

ORDINANCE NO. _____ (DRAFT#6)2-17-12

**ORDINANCE AMENDING WAUSHARA COUNTY CODE
CHAPTERS 8, 42, 54, AND 58**

WHEREAS, Waushara County has enacted Chapters 8, 42, 54, and 58, 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 8 (Building and Mechanical Code):***

(amended sections are underlined) (deleted sections are stricken)

Explanatory notations are in italics

SECTION 8-36 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 8-36. Adoption of codes.

The following chapters of the Wisconsin Administrative Codes, as well as all subsequent revisions, are adopted by the county and shall be enforced by the building inspector.

Ch. ~~COMM~~ SPS 302.31 Plan Review Fee Schedule

Ch. ~~COMM~~ SPS 305 Credentials

Chs. ~~COMM~~ SPS316 Electrical Code

Chs. ~~COMM~~ SPS 320--325 Uniform Dwelling Code

Chs. ~~COMM~~ SPS 361--365 Commercial Building Code

Ch. ~~COMM 70~~ ~~Historic Building Code~~

Chs. ~~COMM 75--79~~ ~~Existing Building Code~~

Chs. ~~COMM~~ SPS 381--387 Uniform Plumbing Code

Explanatory Note: The Department of Commerce has changed to the Department of Safety and Professional Services and consequently changed all of their code numbers by adding 300 to them. This is because of a conflict with Department of Regulation and Licensing which they are now combined with into the DSPS.

SECTION 8-38 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 8-38. Certified municipality status.

The county has adopted the certified municipality status as described in ~~COMM~~ SPS 361.60 of the Wisconsin Administrative Code.

- (1) *Responsibilities.* The county shall assume the following responsibilities for the department of commerce (department):
 - a. Provide inspection of commercial buildings with certified commercial building inspectors.
 - b. Provide plan examination of commercial buildings with certified commercial building inspectors.
- (2) *Plan examination.* ~~Except as exempted by COMM 61.30 of the Wisconsin Administrative Code,~~ Drawings, specifications and calculations for all the types of buildings and structures, except state-owned buildings and structures, to be constructed within the limits of the municipality shall be submitted, if the plans are for any of the following:
 - a. A new building or structure containing less than 50,000 cubic feet of total volume.
 - b. An addition to a building or structure where the area of the addition results in the entire building or structure containing less than 50,000 cubic feet of total volume.
 - c. An addition containing no more than 2,500 square feet of total floor area and no more than one floor level, provided the largest roof span does not exceed 18 feet and the exterior wall height does not exceed 12 feet.
 - d. An alteration of a space involving less than 100,000 cubic feet of total volume.
 - e. A certified municipality may waive its jurisdiction for the plan review of a specific project or types of projects, or components thereof, in which case plans and specifications shall be submitted to the department for review and approval.
 - f. The department may waive its jurisdiction for the plan review of a specific project, where agreed to by a certified municipality, in

which case plans and specifications shall be submitted to the certified municipality for review and approval.

- (3) *Plan submission procedures.* All commercial buildings, structures and alterations require plan submission as follows:
- a. Building permit application;
 - b. Application for review-SBD-118;
 1. Fees per Table SPS 302.31-2 and ~~COMM~~ SPS 302.31;
 2. Fees apply to all commercial projects;
 - c. Four sets of plans;
 1. Signed and sealed per ~~COMM~~ SPS 361.31;
 2. One set of specifications;
 3. Component and system plans;
 4. Calculations showing code compliance.

Explanatory note: The state uniform dwelling code changed and plan reviews must be done to be in compliance with the state code. Also more code reference changes required.

SECTION 8-39 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 8-39. Building, HVAC, electrical, and plumbing inspector.

(a) *Creation and appointment.* There is hereby created the office of building inspector. The building inspector shall be appointed by the municipality. The building inspector shall be certified for inspection purposes by the department in the required categories specified under ~~COMM~~ SPS 305, Wisconsin Adm. Code.

(b) *Subordinates.* The building inspector may employ, assign or appoint, as necessary, subordinate, mechanical inspectors. Any subordinate hired to inspect buildings shall be certified as defined in ~~COMM~~ SPS 305, Wisconsin Adm. Code, by the department.

(c) *Duties.* The building inspector shall administer and enforce all provisions of this article.

(d) *Powers.* The building inspector or an authorized certified agent of the building inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes. The building inspector may require the production of the permit for any building, plumbing, electrical or heating work. No person shall

interfere with or refuse to permit access to any such premises to the inspector or his/her agent while in the performance of his/her duties. In the event that the inspector is refused access to any such premises, then the inspector is authorized to apply for a special inspection warrant pursuant to Wis. Stats. § 66.0119.

(e) *Inspections.* In order to permit inspection of a building project at all necessary phases without causing delay for the owner, the owner and/or contractor shall request all of the following inspections in conformity with the appropriate time frame defined in the Wisconsin Administrative Code or at least 48 hours in advance by the applicant/contractor or property owner as applicable.

- (1) Footing;
- (2) Foundation;
- (3) Rough carpentry, HVAC, electric and plumbing;
- (4) Drain tile/basement floor;
- (5) Underfloor plumbing;
- (6) Electric service;
- (7) Insulation;
- (8) Final carpentry, HVAC, electric and plumbing; and
- (9) Erosion control.

In accordance with COMM SPS 321.17(2) the building inspector may waive the requirements for a complete drain tile or pipe system for new dwelling construction where documentation is submitted by a professional soil scientist or certified soil tester which verifies that the soils are comprised of well drained sands or well drained loamy sands and that no seasonal groundwater levels exist at or above the elevation of the footing of the proposed new dwelling. In the instance of an addition to an existing one- or two-family dwelling where the proposed foundation is at the same elevation of the existing foundation, or higher, and it has been verified that there is no history of water problems the building inspector may also waive the requirements for a complete drain tile or pipe system for the addition.

(f) *Failure to request inspection.* Failure to request any inspection will be the responsibility of the contractor and/or property owner. No construction shall be deemed approved by default or lack of inspection by the building inspector.

(g) *Contractor and/or property owner responsible.* The expense of uncovering or exposing any work which must be inspected, where such work was required by the failure of the owner to request any inspection, will be the responsibility of the contractor and/or property owner.

(h) *Records.* The building inspector shall perform all administrative tasks

required by the department under all codes covered in section 8-36. In addition, the inspector shall keep a record of all applications for permits and shall number each permit in the order of its issuance.

Explanatory Note: More code numbering and reference changes.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 42 (Subdivisions Code):

(amended sections are underlined) (~~deleted sections are stricken~~)

Explanatory notations are in italics

SECTION 42-42(2) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 42-42. Compliance with ordinances, statutes, regulations and plans.

Any person dividing land which results in a major subdivision shall prepare a plat of the subdivision, or which results in a land division or minor subdivision shall prepare a certified survey map in accordance with the requirements of this chapter and:

- (2) The rules of Wis. Admin. Code chs. ~~SPS383--385~~ and any subsequent amendments thereto for subdivisions not served by a public sewer.

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SECTION 42-45(b) (2) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 42-45. Procedures.

- (b) *Preliminary plat procedure.*

- (2) Subdividers are encouraged to use the procedure provided by Wis. Stats. § 236.12(6) by submitting the original copy of the proposed preliminary plat to the state Department of Safety and Professional Services (DSPS). DSPS will arrange for copies of the original plat to be made and for review by the appropriate objecting agencies within the time limits specified in Wis. Stats. § 236.12(6). When any objections are satisfied, the preliminary plat shall be certified as eligible for review by the county and other approving agencies. A preliminary plat which has a certification of nonobjections on it by DSPS may then be filed with the zoning administrator.

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SECTION 42-123 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 42-123. Sewage disposal system.

Provision for private sewage disposal systems shall be as specified by Wis. Admin. Code ch. ~~SPS383-385~~ and any subsequent amendments thereto and chapter 54 of this Code.

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Explanatory note: The state has reorganized the Department of Commerce into the Department of Safety and Professional Services. A change of department name and renumbering of the administrative codes related to POWTS is accompanying this transition.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 54 (Utilities-Private On-site Wastewater Treatment Systems)

(amended sections are underlined) (~~deleted sections are stricken~~)

Explanatory notations are in italics

SECTION 54-31 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-31. Definitions.

