

**DRAFT #5**  
ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING WAUSHARA COUNTY CODE CHAPTERS 18, 22, 42, 54, and 58

WHEREAS, Waushara County has enacted Chapters 18 – Floods, 22 -- Health and Sanitation, 42 – Subdivisions, 54 – Utilities, and 58 – Zoning, to promote and protect the public health, safety, comfort, convenience, prosperity, aesthetics, and other aspects of the general welfare and to affix reasonable standards as applicable thereto; and

WHEREAS, the Waushara County Planning and Zoning Committee has determined that it is in the interest of the public health, safety and welfare to enact certain amendments to such Chapter; then

NOW, THEREFORE BE IT RESOLVED the County Board of Waushara County, Wisconsin, do hereby ordain as follows:

**FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 18--Floods:**

(amended sections are underlined)

~~(deleted sections are stricken)~~

***Explanatory notations are in italics***

**THE FLOODPLAIN STUDY APPENDIX OF SECTION 18 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**FLOODPLAIN STUDY APPENDIX**

Official maps flood profiles, data tables, flood elevations and other information approved subsequent to the adoption of the latest version of this code are listed below:

Lake	Base Flood Elevation (BFE)
Auroraville Millpond	764.70' MSL <u>NGVD</u>
Clark's Millpond	804.20' MSL <u>NGVD</u>
Curtis Lake	98.21' local datum
Lake Kristine	102.40' local datum
Kusel Lake	95.05' local datum
Pine Lake	97.50' local datum
Pine River Millpond	809.20' MSL <u>NGVD</u>
Pleasant Lake	93.83' local datum

Porter's Lake	97.41' local datum
Lake Poygan	750.40' MSL <u>NGVD</u>
Poy Sippi Millpond	778.20' MSL <u>NGVD</u>
Saxeville Millpond	835.30' MSL <u>NGVD</u>
Spring Lake	790.72' MSL <u>NGVD</u>
Wautoma Millpond	862.30' MSL <u>NGVD</u>
White River Lower Flowage	832.40' MSL <u>NGVD</u>
Wilson Lake	92.09' local datum

Benchmark locations and descriptions ~~with same datum base~~ are available from the Waushara County Zoning Office, ~~the County Surveyor's office,~~ and the NOAA website. The Lake Alpine Dam Hydraulic Shadow Map, Lake Alpine Dam Hydraulic Shadow Floodway Data Table and Lake Alpine Dam Hydraulic Shadow Profile dated December 2006 and approved by the Waushara County Board of Supervisors on April 10, 2007.

***Explanatory note: This section adds the appropriate datum base for listed flood elevations, and notes where additional information can be found.***

**FOLLOWING ARE AMENDMENTS PROPOSED TO THE  
WAUSHARA COUNTY CODE CHAPTER 22—Health and  
Sanitation—Article IV – Manure Waste Storage :**

(amended sections are underlined)

~~(deleted sections are stricken)~~

***Explanatory notations are in italics***

**SECTION 22-172 IS HEREBY AMENDED TO READ AS FOLLOWS:**

Compliance with this article shall be through standards, specifications, and policies adopted by the committee. Standards and specifications are minimums. The following components of the USDA Natural Resources Conservation Service's Technical Guide will be used when a storage facility is to be designed, constructed, installed, closed or substantially altered:

**(1)**

*Manure storage facilities.* The standards for design and construction of manure storage facilities are standard 313 (waste storage facility) and 634 (manure transfer) in the technical guide. Any new waste storage facility shall not be located within 100 feet of any property line or public road right of way, or within 300 feet of any navigable body of water as determined by Section 58-902 (b) of this code

**SECTION 22-174 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**(b)**

*Exemptions.* The committee is authorized to hear and decide special exceptions to the terms of this article. Such exemptions may be granted based on one or more of the following findings:

**(1)**

Staff is not available to develop conservation plans or schedules of implementation.

**(2)**

Severe weather or other catastrophic events beyond the control of the land owner or operator make implementation impractical.

**(3)**

Implementation of all components of the conservation plan and schedule does not result in full compliance with this ordinance. An exemption under this paragraph may be granted only if all components of the conservation plan and schedule are implemented.

**(4)**

Exemptions from the agricultural waste standards will be forwarded to the DNR as stated in NR 151.097 (4).

**(5)**

Except as outlined in section 22-171.

**(6)**

Exemptions from the setback requirements of this code may be granted where no practicable alternative location exists, and where comparable environmental protection is provided, and public health, safety, and welfare are protected.

