

NOTICE OF MEETING

SHEBOYGAN COUNTY PLANNING, RESOURCES,
AGRICULTURE AND EXTENSION COMMITTEE

October 10, 2023

3:00 PM

UW Extension Office
UW Sheboygan Campus
5 University Drive
Sheboygan, WI
Room 5024

Remote Access:

(312) 626-6799

Meeting ID: 956 6404 0989

Passcode: 856197

<https://zoom.us/j/95664040989?pwd=dGJrYlZ5Tmx2RVcvRDFsdU5Ld0lXZz09>

*** AGENDA ***

Call Meeting to Order

Certification of Compliance with Open Meeting Law

Approval of September 12, 2023 Minutes

Correspondence

Public Hearing

(1) To consider amending Ch. 72 of the Sheboygan County Code, being the current Sheboygan County Shoreland Ordinance, by repealing it and recreating it with a new Ch. 72 Sheboygan County Shoreland Ordinance and;

(2) To consider amending Ch. 70 of the Sheboygan County Code, being the current Sheboygan County Sanitary Ordinance, by repealing it and recreating it with a new Ch. 70 Sheboygan County Sanitary Ordinance and;

(3) To consider amending Ch. 76 of the Sheboygan County Code regarding the Board of Adjustments.

Close Public Hearing

Consideration of Repealing and Recreating and/or Amending Chapters 70, 72, and 76 of the Sheboygan County Code

Planning & Conservation -

Consideration of Equity Adjustment

Other Department Project and Program Management Updates- *This report is a summary of key activities in the Department. No action will be taken resulting from the report unless it is a specific item on the agenda.*

Consideration and Approval of Attendance at Other Meetings/Functions
Travel Report and Report of Meetings and Functions Attended by Committee Members
Review and Approve Vouchers
Adjournment

Next scheduled meetings - October 24, 2023 at 3:00 PM (UW-Extension Focus)
- November 14, 2023 at 3:00 PM (Planning & Conservation Focus)

Prepared by:
Megan Nasgovitz, Recording Secretary
(920) 459-1370

Approved by:
Keith Abler, Chairperson
(920) 207-9351

NOTE: The Committee welcomes all visitors to listen & observe, but only Committee members & those invited to speak will be permitted to do so, except for the Public Hearing portion of this meeting where any interested person can speak. Person with disabilities needing assistance to attend or participate should contact the County Planning & Conservation Department at 920/459-1370 prior to the meeting so that accommodations may be arranged.

NOTE: A majority of the members of the County Board of Supervisors or any of its committees may be present at this meeting to listen, observe and participate. If a majority of any such body is present, their presence constitutes a "meeting" under the Open Meeting Law as interpreted in *State ex rel. Badke v. Greendale Village Board*, Wis. 2d 553 (1993), even though the visiting body will take no action at this meeting.

**SHEBOYGAN COUNTY PLANNING, RESOURCES, AGRICULTURE & EXTENSION
COMMITTEE MINUTES**

Sheboygan County UW-Extension Office
5 University Drive
Sheboygan, WI
Room 5024
and
Remote

September 12, 2023

Called to Order: 3:00 PM

Adjourned: 4:03 PM

MEMBERS PRESENT: Supervisor John Nelson, Supervisor Paul Gruber, Supervisor Henry Nelson, Ag Community Member Stan Lammers

MEMBERS ABSENT: Chairman Keith Abler, Supervisor Rebecca Clarke

OTHERS PRESENT: Aaron Brault, Tyler Betry (remote), Dave Huenink (remote), Ken Walter

Supervisor John Nelson called the meeting to order at 3:00 PM and verified the meeting notice had been posted on September 8, 2023 at 4:00 PM and the meeting complied with the Wisconsin Open Meeting Law.

Supervisor Henry Nelson motioned to approve the minutes from the August 8, 2023 committee meeting. Motion seconded by Mr. Lammers. Motion carried with no opposition.

Correspondence: None

Planning & Conservation-

Consideration of Accepting Donation of Property at the Sheboygan Marsh – Supervisor Henry Nelson motioned and Supervisor Gruber seconded to accept the donation. Motion carried, no opposition.

Consideration of Applying for a WDNR Grant – Mr. Lammers motioned and Supervisor Gruber seconded to apply for the grant. Motion carried, no opposition.

Other Department Project and Program Management Updates - Mr. Brault gave an update on the Marsh Dam project and a position vacancy in the office. Mr. Betry provided an update on a survey that was recently sent out by the Wisconsin Land & Water Association and encouraged supervisors to complete it.

Consideration and Approval of Attendance at Other Meetings/Functions. None.

Travel Report and Report of Meetings and Functions Attended. None.

Review and Approve Vouchers. Supervisor Henry Nelson motioned and Mr. Lammers seconded to approve the vouchers. Motion carried with no opposition.

Supervisor Gruber motioned to adjourn the meeting. Mr. Lammers seconded the motion. Motion carried with no opposition. Meeting adjourned at 4:03 PM.

Next meeting (Extension Focus) is scheduled for September 26, 2023 at 3:00 PM.

Next meeting (Planning & Conservation Focus) is scheduled for October 10, 2023 at 3:00 PM.

Aaron Brault
Recording Secretary

John Nelson
Committee Secretary

CHAPTER 72
SHORELAND ORDINANCE

- 72.01 STATUTORY AUTHORITY
- 72.02 FINDING OF FACT
- 72.03 STATEMENT OF PURPOSE
- 72.04 TITLE
- 72.05 JURISDICTION
- 72.06 COMPLIANCE
- 72.07 SHORELAND DISTRICTS AND BOUNDARIES
- 72.08 LOCATING BOUNDARIES
- 72.09 SHORELAND-WETLAND DISTRICT
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 - (2) Permitted Uses
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 - (4) Rezoning of Lands in the Shoreland-Wetland District
- 72.10 SHORELAND DISTRICT
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 - (3) Permitted Uses
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- 72.14 BUILDING SITES AND DIMENSIONS
- 72.15 SETBACKS
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- 72.16 VEGETATION
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 - (3) Cutting More than Thirty-five Feet (35') Inland
- 72.17 FILLING, DREDGING, LAGOONING, GRADING, DITCHING, AND EXCAVATING
 - (1) General Standards
 - (2) Permit Required
 - (3) Permit Conditions
 - (4) Soil Conservation Practices and Agricultural Drainage Maintenance
- 72.18 IMPERVIOUS SURFACE STANDARDS
 - (1) Purpose
 - (2) Calculation of Impervious Surface
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 - (4) Maximum Impervious Surface
 - (5) Treated Impervious Surfaces
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 - (7) Construction
- 72.19 HEIGHT
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 - (2) Maintenance, Repair, Replacement, or Vertical Expansion of Nonconforming Structures
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 - (6) Wet Boathouses
- 72.21 MAINTENANCE, REPAIR, REPLACEMENT, OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE
- 72.22 MITIGATION
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- 72.24 PERMITS
 - (1) When Required

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72.25		BOARD OF ADJUSTMENTS
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	(2)	Appeal Time
	(3)	Hearing Appeals and Actions upon Variance Application
72.26		FEES
72.27		VIOLATIONS AND PENALTIES
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72.29		ABROGATION AND GREATER RESTRICTIONS
72.30		INTERPRETATION
72.31		DEFINITIONS
72.32		CHANGES AND AMENDMENTS
72.33		SEVERABILITY

72.01 STATUTORY AUTHORITY. This Ordinance is adopted under the authorization at Wis. Stat. § 59.692 to implement Wis. Stat. §§ 59.692 and 281.31.

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

72.03 STATEMENT OF PURPOSE. The purpose of this Ordinance is to promote the public health, safety, convenience, and welfare, and promote and protect the public trust in navigable waters in the following manner:

- (1) Furthering the maintenance of safe and healthful conditions and preventing and controlling water pollution through:
 - (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation;
 - (b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems;
 - (c) Controlling filling and grading to prevent soil erosion problems; and
 - (d) Limiting impervious surfaces to control runoff which carries pollutants;
- (2) Protecting spawning grounds and fish and aquatic life through:
 - (a) Preserving wetlands and other fish and aquatic habitat;
 - (b) Regulating pollution sources; and
 - (c) Controlling shoreline alterations, dredging and lagooning;
- (3) Controlling building sites, placement of structures, and land uses through:
 - (a) Prohibiting certain uses detrimental to the shoreland-wetlands;
 - (b) Setting minimum lot sizes and widths;
 - (c) Setting minimum building setbacks from waterways; and
 - (d) Setting the maximum height of near shore structures;
- (4) Preserving and restoring shoreland vegetation and natural scenic beauty through:
 - (a) Restricting the removal of natural shoreland cover;
 - (b) Preventing shoreline encroachment by structures;
 - (c) Controlling shoreland excavation and other earth-moving activities; and
 - (d) Regulating the use and placement of boathouses and other structures.

72.04 TITLE. This Ordinance shall be known, cited, and referenced to as: **CHAPTER 72, SHORELAND ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN**. As used herein, it may be referred to as "this Ordinance."

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

- (1) Within one thousand feet (1,000') of the Ordinary High Water Mark (OHWM) of navigable lakes, ponds, or flowages.
- (2) Within three hundred feet (300') of the OHWM of navigable waterways, or to the landward side of a floodplain, whichever is greater.
- (3) The provisions of this Chapter apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when Wis. Stat. § 13.48(13) applies, state agencies are required to comply with and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance, or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if Wis. Stat. § 30.2022(1m) applies. Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stat. §§ 61.353 and 62.233.
- (4) 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 Section 72.07 of this Ordinance. 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 as to 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 OHWM. The Department may contact the appropriate office of the DNR for assistance in the determination of navigability or the location of the OHWM.
- (5) Notwithstanding any other provision of law or administrative rule promulgated thereunder pursuant to Wis. Stat. § 281.31(2m), this Shoreland Zoning Ordinance does not apply to:
 - (a) Lands adjacent to farm drainage ditches if:
 1. Such lands are not adjacent to a natural navigable stream or river;
 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching, and
 - (b) Lands adjacent to artificially constructed drainage ditches, ponds, or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
 - (c) Lands adjacent to an impoundment described in Wis. Stat. § 30.10 (2)(6) that does not discharge directly into a natural navigable waterway.

72.06 COMPLIANCE.

- (1) The use of any land or water; the size, shape, and placement of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, and dredging of any lands; the cutting or removal of shoreland vegetation; and, the subdivision of lots on any area within the boundaries of the districts created and regulated by this Ordinance shall be in full compliance with the terms of this Ordinance and all other applicable local, state, or federal regulations. (See Section 72.20 of this Ordinance for standards applicable to pre-existing, non-conforming uses and structures.) Property owners, builders, and contractors are responsible for all Ordinance and code compliance and for reasonable care in construction or other development.

- (2) Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply with Wis. Stat. § 13.48(13). Activities that are carried out under the direction and supervision of the Department of Transportation in connection with highway bridge or other transportation project design, location, construction, reconstruction, maintenance, and repair are not subject to the provisions of this Ordinance, provided the requirements of Wis. Stat. § 30.2022 are complied with. Activity where not exempt under Wis. Stat. § 30.2022 and the activity of County and local highway departments shall comply with this Ordinance and follow the procedure established in Wis. Admin. Code Ch. Trans 207; pursuant to an agreement with the DNR, and a Shoreland Zoning Permit shall not be required.

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

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

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

The boundaries of the districts shall follow the boundaries illustrated on the following maps which are hereby adopted and made a part of this Ordinance and which are on file with the Department: "Shoreland Zoning Map, Sheboygan County, Wisconsin" and the supporting Wisconsin Wetland Inventory Maps for Sheboygan County as found on the Wisconsin Department of Natural Resources Surface Water Data Viewer as of the date of enactment.

72.08 LOCATING BOUNDARIES. Where an apparent discrepancy exists between the boundaries shown on the maps described in Section 72.07 and actual field conditions at the time the maps were adopted, the Department shall contact the appropriate office of the DNR to determine if the boundaries as mapped are in error. If the DNR staff concur with the Department that a particular area was incorrectly mapped, the Department shall have the authority to immediately grant or deny a Shoreland Zoning Permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors on the zoning map described in Section 72.07, 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.

72.09 SHORELAND-WETLAND DISTRICT. This District includes all shorelands subject to regulation under Section 72.05 which are designated as wetlands on the wetland inventory maps referred to in Section 72.07 or by application of Section 72.08.

- (1) PURPOSE. The purpose of the Shoreland-Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible. Development in wetlands should be limited and, when development is permitted, it shall occur in a manner that minimizes the adverse impacts upon the wetland.

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

1. On-site sewage disposal systems will not function because of high ground water.
2. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed and purified by the soil.