Nonplumbing sanitation system means 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 vault privies.

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SECTION 54-66 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-66. Permits and applications. Section (c) parentheses (3), (7)(a), and (8); Section (d) parentheses (1), (2), and (4); Section (i) parentheses (2), (6), and (7); Section (j); and Section (l), parentheses (1), and (4).

(c) *Application requirements.*

(3) ~~Pit privies are not permitted.~~

(7) The following documents must be recorded with the county register of deeds as an attachment to the deed to the property prior to sanitary permit issuance:

a. Maintenance agreements or contracts, when recording of such is required by Wis. Admin. Code ch. SPS 383, or subsections (c)(7), (l) and (n) of this section.

(8) The department reserves the right to require floodplain, ordinary high water mark, and/or wetland delineation for a building site or proposed private on-site wastewater treatment system area prior to sanitary permit issuance, to insure compliance with Wis. Admin. Code §§ 383.32(3)(c), 383.45(6)(a) and (b), and Table 383.43-1, and Wis. Admin. Code chs. NR 811 and 812. The department may require elevations on plans to be tied to area floodplain elevation datum. The applicant shall reimburse the county for its full cost in engaging engineers and other experts to review the accuracy of the information submitted with any sanitary permit or other application. If the zoning administrator, agency, or board of adjustments determines that the public interest requires the county to engage special

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consultants, such as engineers, planners, or experts it shall require the applicant to deposit a sum deemed sufficient to defray the expected costs of such work by consultants. Any excess over actual cost shall be refunded to the applicant. Any deficiency shall be billed and a final decision be withheld until payment is made.

(d) *County plan examination.*

(1) *Generally.* Complete plans and specifications shall be submitted for approval to the department or the state in accordance with Wis. Admin. Code ch. SPS 383. Plans shall be submitted with the application for sanitary permit in duplicate. All plans submitted shall comply with this article, statute, and Wis. Admin. Code ch. SPS 383.

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(2) *Inclusions.* All plans shall 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, 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; the location of all existing and proposed: private on-site wastewater treatment system components, building sewers, private interceptor main sewers, storm sewers, wells, water mains or water services, navigable waterways, buildings, lot lines, swimming pools, replacement system areas, the benchmark established on the soil and site evaluation report, and the location of the building served. Adjoining properties shall be checked to ensure that the horizontal setback parameters in Wis. Admin. Code ch. SPS 383 are complied with. All separating distances and dimensions shall be clearly shown on the plot plan if it is not drawn to scale.
- d. Details and configuration layouts depicting how the system is to be constructed.
- e. A description of a contingency plan if the proposed private on-site wastewater treatment system fails and cannot be repaired.
- f. Sufficient supporting information to determine whether the proposed design, installation, and management of the proposed private on-site wastewater treatment system or modification to an existing system complies with this article and the requirements of the Wisconsin Administrative Code.
- g. Plans shall be signed or sealed as specified in Wis. Admin. Code ch. SPS 383.

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- (4) *Modifications.* A modification of the design of a private on-site wastewater treatment or nonplumbing sanitation system which has previously been 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. A fee may be charged when submitting revised plans. Fees are on file at the department's office. Deleted: Comi
- (i) *Reconnection.*
- (2) Prior to issuing a reconnection permit, the existing private on-site wastewater treatment system must be examined to:
- a. Determine if the existing system is functioning properly. A properly credentialed individual as described in Wis. Admin. Code § 383.25 shall evaluate the POWTS components and provide a statement regarding the condition of the system and all its components to the department.
 - b. Determine if the existing system will be capable of handling the proposed wastewater load from the building to be served. This includes an evaluation of the system and its components relative to the amount of wastewater anticipated.
 - c. Determine that all minimum setback requirements of the applicable sections of the Wisconsin Administrative Code will be maintained.
- (6) If it cannot be determined from the information provided that an existing POWTS can accommodate the increased wastewater load, the county may require additional information to be submitted to make the determination, or the county shall inspect the system for evidence of failure as defined in this section, the statutes, and Wis. Admin. Code, ch. SPS 383. Deleted: Comi
- (7) Determination of whether an existing private on-site wastewater treatment system is of adequate capacity to accommodate additional wastewater loads involving one-family and two-family dwellings shall be made by the department. The department shall also make determinations of whether an existing POWTS is of an adequate capacity to accommodate additional wastewater loads generated by construction other than one-family and two-family dwellings involving less than 3,000 gallons per day of wastewater load in compliance with the following:
- a. If the existing POWTS is a failing system, the department shall order the system to be replaced.
 - b. If the existing POWTS is installed in mottled soils, the owner may request a variance to use the existing system and perform groundwater monitoring to verify seasonal saturation conditions under rules set forth in Wis. Admin. Code ch. SPS 383. Deleted: Comi

- c. If the construction affects the only available soil replacement area, a notice shall be recorded at the county register of deeds' office to notify any future owner of the wastewater disposal options they may have available.
- d. Determinations on treatment tanks shall be made using the following criteria:
 - 1. If the existing treatment tanks have no manhole opening, are cracked, deteriorated or constructed of materials other than those conforming to the requirements of Wis. Admin. Code § ~~SPS 384.25~~ and statute, then the tanks shall be ordered replaced.
 - 2. If the baffles in the tanks are deteriorated or missing, the baffles shall be ordered replaced.
 - 3. If any exposed tank lid has no manhole cover or is not locked or labeled, the cover shall be ordered replaced, locked and labeled.
 - 4. If the anaerobic treatment tank services a one-family or two-family dwelling and the capacity is:
 - i. Less than 500 gallons, the tank shall be ordered replaced or additional tank capacity shall be ordered added;
 - ii. At least 750 gallons, the existing tank may be used, provided that no more than one additional bedroom is added;
 - iii. At least 750 gallons, additional tank capacity shall be ordered added if two or more bedrooms are being added.

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For an anaerobic treatment tank serving any structure other than a one-family and two-family dwelling, additional tank capacity shall be ordered if the tank is less than 750 gallons, or if the treatment tank is 750 gallons or more below code-derived capacity using a minimum three-year maintenance cycle. Maintenance cycles of less than three years may be considered by the department on a case by case basis.

(j) *Construction not affecting wastewater flow or contaminant load.* Prior to commencing any construction of any structure or addition to a structure on a site where there exists a private on-site wastewater treatment or nonplumbing sanitation system, the owner or his agent shall determine that the proposed structure conforms with applicable setback limitations of Wis. Admin. Code ch. ~~SPS 383~~. Documentation shall be submitted as required in Wis. Admin. Code ch. ~~SPS 383~~.

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(l) *Wisconsin Fund Septic Tank Maintenance Program.*

(1) 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. SPS 383; 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. Upon sale of the property, the owner shall also provide written notification of the maintenance program to the buyer.

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(4) The owner of such POWTS shall furnish the department with a copy of the inspection report verifying the condition of the tank, whether wastewater from the POWTS is ponding on the ground surface, or backing up into the structure served by the POWTS, and the date of pumping or inspection. Reports shall be submitted within the time period specified and include all information required in Wis. Admin. Code § SPS 383.55 and be signed by the person inspecting and pumping the POWTS. Other maintenance or management reports required by Wis. Admin. Code chs. SPS 383 or 384 should be included with this report.

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Explanatory note: The state has reorganized the Department of Commerce into the Department of Safety and Professional Services. A renumbering of the administrative codes related to POWTS is accompanying this transition. Also, pit privies were outlawed in a previous code amendment and this section was overlooked.

Sec. 54-67. Inspections: Section (a) parentheses (4); Section (c) parentheses (1); and Section (f).

(a) Notice.

(4) The entire POWTS shall be left completely open until it has been inspected and accepted, unless the requirements of Wis. Admin. Code ch. SPS 383 are not met by the department.

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(c) Inspections of nonplumbing sanitation systems.

(1) All nonplumbing sanitation systems installed shall be inspected for compliance with Wis Admin. Code ch. SPS 391, or as amended, and this article. Nonplumbing sanitation systems serving uses other than one-family and two-family dwellings shall also be inspected for compliance with Wis. Admin. Code § SPS 352.63.

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(f) Inspection of experimental systems and systems not recognized by Wis. Admin. Code § SPS 383.61.

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(1) The plumber installing the system shall coordinate any required

preconstruction meetings.

