Section 72.36 of this Code where the applicant has not submitted this information to the Department.

D. Other data submitted to the Department with the permit application, or submitted to the Board with the appeal.

72.38(e)(2)

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(2) For appeals of all denied permits the Board shall:

A. Follow the established rules of the Board.

B. Consider Department recommendations.

C. Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the Board shall:

A. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

B. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause a flood elevation increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(f) 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

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that office within ten (10) days after they are granted or denied.

72.39 CONDITIONAL USES (a.k.a. SPECIAL EXCEPTIONS).

(a) 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 County Board's Resources Committee following the same notice, hearing, and other procedures set forth for the Board of Adjustments in sec. 59.99, Stats., and Chapter 76, Sheboygan County Code of Ordinances.

(b) Evaluation. In passing upon a proposed conditional use application, the Committee shall evaluate the effect of the proposed use upon:

72.39(b)(1)
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- (1) Maintenance of safe and healthful conditions.
- (2) Prevention and control of water pollution, including erosion and sedimentation.
- (3) Existing topography, drainage, and vegetative cover.
- (4) Location to floodways and floodplains.
- (5) Erosion potential based on percent slope, soil type, and vegetative cover.
- (6) Existing and future access roads.
- (7) Existing and future traffic and parking needs.
- (8) Degree of site disturbance and its impact upon adjoining natural resource areas (e.g. wetlands, archaeological features, preserves, wildlife habitat).
- (9) Compatibility with adjacent uses.
- (10) Suitability for waste disposal and potable water supply.
- (11) Natural scenic beauty.

(12) Conformance with other applicable codes and ordinances.

(c) Other Conditions. The Committee may attach such conditions, in addition to those required elsewhere in this Ordinance 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:

- (1) Type and extent of shore cover.
- (2) Increased setbacks and yards.
- (3) Specific sewage disposal and water supply facilities.
- (4) Landscaping, planting screens, and buffer yards.
- (5) Period of operation.
- (6) Extent and duration of site disturbance.
- (7) Operational control.
- (8) Access and parking.
- (9) Surety bonding.

72.39(c)(10)

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- (10) Deed restrictions.
- (11) Location of structures.
- (12) Type of construction.
- (13) Floodproofing measures.

(d) As a basis for its determination, the Committee may require the applicant to furnish, in addition to the information required for a permit, the following data:

(1) A plan map drawn to a reasonable scale showing contours and elevations, soil types, ground water conditions, bedrock, ordinary high water mark, slopes, and vegetative cover.

(2) Location of existing and proposed buildings, parking areas, access roads, walkways, piers, open spaces, and landscaping.

(3) Specifications for areas of proposed filling, dredging, lagooning, or grading.

(4) Plans of sewage disposal and water supply facilities.

- (5) Floodproofing measures.

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(6) Any of the floodplain data described in Section 72.36 of this Code deemed necessary by the Committee.

(e) 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.

(f) 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 conditional uses, and copies of decisions thereon shall be provided to that office within ten (10) days after they are granted or denied.

72.40 CHANGES AND AMENDMENTS.

(a) 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. Actions which require an amendment include, but are not limited to, the following:

72.40(a)(1)
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(1) Any change in the official floodway lines or in the boundary of the floodplain area.

A. The limits of the five hundred- (500-) year floodplain may not be changed without first amending the applicable portions of the water surface profile which show the five hundred- (500-) year flood elevations and the floodplain zoning maps, and securing DNR approval for the amendments. No areas in the five hundred- (500-) year floodplain may be removed from the official zoning maps unless it is shown that the area has been filled to the five hundred- (500-) year flood protection elevation and is contiguous to other lands lying outside of the five hundred- (500-) year floodplain.

(2) Settlement of conflicts between the water surface profiles and floodplain zoning maps, in accordance with Section 72.38(e) of this Code.

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(3) Any fill which will result in raising the elevation of an area in the floodplain to a height at or above the flood protection elevation and which is contiguous to land outside the floodplain.

(4) Any fill or encroachment that will cause a change equal to or greater than 0.01 foot in the water surface profiles of the regional flood.

(5) Any upgrading of this Ordinance required by law.

(b) Amendments to this Ordinance may be made upon petition of any interested party in accordance with the provisions of sec. 59.97, Stats. Such petitions shall include any necessary data required by Sections 72.30 and 72.36 of this Code.

(c) 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.