3. Foundations, roads, and other pavements crack due to poor support capabilities and frost action.
 4. Flooding is common in spring and other times of high water.
- (b) Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse.
- (c) Wetlands serve as water storage areas and, therefore, minimize flooding and costly flooding damages.
- (d) Wetlands biologically treat and purify water and, therefore, prevent water pollution.
- (2) PERMITTED USES. The following uses shall be allowed, subject to the other general shoreland zoning regulations as applicable throughout this Ordinance, the provisions of Wis. Stat. chs. 30 and 31, Wis. Stat. §§ 281.36 and 281.37, and the provisions of other local, state, and federal laws, if applicable.
- (a) Activities and uses which do not require the issuance of a Shoreland Zoning Permit, but which must be carried out without filling, flooding, draining, dredging, ditching, tiling, or excavating:
1. Hiking, fishing, trapping, swimming, boating, and hunting, including the construction and maintenance of blinds for water fowling.
 2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 3. The practice of silviculture, including the planting, thinning, and harvesting of timber.
 4. The pasturing of livestock.
 5. The cultivation of agricultural crops.
- (b) Uses which do not require the issuance of a Shoreland Zoning Permit and which may involve limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 2. The cultivation of cranberries including flooding, dike and dam construction, or ditching necessary for the growing and harvesting of cranberries.
 3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating, and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
 4. The construction or maintenance of fences for the pasturing of livestock including limited excavating and filling necessary for such construction or maintenance.

5. The construction or maintenance of piers, docks or walkways built on pilings including limited excavating and filling necessary for such construction and maintenance.
 6. The maintenance, repair, replacement, or reconstruction of existing town and county highways and bridges including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
- (c) Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, tiling, or excavating, but only to the extent specifically provided below:
1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation provided that:
 - A. The road cannot, as a practical matter, be located outside the wetland
 - B. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland enumerated in Section 72.09(4)(b)1 through 7;
 - C. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - D. Road construction activities are carried out in the immediate area of the roadbed only.
 2. The construction and maintenance of non-residential buildings provided that:
 - A. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals or some other use permitted in the Shoreland-Wetland District;
 - B. The building cannot, as a practical matter, be located outside the wetland;
 - C. Such building is not designed for human habitation and does not exceed five hundred (500) square feet in floor area; and
 - D. Filling or excavating is authorized only to that which is necessary to provide structural support for the building.
 3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
 - A. Any private development is used exclusively for the permitted purpose and the applicant has received a permit or license under Wis. Stat. ch. 29, where applicable;
 - B. Filling or excavating necessary for the construction or maintenance of boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria of Section 72.09(2)(c); and
 - C. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor

educational areas, historic and scientific areas, wildlife refuges, game, bird, and animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to their members, and the construction or maintenance of railroad lines, provided that:
 - A. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland; and
 - B. Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetlands enumerated in Section 72.09(4)(b)1 through 7.
- (3) PROHIBITED USES. Any use not listed in Section 72.09(2), above, is prohibited, unless the wetland or a portion of the wetland is rezoned by an amendment of this Ordinance in accordance with the requirements of Wis. Stat. § 59.69(5)(e), Wis. Admin. Code Ch. NR 115, and Section 72.09(4).
- (4) REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.
- (a) For all proposed text and map amendments to the Shoreland-Wetland District, the appropriate office of the DNR shall be provided with the following:
1. A copy of every petition for a text or map amendment to the Shoreland-Wetland District within five (5) days of the filing of such petition with the County Clerk with a copy to the Department. Such petition shall include a copy of the Wisconsin Wetland Inventory Map adopted and referred to at Section 72.07 describing the proposed rezoning of a shoreland-wetland;
 2. Written notice of the public hearing to be held on a proposed amendment, at least ten (10) days prior to such hearing;
 3. A copy of the Department's findings and recommendations on each proposed amendment, within ten (10) days after the submission of those findings and recommendations to the County Board; and
 4. Written notice of the County Board's enactment or other action, within ten (10) days after it is issued.
- (b) A wetland or a portion thereof in the Shoreland-Wetland District shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
1. Storm and flood water storage capacity;
 2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
 3. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters;
 4. Shoreline protection against soil erosion;
 5. Fish spawning, breeding, nursery, or feeding grounds;

6. Wildlife habitat; or
7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Wis. Admin. Code § NR 103.04 which can be accessed at the following web site:

<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

- (c) If the DNR has notified the Department that a proposed text or map amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Subsection (b), above, that amendment, if approved by the County Board, shall contain the following provision: "This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the County Board's approval of this amendment was mailed to the DNR. During that thirty- (30-) day period, the DNR may notify the County Board that it will adopt a superseding shoreland ordinance for the County under Wis. Stat. § 59.692(6). If the DNR does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure under Wis. Stat. § 59.692(6) is completed or otherwise terminated. If the DNR does not so notify the County Board, the amendment shall take effect upon publication." The Department shall notify the property owner that the amendment has been stayed.

72.10 SHORELAND DISTRICT.

- (1) DESIGNATION. This District includes all shorelands subject to regulation under Section 72.05 which are not designated as wetlands on the "Shoreland Zoning Map" and wetland inventory maps cited in Section 72.07.
- (2) PURPOSE. The purpose of the Shoreland District is to protect waters by providing for safe and orderly shoreland development. All uses are subject to the general provisions of this Ordinance and all other applicable laws and regulations.
- (3) PERMITTED USES.
 - (a) Any use permitted under Section 72.09(2), except that if the use requires the issuance of a Shoreland Zoning Permit under Section 72.09, it requires a Shoreland Zoning Permit under this Section as well.
 - (b) Any use permitted by the Town's underlying general zoning ordinance, provided the use does not involve the storage, processing, or manufacturing of any materials hazardous, explosive, or otherwise injurious to humans, animals, vegetation, ground, or surface waters.

72.11 LAND DIVISION REVIEW. In addition to the zoning provisions set forth herein, all land divisions involving land in the Shoreland-Wetland District and/or in the Shoreland District are subject to the requirements of Chapter 71 of the Sheboygan County Code of Ordinances, including Section 71.16 thereof.

72.12 *RESERVED.*

72.13 SANITARY REGULATIONS. In addition to the zoning provisions set forth herein, all land in the Shoreland-Wetland District and/or in the Shoreland District are subject to the sanitary regulations of Chapter 70 of the Sheboygan County Code of Ordinances.

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

- (1) The dimensions of all lots hereinafter created shall be subject to Chapter 71 of the Sheboygan County Code of Ordinances, and in addition, in order to afford protection against danger to health, safety, and welfare and protection against pollution of adjacent bodies of water:

- (a) "Sewered lots." Lots served by a public sanitary sewer shall have a minimum average width of sixty-five feet (65') and ten thousand (10,000) square feet of area. If abutting a navigable waterway, it shall have at least sixty-five feet (65') of frontage at the OHWM.
 - (b) "Unsewered lots." Lots not served by a public sanitary sewer shall have a minimum average width of one hundred feet (100'), and twenty thousand (20,000) square feet of area. If abutting a navigable waterway, it shall also have at least one hundred feet (100') of frontage at the OHWM.
- (2) A legally-created lot or parcel that met minimum area and minimum average width requirements when created but does not meet current lot size requirements may be used as a building site if all of the following apply:
- (a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one (1) parcel;
 - (b) The substandard lot or parcel has never been developed with one (1) or more of its structures placed partly upon an adjacent lot or parcel; and
 - (c) The substandard lot or parcel is developed to comply with all other ordinance requirements.
- (3) Except for lots which meet the requirements of Section 72.14(1) and (2), a Shoreland Zoning Permit for the improvement of a lot having lesser dimensions than those stated herein shall be issued only if a variance is granted by the Board of Adjustments.
- (4) Only one (1) principal structure and one (1) principal use shall be permitted on a single parcel, lot, or tract of land unless expressly approved on an individual basis for such uses as Planned Unit Developments or condominiums.
- (5) Accessory structures shall not be constructed or placed until their principal structure is present or under construction.

72.15 SETBACKS. In order to conform to health and safety concerns, preserve natural beauty, reduce flood hazards, and avoid water pollution, any use of property within a Shoreland-Wetland District or a Shoreland District shall have as applicable these additional requirements:

- (1) SETBACKS FROM THE OHWM. [NOTE: Setbacks hereunder are to be measured at right angles from lot lines or the OHWM, horizontally, to the closest projection of the structure or integral part thereof, including attached decks, porches, balconies, attached covered stairs and landings, chimneys, such architectural projections as sills, eaves, and belt courses, and attached garages.]
- (a) Navigable Waters, except if exempt or reduced as hereafter provided.
 - 1. Required Setbacks. All structures shall require a setback of at least seventy-five feet (75') from the OHWM although a greater setback may be required where otherwise regulated by the floodplain provisions of Chapter 73 of the County Code of Ordinances or other more restrictive ordinances.
 - (b) Reduced Setback for New Principal Structures. A setback less than the seventy-five foot (75') required setback from the OHWM shall be permitted for a proposed principal structure and shall be determined as follows:
 - 1. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the OHWM provided all of the following are met:

- A. Both of the existing principal structures are located on an adjacent lot to the proposed principal structure;
- B. Both of the existing principal structures are located within two hundred fifty feet (250') of the proposed principal structure;
- C. Both of the existing principal structures are located less than seventy-five feet (75') from the OHWM; and
- D. The average setback shall not be reduced to less than thirty-five feet (35') from the OHWM of any navigable water.

Functional appurtenances such as decks or porches that are attached to the proposed principal structure must comply with the reduced principal structure setback but shall not be used in the calculation of the reduced principal structure setback.

(2) EXEMPT STRUCTURES. All of the following structures are exempt from the setback standards in Subsection (1), above:

(a) Boathouses located entirely above the OHWM and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation, subject to the following:

- 1. Boathouses shall be designed and constructed solely for the storage of watercraft and related equipment.
- 2. Only one boathouse is permitted on a lot as an accessory structure.
- 3. Boathouses shall not exceed one (1) story in height.
- 4. Boathouses shall not extend below the OHWM or more than thirty feet (30') landward of the OHWM and shall be constructed in conformity with all floodplain zoning standards.
- 5. The sidewall height of boathouses shall not exceed ten feet (10').
- 6. The main door must face or open towards the lake.
- 7. The roof of a boathouse may be used as a deck provided that:
 - A. The boathouse has a flat roof;
 - B. The roof has no side walls or screens; and
 - C. The roof may have a railing that meets the Department of Safety and Professional Services standards.

(b) Open-sided and screened structures such as gazebos, decks, patios, and screen houses in the shoreland setback area that satisfy the requirements in Wis. Stat. § 59.692(1v).

- 1. The part of the structure that is nearest to the water is located at least thirty-five feet (35') landward from the OHWM.
- 2. The floor area of all the structures in the shoreland setback area will not exceed two hundred (200) square feet excepting stairways, walkways, and boathouses.
- 3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

4. The Department must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least seventy percent (70%) of the half of the shoreland setback area that is nearest to the water.
 5. A Department-approved affidavit must be filed by the property owner with the Register of Deeds prior to construction acknowledging the limitations on the vegetation required above which shall run with the land.
- (c) Broadcast signal receivers, including satellite dishes or antennas that are one (1) meter or less in diameter and satellite earth station antennas that are two (2) meters or less in diameter, and small, moveable structures at the discretion of Department staff.
 - (d) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Wis. Admin. Code Ch. SPS 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
 - (e) Walkways, stairways, or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of sixty (60) inches in width. One (1) walkway is allowed per single-family residential property; two (2) walkways are allowed for a two-family residence. For all other uses, one (1) walkway is allowed per one hundred feet (100') of frontage.
 - (f) Devices or systems used to treat runoff from impervious surfaces.
 - (g) A fence that meets all of the following requirements:
 1. A height not taller than fifteen feet (15').
 2. Located not less than two feet (2') landward of the ordinary high water mark.
 3. Located entirely outside of a highway right-of-way.
 4. Located not less than ten feet (10') from the edge of a roadway and not more than forty feet (40') from the edge of a roadway or highway right-of-way, whichever is greater.
 5. Generally perpendicular to the shoreline.
 - (h) A bridge for which the Wisconsin Department of Natural Resources has issued a permit under Wis. Stat. § 30.123.
- (3) **EXISTING EXEMPT STRUCTURES.** Existing exempt structures that were legally constructed may be maintained, repaired, replaced, restored, rebuilt, and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure without permit, fee, or mitigation. Expansion of a structure beyond the existing footprint is allowed if the expansion is necessary to comply with applicable state or federal requirements.
 - (4) **FLOODPLAIN STRUCTURES.** Buildings and structures to be constructed or placed in a floodplain shall be required to comply with Chapter 73 of the Sheboygan County Code of Ordinances.
 - (5) **BLUFF SETBACKS.** From the north City of Sheboygan limit to the north County line the coast of Lake Michigan consists almost entirely of steep bluffs ± 50 feet in height; long-term recession (erosion) rates of ± 2 feet per year have been recorded along this coastal reach. To protect property and life and minimize costly damage, the structure setback in this area is based upon the long-term recession rate of two feet (2') per year and a fifty- (50-) year

period as the useful life of the structure. As such, all new principal structures must be set back at least one hundred feet (100') from the edge of the bluff. New accessory structures must meet the setback found in Section 72.15 (1)(a)1.