- (2) The plumber installing the system shall notify the department at least two workdays prior to beginning the installation of the system to schedule the inspections 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 ensure compliance with appropriate codes and the plan approval.

SECTION 54-68 (1) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-68. Amendments.

Code amendments may be made upon petition of any interested party according to the provisions of Wis. Admin. Code ch. SPS 383.03(5).

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- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the department according to the provisions Wis. Admin. Code ch. SPS 383.03(5), a minimum of 30 calendar days prior to the public hearing.

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SECTION 54-91 IS HEREBY AMENDED TO READ:

Sec. 54-91. Specific limitations.

(a) *Domestic waste.* All water-carried wastes derived from ordinary living uses shall enter the septic or treatment tank unless otherwise specifically exempted by Wis. Admin. Code ch. SPS 383, or this article.

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SECTION 54-92 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-92. Prohibited installations.

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(a) Installation of a holding tank is prohibited if any other type of private on-site wastewater treatment system described as an A+ four-inch mound system or better is permitted by Wis. Admin. Code ch. SPS 383, unless a holding tank is required by the environmental protection agency or the state department of natural resources for collection of hazardous wastewater. A sanitary permit that designates a holding tank as the alternate system, shall not be issued unless a soil and site evaluation determines that the property is unsuitable for any other type of replacement system permitted by Wis. Admin. Code ch. SPS 383, except as provided in subsection (c)(3)d. of this section, and as excepted in this subsection.

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(b) Holding tanks are prohibited for new construction as provided by Wis. Admin. Code § SPS 383.32(2)(a)1, as from time to time may be amended.

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(c) The following are excepted from the application of this prohibition of

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holding tanks:

- (1) Holding tanks proposed to serve buildings constructed prior to June 9, 1987. Deleted: July
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- (2) Holding tanks proposed to serve a replacement structure providing that the structure to be replaced was constructed prior to June 9, 1987. Deleted: July
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- (3) Holding tanks that serve as the private on-site wastewater treatment system on lands or lots:
 - a. Of more than 15 acres (exclusive of any dedications, public rights-of-way, easements for ingress or egress, or reservations).
 - b. Lots (as defined in section 42-7 of this Code, subdivisions, that have been approved for creation by the county planning and zoning committee and filed for recording prior to June 9, 1987. Deleted: July
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 - c. Lots that are part of a recorded subdivision which has been recorded with the office of the county register of deeds prior to June 9, 1987. Deleted: July
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 - d. Holding tanks that are intended to serve structures with a design wastewater flow of less than 150 gallons per day (actual estimated daily wastewater flow of less than 100 gallons per day).

Explanatory Note: Same renumbering as in the previous sections and correction of an incorrect month.

SECTION 54-93 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-93. Installations in floodplain.

Any POWTS, or portions thereof, installed within a floodplain shall comply with all applicable requirements of Wis. Admin. Code chs. SPS 383, 384, and NR 116. Deleted: Comi
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SECTION 54-94 (a) (1) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-94. Nonplumbing sanitation systems.

- (a) *Generally.*
 - (1) Nonplumbing sanitation systems are devices regulated under Wis. Admin. Code ch. SPS 391, which are alternatives to water-carried sanitation plumbing systems and drain systems. Nonplumbing sanitation systems are not connected to a water supply and are not connected to a plumbing system. Nonplumbing sanitation systems include, but are not limited to, composting toilets, incinerating toilets, pit privies, vault privies and portable restrooms. Buildings served solely by a nonplumbing sanitation system shall not contain any plumbing and shall not be connected to a Deleted: Comi

water supply. A county sanitary permit must be obtained by the property owner before installing any nonplumbing sanitation system or similar device regulated under Wis. Admin. Code ch. SPS 391.

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SECTION 54-95 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 54-95. Soil and site evaluations: All of Section (a) and Section (c), parentheses (1), (2), and (3).

(a) *Soil test reports.*

(1) The department shall establish a filing system for soil test reports. The department shall review soil test reports for proposed POWTS and verify the data reported if deemed necessary. If a report is found to comply with the requirements of Wis. Admin. Code ch. SPS 385, the requirements of this article, and is considered to be adequate, the department shall file the report.

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(2) A soil evaluation shall be conducted by a state-certified soil tester on all sites regardless of the type of private on-site wastewater treatment system planned to serve the parcel. The soil descriptions shall accurately describe the conditions found to a depth that extends below the bottom of the proposed system at least as deep as it is necessary for treatment purposes listed in Wis. Admin. Code table ~~Comm- SPS 383.44-3~~, for the type of soil texture and structure found in the proposed system area, and for the influent quality expected. Bore pit data shall be used to determine the suitability of the soils at the site in respect to permeability, zones of seasonal or permanent saturation, and the depth of bedrock. At least one soil pit large enough to allow visual evaluation of the in-situ soil shall be constructed for each proposed soil absorption area when the soil conditions are uniform across the parcel. When the soil conditions are variable, all borings evaluated should be soil pits large enough to enter and observe the conditions applicable to on-site waste disposal and treatment. In addition, all requirements of Wis. Admin. Code ch. SPS 385 shall be compiled with.

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(c) *Soil and site evaluations for parcels not served by public sewer.*

(1) No structure intended for a new lot created by a land division, or a minor or major subdivision after June 9, 1987, shall be served by a holding tank, except for those exempted in subsection 54-92(c)(3).

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(2) Preliminary soil and site evaluations are required before the creation of new lots by means of a minor or major subdivision, as defined in section 42-7 of this Code. The preliminary soil and site evaluation shall provide adequate information to determine that a system other than a holding tank may be utilized on each lot to be created. The borings shall be in sufficient numbers to identify a suitable area on each lot, but in no case shall the

total number be less than one boring per lot proposed. The depth of the borings shall extend below the bottom of the proposed system at least as deep as it is necessary for treatment purposes listed in Wis. Admin. Code table SPS 383.44-3, for the type of soil texture and structure found in the proposed system area, and for the influent quality expected.

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- (3) Preliminary soil and site evaluations may be required before the creation of new lots by means of a land division as defined in section 42-7 of this Code, if review of available data including, but not limited to, the county soil survey, site and soil evaluations on neighboring lands, and familiarity of the area, indicate that the lots intended may only be served by a holding tank. The preliminary soil borings, where deemed necessary, shall extend below the bottom of the proposed system at least as deep as it is necessary for treatment purposes listed in Wis. Admin. Code table SPS 383.44-3, for the type of soil texture and structure found in the proposed system area, and for the influent quality expected.

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Explanatory Note: More renumbering and correction of a wrong date.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 58 (Zoning):

SECTION 58-9 IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

Sec. 58-9. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cemetery means a place containing one or more graves, cemetery lots, or other interment space intended for the storage or burial of human remains.

Salvage yard means a site or facility at which salvageable materials are stored or sold or at which wrecking, dismantling or demolition of salvageable materials are conducted, including, but not limited to, automobile junkyards, scrap metal salvage yards and similar uses, except commercial recycling operations. Two or more inoperative vehicles or pieces of equipment stored outside of a completely enclosed building shall constitute a salvage yard.

Explanatory Note: Some definitions that needed to be added to or further explained for clarity in our code.

SECTION 58-232(6) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-232. Accessory uses and structures.

Accessory buildings and uses customarily incidental to the permitted use shall be permitted subject to the requirements of this section and other requirements, as may be designated for that zone in which they are located, and the following requirements:

- (6) An accessory building, structure or use in a side or rear yard shall not be less than 7 1/2 feet from any property line, except that on a corner lot, a reversed corner or through lot of such accessory building, structure or use shall be set back from the property line adjoining a street the distance required for a front yard, unless otherwise required in this section for a specific permitted or conditional use.

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Explanatory Note: We do allow accessory buildings and structures meeting setbacks as defined in the code to be placed in the streetside or front yard.

SECTION 58-235(g) IS HERBY AMENDED TO READ AS FOLLOWS:

Sec. 58-235. Nonconforming structures and uses.