***Explanatory note: Establishes some minimum setbacks for manure storage facilities, and in cases where setbacks cannot be met, provides for application for an exemption as noted.***

**FOLLOWING ARE AMENDMENTS PROPOSED TO THE  
WAUSHARA COUNTY CODE CHAPTER 42--Subdivisions:**

(amended sections are underlined)

~~(deleted sections are stricken)~~

***Explanatory notations are in italics***

**SECTION 42-47 IS HEREBY AMENDED TO READ AS FOLLOWS:**

If the preliminary plat has been approved or approved conditionally, the subdivider may submit the final plat as provided in section 42-45(b)(2) and (b)(5). All improvements required by this section shall be made or guaranteed in a manner described in article IV of this chapter. If the final plat meets the requirements of this chapter, and has been submitted within ~~six~~ 36 months from the approval date of the preliminary plat and the conditions have been met in the case of preliminary plats given conditional approval, the agency shall approve the final plat of the subdivision within 60 days from the date submitted. Plats must be recorded within 12 months after the last approval and 36 months from the first approval.

A professional engineer, planner, or other person designated to review plats for a local unit of government shall determine if a final plat "substantially conforms" to the preliminary plat. This determination shall be given to the unit of government along with a recommendation for approval or denial of the final plat. The conclusion and recommendation are not required to be in writing but must be made part of the public record at the proceeding in which the final plat is being considered. Approval conditions are based on code requirements in place on the date that the preliminary plat was submitted, or if no preliminary plat is required, on the code requirements in place on the date the final plat is submitted.

***Explanatory note: Statutory requirements have changed and county codes need to reflect those changes, both for timing of recording, and determination of substantial compliance with preliminary plat and recording of such determination. If an ordinance or code is revised while a plat is moving through the review process, the new requirements cannot be applied to the plat. Approval must be based on the code requirements in place when the plat was initially submitted.***

**SECTION 42-81 IS HEREBY AMENDED TO READ AS FOLLOWS:**

(t) Streets shall be assigned in accordance with Chapter 40, Article II of the Waushara County Code and the standard road naming system adopted for Waushara County.

~~Street names shall be assigned as follows:~~

~~(1)~~

~~The agency may disapprove the name of any street shown on the plat which has already been used elsewhere in the area or because of similarity may cause confusion.~~

- (2) ~~Where a street maintains the same general direction except for curvilinear changes for short distances, the same name shall continue for the entire length of the street.~~
- (3) ~~A name which is assigned to a street which is not presently a through street, due to intervening land over which the street extension is planned, shall be continued for the separate portions of the planned through street.~~
- (4) ~~The following street designations shall be limited to the following conditions:~~
- a. ~~*Boulevard*. A street with a divided pavement either existing or planned. If the divided pavement ends, but the street continues, the same street name and suffix shall continue.~~
  - b. ~~*Circle*. To be limited to a cul-de-sac.~~
  - c. ~~*Court*. To be limited to a cul-de-sac.~~
  - d. ~~*Parkway*. To be limited to a street abutting a park on a greenway or creek.~~
- (5) ~~The name of the projection of a street shall continue the same suffix as the street even if the projection terminates in a cul-de-sac.~~
- (6) ~~Access roads and highways served by them shall have the same street names and designation.~~
- (7) Approval of street names on a preliminary plat will not reserve the street name nor shall it be mandatory for the agency to accept it at the time of the final platting.

***Explanatory note: This section is contradictory to our adopted road naming scheme, and should be eliminated.***

**FOLLOWING ARE AMENDMENTS PROPOSED TO THE  
WAUSHARA COUNTY CODE CHAPTER 54--Utilities:**

(amended sections are underlined)

~~(deleted sections are stricken)~~

*Explanatory notations are in italics*

**SECTION 54-66(I)(1) IS HEREBY CREATED TO READ AS FOLLOWS:**

The applicant for a land use permit that involves construction or remodeling such that there will be an increase in wastewater load, or where the structure is to be rebuilt, or is to be replaced with a new or different use or structure, and the construction will be served by an existing POWTS that has been determined to meet the requirements of this code and Wis. Admin. Code ch. Comm 83; or any applicant for a state sanitary permit shall be provided written notice of the septic tank maintenance program at the time the land use permit or state sanitary permit is issued. The records of this notification shall be maintained by the department. ~~The owner shall be required to execute a verified affidavit and restrictive covenant running with the land which verifies that the POWTS serving the property is under such maintenance program.~~ Upon sale of the property, the owner shall also provide written notification of the maintenance program to the buyer.