The Board of Adjustment may approve, as a variance under the provisions of Section 72.25, a reduction of the bluff setback upon presentation by the applicant of acceptable engineering studies documenting:

- A. Lower recession rates;
- B. More stable slope conditions;
- C. Plans for structural protection against wave attack; and
- D. Plans for stabilization of the bluff or shoreline.

72.16 VEGETATION

- (1) **PURPOSE.** To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, owners of property in shoreland-wetland zones and/or shoreland zones must consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.
- (2) **LIMITATIONS.** Land that extends from the ordinary high water mark to a minimum of thirty-five feet (35') inland shall be designated as a vegetative buffer zone and removal of vegetation in the vegetative buffer zone is prohibited except as follows:
 - (a) Routine maintenance of vegetation is allowed.
 - (b) Removal of trees and shrubs in the vegetative buffer zone is allowed to create access and viewing corridors. The maximum width of an access and viewing corridor may be ten feet (10') or up to thirty-five percent (35%) of the shoreline frontage, whichever is greater, except that the maximum width of an access and viewing corridor may not exceed two hundred feet (200'). The access and viewing corridor may run contiguously for the entire maximum allowed width.
 - (c) Removal of trees and shrubs in the vegetative buffer zone on a parcel with ten (10) or more acres of forested land consistent with "generally accepted forestry management practices" as defined in Wis. Admin. Code § NR 1.25(2)(b) and described in DNR publication *Wisconsin Forest Management Guidelines*" (publication FR-226), provided that vegetation removal be consistent with these practices.
 - (d) Removal of vegetation within the vegetative buffer zone is allowed to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed under the permit be replaced by replanting in the same area as soon as practicable. The Department may require documentation from a qualified professional supporting the need for removal of the additional vegetation.
 - (e) Additional vegetation management activities in the vegetative buffer zone may be authorized by permit. The permit shall require that all management activities comply with detailed plans approved by the Department and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly-restored area. The permit also shall require an enforceable restriction to preserve the newly-restored area. The Department may require documentation from a qualified professional supporting the need for additional vegetation management activities.
- (3) **CUTTING MORE THAN THIRTY-FIVE FEET (35') INLAND.** From the inland edge of the thirty-five-foot (35') area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

72.17 FILLING, DREDGING, LAGOONING, GRADING, DITCHING, AND EXCAVATING. Any filling, grading, lagooning, dredging, ditching, and excavating on property within a Shoreland-Wetland District or a Shoreland District shall be permitted only in accordance with the provisions of Wis. Admin. Code § NR 115.04, the requirements of Wis. Stat. chs. 30 and 31 and only if done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat and natural scenic beauty, and these additional requirements:

- (1) GENERAL STANDARDS. Filling, dredging, lagooning, grading, ditching, or excavating which does not require a Shoreland Zoning Permit is allowed, provided that:
 - (a) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
 - (b) Filling, dredging, lagooning, grading, ditching, or excavating in a shoreland-wetland area meets the requirements of Section 72.09(2)(b).
 - (c) A local, state, or federal permit is obtained if local, state, or federal laws require the issuance of a permit for the filling, dredging, lagooning, grading, ditching, or excavating that is proposed.
 - (d) Any fill placed in the shoreland area is protected against erosion by the use of riprapping, vegetative cover, or a bulkhead.
- (2) PERMIT REQUIRED. Except as provided in Section 72.17(4), a Shoreland Zoning Permit is required:
 - (a) For development anywhere in a mapped floodplain under the jurisdiction of Chapter 73 of the Sheboygan County Code of Ordinances.
 - (b) For any filling or grading of any area which is within three hundred feet (300') of the OHWM of a navigable waterway and which has surface drainage toward the water and on which there is either:
 1. Any filling or grading on slopes of twenty percent (20%) or more; or
 2. Filling or grading of more than one thousand (1,000) square feet on slopes of twelve percent (12%) to twenty percent (20%); or
 3. Filling or grading of more than two thousand (2,000) square feet on slopes of twelve percent (12%) or less.
 - (c) For construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within three hundred feet (300') of the OHWM of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
- (3) PERMIT CONDITIONS. In granting a permit under Subsection (2), above, the Department shall attach the following conditions, where appropriate, in addition to those provisions specified in Sections 72.23.
 - (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
 - (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
 - (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
 - (d) Lagoons shall be constructed to avoid fish trap conditions.

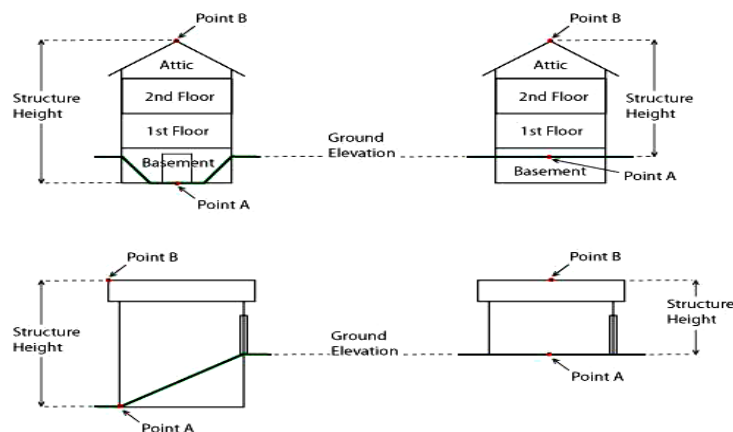
- (e) Fill shall be stabilized according to accepted engineering standards.
 - (f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
 - (g) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
- (4) SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.
- (a) Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit when designed and constructed to Natural Resources Conservation Service technical standards.
 - (b) The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:
 - 1. The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a permit under Section 72.17(2) is obtained.
 - 2. Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
 - 3. Ditch banks shall be maintained in a sod cover and free of woody vegetation.
 - 4. A minimum thirty-five- (35-) foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

72.18 IMPERVIOUS SURFACE STANDARDS.

- (1) PURPOSE. To protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters, these impervious surface standards are established and shall apply to the construction, reconstruction, expansion, replacement, or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within three hundred feet (300') of the OHWM of any navigable waterway. These standards are in addition to and do not supersede any other applicable provisions of this Ordinance.
- (2) CALCULATION OF IMPERVIOUS SURFACE. The percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within three hundred feet (300') of the OHWM by the total surface area of the lot or parcel and multiplying by one hundred (100). The Department may require a survey of existing impervious surfaces to be included as part of the permit application.
- (3) IMPERVIOUS SURFACE STANDARD. Up to fifteen percent (15%) impervious surface can be permitted on the portion of a lot or parcel that is within three hundred feet (300') of the OHWM.
- (4) MAXIMUM IMPERVIOUS SURFACE. More than fifteen percent (15%) but not more than thirty percent (30%) impervious surface can be permitted on the portion of a lot or parcel that is within three hundred feet (300') of the OHWM, but for that portion of the development that exceeds fifteen percent (15%) impervious surface but not more than thirty (30%) impervious surface, a permit shall be required which includes a mitigation plan that meets the standards found in Section 72.22.

- (5) **TREATED IMPERVIOUS SURFACES.** Impervious surfaces that can be documented to show they must meet either of the following standards shall be excluded from the impervious surface calculations under Section 72.18(2) of this Code.
- (a) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems and a maintenance plan is signed by the property owner and recorded with the Register of Deeds.
 - (b) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil. If the internally drained area is located off the parcel, written permission must be granted from owner of the property to receive the runoff and submitted to the Department.
- (6) **EXISTING IMPERVIOUS SURFACES.** For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standards provided herein, the property owner may do any of the following:
- (a) maintain and repair the existing impervious surfaces;
 - (b) replace existing impervious surfaces with similar surfaces within the existing impervious surface footprint;
 - (c) relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of this Ordinance, and the impervious surface meets the applicable setback requirements in Section 72.15.
- (7) **CONSTRUCTION.** This Section of the Ordinance shall not be construed to supersede the other provisions in this Ordinance. Maintenance, reconstruction, relocation, and expansion of existing structures must comply with other provisions in this Ordinance, including the shoreland setback and non-conforming structures provisions.

72.19 **HEIGHT.** To protect and preserve wildlife habitat and natural scenic beauty, construction shall not be permitted that results in a structure taller than thirty-five feet (35') within seventy-five feet (75') of the OHWM of any navigable waters. Structure height shall be measured as follows: The measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram) unless specified under other Sections of this Ordinance.



72.20 **NONCONFORMING USES AND STRUCTURES AND STRUCTURES AUTHORIZED BY VARIANCE.**

- (1) DISCONTINUED NONCONFORMING USE. If a nonconforming use is discontinued for a period of twelve (12) months, any future use of the building, structure, or property shall conform to this Ordinance.
- (2) MAINTENANCE, REPAIR, REPLACEMENT, OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES. An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure without permit, fee, or mitigation. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded without permit fee or mitigation unless the vertical expansion would extend more than thirty-five feet (35') above grade level. The expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.
- (3) LATERAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURE WITHIN THE SETBACK. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback pursuant to Section 72.15 of this Code may be expanded laterally, provided that all of the following requirements are met:
 - (a) The use of the structure has not been discontinued for a period of twelve (12) months or more if a nonconforming use.
 - (b) The existing principal structure is at least thirty-five feet (35') from the OHWM.
 - (c) Lateral expansions are limited to a maximum of two hundred (200) square feet over the life of the structure.
 - (d) No portion of the expansion may be any closer to the OHWM than the closest point of the existing principal structure.
 - (e) The County shall issue a permit that requires a mitigation plan that shall be approved by the County and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section 72.21 of this Code.
 - (f) All other provisions of this Ordinance shall be met.
- (4) EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURE BEYOND SETBACK. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under Section 72.15, may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements of Section 72.15 and that all other provisions of this Ordinance are met. A mitigation plan is not required solely for expansion under this Subsection but may be required under Section 72.18.
- (5) RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURE. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 72.15 may be relocated on the property provided all of the following requirements are met:
 - (a) The use of the structure has not been discontinued for a period of twelve (12) months or more if a nonconforming use.
 - (b) The existing principal structure is at least thirty-five feet (35') from the OHWM.
 - (c) No portion of the relocated structure is located any closer to the OHWM than the closest point of the existing principal structure.
 - (d) The Department determines that no other location is available on the property taking into consideration other site constraints such as vegetation, lot line and road

setbacks, and topography and utilities to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per Section 72.15.

- (e) The Department shall issue a permit that requires an approved mitigation plan which shall be implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section 72.21 and shall include enforceable obligations of the property owner to establish or maintain measures that the Department determines are adequate to offset the impacts of the permitted construction on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument approved by the Department and recorded by the owner in the office of the Register of Deeds.
 - (f) All other provisions of this Ordinance shall be met.
- (6) WET BOATHOUSES. The maintenance and repair of nonconforming boathouses which extend landward of the OHWM of any navigable waters shall comply with Wis. Stat. § 30.121.

72.21 MAINTENANCE, REPAIR, REPLACEMENT, OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE. A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015, may be maintained, repaired, replaced, restored, rebuilt, or remodeled without permit, fee, or mitigation if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded without permit, fee, or mitigation unless the vertical expansion would extend more than thirty-five feet (35') above grade level. Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.

72.22 MITIGATION. Before the Department issues a permit requiring mitigation under Sections 72.18 and 72.20, the property owner must submit, along with the application, a complete mitigation plan that complies with the Sheboygan County Shoreland Mitigation Handbook as has been adopted by the Committee and which may be modified from time to time. The mitigation plan shall include the following:

- (1) A site plan that describes the proposed mitigation measures.
 - (a) The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
 - (b) The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.
- (2) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures. The enforceable obligations shall be evidenced by an instrument approved by the Department and recorded by the owner in the office of the Register of Deeds prior to issuance of the permit.