72.41 ADMINISTRATION.

(a) It is intended that this Ordinance shall be administered in accordance with secs. 59.97, 59.971, 59.99, and 87.30, Stats., as amended, and in conformance with NR 115 and NR 116, Wisconsin Administrative Code, as amended.

(b) The Sheboygan County Board of Supervisors hereby assigns the duties of administering this Ordinance to the Sheboygan County Planning & Resources Department (called "Department") employing a full-time professional planner and his/her duly appointed professional planning and zoning staff.

(c) The Department shall have the authority and power to:

(1) Advise applicants and answer any question about the provisions of this Ordinance.

(2) 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 sec. 66.122, Stats.

(3) Issue permits and approvals where appropriate.

(4) 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.

(5) Report uncorrected violations of this Ordinance or other applicable regulations to the Sheboygan County District Attorney for appropriate enforcement action.

(6) Submit copies of any required data, variances, amendments, case-by-case analyses, annual reports, and any other requested information to the DNR.

(7) Submit copies of map and text amendments to the Federal Emergency Management Agency when required.

72.42 PROCEDURES. 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 72.46 of this Code may be initiated. 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 (100) feet of proposed sewage disposal site.

(e) Any information that is required by Section 72.30(d) 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.

72.43 CERTIFICATION. The applicant shall submit certification by a registered professional engineer or surveyor that the finished fill and building floor elevations and other floodplain regulatory factors were accomplished in compliance with appropriate floodplain zoning provisions; the applicant shall submit such certification for all new construction and substantial improvements.

72.44 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, floodplains, 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

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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 sec. 66.60(16)(a), Stats., and shall become a lien on the property, collectible as are other taxes.

Such person also shall, upon conviction, forfeit to Sheboygan 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 Sheboygan County, the State of Wisconsin, or any citizen thereof.

72.45 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	\$ 5
- Shoreland-Floodplain Conditional Use	
..... Zoning Permit	\$15
..... - Board of Adjustments Hearing Fee	\$30
- Zoning District Changes & Amendments	
..... Hearing Fee	\$15

72.46 DEFINITIONS. Unless specifically defined below, words, terms, or phrases used in this Ordinance shall be as defined in Chapters 70 and 71 of the Sheboygan County Code of Ordinances, secs. 29, 30, 31, 59.97, 59.971, 59.99, 87.30, 144, and 236, Stats., and Chapters NR 115, NR 116, Comm 83, and Comm 85, Wisconsin Administrative Code, 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.

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.

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**.)

BASE FLOOD. A flood having a one percent (1%) chance of being equaled or exceeded in any given year. (See also **REGIONAL FLOOD**.)

BASE FLOOD ELEVATION. An elevation equal to that which reflects the height of the base flood.

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.

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 sec. 30.11, Stats., and which allows complete filling between the ordinary high water mark and the bulkhead line, except where such filling is prohibited by the floodway and wetland provisions of this Ordinance.

CHANNEL. A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

CLASS II PUBLIC NOTICE. Publication of a public hearing notice under ch. 985, Stats., 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.

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.")

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 NR 181.04(26), Wisconsin Administrative Code, 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.

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.

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 mobile/manufactured 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.

DNR. Wisconsin Department of Natural Resources.

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.

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.

ENCROACHMENT. Any development in the floodplain.

EXISTING MOBILE/MANUFACTURED 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 floodplain management regulations adopted by Sheboygan County).

EXPANSION TO EXISTING MOBILE/MANUFACTURED 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.

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).

72.46
[FI - FLOODPROOFING]

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.

FIVE HUNDRED-YEAR (500-YEAR) FLOOD PROTECTION ELEVATION. An elevation two (2) feet above the five hundred- (500-) year flood elevation.

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.

FLOOD FRINGE. 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.

FLOOD INSURANCE RATE MAP. A map prepared by the Federal Emergency Management Agency, designating areas of special flood hazard and the areas of Sheboygan County in which the purchase of flood insurance may be required under the flood insurance program.

FLOODPLAIN. The land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe.

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.

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.

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[FLOOD PROTECTION -]

FLOOD PROTECTION ELEVATION. The flood protection elevation shall correspond to a point two (2) feet of freeboard above the water surface profile associated with the regional flood and the official floodway lines. (See also **FREEBOARD.**)

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.

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.