(g) Open decks and patios attached to the principal structure. The maintenance and reconstruction of nonconforming open decks and patios attached to the principal structure on a parcel, which are located within the required setback to the ordinary high-water mark of lakes in the county may be authorized by the zoning administrator without the necessity of seeking a variance from this chapter if proper verification is provided to the zoning department of the location, date of construction, condition, and configuration as existed as a nonconforming structure under the ordinance from which this chapter is derived. Proper verification of the size, location, height, and dimensions of the nonconforming structure shall consist of dated photographs, assessment documentation, construction contracts, previously issued building permits, or personal inspection by a zoning office official. This provision shall not be applicable in those instances where the maintenance and reconstruction of the nonconforming open deck exceeds the 50 percent limitation of subsection (b)(2) of this section. Decks and patios attached to a structure or building are considered part of the structure to which they are attached for purposes of applying the 50 percent limitation of subsection (b)(2) of this section. Nothing in this section shall allow a property owner to reconstruct, improve, add on to, or in any way expand the dimensions of an open deck and patios beyond those proven to exist as a nonconforming structure under this chapter. The zoning administrator may deny a zoning permit for the repair or maintenance of an open deck as a nonconforming use if good cause is shown that the public safety or public health will be harmed by such repair or maintenance even though such action is allowed under this section. If a landowner fails to provide the proper verification or documentation described in this section, or the zoning office official is unable to verify necessary information from a personal on-site inspection, the maintenance and reconstruction of the above-referenced nonconforming open decks and patios shall be governed by the variance procedures set forth in division 4, article II of this chapter.

Explanatory Note: We have always used this section to allow the replacement of open decks and patios on principal structures, however it did not state that leaving it somewhat ambiguous.

SECTION 58-236 Selected Conditional Uses 12(j) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-236. Selected conditional uses.

(12) *Mobile home parks.* No mobile home park shall be located in the county except in conformance with a plan approved by the zoning committee. Mobile home parks shall comply with the requirements of this section and Wis. Admin. Code ch. SPS 395 and HFS and any subsequent amendments thereto. The zoning committee may require the applicant to provide a plan of operation describing the design, management and operation of the mobile home park. A conditional use permit is required for the expansion or alteration of an existing mobile home park. Mobile home parks shall meet the following requirements:

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j. Each mobile home shall be connected to a public water supply and a public sewer system where such systems are available. Where a public water supply is not available, mobile home parks shall be served by an approved community water system pursuant to Wis. Admin. Code ch. NR 111 and any subsequent amendments thereto. Where a public sewer system is not available, mobile home parks shall have an approved private sewage system pursuant to Wis. Admin. Code ch. SPS 382 and 383, and any subsequent amendments thereto.

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SECTION 58-236 Selected Conditional Uses 14(e) IS HEREBY AMENDED TO READ AS FOLLOWS:

(14) *Recreation areas.* Recreation areas may be permitted, provided that:

e. Recreation areas not served by public sewer systems shall have an approved private sewage disposal system pursuant to Wis. Admin. Code ch. SPS 382, 383 and 391, and any subsequent amendments thereto.

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SECTION 58-236 Selected Conditional Uses 18(f) IS HEREBY AMENDED TO READ AS FOLLOWS:

(18) *Storage of unoccupied travel trailers, camping trailers or mobile campers.* The storage of unoccupied travel trailers, camping trailers or mobile campers on a parcel of land of ten acres or more on which no single-family or two-family dwelling exists is subject to the following conditions and requirements:

f. Should the unit be occupied at any time during the duration of the use permit, the unit shall be served by appropriate sanitary facilities. The following are considered appropriate sanitary facilities:

1. If no running water exists (other than a hand pump located outside of the unit) a nonplumbing sanitation system or device is permitted, including, but not limited to, a chemical,

gas or incinerator toilet or vault privy. Depending upon the type of system selected, a sanitary permit may be required.

2. If running water exists, a conventional septic tank/drainfield or other type of POWTS approved by DSPS and the Waushara County Utilities Code is permitted. A sanitary permit is required for this type of system or device.

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Explanatory note: The state has reorganized the Department of Commerce into the Department of Safety and Professional Services. A renumbering of the administrative codes related to POWTS is accompanying this transition.

SECTION 58-236 Selected Conditional Uses 20(e) IS HEREBY AMENDED TO READ AS FOLLOWS:

- (20) *Wireless communications facilities.* The following shall be considered as minimum standards in the location and operation of wireless communication facilities:

- e. Wireless communications facilities shall be set back from the nearest property lines a distance no less than 75% of their total height, unless appropriate easements are secured from adjacent property owners.

Deleted: 1.1 times

Explanatory Note: Since we instituted the 1.1 times the height setback requirement, we have had multiple variance requests and testimony that most towers collapse in an area within 65% of their total height. This seems like a reasonable compromise from the old requirement, and should alleviate some of the variance requests while still protecting safety or nearby of properties.

SECTION 58-236 Selected Conditional Uses 22 (i), (j), and (m) ARE HEREBY AMENDED TO READ AS FOLLOWS:

- (22) *Home-based businesses* include, but are not limited to businesses that fall within the standards listed, such as construction, excavation landscaper, plumber, electrician, and other family run contractor operations, minor vehicle repair and body work, small engine repair and sales, small truck and trailer terminals, minor welding and fabrication, storage, sales, and assembly, vehicle towing services, internet based businesses, commercial storage facilities and other similar family-based businesses where the business is incidental and subordinate to the residential use, and where the business conducted would not detract from neighboring land uses, would not pose a threat to public safety, health or the environment, and where such business can be conducted in such a manner where it would not prevent the property from converting back to strictly a residential use, if the business were ever to be abandoned subject to the following limitations:

- i. The home-based business shall not exceed 2,000 square feet of building space, including any home office or inside storage area.

unless otherwise granted by the Planning & Zoning Committee under Section 58-236 (22) (m).

- j. Storage outside of a completely enclosed building of any products, parts, scraps, wastes, materials, vehicles or equipment shall not exceed 5,000 square feet, and shall be stored behind a solid fence which screens such items from public roads and neighboring property lines, unless otherwise granted by the Planning & Zoning Committee under Section 58-236 (22) (m).

Deleted: Unless by the planning committee, s

- m. The planning and zoning committee may impose additional related conditions on any approval of a home-based business, such as additional setbacks, vegetative or artificial buffers, limitations on hours, traffic, signs, increases and/or decreases of size of areas to be utilized by the proposed business, etc.

Explanatory Note: We have run into problems with the limits imposed by (i) and(j). This allows the Planning and Zoning Committee more leeway in establishing suitable inside and outside storage areas depending on the particular home based business they are dealing with

SECTION 58-454 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-454. Conditional uses.

Conditional uses in the A-G-* zone are as follows:

- (1) Airport.
- (2) Animal hospital, zoo, rescue, sanctuary, or pound.
- (3) Bed and breakfast establishments.
- (4) Camps.
- (5) Cemetery.
- (6) Cheese factories and dairy processing plants.
- (7) Christmas tree sales (other than sales permitted under section 58-453(2)).
- (8) Church or other place of worship.
- (9) Club or lodge.
- (10) Day nursery/kindergarten.
- (11) Dog kennel, when located not less than 300 feet from any residential building other than that of the owner of such kennel, his agent or employee.

- (12) Farm equipment sales and/or service.
- (13) Filling, grading and work in respect to waterways requiring a permit under section 58-903(p) of this chapter.
- (14) Fish hatchery, commercial.
- (15) Fur farm, when located not less than 300 feet from any residential building other than that of the owner of such fur farm, his agent or employee.
- (16) Garden or nursery store.
- (17) Grain elevator, commercial.
- (18) Housing for migrant workers.
- (19) Hunting or fishing shelter.
- (20) Incinerator, public.
- (21) Maple syrup processing plant.
- (22) Mobile home, permanent.
- (23) Nonmetallic mining [operations and associated asphalt plants](#).
- (24) Professional business office.
- (25) Public or semipublic building.
- (26) Raising or keeping of ten or more animal units on five acres or less land.
- (27) Recreation areas.
- (28) Roadside stand.
- (29) Sawmill, permanent.
- (30) Solid and hazardous waste disposal, processing, storage and transfer facilities.
- (31) Storage of unoccupied travel trailers, camping trailers or mobile campers on parcels of ten acres or more on which no single-family or two-family dwelling exists.
- (32) Two-family dwellings.
- (33) Wireless communications facilities.

- (34) Wind energy facility.
- (35) Home-based business, accessory to a one- or two-family dwelling
- (36) Used dwelling, single-family.