72.23 ADMINISTRATION.

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

- (3) The Department shall have the authority and power to:
 - (a) Advise applicants and answer any question about the provisions of this Ordinance.
 - (b) At all times during reasonable hours, enter upon and inspect any private or public premises for compliance, being clearly in the performance of their duty. If entry is refused after presentation of proper identification, a special inspection warrant may be procured in accordance with Wis. Stat. § 66.0119.
 - (c) Issue permits and approvals where appropriate unless prohibited by Wis. Stat. § 59.692(1k).
 - (d) Keep the official records of all water surface profiles, documentations of certified elevation, shoreland, wetland, or floodplain zoning maps and ordinances, permits and permit applications, appeals, variances, and amendments related to this Ordinance.
 - (e) Report uncorrected violations of this Ordinance or other applicable regulations to the Sheboygan County Corporation Counsel for appropriate enforcement action.
 - (f) Submit copies of any required data, variances, amendments, case-by-case analyses, annual reports, and any other requested information to the DNR.
- (4) The construction and maintenance of a facility is considered to satisfy the requirements of this Ordinance if the DNR has issued all required permits or approvals authorizing construction or maintenance under Wis. Stat. chs. 30, 31, 281, or 283.

72.24 PERMITS.

- (1) WHEN REQUIRED. Except where another Section of this Ordinance specifically exempts certain types of development from this requirement, a Shoreland Zoning Permit shall be obtained from the Department to engage in activities requiring a permit, except that a Demolition Permit is required prior to the removal of any principal or accessory structures if a Shoreland Zoning Permit is not required.
- (2) APPLICATION. An application for a permit shall be made to the Department upon forms furnished by the Department and shall include for the purpose of proper enforcement of these regulations, the following information:
 - (a) Name and address of applicant and property owner.
 - (b) Legal description of the property and type of proposed use.
 - (c) A scaled drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the OHWM of any abutting waterways.
 - (d) Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
 - (e) Plans for appropriate mitigation when required.
 - (f) Payment of the appropriate fee per the Department's fee schedule.
 - (g) Additional information that may be required by the Department.
- (3) EXPIRATION OF PERMIT. Shoreland Zoning Permits and Demolition Permits shall expire one (1) year from the date of issue unless substantial work has commenced. If substantial work has commenced and a request for renewal is received by the Department prior to the expiration date, the permit can be renewed for an additional one- (1-) year period. If substantial work has not commenced prior to the expiration date, the permit will not be renewed and a new permit must be issued before work can commence. A permit will not

be issued if the proposed development does not comply with the Ordinance in effect at the time of permit application.

72.25 BOARD OF ADJUSTMENT. The Sheboygan County Board of Adjustment, as established in Chapter 76 of the Sheboygan County Code of Ordinances, pursuant to Wis. Stat. § 59.694 is hereby authorized to administer the appropriate judicial functions set forth in this Ordinance. The said Board shall be referred to as the Board of Adjustment (Board) in this Ordinance.

- (1) POWERS. The Board may exercise all of the powers conferred on such Board by Wis. Stat. § 59.694.
 - (a) It shall hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Department or by the Committee.
 - (b) Upon a required, completed application form, it may grant a variance from the standards of this Ordinance. To grant a variance from the standards of this Ordinance, an applicant must convincingly demonstrate that:
 1. Literal enforcement of the provisions of the Ordinance will result in unnecessary hardship on the applicant;
 2. The hardship is due to special conditions unique to the property; and
 3. Is not contrary to the public interest.
 - (c) To interpret upon appeal the meaning or intent of a particular provision of this Ordinance or other ordinances of Sheboygan County.
- (2) APPEAL TIME. Appeals to the Board of Adjustment 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 by filing within thirty (30) days after the date of written notice of the decision or order of the Department or by the Committee, a notice of appeal specifying the reasons for appeal. The notice of appeal shall conform with the rules of the Board.
- (3) HEARING APPEALS AND ACTIONS UPON VARIANCE APPLICATION.
 - (a) The Board of Adjustment (Board) shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice thereof by publishing a Class 2 notice under Wis. Stat. § 985 specifying the date, time, and place of the hearing and the matters to come before the Board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate office of the DNR at least ten (10) days prior to hearings on proposed shoreland variances and appeals for map or text interpretations.
 - (b) A decision shall be made as soon as practical. Copies of all decisions on shoreland variances and appeals for map or text interpretations shall be submitted to the appropriate office of the DNR within ten (10) days after they are granted or denied.
 - (c) In granting a variance, the Board may impose restrictions including the requirement that the applicant obtain a permit, but the Board may not impose restrictions which are more restrictive than any of the specific standards in this Ordinance. Where the Ordinance is silent as to the extent of the restriction, the Board may impose any reasonable permit conditions to affect the purposes of this Ordinance. The applicant has one (1) year from the date of the written decision to obtain any necessary permit or the variance relief shall expire.
 - (d) At the public hearing, any party may appear in person or by agent or by attorney.

72.26 FEES. All persons, upon filing an application for permits, changes, and amendments, or Board of Adjustment reviews required pursuant to this Ordinance, shall pay a fee to the Department according to the fee schedule on file in the Planning and Conservation Department.

If in the determination of the Department a permit applicant contemplates construction in an amount of no more than Two Thousand Dollars (\$2,000.00) and the Department determines that the expense related to the issuance of the permit does not require the full fee, the Department, in its discretion, may waive all but Seventy-five Dollars (\$75.00) of the fee.

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

72.27 VIOLATIONS AND PENALTIES. Any person, firm, association, corporation, or agents thereof who violates, disobeys, neglects, omits, or refuses to comply with any of the provisions of this Ordinance shall be deemed in violation. The Department shall refer violations to the Corporation Counsel who shall expeditiously prosecute violations.

Any person firm, association, or corporation who violates or refuses to comply with any of the provisions of this Ordinance shall, upon conviction, forfeit to the County not less than Twenty Dollars (\$20.00) nor more than Two Thousand Dollars (\$2,000.00), plus the costs of prosecution, for each offense. Each day during which such violation exists shall constitute a separate offense.

Every violation of this Ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at the suit of the County, the State of Wisconsin, or any citizen thereof pursuant to Wis. Stat. § 59.69(11).

72.28 STATUTE OF LIMITATIONS. Pursuant to Wis. Stat. § 59.692(1t), no enforcement action shall be commenced against a person who owns a building or structure that is in violation of a shoreland zoning standard or this Ordinance if the building or structure has been in place for more than ten (10) years.

72.29 ABROGATION AND GREATER RESTRICTIONS.

(1) This Ordinance supersedes all provisions of any prior Ordinance enacted under Wis. Stat. §§ 59.69, 59.692, and 87.30 which relate solely to shorelands. However, where another County Ordinance that does not relate solely to shorelands is more restrictive than the provisions contained in this Ordinance, that ordinance shall control to the extent of the greater restrictions and not otherwise.

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

(3) If an existing town ordinance relating to shorelands is more restrictive than this Ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.

(4) It is not otherwise intended by this Ordinance to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements; however, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

(5) In the administration of this Ordinance, the Department may establish standards to regulate matters that are not regulated in NR115 but that further the purpose of shoreland zoning as described in Section 72.03 of this Code.

(6) Nothing contained herein shall be interpreted to require any of the following:

(a) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibit or regulate outdoor lighting in shorelands if the lighting is designed or intended for residential use.

(b) Any inspection or upgrade of a structure before the sale or other transfer of the structure is made.

- (7) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the Department has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stat. chs. 30, 31, 281, or 283.

72.30 INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes.

Where a provision of this Ordinance is required by Wis. Admin. Code Chs. NR 115 or NR 116 and where the Ordinance provision is unclear, the provision shall be interpreted in light of the statute and Wis. Admin. Code Chs. NR 115 or NR 116 standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.

72.31 DEFINITIONS. Unless specifically defined below, words, terms, or phrases used in this Ordinance or in the administration of this Ordinance shall be as defined in Chapters 70, 71, and 73 of the Sheboygan County Code of Ordinances, Wis. Stat. chs. 29, 30, 31, 144, 236; Wis. Stat. § 59.69, 59.692, and 87.30; and Wis. Admin. Code Chs. NR 115, NR 116, and SPS 383, or, if not defined therein, shall be interpreted so as to give them the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future; words in the singular number include the plural numbers. The word "shall" is mandatory, not permissive. All distances, unless specified otherwise, shall be measured horizontally.

- (1) **ACCESS AND VIEWING CORRIDOR.** A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
- (2) **ACCESSORY STRUCTURE.** A subordinate structure on the same lot as the principal STRUCTURE or use and devoted to a use incidental to the principal use or structure. (See **PRINCIPAL STRUCTURE** and **PRINCIPAL USE**.)
- (3) **ARBOR.** A frame structure consisting of vertical posts having beams attached to and connecting the posts at the top of the structure, supporting a roof composed of open joists. Roof or wall enclosures other than lattice or trellis are prohibited.
- (4) **BASEMENT.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level on all sides.
- (5) **BATHROOM OF CONVENIENCE.** A bathroom which serves a single accessory structure located on a single parcel with an existing residence. The bathroom is allowed to have a sink, toilet and/or urinal. No showers or bathtubs are allowed without a change to the estimated wastewater flow of the septic system.
- (6) **BEST MANAGEMENT PRACTICES (BMPs).** The Stormwater Management Technical Standards as defined by the Wisconsin Department of Natural Resources currently posted at <http://dnr.wi.gov/topic/stormwater/>, and any subsequent amendments thereto.
- (7) **BOATHOUSE.** A permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed and has a roof, walls, or any combination of these structural parts.
- (8) **BUILDING.** See **STRUCTURE**.
- (9) **BUILDING ENVELOPE.** The three-dimensional space within which a structure is built.
- (10) **BULKHEAD.** An upright structure to dissipate wave energy or retard erosion which can be placed against the base of a dune or bluff or stand free to have fill placed behind it.
- (11) **BULKHEAD LINE.** A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the DNR pursuant to Wis. Stat. § 30.11 and which allows limited filling between the OHWM and the bulkhead line, except where such filling is prohibited by the floodway and wetland provisions of this Ordinance.

- (12) **CAMPING UNIT.** Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent, or other mobile recreational vehicle.
- (13) **CHANNEL.** A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
- (14) **CLASS II PUBLIC NOTICE.** Publication of a public hearing notice under Wis. Stat. ch. 985 in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing or event noticed.
- (15) **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 Committee. (Also called "special exception.")
- (16) **CRAWLWAYS or CRAWLSPACE.** An enclosed area below the first usable floor of a building, generally less than five feet (5') in height used for limited access to plumbing and electrical utilities.
- (17) **DECK.** An unenclosed exterior structure that has no roof or sides.
- (18) **DEPARTMENT.** The Sheboygan County Planning and Conservation Department.
- (19) **DEVELOPMENT.** Any manmade change to improved or unimproved real estate, including, but not limited to, construction of, or additions or substantial improvements to, buildings, other structures, or accessory uses; the placement of manufactured/mobile homes; mining; dredging; filling; grading; excavating; ditching; lagooning; drilling operations; storage, deposition, or extraction of materials; but excluding tiling for agricultural purposes outside of the Shoreland-Wetland District.
- (20) **DNR.** Wisconsin Department of Natural Resources.
- (21) **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.
- (22) **EXISTING MANUFACTURED/MOBILE HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets is completed before the effective date of shoreland and floodplain management regulations adopted by Sheboygan County).
- (23) **EXPANSION TO EXISTING MANUFACTURED/MOBILE HOME PARK.** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be placed. This includes installation of utilities, either final site grading or pouring of pads, or the construction of streets.
- (24) **FACILITY.** Any property or equipment of a public utility as defined in Wis. Stat. § 196.01(5) or a cooperative association organized under Wis. Stat. ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.
- (25) **FLOODPLAIN.** Land which has been or may be hereafter covered by flood water during the regional flood. It includes the floodway and the flood fringe as those terms are defined in Wis. Admin. Code Ch. NR 116.
- (26) **FOOD PREPARATION AREA.** Any part of a building containing three or more of the following facilities:

- (a) Cooking, including stoves, ranges, ovens, cooktops, microwave ovens with a capacity of one cubic foot or greater, or countertop appliances such as grills, hot plates, toaster ovens, roasters, and slow cookers, but excluding coffee makers, top-slot toasters, or microwave ovens with a capacity less than one cubic foot.
 - (b) Refrigeration with a capacity greater than 3.5 cubic feet.
 - (c) Sink with a bowl depth greater than four inches and any other bowl dimension greater than thirteen inches (13").
 - (d) Storage capacity greater than twenty-four (24) cubic feet intended or used for food, cookware, dishes, or related utensils.
- (27) **GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES.** Forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (28) **GUESTHOUSE.** An accessory structure comprised only of a bedroom, bathroom, and sitting area. A guesthouse shall not be intended for more than occasional human occupancy and may not contain a food preparation area. If a property with a guesthouse is served by a private sewage system, the private sewage system must be sized appropriately to accommodate the wastewater generated in the guesthouse or a new septic system, other than a holding tank, must be installed. No more than one guesthouse may be permitted per parcel.
- (29) **HABITABLE STRUCTURE.** Any structure or portion thereof used or designed for human habitation.
- (30) **HEARING NOTICE.** Publication or posting meeting the requirements of Wis. Stat. ch. 985. For appeals, a Class 1 Notice published once, at least one (1) week [seven (7) days] before the hearing is required. For all zoning ordinances and amendments, a Class 2 Notice published twice, once each week consecutively the last of which at least one (1) week [seven (7) days] before the hearing.
- (31) **HISTORIC STRUCTURE.** Any structure that is:
- (a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
 - (c) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.
- (32) **IMPERVIOUS SURFACE.** An area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surfaces exclude frozen soil and structures, such as walkways and decks, which do not release, outside of their footprint, the majority of the precipitation that falls on them, but rather where the precipitation is absorbed by the soil below them. Impervious surfaces include rooftops, walkways, driveways, and parking lots unless specifically designed, constructed and maintained to be pervious. Gravel roads are

impervious. Roads and sidewalks as defined in Wis. Stat. §§ 340.01(54) and 340.01(58) are not considered impervious surfaces.