***Explanatory note: Because of changes required by law pertaining to the mandatory maintenance program, the periodic maintenance is no longer tied to the Wisconsin Fund Program, and this maintenance affidavit is no longer required to be recorded.***

**SECTION 54-94 IS HEREBY CREATED TO READ AS FOLLOWS:**

Pit privies are not permitted. ~~only allowed for temporary usage for agricultural and forestry purposes.~~ Only vault-type privies are allowed in approved campground areas, for public buildings, and in all recreation areas.

***Explanatory note: Pit privies have never been allowed, and no procedure exists to establish one, so this change merely reflects current practice.***

**SECTION 54-95 (c) IS HEREBY CREATED TO READ AS FOLLOWS:**

(5)

Creation of new lots that would allow for the installation of a POWTS other than a holding tank, but that do not meet the soils criteria known as A+ four-inch or better, shall be considered on a case-by-case basis, and are left to the discretion of the department. If it is determined that the lot shall be created using less than A + four-inch soil conditions, the suitable soil dispersal and treatment area shall be delineated and recorded on the resultant certified survey map or plat.

(6)

~~New lots that can only be served by systems enumerated as 1., 2., 3., 4. and 5., of Wis. Admin. Code table Comm 83.04-2 must have the suitable area delineated on the resultant certified survey map or plat.~~

~~(7)-(6)~~

New lots that are to be served by a community system rather than individual POWTS shall comply with subsection 54-66(c)(7).

~~(8)-(7)~~

Verification of soil conditions for proposed lots created by a certified survey map or plat shall be at the discretion of the department other than those verifications required by subsection 54-95(b)(3).

***Explanatory note: Alternate POWTS (private onsite wastewater treatment systems) are no longer listed in a separate table in the Wisconsin Plumbing Code. This change describes the array of alternate systems without referring to a table that no longer exists.***

## **FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 58--Zoning:**

(amended sections are underlined)

~~(deleted sections are stricken)~~

***Explanatory notations are in italics***

### **SECTION 58-9 IS HEREBY AMENDED TO READ AS FOLLOWS:**

*Day nursery/kindergarten* means a facility where care and supervision is provided for four or more children under seven years of age for less than 24 hours per day for which the operator is compensated. Family ~~day~~ child care homes, as defined in Wis. Stats. § 66.1017, do not constitute a day nursery/kindergarten, and are permitted, upon the issuance of a land use permit, in all districts where single-family dwellings are permitted.

*Floor Area* means the total area of the building footprint, including all area encompassed by foundations, basement walls, exterior walls, roof overhangs greater than 24 inches in width, support structures, and any attachments or appurtenances. Floor area, as calculated for the minimum living space of a dwelling unit, shall be completely enclosed, considered habitable under the building and mechanical code requirements, and be at least 7 feet in height from floor to ceiling.

***Explanatory note: The language in the Statutes changed from day care to child care so our code definition should be amended to match Statutes. Floor area was not defined previously, and recent court cases have made it clear that it should be defined.***

**SECTION 58-167 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**(a)**

The following uses are exempted from the requirements of sections 58-161 and division 7 of this article and are permitted in any zone, except in the shoreland/wetland zone where the provisions of divisions 5 and 6, article IV of this chapter shall apply: poles, towers, wires, cables, conduits, vaults, laterals, pipe, mains, valves or any other similar distribution equipment for telephone or other communications and electric power, gas, water and sewer lines.

**(b)**

The provisions regarding filling, grading, tree cutting and work in respect to waterways shall not apply to the construction and repair of public roads, public or private utilities, flood control structures; or conservation practices such as terracing; installation of diversions, grass waterways, subsurface drainage, nonnavigable drainage ditches, stream stabilization by riprapping or vegetative cover, ponds used for agriculture purposes, the removal of vegetation for the sole purpose of trout habitat improvement, or to nonfloating docks accessory to private dwellings.

***Explanatory note: Filling and grading work associated with permitted routine installation and maintenance of utilities was not previously exempted in shoreland/wetland areas.***

**SECTION 58-823 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**(c)**

*Substandard lots.*

**(1)**

*Substandard lots served by a public sanitary sewer.* A substandard lot served by a public sanitary sewer which is at least 7,500 square feet in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the waterline may be used as a building site for a single-family dwelling upon issuance of a land use permit if it meets all of the following requirements:

**a.**

Such use is permitted in the zone.