Explanatory Note: Expands existing language to cover zoos, sanctuaries, and animal rescue operations, as these operations become more common across the state and in our area. Also clarifies that asphalt plants are associated with non-metallic mining operations.

SECTION 58-572 (a) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-572. Lot size, height, yard and setback regulations.

(a) *Generally.* The regulations for this R-M zone apply to multiple-family dwellings served by public sewage systems. Multifamily dwellings not served by public sewage systems shall meet the requirements of this section and have an approved private sewage system pursuant to Wis. Admin. Code ch. SPS 382 and 383, and any subsequent amendments thereto. For the purpose of providing safe and adequate access for emergency purposes, any new development in the R-M zone involving more than two dwelling units shall be served by an access road that, at the minimum, meets the design standards identified in section 42-81 of this Code.

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SECTION 58-602 (a) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-602. Basic development standards.

(a) *Generally.* The requirements established for this RS-P zone apply to planned residential developments served by public sewer systems. Developments not served by public sewer systems shall meet the requirements of this section and Wis. Admin. Code ch. SPS 382 and 383, and any subsequent amendments thereto, whichever is more restrictive.

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SECTION 58-632 (a) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-632. Basic development standards.

(a) *Generally.* The requirements established for this RM-P zone apply to developments served by public sewer systems. Developments not served by public sewer systems shall meet the requirements of this section and have an approved private sewage system pursuant to Wis. Admin. Code ch. SPS 382 and 383, and subsequent amendments thereto.

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Explanatory Note: Cleans up Administrative Code references to reflect new numbering with reorganization at the state level.

SECTION 58-826(d) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-826. Setback.

(d) *Reduced building setback.* A setback less than that required by subsections (b) or (c) of this section may be permitted by the zoning administrator where there is a 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. A reduced setback to a public or private roadway may be allowed for accessory structures using the adjacent principal or accessory structures at the discretion of the zoning administrator. In no case shall averaging allow a setback of less than 35 feet from the ordinary high-water mark or from the centerline 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 class I, II, or III trout streams.

Explanatory Note: We have always allowed averaging for accessory structures but our code did not specifically state that. This brings us in line with past and current practices.

SECTION 58-864 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-864. Types; maximum size; number and location.

The following is a list of sign types, sizes, number permitted and locations:

- (1) *Type 1.* Official traffic control signs, and informational or directional notices erected by federal, state or local units of government. Official signs may be placed within the highway right-of-way. No permit is required.
- (2) *Type 2.* Signs advertising a business or activity, an area of interest, service available, home occupation, professional office, or a public or semipublic use. Such signs in the O-N, O-F, O-P, O-SW, A-G, A-R, RS-10, RS-20, R-M, RS-P and RM-P zoning districts shall not be more than 32 square feet per side. Such signs in the G-C, C-S, C-G, M-G, and M-I zoning districts shall not be more than 80 square feet per side, providing that the minimum height of the bottom of the sign is not less than eight feet from the adjoining ground surface and does not otherwise obstruct vision or pose a safety concern. Such signs may be placed at the highway right-of-way. No permit is required. One Type 2 sign is allowed per parcel. Multiple type 2 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained.
- (3) *Type 3.* Signs advertising the sale, rent or lease of the property on which the sign is placed. Such signs shall not be more than 32 square feet per side. Such signs may be placed at the highway right-of-way. No permit is required. One type 3 sign is allowed per parcel. Multiple type 3 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained.
- (4) *Type 4.* Signs advertising a general brand or product, an area of interest, a business conducted, or a service available. Such signs shall not be more than 300 square feet per side, and shall comply with the setback

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requirements established in subsections 58-826(b) and (e). A minimum spacing of 300 feet shall be maintained between type 4 signs. A permit is required.

(5) *Type 5.* Signs on or attached to agricultural, commercial, or industrial buildings advertising a business conducted or service available on the premises. No sign shall be higher than the maximum height permitted in the respective zone. No permit is required. One type 5 sign is allowed per parcel. Multiple type 5 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained.

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(6) *Type 6.* Signs indicating the direction to camps, campgrounds, recreation areas, resorts, residences or similar uses. Such signs shall not be more than 32 square feet per side. Where a common posting standard is provided, all such signs shall be attached to the standard directory. The resulting composite sign shall not exceed 100 square feet per side. Such signs may be placed at the highway right-of-way. No permit is required. One type 6 sign is allowed per parcel. Multiple type 6 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained.

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Explanatory Note: This section has always been confusing to staff as well as the public. Consensus is that this language is clearer and easier to follow.

SECTION 58-903(n)(6) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-903. General shoreland zoning provisions.

(n) *Removal of shore cover.*

(6) If a building setback line is less than ~~the standard setback of 75 feet~~ from the ordinary high-water mark ~~of a navigable body of water, or 100 feet from the ordinary high-water mark of a Class I, II, or III trout stream,~~ then a vegetative buffer zone shall be established that covers at least 70 percent of the half of the building setback ~~area~~ that is nearest ~~to the water~~ ordinary high water mark.

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Explanatory Note: This is another confusing section of our code that we are trying to clarify the intent and practice of restoring vegetative buffers in areas where there are reduced setbacks either by averaging or variance.

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 _____, 2012.

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

ORDINANCE NO. _____

Drafted April 9, 2012

ORDINANCE AMENDING WAUSHARA COUNTY CODE CHAPTERS 58

WHEREAS, Waushara County has enacted Chapter 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 58:

**AMENDMENTS ORIGINALLY APPROVED AS ORDINANCE 535,
Implementation Dates being Updated as noted following each Section #.**

(amended sections are underlined)

~~(deleted sections are stricken)~~

SECTION 58-2 IS HEREBY AMENDED TO READ AS FOLLOWS: (Effective date April 17, 2012)

Sec. 58-2 Purpose and intent of chapter.

This chapter is adopted in order to promote and protect public health, safety, comfort, convenience, prosperity, aesthetics and other aspects of general welfare; and, more specifically, to fix reasonable standards to which buildings and structures shall conform; to regulate and restrict lot coverage and population density; to conserve the value of land and buildings in all of the unincorporated areas of the county; to guide the proper distribution and location of various land uses; to promote the safety and efficiency of the streets and highways; to provide for adequate light, air, sanitation and drainage; to conserve natural resources; to provide safety from fire and other hazards; to define the powers and duties to the administrative bodies as provided in this chapter; and to prescribe penalties for the violation of the provisions of this chapter or any amendment thereto. The shoreland provisions of this chapter are established to prevent the uncontrolled use of such shorelands and pollution of the navigable waters of the county. Further, section 281.31, Wisconsin Statutes, provides that shoreland, subdivision, and zoning regulations shall: "further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty." Section 59.692, Wisconsin Statutes, requires counties to effect the purposes of section 281.31, Wisconsin Statutes, and to promote the public health, safety and general welfare by adopting zoning regulations for the protection of all

shorelands in unincorporated areas that meet shoreland zoning standards promulgated by the Department of Natural Resources. The purpose of the shoreland provisions of this chapter is to establish minimum shoreland zoning standards for a code enacted under section 59.692, Wisconsin Statutes, for the purposes specified in section 281.31 (1), Wisconsin Statutes, and to limit the direct and cumulative impacts of shoreland development on water quality; near shore aquatic, wetland and upland wildlife habitat; and natural scenic beauty.
(Ord. No. 76, § 1.03, 3-13-1984)

SECTION 58-3(b) IS HEREBY AMENDED TO READ AS FOLLOWS: (Effective Date April 17, 2012)

Sec. 58-3. Abrogation and greater restrictions.

(b) This chapter contains shoreland regulations which, when applied within the jurisdictional area as defined in section 281.31(2)(d), Wisconsin Statutes, take precedence over ordinance provisions adopted pursuant to section 59.69, Wisconsin Statutes. However, where a county zoning ordinance enacted under a statute other than section 59.692, Wisconsin Statutes is more restrictive than the shoreland provisions contained in this chapter, that ordinance code shall remain in full force and effect to the extent of the greater restriction, but not otherwise. The provisions of this chapter apply to county regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas except as provided in section 59.692 (7), Wisconsin Statutes. Unless specifically exempted by law, all cities, villages, towns, counties and, when section 13.48 (13), Wisconsin Statutes, applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland codes. 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 codes if section 30.2022 (1), Wisconsin Statutes, applies.