- (33) **LAND USE.** Any development (see definition of).
- (34) **MAINTENANCE AND REPAIR.** Such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof, and other nonstructural components; and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.
- (35) **MANUFACTURED/MOBILE HOME.** A structure transportable in one or more sections which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (36) **MITIGATION.** Balancing measures that are designed, implemented, and function to restore natural functions and values that are otherwise lost through development and human activities.
- (37) **MOBILE RECREATIONAL VEHICLE.** A vehicle which is built on a single chassis four hundred (400) square feet or less when measured at the largest horizontal projection designed to be self-propelled, carried or permanently towable by a licensed light-duty vehicle, is licensed for highway use if registration is required, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Manufactured homes that are towed or carried onto a parcel of land but do not remain capable of being towed or carried including park mobile homes do not fall within the definition of "mobile recreational vehicles."
- (38) **NGVD or NATIONAL GEODETIC VERTICAL DATUM (MEAN SEA LEVEL).** Elevations referenced to mean sea level datum, 1929 adjustment.
- (39) **NAVIGABLE WATERS.** Lake Michigan, all natural inland lakes within Sheboygan County, Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this County.

Under Wis. Stat. § 281.31(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, this Chapter does not apply to lands adjacent to:

- (a) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
- (b) Artificially-constructed drainage ditches, ponds, or stormwater retention basins that are not hydrologically connected to a natural navigable water body.
- (c) Lands adjacent to an impoundment described in Wis. Stat. § 30.10 (2)(6) that does not discharge directly into a natural navigable waterway.

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

- (40) **NONCONFORMING LOT.** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Ordinance, but which fails thereafter to conform to the requirements of the zoning district. (NOTE: A legally granted "variance" pursuant to Section 72.25 of this Ordinance shall not be deemed to create a "nonconforming lot." When a variance is granted, it becomes a conforming lot.)

- (41) **NONCONFORMING STRUCTURE.** Pursuant to Wis. Stat. § 59.692(2m), a dwelling or other building that existed lawfully before this Ordinance was enacted or amended but that does not conform to one or more of the setback, height, lot coverage, and side yard elements in this current version of this Ordinance (NOTE: A legally granted "variance" pursuant to Section 72.25 of this Ordinance shall not be deemed to create a "nonconforming structure.")
- (42) **NONCONFORMING USE.** A structure that existed lawfully before this Ordinance was enacted or amended but does not conform with the use restrictions in the current version of this Ordinance.
- (43) **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 OHWM. Only one (1) OHWM indicator need be present to establish an OHWM, but a number of indicators may be interpreted together to locate it at a given site. When the bank or shore is of such character that it is difficult or impossible to ascertain the point of OHWM, recourse may be had to the opposite bank of a waterway or to similar places on the shore of a lake or flowage to determine whether a given stage of water is above or below the OHWM.
- (44) **PATIO.** An outdoor living space constructed from a hard surface such as pavers, stone larger than six inches (6') in diameter, or concrete. Patios may be constructed to be pervious or impervious. Hard surface sitting areas, totaling no more than sixteen (16) square feet individually and sixty-four (64) square feet per lot, when spaced more than twenty-four inches (24) apart, are not considered patios.
- (45) **PERSON.** An individual, group of individuals, partnership, firm, corporation, association, state, county, city, village, township, sanitary district, or other government corporation.
- (46) **PIER.** A structure extending channel ward, or more or less perpendicular out from the shore, with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Generally, any construction whose dimensions and accessories go beyond what is reasonably necessary to berth watercraft or load or unload cargo or passengers is not authorized as a pier by statute; see Wis. Stat. ch. 30.)
- (47) **PRINCIPAL STRUCTURE.** A structure in which the principal authorized use of the lot on which it is located is conducted. (See **ACCESSORY STRUCTURE.**)
- (48) **PRINCIPAL USE.** The primary or predominant use of any lot (e.g. residential, commercial, industrial, conservation, institutional, etc.).
- (49) **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 Wisconsin Department of Safety and Professional Services, Safety and Buildings Division, 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.
- (50) **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.
- (51) **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.

- (52) **RESERVED**
- (53) **ROUTINE MAINTENANCE OF VEGETATION.** Normally-accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (54) **SHORELAND DISTRICT.** Lands within the following distances from the OHWM of navigable waters: One thousand feet (1,000') from a lake, pond, or flowage, or, where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater; and, three hundred feet (300') from a river or stream, or to the landward side of the floodplain, or, where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater.
- (55) **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.
- (56) **SIDEWALK.** Pursuant to Wis. Stat. § 340.01(58), that portion of a highway between the curb lines or the lateral lines of a roadway and the adjacent property lines, constructed for use of pedestrians.
- (57) **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.
- (58) **START OF CONSTRUCTION.** The date the building permit was issued provided the actual start of construction, repair, reconstruction, habilitation, addition, placement, or other improvement was within one hundred (180) days of the permit date. The actual start means either the first placement of permanent construction on a site such as the pouring of the slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.
- (59) **STRUCTURE.** A principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or firepit. Such small, movable items as birdhouses, bird feeders, planter boxes, picnic tables, lawn furniture, portable grills, open agricultural fences, play structures or hunting enclosures less than two hundred (200) square feet in area, and flagpoles shall not be considered a structure subject to setback requirements.
- (60) **SUBDIVISION.** Has the meaning given in Wis. Stat. § 236.02(12).
- (61) **UNNECESSARY HARDSHIP.** For an area variance, unnecessary hardship exists when compliance with this ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions “unnecessarily burdensome.”
- (62) **UTILITIES.** Any public or private facilities, such as water wells, water and sewage pumping stations, waste water collection and/or treatment/disposal systems, and any facilities owned or operated by a public utility as defined by Wis. Stat. § 196.01.

- (63) **VIOLATION.** The failure of a structure or other development to be fully compliant with the Shoreland Zoning Ordinance, a structure or other development without required permits.
- (64) **WALKWAY.** An improved path contained within the boundaries of a property.
- (65) **WATERSHED.** The entire region contributing runoff or surface water to a watercourse or body of water.
- (66) **WELL.** Means an excavation opening in the ground made by digging, boring, drilling, driving, or other methods to obtain groundwater regardless of its intended use.
- (67) **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.
- (68) **WHARF.** A structure extending along, and more or less parallel to, the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Generally, any construction whose dimensions or accessories go beyond what is reasonably necessary to berth watercraft or load or unload cargo or passengers is not authorized as a wharf by statute; see Wis. Stat. ch. 30.)
- (69) **WISCONSIN ADMINISTRATIVE CODE.** The rules of administrative agencies having rule-making authority in Wisconsin published as directed by Wis. Stat. §§ 35.93 and Wis. Stat. ch. 227 including subsequent amendments to those rules.

72.32 CHANGES AND AMENDMENTS.

- (1) The County Board of Supervisors may, from time to time, alter, supplement, or change the boundaries of use districts and the regulations contained in this Ordinance in the manner provided by law.
- (2) Amendments to this Ordinance may be made upon petition of any interested party in accordance with the provisions of Wis. Stat. § 59.69(5). Such petitions shall include any necessary data which may be required by Chapter 73 of the Sheboygan County Code of Ordinances.
- (3) Written notice to the appropriate office 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.

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

History: Ord. 9 (2006/07); Ord. 4 (2011/12); Ord. 10 (2012/13); Ord. 2 (2013/14); Ord. 3 (2013/14); Ord. 13 (2013/14); Ord. 1 (2014/15); Ord. 5 (2015/16); Ord. 4 (2016/17); Ord. 6 (2016/17); Ord. 8 (2017/18);

CHAPTER 70
SANITARY REGULATIONS

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70.01 STATUTORY AUTHORITY. This Ordinance is adopted pursuant to the authorization in Wis. Stat. §§ 59.70(1), 59.70(5), 145.04, 145.19, 145.20, and 145.01(4m)(a) through (e).

70.02 PURPOSE. This Ordinance is adopted to promote and protect public health and safety by assuring the proper siting, design, installation, inspection, management, and maintenance of private sewage systems.

70.03 DEFINITIONS. The following terms shall have the meanings indicated in this Section.

A.T.U. Aerobic Treatment Unit.

Buildings. See Structure.

Bathrooms of Convenience. A bathroom which serves a single accessory structure located on a single parcel with an existing residence. The bathroom is allowed to have a sink, toilet, and/or urinal. No showers or bathtubs are allowed without addressing the increase to the Estimated Wastewater Flow of the existing septic system.

Conventional Private Sewage System. A private sewage system consisting of a septic tank and an in-ground soil absorption component with gravity distribution of effluent.

Committee: The Sheboygan County Board of Supervisors Liaison Committee which has jurisdiction over the Department.

Construction Affecting Wastewater Flow or Contaminant Load. A modification in wastewater flow or contaminant load shall be considered to occur:

In public buildings, facilities or places of employment, when there is a proposed change in occupancy of the structure; or the proposed modification affects either the type or number of plumbing appliances, fixtures or devices discharging to the system; and in dwellings, when there is an increase or decrease in the number of bedrooms. Modified wastewater load in dwellings does not result from construction of open air/unenclosed decks, patios, or porches; re-roofing; painting; wiring; re-siding; or replacement of windows, floor coverings, equipment, appliances, or cabinets.

County Sanitary Permit. A permit issued by the Department for the reconnection of a private sewage system or for the installation of a non-plumbing sanitation system or for the replacement of piping associated with a private sewage system, pursuant to Wis. Stat. §§ 59.70 and 145.04.

Department. The Sheboygan County Planning & Conservation Department, employing a full-time director and his/her duly appointed professional planning and zoning staff, charged with the duties of administering this Ordinance and other planning and zoning legislation.

Failing Private Sewage System. "Failing private sewage system" has the meaning specified under Wis. Stat. § 145.245(4).

Farm. "Farm" means a parcel of thirty-five (35) or more contiguous acres of land devoted primarily to agricultural use, as defined in Wis. Stat. § 91.01(2).

Flows and Loads Affidavit. A document in a form approved by the Department appropriate for recording with the Office of the Sheboygan County Register of Deeds required when basing wastewater flow to a private sewage system upon per capita occupancy or usage of the structure served by the private sewage system.

Human Habitation. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.

Licensed Individual. A licensed plumber, certified septage servicing operator, maintainer, or private sewage system inspector authorized to inspect, evaluate, maintain, or service a private sewage system.

Modifications to Existing Structures. When an addition or alteration is proposed to an existing building, structure or facility that is served by an existing POWTS and the proposed addition or alteration will result in a change that affects the wastewater flow or wastewater contaminant load beyond the minimum or maximum capabilities of the existing POWTS, the POWTS shall be modified to conform to the rules of this chapter.

Non-plumbing Sanitation System. Sanitation systems and devices within the scope of Wis. Admin. Code Ch. SPS 391 which are alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets, and privies.

Plumber. A person licensed by the State as a Master Plumber or Master Plumber-Restricted Service.

Pre-treatment. A system component designed to pre-treat sewage effluent prior to final discharge of the waste to the disposal component.

Private Sewage System. Also referred to as a "Private On-Site Wastewater Treatment System" or "POWTS," has the meaning given under Wis. Stat. § 145.01(12).

Septic System Abandonment Permit. A permit issued by the Department for the abandonment of a private sewage system upon connection of the property to public sewer or when the use of the private sewage system has been discontinued.