**b.**

The lot was on record in the county register of deeds office prior to the effective date of the ordinance from which this section is derived.

**c.**

The lot was in separate ownership from abutting lands prior to the effective date of the ordinance from which this section is derived. If abutting lands and the substandard lot were owned by the same owner as of the effective date of the ordinance from which this section is derived, the substandard lot shall not be sold or used without full compliance with the terms of this ~~section chapter, including minimum area and width requirements of the respective zones.~~

d.

All the dimensional requirements of this chapter (including side yard and setback requirements) will be complied with insofar as practical.

***Explanatory note: We have never made a substandard lot meet the minimum lot size for the respective zone, we have merely required it meet the substandard lot sizes listed for unsewered or sewerred lots. This change reflects longstanding past practice and takes out confusing language.***

**SECTION 58-824 IS HEREBY AMENDED TO READ AS FOLLOWS:**

(c)

The following shall not be considered to be obstructions when located in the required yards specified, subject to the requirements of section 58-231:

(1)

*In any yards.* Marquees and awnings adjoining the principal building and overhanging roof eaves that do not exceed 24 inches from the exterior of the structure; chimneys, ornamental light standards, flagpoles, arbors, trellises, trees, shrubs, coin-operated telephones, satellite antenna dishes that are six feet or less in diameter, stairs no more than five feet in width, walkways and sidewalks no more than five feet in width, piers, wharves, bridges, retaining walls, permitted signs, open accessory off-street parking areas and open space uses customarily accessory to the principal use, and outdoor fuel-dispensing equipment.

~~(2)~~

~~*In side yards.* Open accessory off-street parking spaces, except in a side yard abutting a street.~~

~~(3)~~

~~*In rear yards.* Enclosed, attached or detached off-street parking spaces; open off-street parking spaces; accessory sheds, toolrooms or any similar structures customarily accessory to the principal use.~~

**~~(4)(2)~~**

*Fences.* Fences are permitted on the property lines in all districts, but shall not, in any case, exceed a height of six feet in residential districts and shall not be closer than two feet to any public right-of-way. Security fences are permitted on property lines in all districts, except residential districts, but shall not exceed ten feet in height and shall be of an open type similar but not limited to woven wire or wrought iron fencing. In all districts within the visual clearance triangle, the provisions of section 58-826(e) or 58-827(d) shall prevail. Landowners are responsible for complying with any other applicable regulations including, but not limited to, Wis. Stats. chs. 90 and 844.

***Explanatory note: This amendment reflects the longstanding past practice of allowing open parking areas in any yard, and enforcing side and rear yard setbacks for all accessory structures.***

**SECTION 58-826 IS HEREBY AMENDED TO READ AS FOLLOWS:**

f.

Sidewalks, filled paths, and walkways may be allowed within the 75-foot setback for access to buildings meeting the setback. A maximum width of 60 inches (outside dimensions) is allowed. Maximum allowable width shall be measured perpendicular to the direction of travel.

g.

Any stairs, elevated walkways or piers landward of the ordinary high-water mark shall be constructed in such fashion and located so that the least amount of land disturbance and soil erosion shall occur, the least amount of vegetation removal is necessary and be no greater in length than the shortest distance necessary to gain direct access to the water or structure. Such stairs, elevated walkways, filled paths, walkways, or piers shall terminate once it reaches the ordinary high-water mark or the entrance to the structure. A pier may extend from the stairs or elevated walkways beyond the ordinary high-water mark, provided that it meets the standards required by the state department of natural resources.

***Explanatory note: Accesses on private property will be limited to pedestrian access, and prohibit construction of roads or boat launches on private property.***

**SECTION 58-826 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**(c)(4)**

Open structures in the shoreland setback area shall be as required by Wis. Stats. § 59.692(1v), the construction or placement of certain structures.

**a.**

The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.

**b.**

The structure shall be located within the view corridor described in section 58-903(n).

**c.**

The total floor area of all structures in the shoreland setback area on the property will not exceed 200 square feet. This calculation shall include the area of any deck, patio, foundation, supporting structures, appurtenances, overhangs greater than 24 inches in width, walkways wider than five feet or landings larger than 40 square feet, retaining walls, platforms or other structures not otherwise exempted from meeting required water setbacks. Boathouses shall be excluded.