(Ord. No. 76, § 1.04, 3-13-1984)

SECTION 58-9 IS HEREBY AMENDED TO READ AS FOLLOWS: (Effective Date April 17, 2012)

Sec. 58-9. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access and viewing corridor means a strip of vegetated land that allows safe pedestrian access to the shore through the shoreline vegetation protection area.

Accessory use or structure means a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

Adult arcade means any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated still or in motion picture machines, projectors, computers or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult bathhouse means a commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "specified sexual activities."

Adult body painting studio means a commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on "specified anatomical areas." An adult body painting studio does not include a tattoo parlor.

Adult bookstore means any commercial establishment having as its stock-in-trade the sale, rental or lease for any form of consideration, any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on "specified anatomical areas" or "specified sexual activities."
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- (3) Facilities for the presentation of "adult entertainment" as defined herein, including adult-oriented films, motion pictures, video cassettes, video reproductions, slides or other visual representations for observation by patrons therein.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which features:

- (1) Live performances which are characterized or distinguished by the exposure of "specified anatomical areas" or "specified sexual activities," or,
- (2) Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult entertainment means any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:

- (1) "Specified sexual activities,"
- (2) "Specified anatomical areas"

Adult massage parlor means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "specified sexual activities."

Adult motel means a hotel, motel or other similar commercial establishment which: offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, film, motion pictures, video cassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing "specified sexual activities" or "specified anatomical areas," and has a sign visible from the public right of way which advertises the availability of this type of adult entertainment; or:

- (1) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (2) Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten hours.

Adult-oriented establishment includes: Adult arcade, adult bathhouse, adult body painting studio, adult bookstore, adult cabaret, adult massage parlor, adult motel, adult theater, and any commercial establishment presenting adult entertainment, whether or not such establishment is operated or maintained for a profit and where alcohol is not served or consumed.

Adult theater means an enclosed building such as theater, concert hall, auditorium or other similar commercial establishment which is used for presenting "adult entertainment".

Airport means a permanent facility used or intended to be used for the landing of aircraft of any type.

Airstrip means an unpaved surface used for the temporary or incidental landing of aircrafts.

Alley means a special public right-of-way affording only secondary access to abutting properties.

Animal unit means a unit equivalent to one cow, four hogs, ten sheep, ten goats, 100 poultry, and one horse, pony or mule.

Automobile service station means any building or premises which sells gasoline, oil and related products to the motoring public. This shall include repairs, washing and lubrication, but shall not include any body work, painting or dismantling.

Bed and breakfast establishment means any place of lodging that provides four or fewer rooms for rent for more than ten nights in a 12-month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

Board means the Waushara County Board of Supervisors.

Boardinghouse means a building where meals and lodging are offered for compensation for five but not more than 12 persons and where no more than five sleeping rooms are provided for such purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant.

Boathouse means a permanent structure used for the storage of watercraft and associated materials ~~for noncommercial purposes~~ and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

Buildable area means the remaining area after the minimum open space, yard and setback requirements have been met.

Building means any structure which is or is to be permanently affixed to the land that is built, constructed or placed on such land for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

Building area means the area bounded by the exterior dimensions of the outer walls at the ground line.

Building envelope means the three dimensional space within which a structure is built.

Building, principal, means the main building on a lot, intended for primary use as permitted by the regulations of the zone in which it is located.

Bulkhead line means a line in a harbor or navigable waters defining the channelward limit of solid fills or bulkheads.

Campgrounds means any parcel or tract of land owned by a person, state or local government designed, maintained, intended or used for the purpose of supplying a location for overnight camping or supplying accommodations for overnight use by a recreational vehicle, camping trailer, travel trailer or mobile camper open to the public and set aside for free or pay camping purposes. Two or more recreational vehicles, camping trailers, travel trailers or mobile campers shall constitute a campground.

Camping trailer, travel trailer and mobile camper or unit mean such mobile units designed to be used for temporary living or commercial purposes which may either be towed by a motorized vehicle or be a motorized vehicle. For the purposes of this definition, to come within the provisions of this definition, a camping trailer, travel trailer, or mobile camper or unit is to be used on a parcel less than 21 nonconsecutive calendar days within a calendar year. For the purposes of this chapter, a camping trailer, travel

trailer, or mobile camper or unit used on a parcel for 21 nonconsecutive calendar days or more within a calendar year shall be deemed a seasonal residence under the provisions of this chapter. For the purposes of this chapter, a camping trailer, travel trailer, or mobile camper or unit used within the provisions of this definition shall conform to all required setbacks of the respective district within which it is located.

Certificate of compliance means official certification that a use, building or structure is in conformance with the provisions of this chapter.

Channel means a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

Club and/or *lodge* mean an association of persons who are bona fide members, which owns, hires, or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Commercial entertainment facilities means a site or facility where the principal use of the site or facility is to provide entertainment, and at which commercial activities occur, including, but not limited to video arcades, entertainment and dance halls, opera houses, concert arenas and pavilions, and other similar sites or facilities not otherwise defined in this code. For the purposes of this Code, adult-oriented establishments are not considered commercial entertainment facilities.

Commercial recycling operation means any operation involving the collection of aluminum, glass, paper and paper products, plastic or other salvageable material.

Conditional use means uses having characteristics so as to make their designation as a principal use within a particular zone permitted, provided that certain conditions specified in the code are met and that a permit is granted by the Planning & Zoning Committee.

County Planning and Zoning Committee means that committee or commission created or designated by the county board under section 59.69(2)(a), Wisconsin Statutes, to act in all matters pertaining to county planning and zoning.

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 child care homes, as defined in section 66.1017, Wisconsin Statutes 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.

Department means the Department of Natural Resources.

Drainage system means one or more artificial ditches, the drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Dwelling, detached, means a residential building which is entirely surrounded by open space on the same lot.

Dwelling, duplex (two-family), means a residential building containing two dwelling units, excepting mobile homes.

Dwelling, multiple-family (apartment), means a building containing three or more dwelling units, including cooperative apartments, condominiums, apartments and similar arrangements.

Dwelling, single-family, means a residential building containing one dwelling unit, except mobile homes.

Dwelling, single-family attached, means a group or series of three or more buildings each containing a single dwelling unit, attached at the side. Each building shall be separated by a party wall extending from footings through roofs. The term "attached

dwelling" is intended to imply townhouses, patio or atrium houses or any other form that conforms to this definition.

Dwelling unit means a structure having provisions for living, sanitary and sleeping facilities, arranged for the use of one or more individuals of the same family.

Existing development pattern means that a principal structure exists within 250 feet of a proposed or existing principal structure along the shoreline.

Family means one or more persons related by blood, marriage or adoption, or a group of not more than five persons not so related, maintaining a common household in a dwelling unit.

Flea markets and *rummage and garage sales* mean flea markets, rummage sales or garage sales offering for sale household or other goods and shall be considered a commercial use if such activity is conducted at the same location for a period greater than ten days consecutively or in aggregate in one calendar year.

Floodplain means that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain is comprised of the FW floodway and the FF flood fringe as those terms are defined in ch. NR 116, Wisconsin Administrative Code.

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,

Floor area, gross, means, for the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities to the production or processing of goods, or to business or professional offices.

Forestry means the production and management of trees as a crop.

Fur farm means a tract of land or buildings devoted, in whole or in part, to the raising of fur-bearing animals for commercial purposes.

Garage, private, means a structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports are considered garages.

Garage, public or commercial, means any garage other than a private garage.

Height, building, means the vertical distance measured from the nearest finished grade to the nearest highest point of the roof.

Home-based business means a primarily family based business established on a parcel with a single or two-family home where the business is incidental and subordinate to the residential use, and where the business conducted would not detract from neighboring land uses, would not pose a threat to public safety, health, or the environment, and where such business can be conducted in such a manner where it would not prevent the property from converting back to strictly a residential use, if the business were ever to be abandoned. A home based business established under this section has to conform to all of the standards listed in subsection 58-236(22), and could include, but are not limited to, businesses that fall within the standards listed, such as construction, excavation landscaper, plumber, electrician, and other family run contractor operations, minor vehicle repair and body work, small engine repair and sales, small truck and trailer terminals, minor welding and fabrication, storage, sales,

and assembly, vehicle towing services, internet based businesses, commercial storage facilities and other similar family based businesses.