Privy. An enclosed non-portable toilet into which non-water-carried human wastes are deposited.

Privy-Pit. A privy with a subsurface storage chamber which is not watertight.

Privy-Vault. A privy with a subsurface storage chamber that is watertight.

Public Building. Any structure, including exterior parts of such building, such as a porch, exterior platform, or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by three (3) or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in Wis. Stat. § 50.01(1g) which serves twenty (20) or fewer residents who are not related to the operator or administrator or an adult family home as defined in Wis. Stat. § 50.01(1).

Sanitary Permit. The term "sanitary permit," as used in this Ordinance shall mean a County Sanitary Permit, a State Sanitary Permit, or both.

Septic Tank. An anaerobic treatment tank.

State. The Wisconsin Department of Safety and Professional Services.

State Sanitary Permit. A permit issued by the Department for the installation or modification of a private sewage system, pursuant to Wis. Stat. §§ 145.135 and 145.19.

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, lakebed, or another structure. "Structures" shall include, but not be limited to, buildings (regardless of size or use), mobile homes and manufactured homes and dwellings, gazebos, and swimming pools.

70.04 COMPLIANCE.

- (1) All structures or premises in the County that are permanently or intermittently intended for human habitation or occupancy, which are not serviced by a public sewer, shall have a system for holding or treatment and dispersal of sewage and wastewater which complies with the provisions of this Ordinance.
- (2) The private sewage system or non-plumbing sanitation system for newly constructed structures or structures requiring a Reconnection Permit shall be installed and inspected before the structure may be occupied.

70.05 REPEAL AND EFFECTIVE DATE. This Ordinance shall be effective after public hearing, adoption by the County Board and publishing or posting as required by law. The existing sanitary provisions for the County shall be repealed effective on the date of the enactment of this Ordinance.

70.06 INCORPORATION OF PROVISIONS BY REFERENCE. This Ordinance incorporates by reference the following rules, regulations, and laws, as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code governing the location, construction, and use of private sewage systems: Wis. Stat. §§ 59.70(5) and 968.10, Wis. Stat. Chs. 145, 281, 283; Wis. Admin. Code § 361.04; Wis. Admin. Code Chs. SPS 381, SPS 382, SPS 383, SPS 384, SPS 385, SPS 387, SPS 391, NR 113, and NR 116. These rules, regulations, and laws shall apply until amended or renumbered and then shall apply as amended or renumbered

70.07 JURISDICTION. The jurisdiction of this Ordinance shall include all lands and waters within the unincorporated and incorporated areas of Sheboygan County, as provided in Wis. Stat. § 59.70(5).

70.08 POWTS REQUIREMENTS.

- (1) All domestic wastewater shall enter a private sewage system unless otherwise exempted by the State or this Chapter.

- (2) A non-plumbing sanitation system may be permitted only when the structure or premises served by the non-plumbing sanitation system is not provided with an indoor plumbing system. If plumbing is installed in the structure or running water is supplied to the structure, an acceptable method of sewage disposal other than, or in addition to, a non-plumbing sanitation system must be provided.
- (3) Any private sewage system or portions(s) thereof installed within a floodplain shall comply with all applicable requirements of Wis. Admin. Code Ch. NR 116 and the Sheboygan County Floodplain Ordinance, Chapter 73 of the General Code of Ordinances for Sheboygan County.
- (4) The installation of a holding tank as a private sewage system for new residential structures is prohibited except as provided in Subsections (a) through (d), below. A water meter with remote reading device meeting the requirements of Wis. Admin. Code § SPS 383.54(2)(d) shall be installed within 30 days after installation of the holding tank approved under Subsections (b) and (d) below.
 - (a) A temporary holding tank may be installed when a public sewer, approved by the Department of Natural Resources, will be installed to serve the property within two (2) years of the date of sanitary permit issuance. In addition to items required in Section 70.12 of this Code, an application for a sanitary permit to install a temporary holding tank shall include written statements:
 1. The municipality or sanitary district, verifying the date that public sewer will be installed and available to serve the property;
 2. The Department of Natural Resources, verifying approval of the public sewer; and
 3. The property owner, agreeing to connect to public sewer when it becomes available and to abandon the temporary holding tank.

If public sewer does not become available within two (2) years of the date of sanitary permit issuance, the holding tank must be replaced with another type of system recognized by Wis. Admin. Code Ch. SPS 83.
 - (b) A holding tank may be installed to serve a use with an Estimated Wastewater Flow (EWF) of less than one hundred (100) gallons per day. In addition to items required in Section 70.12 of this Code, an application for a sanitary permit to install a holding tank to serve a use with an EWF of less than one hundred (100) gallons per day shall include a written statement from the property owner, agreeing to install another type of system if any change of occupancy or use occurs which results in an EWF which equals or exceeds one hundred (100) gallons per day averaged over three consecutive months as deemed appropriate by the Department.
 - (c) New or existing residential structures that are part of a sanitary district approved by or under the control of the local municipality.
 - (d) New residential structures on property where documentation acceptable to the Department indicates the property was previously used for residential purposes when a Soil Evaluation Report indicates the site is not suitable for a private sewage system
- (5) Holding tanks are prohibited for use as a replacement private sewage system where the Estimated Wastewater Flow (EWF) of the proposed structure exceeds the capabilities of the existing sewage system or suitable area tested for the proposed EWF of the structure.
- (6) Holding tanks are prohibited for use as a replacement private sewage system for an existing residential structure unless a soil evaluation report determines the site is not suitable for the installation of a private sewage system that provides onsite treatment and disposal of domestic wastewater. If the Soil Evaluation Report determines a site is suitable for the installation of a private sewage system that provides onsite treatment and disposal

of domestic wastewater only with the aid of a pre-treatment device or through soil interpretive review or individual site design, a holding tank may be installed.

- (7) The installation and use of holding tanks as a private sewage system for public, commercial, or agricultural buildings are permitted regardless of whether there is a suitable site that allows for the installation of a private sewage system that provides onsite treatment and disposal of domestic wastewater. In addition to complying with all applicable provisions of the Wisconsin Administrative Code, the influent flows to the holding tank(s) shall be metered in accordance with Wis. Admin. Code SPS § 383.54(2)(d). The water meter shall include a remote reading device for each meter. The remote reader(s) shall be mounted in a conspicuous location on the exterior of the building(s) served by the holding tank(s) and shall have a numerical display of gallons used to the nearest 100 gallons.
- (8) The use of a camping unit transfer container as a POWTS holding tank component shall be restricted to a campground permitted by the Department of Health Services under Wis. Admin. Code Ch. DHS 178.
- (9) When a failing private sewage system is identified, it shall be brought into compliance with current code requirements, replaced with a code-compliant system authorized by a sanitary permit, or its use discontinued within 12 months or such other period of time required by Department order.

70.09 ABANDONMENT OF PRIVATE SEWAGE SYSTEMS.

- (1) When public sewers approved by the Department of Natural Resources become available to the structure or premises served, the private sewage system shall be disconnected and abandoned in accordance with the provisions of Wis. Admin. Code Ch. SPS 383.33. Determination of whether sewer is available shall be made by the local sewer service entity.
- (2) Within thirty (30) days after completion of the abandonment, the appropriate permit application form and fee shall be submitted to the Department for issuance of a Septic System Abandonment Permit.
- (3) The components of an existing private sewage system that are not part of the approved design of a replacement system shall be abandoned by the plumber installing the system at the time of the installation of the replacement system. The abandonment shall comply with Wis. Admin. Code Ch. SPS 383.

70.10 SOIL AND SITE EVALUATION.

- (1) Soil profile evaluations shall be completed prior to the issuance of sanitary permits as specified in Wis. Admin. Code Chs. SPS 383 and SPS 385. The tested area must be adequately sized for the treatment and disposal of wastewater based upon the Design Wastewater Flow (DWF) of the structure or structures to be served.
- (2) A minimum of three soil profile evaluations shall be completed which allow the Department adequate visual observation of the soil profile in place. At least one soil profile shall be an excavated pit pursuant to Wis. Admin. Code § 385.30 (1)(c).
- (3) Department verification of a Soil Evaluation Report may be necessary to determine the suitability of a lot for a private sewage system. This verification will be made at the discretion of the Department and will be made prior to the issuance of the sanitary permit. This verification will result in one of the following:
 - (a) Issuance of the permit, provided all information on the application is correct and complete.
 - (b) Establishment of a file indicating site suitability.
 - (c) Holding the application pending clarification of information or new information by the owner, the plumber, or the certified soil tester.

- (d) Denial of the permit if the site does not meet all the provisions of this Ordinance and appropriate Wisconsin Statutes and Administrative Codes. If the permit application is denied, the fees will be returned to the submitting party.
- (4) A certified soil tester may request Department verification of soil profile evaluations before a complete sanitary permit application is submitted.

70.11 SANITARY PERMITS.

- (1) Every private sewage system shall require a separate application and sanitary permit.
- (2) A sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, prior to the installation, establishment, or construction of any structure which requires a private sewage system or non-plumbing sanitation system.
- (3) A sanitary permit shall be obtained by the property owner, his agent, or contractor before any private sewage system or part thereof may be installed, replaced, reconnected, or modified. A sanitary permit is not required for the addition of manhole risers or for the replacement of manhole covers, manhole risers, baffles, or pumps.
- (4) If any part of the private sewage system has failed or requires replacement or modification, a new sanitary permit shall be obtained, or a valid, existing permit shall be revised, and the remainder of the system shall be evaluated for compliance with regulations in effect at the time the system was originally installed prior to the issuance of the new sanitary permit or the revised existing permit. The new or revised sanitary permit application shall include specifications for the modification, replacement, alteration, or addition of the private sewage system., A Soil Evaluation Report for those components that utilize soil for treatment or dispersal of waste shall be required, unless a report acceptable to the Department is already on file with the Department.
- (5) When a sanitary permit is required, any other existing private sewage system located on the same parcel shall be identified and evaluated by a licensed individual for compliance with the regulations in effect at the time such system was originally installed by submitting information specified in Sections 70.19(3)(a)-(e) of this Code to the Department prior to issuance of the sanitary permit. If the system is found to be non-code compliant, a sanitary permit shall be obtained to replace the subject system or otherwise bring it into compliance.

70.12 APPLICATION REQUIREMENTS.

- (1) A sanitary permit application shall include the following information which shall be furnished by the applicant on forms required by the State and/or the Department along with all applicable fees:
 - (a) Names and addresses of the applicant (owner of the site) and the plumber employed.
 - (b) Legal description of the subject site and the parcel identification or parcel number.
 - (c) All lot dimensions.
 - (d) Building use (single family, duplex, etc.).
 - (e) Soil Evaluation report.
 - (f) System plans (see Section 70.13 of this Code).
 - (g) Appropriate agreements and contracts for system management and maintenance.
 - (h) Copies of any documents required in Section 70.12(4) of this Code and verification that they have been recorded.
 - (i) Any other information required by the Department.

- (2) When any official State action is required prior to the issuance of a sanitary permit, an original copy of the official action shall accompany the application.
- (3) Pit privy permit applications shall be accompanied by soil data provided by a Certified Soil Tester to determine compliance with Wis. Admin. Code Ch. SPS 391.
- (4) The following documents must be recorded with the Sheboygan County Register of Deeds prior to sanitary permit issuance:
 - (a) Maintenance agreements or POWTS agreements, when recording is required by Wis. Admin. Code Ch. SPS 383 or this Ordinance.
 - (b) When a private sewage system or parts thereof are located on a separate parcel of ownership than the structure served, an appropriate easement must be recorded with the Register of Deeds Office concurrent with permit issuance.
 - (c) When a private sewage system serves more than one structure under different ownership, a document identifying all parties that have ownership rights and are responsible for the operation and maintenance of the private sewage system must be recorded with the Register of Deeds Office.
 - (d) When the design wastewater flow of a private sewage system for a dwelling is not based upon the number of bedrooms within the dwelling, a deed restriction limiting occupancy to that used in the design must be recorded with the Register of Deeds Office.
- (5) The Department reserves the right to require a floodplain and/or wetland delineation for a proposed private sewage system area prior to sanitary permit issuance. The Department may require elevations on plans to be tied to floodplain elevation datum using NAVD 88 (North American Vertical Datum 88) or any subsequent updated datum.
- (6) The Department reserves the right to refuse incomplete or incorrect permit applications or to delay permit issuance until corrected or completed applications are received.

70.13 PLANS. System plans shall be submitted for approval to the Department or to the State in accordance with Wis. Admin. Code Ch. SPS 383. Plans shall comply with the requirements of Wis. Admin. Code Ch. SPS 383 and this Ordinance.