**(d)**

*Reduced building setback.* A setback less than that required by subsection (b) or (c) of this section may be permitted by the zoning administrator where there is at least one dwelling on either side of the applicant's lot, within 200 feet of the proposed site built to less than the required setback. In such case, the setback shall be the average of the nearest dwelling on each side of the proposed site or, if there is an existing dwelling on only one side, the setback shall be the average of the existing buildings and the required setback. In no case shall averaging allow a setback of less than 35 feet from the ordinary high-water mark or from the center line of a county or town highway, nor less than 75 feet to the centerline of a state or federal (class "A") highway. This subsection shall not apply to ~~state or federal (class "A") highways or class I, II, or III trout streams.~~

***Explanatory note: Floor area wording added to further clarify that calculation. Please note the earlier addition of a definition of floor area under Section 58-9. Also, averaging on state roads will be reinstated but shall have a minimum setback reduction imposed so structures will not end up too close to state roads***

***with higher traffic volumes, but will match existing development patterns when appropriate.***

**SECTION 58-828 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**(d)**

*Design standards.* Driveways to state and federal highways must comply with subsections (b) and (c) above and the design provisions of the access permit issued by the state department of transportation . Driveways to all county and town highways must comply with subsections (b) and (c) above and the design provisions of the access permit issued by the county highway department or the township, provided that they meet the following minimum standards:

**(1)**

Culverts, if needed, must be a minimum of 15 inches in diameter.

**(2)**

Driveway height must not exceed the level of the outside edge of the road shoulder.

**(3)**

~~No~~ End or retaining walls ~~shall~~ may be permitted on driveways, but only when they conform to the side slope requirements of (4) below.

**(4)**

The side slopes of the driveway shall equal or be flatter than the side slope of the main highway but should not be steeper than 2½ to one, unless otherwise designated on an individual basis.

**(5)**

Concrete shall not be used for driveway surface material within the right-of-way of all state and county highways.

**(6)**

The maximum grade within the right-of-way of any public road shall not exceed ten percent.

***Explanatory note: There had been some confusion regarding the fortification of the end walls of driveways. This serves to clarify that vertical walls are not permitted, and sloping walls may be permitted.***

**SECTION 58-903 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**(p)**

*Filling, grading, lagooning, dredging, ditching and excavating.*

**(1)**

*General standards.* All filling, grading, lagooning, dredging, ditching and excavating within the required water setback, except for riprap and other waterline protection measures approved by the state department of natural resources and U.S. Army Corps of Engineers (regardless of size) shall be reclaimed by revegetation. Earth disturbances within the required water setback shall not be allowed where the resulting slope would be too steep to be stabilized with vegetation. Earth disturbances within 35 feet of the ordinary high-water mark (60 feet of the ordinary high-water mark of class I, II, and III trout streams) shall also conform to subsection 58-903(n), and shall be permitted only in association with a permitted structure, use, or exemption listed herein. In calculating the square feet in area of any filling, grading, lagooning, dredging, ditching or excavating, areas that have been stabilized by adequate vegetation to the extent that the area is not subject to erosion and impervious areas that have adequate stormwater management practices installed shall not be included in these calculations. If a question arises, the land conservation department shall determine the adequacy of such vegetation or stormwater management practices. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under subsections (p)(2) or (p)(3) is permitted in the shorelands, provided that:

- a. It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- b. Filling, grading, lagooning, dredging, ditching or excavating in the O-SW shoreland/wetland zone meets the requirements of section 58-393.
- c. A state or federal permit has been obtained for any filling, grading, lagooning, dredging, ditching or excavating for which a state or federal permit is required and such activities are in full compliance with the terms of this article.
- d. Such filling, grading, lagooning, dredging, ditching or excavating is less than 2,000 square feet in area.

***Explanatory note: Filling and grading within 35/60 feet of the OHWM of a navigable body of water will be limited to those times when it is associated to permitted use/structure, or a specified exemption.***

EFFECTIVE DATE

Upon passage by the County Board of Supervisors, the amendments will be in full force and effect, as provided for in Section 59.97(5)(e), Wis. Stats.

Ordinance \_\_\_\_\_

Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Abstain \_\_\_\_\_ ( ) Voice Vote

Approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved:

Submitted by:

\_\_\_\_\_  
Ruth Zouski,  
Corporation Counsel

\_\_\_\_\_  
Mark Kerschner, Chairman  
Planning & Zoning Committee

Attest:

Signed by:

\_\_\_\_\_  
Melanie Stake,  
Waushara County Clerk

\_\_\_\_\_  
Norman Weiss, Chairman  
Waushara Co. Board of Supervisors