Home occupation means a gainful occupation conducted by a member of the family within his place of residence or an accessory building on the same parcel of the residence, where the space used is incidental to residential use, and is clearly and obviously subordinate of such residential use. No article is sold or offered for sale except such as produced by such home occupation.

Hotel means a building containing lodging rooms, a common entrance lobby, halls and stairway; where each lodging room does not have a doorway opening directly to the outdoors, except for emergencies and where more than 50 percent of the lodging rooms are for rent to transient guests, with or without meals, for a continuous period of less than 30 days.

Hunting or fishing shelter means a building or structure without permanent toilet or kitchen facilities, intended solely for fishing, hunting or trapping and only for temporary occupancy.

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surfaces include, but are not limited to all rooftops and paved or other solid surfaces unless specifically designed, constructed, and maintained to be pervious. All structures and vehicular or pedestrian accesses that are comprised of less than 50% impervious surfaces shall not be considered impervious. Impervious surface excludes frozen soil, all open wooden or composite material structures that allow water to flow through them and that do not have impervious surfaces underneath them, and all gravel or mulch covered areas.

Inoperative vehicle means a motor vehicle which is abandoned, disassembled, nonoperative, disabled, junked, wrecked or no longer licensed. Commercial type vehicles including, but not limited to, dump trucks, school buses, construction vehicles, semitrailers and semitractors which are not fully operative, in active use, or licensed are considered inoperative vehicles.

Kennel means a place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place where more than five adult dogs are kept for any purpose.

Lot means a parcel of land, whether legally described or subdivided as one or more lots or parts of lots, and which is occupied or intended for occupancy by one principal building or principal use, together with any accessory buildings such as open spaces as are required by this chapter; and having its principal frontage upon a street or road.

Lot area means the area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfares.

Lot depth means the average horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot lines means a property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.

Lot width means the average horizontal distance between the side lot lines of a lot measured within the lot boundaries or the minimum distance between the side lot lines within the buildable area.

Maintenance and repair means general activities which do not involve structural alterations or repairs to the structure. These include redecorating, refinishing, remodeling, drywall and other wall coverings, trim, painting, insulation, siding, and shingles; upgrades to existing electrical and plumbing systems; the replacement of windows or doors; the repair of cracks and the application of waterproof coatings to foundations. It does not include replacement of components that would require any structural or load bearing alterations to accommodate the new component. Activities that are exempt under Section 58-235 (1)(g), or that are under official orders to correct a health or safety violation, shall also be considered as maintenance and repair.

MET tower means a meteorological tower used for the measurement of wind speed.
Mineral extraction and processing means the removal of rock, slate, gravel, sand, top soil or other natural material from the earth by excavating, stripping, leveling or any other such process.

Mitigation means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

Mobile home means a structure, transportable in one or more sections, which is eight body feet deep or more in width and is 32 body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems contained therein. The length of a mobile home means the distance from the exterior of the front wall (nearest to the exterior of the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments. The width of a mobile home means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

Mobile home park means any plot of ground owned by a person, state or local government upon which two or more units occupied for dwelling or sleeping purposes, regardless of mobile home ownership, are located and whether or not a charge is made for such accommodations.

Mobile home, permanent, means a mobile home placed upon land owned, rented or leased by the mobile home owner, provided that the wheels have been removed and a permanent foundation has been constructed and the mobile home has been permanently affixed to such foundation including an approved water and sewer system.

Motel means a building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of transients, and where there is no permanent occupancy of any unit except by the owner, his agent or employees.

Navigable water and *navigable waters* mean Lake Superior, Lake Michigan, all natural inland lakes within the state and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the state portion of the boundary waters, which are navigable under the laws of this state. Under section 281.31 (2) (d), Wisconsin Statutes, notwithstanding any other provision of law or administrative rule promulgated there under, shoreland codes required under section 59.692, Wisconsin Statutes, and this chapter do not apply to 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 nonnavigable streams before ditching or had no previous stream history; and

(3) Such lands are maintained in nonstructural agricultural use.

Nonconforming use or structure means any structure, land or water, lawfully used, occupied or erected at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, which does not conform to the regulations of this chapter or amendments thereto.

Nonmetallic mining and processing means the removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other such process. Operations conducted solely for domestic or farm use at an

individual's residence or farm and operations that affect less than one acre of total area over the life of the mining and processing operation are exempted from this definition.

Ordinary high-water mark means the point on the bank or shore up to which the presence or action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high water mark.

Private sewage disposal system means a sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks, and privately owned common sewer facilities including package treatment plants, lagoons and irrigation systems.

Public and semipublic buildings means structures principally of an institutional nature and serving a public need such as churches, hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services; but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

Public open space means any publicly owned open area including, but not limited to, the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public sewage disposal system means sewers and sewage treatment facilities used in connecting therewith which are maintained and operated by a municipality or sanitary district.

Recreational area means park, playground, ball field, ski hill, sport field, swimming pool, riding stables or riding academies or other facilities and area constructed for recreational activities and open for uses by the public or private organization.

Regional flood means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to have a 1% chance in any given year to occur on a particular water body because of like physical characteristics.

Resort means an area containing one or more permanent buildings utilized principally for the accommodation of the public for recreational purposes.

Roadside stand means a farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of farm products.

Routine maintenance of vegetation means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

Salvage yard means a site or facility at which salvageable materials are stored or sold or at which wrecking, dismantling or demolition of salvageable materials are conducted, including automobile junkyards, scrap metal salvage yards and similar uses, except commercial recycling operations. Two or more inoperative vehicles or pieces of equipment stored outside of a completely enclosed building shall constitute a salvage yard.

Satellite antenna dish means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition

is meant to include, but not be limited to, what are commonly referred to as "satellite earth stations," TVROs and satellite microwave antennas. The term "satellite antenna dish" is deemed as included under the definition of the term "structure."

Seasonal residence means a dwelling unit to be used for part-time occupancy during certain periods of the year and not intended for permanent year-round use. For the purposes of this definition, the term "seasonal residence" shall include camping trailers, travel trailers, and mobile campers or units used on a parcel for commercial or living purposes for more than 21 nonconsecutive calendar days within a calendar year.

Setback means the minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of-way, ordinary high water mark, or prospective line to the nearest vertical wall or other element of a building or structure. Any overhang of a building or structure that exceeds 24 inches from the exterior wall shall conform to all required setbacks listed in this Code.

Shooting range means an area designed and constructed for the discharge of firearms that is open for club members or public use; excluding individually owned and used target and archery ranges.

Shoreland means lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the flood plain, whichever distance is greater.

Shoreland- wetland zoning district means a zoning district, created as a part of a county shoreland zoning code, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department, which have been adopted and made a part of this code.

Shoreline Vegetation Protection Area means that area along the shoreline that is designed to contain, or has been verified as having, vegetation similar to that which would naturally occur on the site; in adequate amounts to provide groundcover, an understory layer, and overstory cover; and that provides wildlife habitat, helps control erosion, screens structures landward of the buffer, and enhances the natural scenic beauty of the water body and shoreline.

Sign means a name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land; and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sign, accessory, means a sign which is utilized in conjunction with a sign of a principal use.

Sign, gross surface area of, means the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside the limits of such sign and nor forming an integral part of the display.

Site plan, final, means a final drawing or design which will show the land use, construction or practice as set forth by the ~~county zoning committee~~ County Planning and Zoning Committee.

Site plan, preliminary, means a drawing or design which shows the proposed land use, construction or practice that will affect the present land form of the site and its vegetation.

Solid and hazardous waste disposal sites and facilities means commercial and municipal establishments or operations such as sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, and other establishments or operations for the storage, collection, transportation, transfer, processing, treatment,

recovery or disposal of solid or hazardous waste, including the land spreading of petroleum contaminated soils but excluding commercial recycling operations.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast; or
- (2) Human male genitals in a discernibly turgid state, even if completely and

opaquely covered.

Specified sexual activities means and includes any of the following, simulated or actual:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
- (3) Showing of human genitals in a state of sexual stimulation or arousal.
- (4) Excretory functions during a live performance, display or dance of any type.

Stormwater Retention Plan means a technical document that, if properly installed and implemented, will address the stormwater runoff from a 1 year storm as it is defined by NRCS, (Natural Resources Conservation Service), for Waushara County.