- (1) Plans submitted to the Department shall include the **original** and two (2) copies.
- (2) When plans are reviewed and approved by the State, at least two (2) sets of the plans submitted to the Department shall bear an original State approval stamp or seal.
- (3) Plans submitted shall be clear, legible, and permanent copies.
- (4) Plans submitted shall comply with Wis. Admin. Code Ch. SPS 383 and include the following:
 - (a) The name of the property owner and the legal description of the site;
 - (b) Estimated daily wastewater flow and design wastewater flow.
 - (c) A detailed plot plan (site plan), dimensioned or drawn to scale, on paper no smaller than 8-1/2 inches by 11 inches in size. The plot plan shall delineate the lot size and the location of all existing and proposed: private sewage system components; building sewers; private interceptor main sewers; wells; water mains or water services; buildings; lot lines; swimming pools; navigable waters; and the benchmark established on the Soil Evaluation Report. Adjoining properties shall be checked to ensure compliance with the horizontal setback parameters in Wis. Admin. Code Ch. SPS 383.43. All separating distances and dimensions shall be clearly shown on the plot plan.

- (d) Details and configuration layouts depicting how the system is to be constructed.
 - (e) A description of a contingency plan in the event the proposed private sewage system fails and cannot be repaired. [See Section 70.08(5) of this Code].
 - (f) Sufficient supporting information to determine whether the proposed design, installation, and management of the proposed private sewage system or modification to an existing system complies with this Ordinance.
- (5) Plans shall be signed or sealed as specified in Wis. Admin. Code Ch. SPS 383.
 - (6) A copy of the approved plans shall be maintained at the construction site until the private sewage system installation is completed, inspected, and accepted. During inspections, the plans shall be made available to the Department or the State upon request.
 - (7) A modification to the design of a private sewage system which has been previously approved shall be submitted to the Department or the State as specified in Wis. Admin. Code Ch. SPS 383. Plan revisions must be approved prior to system installation.

70.14 PERMIT CARDS.

- (1) The permit card issued by the Department to the property owner or their agent shall serve as the sanitary permit.
- (2) The permit card shall contain all the information required by Wis. Stat. § 145.135.
- (3) The permit card shall be displayed at the site in such a manner that it will be visible from a road abutting the lot during all construction phases.
- (4) The permit card may not be removed until the private sewage system has been installed, inspected, and approved by the Department.
- (5) Failure to display the permit card shall be considered a violation of this Section and may subject the property owner, their agent, or contractor to penalty provisions of this Ordinance.

70.15 PERMIT EXPIRATION.

- (1) All installations or modifications to a septic system shall be completed within two (2) years from the date the Department issues the sanitary permit. The Department will renew a sanitary permit upon a property owner or his or her agent's submittal of a new sanitary permit application, signed and completed by a plumber, together with the fee, to the Department prior to the expiration date of the original permit.
- (2) The renewal shall be based on regulations in force at the time of renewal.
- (3) Changed regulations may impede or prevent the renewal.
- (4) The property owner, their agent, or contractor shall return the original permit card at the time application is made for renewal and receive a new card when the permit is renewed.
- (5) The Department, in its discretion, may place conditions on the renewal of a sanitary permit to replace a private sewage system which has been identified as a violation.
- (6) A new sanitary permit shall be obtained by the owner or their agent prior to beginning construction if a sanitary permit has expired.

70.16 TRANSFER OF OWNERSHIP. Transfer of ownership of a property for which a valid sanitary permit exists and the system has not been installed or modified shall be subject to the following:

- (1) A new sanitary permit application bearing the name of the new owner and indicating the transfer of ownership shall be submitted to the Department.
- (2) The original sanitary permit card shall be returned to the Department so that a new permit card may be issued.
- (3) Transfer of ownership shall not affect the expiration date or renewal requirements.

70.17 CHANGE OF PLUMBERS.

- (1) When an owner wishes to change plumbers, a new sanitary permit application signed by the new plumber and indicating the change of plumber shall be submitted to the Department.
- (2) The transfer of sanitary permits shall take place prior to the installation of the private sewage system.
- (3) Sanitary permits for systems requiring State plan approval shall not be transferred to a different plumber unless the plan bears the stamp of an architect or engineer, plumbing designer, or State approval is obtained by the new plumber.
- (4) The original sanitary permit card shall be returned to the Department so that a new permit card may be issued.

70.18 PERMIT DENIAL. When applicable provisions of Wisconsin Statutes, Wisconsin Administrative Code, or this Ordinance have not been complied with when applying for a sanitary permit, the permit shall be denied. Reasons for the denial shall be forwarded to the plumber, landowner, and when appropriate, the State.

70.19 RECONNECTION AND REPAIR.

- (1) A Sheboygan County Sanitary Permit shall be obtained prior to:
 - (a) Construction of a new or replacement structure to be connected to an existing private sewage system;
 - (b) Disconnection of a structure from an existing private sewage system and connection of another structure to the system, except as permitted below;
 - (c) Renovation of an existing unplumbed building if the renovation includes installation of plumbing fixtures that require connection to an existing private sewage system;
 - (d) Construction or installation of a non-plumbing sanitation system; or
 - (e) Replacement or repair of piping, including but not limited to building sewer, gravity effluent piping, suction line or force-main, along with tank component repairs approved by the Department or tank manufacturer.
- (2) Prior to issuing a Sheboygan County Sanitary Permit, a licensed individual shall examine the existing private sewage system to:
 - (a) Determine if it is functioning properly and whether it is a failing system.
 - (b) Determine if it will be capable of handling the proposed wastewater flow and contaminant load from the building to be served.
 - (c) Determine that all minimum setback requirements of Wis. Admin. Code Ch. SPS 383 will be maintained.
- (3) Application for a Sheboygan County Sanitary Permit shall include the following:
 - (a) All items in Sections 70.12(1)(a)-(i) of this Ordinance;

- (b) For all systems that utilize soil for treatment or disposal, a Soil Evaluation Report verifying that the infiltrative surface of the existing treatment or dispersal component is at least two feet (2') above groundwater or bedrock for systems installed prior to December 1, 1969, and at least three feet (3') above the groundwater or bedrock for systems installed on or after December 1, 1969, unless a valid report meeting these criteria is on file with the Department or a lesser separation is allowed by Wis. Admin. Code Ch. SPS 383;
 - (c) A report provided by a licensed individual verifying the structure integrity and watertightness of any existing treatment or holding tank components relative to the condition, capacities, baffles, and manhole covers for any existing private sewage system;
 - (d) A report provided by a licensed individual verifying the condition and capacities of all other treatment or disposal system components and verifying that the system is not a failing system;
 - (e) A plot plan prepared by a plumber specified under Wis. Admin. Code Ch. SPS 383 including information in Section 70.13(4)(c) of this Ordinance; and
 - (f) Complete plans, as specified in Section 70.13 of this Ordinance, for any system components which will be modified or replaced.
 - (g) Reconnection to existing holding tanks may require a new servicing contract and an updated holding tank agreement which meets the requirements of this Ordinance.
 - (h) Reconnection to an existing system other than a holding tank may require a new maintenance agreement or servicing contract;
 - (i) If wastewater flow is to be based upon per capita occupancy or usage of the structure to which the private sewage system is connected, a completed and approved "Flow and Loads Affidavit" shall be signed and recorded in the Office of the Sheboygan County Register of Deeds.
- (4) All systems shall be inspected at the time of reconnection, prior to backfilling, to ensure that proper materials and methods are being used.

70.20 CONSTRUCTION AFFECTING WASTEWATER FLOW OR CONTAMINANT LOAD. Construction that is considered to be a modification of wastewater flow or contaminant load is defined in Section 70.03 of this Code. Prior to the construction of an addition or modification of a structure which will affect the wastewater flow and/or contaminant load to an existing private sewage system, the owner(s) of the property shall:

- (1) Possess a sanitary permit to install a new private sewage system or modify an existing private sewage system to accommodate the modification in wastewater flow or contaminant load; or
- (2) Provide the following to the Department:
 - (a) Documentation that a private sewage system of adequate capability and capacity to accommodate the wastewater flow and contaminant load already exists to serve the structure, as specified in Wis. Admin. Code Ch. SPS 383;
 - (b) Documentation showing that the location of the proposed structure conforms to the applicable setback distances to all of the existing private sewage system components; and
 - (c) Documentation specified in Sections 70.19(3)(b), (c), and (d) of this Ordinance.

(d) If wastewater flow is to be based upon per capita occupancy or usage of the structure to which the private sewage system is connected, a completed and approved "Flow and Loads Affidavit" shall be signed and recorded in the Office of the Sheboygan County Register of Deeds.

(3) Any installation, addition, or modification of a system must be completed and approved before the addition or modified area of the structure may be occupied.

70.21 CONSTRUCTION NOT AFFECTING WASTEWATER FLOW OR CONTAMINANT LOAD. Prior to construction of any structure or addition to a structure on a site where there exists a private sewage system; the owner or their agent shall provide documentation to the Department that the proposed structure conforms with applicable setback limitations of Wis. Admin. Code Ch. SPS 383.

70.22 FEES AND CHARGES. Fees shall be as determined and adjusted from time to time by the Planning, Resources, Agriculture, and Extension Committee of the Sheboygan County Board and as maintained by the Department in its "Sheboygan County Planning Department Fee Schedule." Pursuant to Wis. Stat. § 66.0628(2), any fee imposed shall have a reasonable relationship to the service for which the fee is imposed.

(1) Refunds. At the discretion of the Department, after a sanitary permit has been issued, the fee or a portion thereof may be refunded to the party who originally paid the fee, upon submittal to the Department of a written request signed by the permit holder, to void the permit.

(2) In addition to the foregoing fees as allowed by Wis. Stat. § 145.20(4), each owner of a private sewage system shall annually be charged a fee of as reviewed and set by the Sheboygan County Board, One Thousand Two Hundred Sixteen and 50/100 Dollars (\$1216.50) per private sewage system for the recordkeeping attributable to the inventory and tracking of the pumping and maintenance of each system, said fee to be recovered in the same manner as municipalities may make property assessments pursuant to Wis. Stat. § 66.0703.

70.23 INSPECTIONS; GENERAL.

(1) The plumber responsible for the installation shall give the Department notice in accordance with Wis. Admin. Code Ch. SPS 383 for final inspection of all private sewage systems installed, modified, or reconnected.

(2) Private sewage systems shall be inspected by the Department for compliance with Wis. Admin. Code Chs. SPS 382, SPS 383, and SPS 384, all other appropriate Wisconsin Statutes, Administrative Codes, and this Ordinance.

(3) The entire system shall be left completely open until it has been inspected and approved unless the Department is unable to meet the inspection timeline set forth in Wis. Admin. Code Ch. SPS 383.

(4) When a private sewage system is ready for inspection, the plumber in charge shall make arrangements to enable the inspector to inspect all parts of the system. The plumber shall provide the proper apparatus, equipment, and necessary assistance to make a proper inspection.

(5) The Department shall inspect the interior plumbing to verify all domestic waste discharges to an approved private sewage system.

(6) Private sewage systems may be inspected periodically, after the initial installation inspection(s) and/or after the system is operative, as deemed necessary by the Department.

70.24 INSPECTIONS; SITE-CONSTRUCTED HOLDING TANKS.

- (1) All site-constructed holding tanks shall be inspected after the floor is poured and the keyway and water stop are installed or after the forms for the tank walls have been set, but in all instances before any concrete for the walls has been poured.
- (2) Concrete walls may be poured only after it has been determined that the tank, as formed, complies with the approved plans.
- (3) A final inspection by the Department is required after all other work has been completed, but prior to backfilling.

70.25 INSPECTIONS; NON-PLUMBING SANITARY SYSTEMS.

- (1) All non-plumbing sanitary systems installed shall be inspected for compliance with Wis. Admin. Code Ch. SPS 391, as amended, and this Ordinance.
- (2) The property owner shall contact the Department for inspection immediately after the non-plumbing sanitary system has been constructed or installed.

70.26 INSPECTIONS; MOUNDS.

- (1) The plumber installing the mound shall contact the Department for inspection the working day prior to or the morning of the installation, excluding Saturdays, Sundays, and holidays.
- (2) Mound systems may be inspected prior to the time the ground surface is plowed, at the time the distribution piping installation has been completed, and after all other work has been completed but prior to backfilling. At least one (1) inspection prior to completion is required.

70.27 INSPECTIONS; AT-GRADE SYSTEMS.

- (1) The plumber installing the at-grade shall contact the Department for inspection the working day prior to or the morning of the installation, excluding Saturdays, Sundays, and holidays.
- (2) At-grade systems may be inspected prior to the time the ground surface is plowed, at the time the distribution piping installation has been completed, and after all work has been completed but prior to backfilling. At least one (1) inspection prior to completion is required.