HEARING NOTICE. Publication or posting meeting the requirements of ch. 985, Stats., Class II notice is the minimum required for zoning ordinances, amendments including map amendments, and appeals. Published twice, once each week consecutively, the last at least a week [seven (7) days] before the hearing.

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.

HISTORIC STRUCTURE. Any structure that is:

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(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.

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.

LAND USE. Any development (see definition of).

LEVEE. A continuous dike or embankment of earth constructed parallel to a waterway to prevent flooding of certain areas of land.

MOBILE HOME. A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Ordinance, it does not include recreational vehicles or travel trailers which remain licensed and ready for highway use and remain on-site less than one hundred (180) days.

As it relates to all such homes hereafter proposed to be located or relocated, mobile homes shall conform with all requirements of the Manufactured Homes Construction and Safety Standards Act of 1974 (U.S. Department of Housing and Urban Development), the American National Standards Institute (ANSI) Code, the Wisconsin Uniform Dwelling Code, all applicable county and local requirements, and any amendments thereto, shall be approved by the Department as meeting "acceptable similarity" appearance standards set forth below, and, as such, shall be permitted in any zoning districts which allow single family residential structures. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.

(a) The following standards are established to assure acceptable similarity in exterior appearance between mobile homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent lots in the same district:

(1) Mobile homes shall be so located on lots that the portions nearest the principal street frontage are at least thirty-four (34) feet in total dimension parallel to the street. Such dimension shall be measured from

outer extremities, including eaves, and shall include any additions to the main body of the mobile home, such as living or recreation rooms, garages, carports, and utility rooms, the front portions of which are within ten (10) feet of the front of the main body of the mobile home.

(2) Minimum width of the main body of the mobile home as assembled on the site shall not be less than twelve (12) feet, as measured across the narrowest portion.

(3) No mobile home shall have fenestration or other features, or use colors or color combinations, that would be incompatible with uses in the general area.

(4) Exterior finish: Any materials that are generally acceptable for housing built on-site may be used for exterior finish if applied in such a manner as to be similar in appearance, provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.

(5) The appearance and durability of visible foundation or skirting shall be approved as being acceptably similar in appearance to foundations of residences built on-site. When a particular type of visible foundation or skirting has been approved for an individual installation, it shall be placed on an approved list and shall thereafter be generally approved.

NAVIGABLE WATERS. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under sec. 144.26(2)(d), Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under sec. 59.971, Stats., and NR 115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were non-navigable streams before ditching or had no previous stream history; and

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(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 vs. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor & Company, Inc., vs. 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.

NGVD or NATIONAL GEODETIC VERTICAL DATUM (MEAN SEA LEVEL).
Elevations referenced to mean sea level datum, 1929 adjustment.

NON-CONFORMING 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 72.38 of this Code shall not be deemed to create a "non-conforming lot." When a variance is granted, it becomes a conforming lot.)

NON-CONFORMING 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 72.38 of this Code shall not be deemed to create a "non-conforming structure.")

NON-CONFORMING 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.

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.

OFFICIAL FLOODPLAIN ZONING MAPS. Those maps, adopted and made part of this Ordinance, which have been approved by the DNR and the Federal Emergency Management Agency, and which delineate those areas which would be inundated by the base or regional flood including, but not limited to, numbered and unnumbered A Zones and, where applicable, floodways. These maps may be Flood Hazard Boundary Maps, Flood Insurance Study Maps, or other approved Sheboygan County floodplain maps.

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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.

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. 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.

PERSON. An individual, group of individuals, partnership, firm, corporation, association, state, county, city, village, township, sanitary district, or other government corporation.

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 ch. 30, Stats.)

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PRINCIPAL BUILDING. A building in which the principal authorized use of the lot on which it is located is conducted. (See **ACCESSORY BUILDING.**)

PRINCIPAL USE. The primary or predominant use of any lot (e.g. residential, commercial, industrial, conservation, institutional, etc.).

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.

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.

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.

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- (30-) year mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence. (See also **BASE FLOOD.**)

SHORELAND DISTRICT. Lands within the following distances from the ordinary high water mark of navigable waters: One thousand (1,000) feet from a lake, pond, or flowage, or, where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater; and, three hundred (300) feet 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.

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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.

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.

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.

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.

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.

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.

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 sec. 196.01, Stats.

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.

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.

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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 ch. 30, Stats.)

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 secs. 35.93, Stats., and ch. 227, Stats., including subsequent amendments to those rules.