70.28 INSPECTIONS; SAND FILTERS.

- (1) The plumber installing the sand filter shall contact the Department for inspection the working day prior to or the morning of the installation, excluding Saturdays, Sundays and holidays.
- (2) Sand filters may be inspected at the time the liner or tank and underdrain piping are in place, before placement of aggregate or sand, at the time the distribution piping installation has been completed, and after all other work has been completed but prior to backfilling. At least one (1) inspection prior to completion is required.

70.29 EXPERIMENTAL SYSTEMS AND SYSTEMS NOT RECOGNIZED BY WIS. ADMIN. CODE § SPS 383.60.

- (1) The plumber installing the system shall coordinate any required preconstruction meeting(s).
- (2) The plumber installing the system shall contact the Department at least two (2) workdays prior to beginning the installation of the system to schedule the inspection(s) and shall notify the State as may be required by the approved plans.
- (3) Inspections shall be done pursuant to the approved plan requirements and as deemed necessary by the Department to assure compliance with appropriate codes and the plan approval.

70.30 TESTING.

- (1) When testing of new systems or new system components is required by Wis. Admin. Code Chs. SPS 382, 383, or 384 or as a condition of plan approval, notice shall be given to the Department at least twenty-four (24) hours in advance of a testing so that the Department may make an inspection during the test.
- (2) The Department shall verify that required testing has been completed, by:
 - (a) Performing an inspection during the test,
 - (b) Requiring written verification from the responsible person, or
 - (c) Both (a) and (b) above.

70.31 MAINTENANCE AND MANAGEMENT.

- (1) All private sewage systems shall be managed and maintained in accordance with Wis. Admin. Code Chs. SPS 383 and 384 and this Ordinance.
- (2) The property owner or the owner's agent shall submit a copy of an appropriate maintenance agreement and/or maintenance servicing contract to the Department prior to sanitary permit issuance for treatment components requiring maintenance at intervals of twelve (12) months or less based upon product approval conditions.
- (3) The property owner or the owner's agent shall submit a new or revised maintenance agreement and/or maintenance servicing contract to the Department whenever there is a change of ownership.
- (4) The property owner or the owner's agent shall submit a new maintenance agreement and/or maintenance servicing contract to the Department prior to expiration of any existing maintenance agreement and/or maintenance servicing contract.
- (5) The owner of a private sewage system is responsible for fulfillment of the requirements of this Section.

70.32 PRIVATE SEWAGE SYSTEM MAINTENANCE PROGRAM.

- (1) Private sewage systems shall be visually inspected within three (3) years of the date of installation and at least once every three (3) years thereafter. If the inspection reveals a combined sludge and scum volume greater than or equal to one-third (1/3) of the volume of each tank, the tanks associated with the private sewage system shall be pumped.
- (2) The inspection, evaluation, or maintenance of private sewage systems that utilize pre-treatment components which require maintenance at intervals of 12 months or less shall be conducted in accordance with the requirements specified by the manufacturer or designer of the component.
- (3) The owner of a private sewage system shall contract with a licensed individual to complete the maintenance of the septic system. Within thirty (30) days of completion of the maintenance, the licensed individual shall file the maintenance report with the Department through the Sheboygan County online reporting system. It shall be the property owner's responsibility to verify the online report has been filed prior to the deadline established for maintenance of the septic system.
- (4) Visual inspection of private sewage system components may be conducted by any licensed individual to verify the condition of the septic system components, determine if pumping of the tank components is necessary, and whether wastewater or effluent from the private sewage system is discharging on the ground surface.
- (5) Pumping of tanks associated with a private sewage system shall be done by a certified septage servicing operator in accordance with Wis. Admin. Code Ch. NR 113.

- (6) Holding tanks that are not serviced on a regular basis due to minimal water usage in the structure served by the holding tank shall be visually inspected within three (3) years of the date of installation and at least once every three (3) years thereafter. The visual inspection shall be completed by a licensed pumper, or plumber authorized to do so by the Wisconsin Statutes and the Wisconsin Administrative Code. Within thirty (30) calendar days of completing said inspection, the service provider on behalf of the owner of the holding tank shall submit the completed inspection report online.
- (7) Servicing of holding tanks shall occur at least when the wastewater in the tank reaches a level of one foot (1') below the inlet invert of the tank(s).
- (8) Any tank which discharges sewage to the ground surface, including intentional discharges and discharges caused by neglect, shall be considered a failing private sewage system which will need to be remediated to remain in compliance with the requirements of the State Code and this Ordinance. This may include, by Department order, the installation of a water meter with remote reading device to monitor pumping compliance.

70.33 ADMINISTRATION, POWERS, AND DUTIES. The Department shall have the duty and power to enforce the provisions of this Ordinance and all other ordinances, laws, and orders of Sheboygan County and the State of Wisconsin which relate to the construction, installation, operation, and maintenance of private sewage systems. Nothing in this Ordinance, including such powers and duties listed below, shall limit the Department's authority and power to inspect or require an evaluation of a POWTS, including an existing POWTS, at times or for activities not covered under this Ordinance.

In the administration of this Ordinance, the Department shall have the following powers and duties:

- (1) Delegate duties to and supervise clerical staff and other employees to assure full and complete compliance with this Ordinance and related Wisconsin Statutes and the Administrative Code.
- (2) Advise applicants concerning the provisions of this Ordinance and assist them in preparing permit applications.
- (3) Review and approve plans for private sewage systems for one- and two-family residences using gravity distribution of the effluent to an in-ground distribution cell, or as approved through agent status by the State.
- (4) Issue sanitary permits and inspect properties for compliance with this Ordinance and related Wisconsin Statutes and the Administrative Code.
- (5) Keep records of all sanitary permits issued, inspections made, work approved, and other official actions.
- (6) Report violations of this Ordinance to the District Attorney or Corporation Counsel for compliance through the Courts.
- (7) Have access to any premises for the purpose of performing official duties between 8 AM and 4:30 PM or at other times set by mutual agreement between the property owner or his agent and the Department or upon issuance of a special inspection warrant in accordance with Wis. Stat. § 66.0119. Application for a sanitary permit is considered for the purposes of this Ordinance as the owner's consent to enter the premises.
- (8) Upon reasonable cause or question as to proper compliance, revoke or suspend any sanitary permit and issue cease and desist orders per Wis. Stat. § 254.59(2) requiring the cessation of any construction, alteration or use of a building which is in violation of the provisions of this Ordinance, until compliance with this Ordinance or applicable Wisconsin Statutes and the Administrative Code is obtained.

- (9) Issue and enforce orders to plumbers, pumpers, property owners, their agents or contractors or the responsible party, to assure proper compliance with all provisions of this Ordinance.
- (10) Issue citations pursuant to Chapter 90.06 of the Sheboygan County Code of Ordinances.
- (11) Perform other duties regarding private sewage systems as considered appropriate by the County or the State.

70.34 BOARD OF ADJUSTMENT. Any person who alleges that there is an error in any order, requirement, or decision made in the enforcement of this Ordinance may appeal to the Board of Adjustment as provided in Chapter 76 (Board of Adjustment) of this Code. Any appeal shall be made on forms furnished by the Department within thirty (30) days of the date of that administrative action. Any person who wants a variance from the terms of this Ordinance for any provision which is more restrictive than the minimum standards required by the Wisconsin Department of Safety and Professional Services may seek a variance from the Board of Adjustment pursuant to Chapter 76 of this Code. Any requests for variance should be made on forms furnished by the Department within thirty (30) days of the date of the administrative determination from which the person seeks the variance. Other substantiating evidence will be accepted.

70.35 WAIVER OF LIABILITY. This Ordinance shall not create a liability on the part of or a cause of action against the County or any employee thereof for any private sewage system which may not function as designed. There shall be no liability or warranty for the location of septic system components, including but not limited to the setback requirements, soil suitability determination, and site topography, regardless of whether the Department has approved the sanitary permit. The issuance of a sanitary permit and the final inspection of such a system does not warrant the system's function, nor is there a guarantee that the system is free of defects or that all aspects of the system comply to Wisconsin Statute or Administrative Code requirements.

70.36 VIOLATIONS AND PENALTIES. Any violations of the provisions of this Ordinance or any obstruction of an employee of the County in the reasonable and proper discharge of his or her duties, by any person shall be unlawful and may be forwarded to the Corporation Counsel who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to Sheboygan County a penalty of not less than Twenty Dollars (\$20.00) nor more than Two Thousand Dollars (\$2,000.00) for each offense, together with the cost of prosecution, and in default of the payments of such forfeiture and costs, shall be imprisoned in the County Jail of Sheboygan County until such forfeiture and costs are paid but not to exceed thirty (30) days.

In addition thereto, every violation of the Ordinance is a public nuisance, and the creation thereof or the continuation thereof is subject to injunctive relief for abatement as part of the prosecution of the violation by the Corporation Counsel or by suit of the State or any aggrieved citizen thereof.

In lieu of forwarding the subject violation to the Corporation Counsel for prosecution, the Department may, pursuant to Chapter 90.06 of the Sheboygan County Code of Ordinances, issue a citation to the offender. Issuance of the citation and payment of the required forfeiture does not preclude compliance with the terms and conditions of this Ordinance.

Each day a violation continues to exist shall constitute a separate offense.

1 **SHEBOYGAN COUNTY ORDINANCE NO. _____ (2023/24)**

2
3 **Re: Amending Chapter 76 Board of Adjustments**

4
5
6 **WHEREAS**, the Sheboygan County Board of Adjustments has recently updated their
7 policies and procedures; and

8
9 **WHEREAS**, Sheboygan County Planning and Conservation staff have reviewed and
10 provided suggested changes to the Planning, Resources, Agriculture and Extension Committee
11 in regard to Chapters 70-Sanitary Regulations, 71-Subdivision Ordinance, 72-Shoreland
12 Ordinance and 76-Board of Adjustments of the Sheboygan county Code; and

13
14 **WHEREAS**, the Planning, Resources, Agriculture and Extension Committee finds it in the
15 best interest of the County and its landowners to amend Chapter 76 to clarify certain aspects of
16 the variance request process before the Board of Adjustments.

17
18 **NOW, THEREFORE**, the County Board of Supervisors of the County of Sheboygan does
19 ordain as follows:

20
21 Section 1. **Amending Chapter 76.** Chapter 76 of the Sheboygan County
22 Code of Ordinances is hereby amended as follows (only those Sections or portions of
23 Sections affected appear – deletions indicated by strikeouts; additions by shading):

24
25
26 76.02 (c) To authorize upon appeal in specific cases such variance from the terms of
27 Chapters 63, 70, and 72 of this Code as will not be contrary to the public interest,
28 where, owing to special conditions, a literal enforcement of the provisions of said
29 Chapters will result in unnecessary hardship and so that the spirit of said Chapters
30 shall be observed, ~~public safety and welfare secured, and substantial justice done.~~
31 ~~as further defined in Wis. Stat. §59.694.~~

32
33 76.07 BASIS FOR ACTION TAKEN. In every case where a variance from the regulations
34 has been granted by the Board, ~~the minutes of the Board shall affirmatively show~~
35 ~~that an "unnecessary hardship" exists, and the records of the Board shall clearly~~
36 ~~show in what particular and specific respects an "unnecessary hardship" is~~
37 ~~created.~~ ~~in its action shall include findings of fact that show the applicant has met~~
38 ~~the criteria outlined in Section 76.02(c).~~

39
40 **76.08** **EFFECT OF DENIAL VARIANCE.** When the Board of Adjustments denies
41 a variance request, no person shall be entitled to resubmit an application
42 for the same variance within twelve (12) months from the date of final Board
43 of Adjustments action, ~~except on grounds of new evidence or proof of~~
44 ~~change in factors found valid by the Board of Adjustments.~~

45
46 **76.0809.** **FEES.** All persons, upon filing an application for Board of Adjustments
47 review, shall pay a fee of Five Hundred Dollars (\$500.00) to the Board.
48
49

50 Section 2. **Effective Date.** The herein Ordinance shall take effect upon
51 enactment.
52

53
54 Respectfully submitted this 24th day of October, 2023.
55

56
57 **PLANNING, RESOURCES, AGRICULTURE,**
58 **AND EXTENSION COMMITTEE***
59

60 _____
61 Keith Abler, Chairperson
62

63 _____
64 Rebecca Clarke, Vice-Chairperson
65

66 _____
67 John Nelson, Secretary
68

69 _____
70 Paul A. Gruber
71

72 _____
73 Henry Nelson
74

75 Opposed to Introduction:
76
77 _____
78
79 _____
80

81
82 Countersigned by:
83

84 _____
85
86 Vernon Koch, Chairperson
87
88