Street (avenue, place, road, terrace, parkway, boulevard or court) means a right-of-way of a required width, which affords a primary means of access to abutting property.

Street line means the dividing line between a lot and a continuous street.

Structural alteration means any change in the supporting members of a building such as bearings walls, wall columns, beams or girders or any substantial changes in the roof and exterior wall in excess of \$1,000.00 in value.

Structure means and includes any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or in the ground, or an attachment to something on a premises including, but not limited to, dwellings, accessory buildings, additions, signs, decks, aboveground and belowground swimming pools, platforms, porches, balconies, gazebos, satellite antenna dishes, fences, boathouses, stairs, walkways, sidewalks, piers, wharves, patios, bridges and retaining walls.

Temporary amusement park means any facilities, mobile structure, or structures used for recreation, entertainment, such as carnivals and circuses, which are located on a site for a period not longer than 30 days.

Toxic materials means materials which are capable of causing injury to living organisms by chemical means.

Unit development, planned, means a type of development that may be permitted in zoning districts to achieve greater design flexibility.

Unnecessary hardship means that circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the zoning ordinance.

Use, principal, means the primary use of a property or structures.

Water setback means the distance which a building shall be required to be set back, placed, located or erected from the ordinary high-water mark line.

Waterway means navigable water, rivers, streams, ditches, lagoons, canals and channels.

Wetlands means 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.

Wind energy facility means an electricity generating facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, MET towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s). It includes substations, MET towers, cables and wires and other buildings accessory to such facility. Wind energy facilities may only be constructed in areas that are zoned A-G and O-F on the official zoning map of Waushara County.

Wind turbine means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base and pad transformer, if any, provided that such a system only be a wind turbine for purposes of this Code if it both has a total height greater than 170 feet and nameplate capacity of greater than 100 kilowatts. Total height refers to the distance measured from the ground level to the blade extended at its highest point.

Wireless communications facilities means radio or TV broadcasting studios and/or towers, personal wireless service facilities, telephone and communications antennas, transmitters and receiving stations and other similar types of communication facilities. Home satellite service antennae and dishes are not included in this definition.

Yard means an open space on a lot which is unoccupied and obstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

Yard, front, means a yard extending along the full width of the front lot line between the side lot lines.

Yard, rear, means the portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot.

Yard, side, means a yard extending along a side lot line between the front and rear yards.

Zoning administrator means the official appointed to administer this chapter and whose duties are outlined in the division 3, article II of this chapter.

~~*Zoning committee* means a committee of the county as created by the county board of supervisors.~~

(Ord. No. 76, § 27.01, 3-13-1984; Ord. No. 90, § 2, 6-9-1987; Ord. No. 104, § 3, 7-12-1988; Ord. No. 159, §§ 20, 23, 24, 6-9-1992; Ord. No. 183, § 1(27.01), 3-8-1994; Ord. No. 227, §§ 4, 5, 4-8-1997; Ord. No. 269, § 23(27.01(82)), 3-9-1999; Ord. No. 289, § 1(27.01), 5-9-2000; Ord. No. 343, 3-12-2002; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 464, 11-14-2006; Ord. No. 470, 3-13-2007; Ord. No. 490, 2-12-2008)

Cross references: Definitions generally, § 1-2.

SECTION 58-235 IS HEREBY REPEALED IN IT'S ENTIRETY AND REPLACED TO READ AS FOLLOWS: (Effective Date April 17, 2012)

Sec. 58-235. Nonconforming structures and uses.

(1) The following general provisions shall apply to all nonconforming uses and structures:

(a) 'Continued use.' Any nonconforming use or structure which existed lawfully at the time of the adoption of the ordinance from which this chapter is derived or amendment thereto may be continued although such use or structure does not conform with the provisions of this chapter subject to the limitations listed in subsection (b) of this section.

(b) 'Limitations.' Any nonconforming use or structure which constitutes a human health hazard shall not be permitted to continue as nonconforming. No nonconforming use during its total lifetime shall be expanded in excess of the parameters of Sec. 58-235 (1) (e) (1)-(3), unless permanently changed to conform to the regulations of this chapter.

(c) 'Discontinued nonconforming use.' If a nonconforming use is discontinued for a period of 12 months, any future use of the structure or property shall conform to the code.

(d) 'Maintenance and repair of nonconforming structure.' An existing structure that was lawfully placed when constructed but that does not comply with one or more of the required setbacks of this code may be maintained and repaired within its existing building envelope.

(e) 'Repairs and expansions of nonconforming structure.'

(1) An existing structure that was lawfully placed when constructed but is less than one half of any required setback of this code (other than required water setback) shall comply with (d) listed above.

(2) An existing structure that was lawfully placed when constructed but is one half or more of any required setback of this code (other than required water setback) shall comply with (d) above, and may also expand its total building footprint by no more than 25%, providing the expansion does not increase the degree of nonconformity, is not constructed to a height that is higher than any portion of the existing structure, and complies with all other provisions of this code, including the impervious surface limitations of section 58-903(q), if applicable.

(3) In lieu of a 25 % building footprint expansion, an existing non-conforming structure that is one half or more of any required setback of this code (other than water setback), may repair, alter, or replace up to 25 % of the structural components of the existing non-conforming structure. These structural components include all portions of load bearing walls, roof or floor rafters, foundations, and window and doorway headers.

(f) An existing non-conforming use or structure that was originally lawfully placed or utilized, and which is non-conforming according to more than one section of this code shall comply with the standards of the most restrictive section.

(g) 'Exemptions' Nonconforming structures damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation. As required by section 59.69(10m), or section 59.692(1s), Wisconsin Statutes, if a landowner can establish that a nonconforming structure was damaged or destroyed after March 2, 2006 (or October 14, 1997 if within the shoreland area) by violent wind, vandalism, fire, flood, ice, snow, mold or infestation, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:

(1) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his agent, or due to general neglect, deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this chapter.

(2) Except as provided in Wis. Stats. § 87.30(1d), nonconforming structures that are subject to regulation under chapter 18 of this Code may not be reconstructed or repaired except in compliance with such chapter.

(3) Stormwater runoff and erosion control measures shall be provided in accordance with the Wisconsin Construction Site Best Management Practices Handbook.

(4) Any filling, grading or dredging associated with reconstruction or repair must comply with subsection 59-903(o).

(5) The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged nonconforming structure had immediately before the destruction or damage occurred.

(6) Repairs are authorized under this subsection only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation, and only that portion of the nonconforming structure that has been destroyed may be reconstructed.

(2) In addition to the general provisions listed in paragraph (1) above, the following provisions shall also apply to all nonconforming uses or structures within the shoreland area that do not meet required water setbacks:

(a) 'Maintenance and repair of nonconforming principal structure.' An existing principal structure that was lawfully placed when constructed but that is less than 35 feet from the ordinary high water mark (60 feet from the ordinary high water mark of class I, II, and III trout streams) may be maintained and repaired within its existing building envelope.

(b) 'Vertical expansion of nonconforming principal structure.' An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setbacks may be expanded vertically, provided that all of the following requirements are met:

(1) The use of the structure has not been discontinued for a period of 12 months or more.

(2) The existing principal structure is at least 35 feet from the ordinary high water mark (60 feet from the ordinary high water mark of class I, II, and III trout streams).

(3) Vertical expansion is limited to the existing building footprint with no increase in impervious surfaces, and to the height limitations in s. 58-903(t).

(4) The County shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner within the life of the land use permit. The mitigation plan shall include enforceable obligations of the property owner to establish and / or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Register of Deeds. For purposes of administration, and in order to meet the above requirements the mitigation plan shall meet the requirements specified in Appendix "A" of this code.

(5) All other provisions of the shoreland and zoning code shall be met.

(c) 'Expansion of nonconforming principal structures where all new construction will meet required setbacks, including the water setback.' An existing principal structure that was lawfully placed when constructed, and that does not comply with the required water setback, but is at least 35 feet from the ordinary high water mark (60 feet from the ordinary high water mark of class I, II, and III trout streams) may be expanded horizontally, landward or vertically provided that the expanded area meets all required setbacks, and provided that all of the following requirements are met:

(1) The use of the structure has not been discontinued for a period of 12 months or more.

(2) The County shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner within the life of the land use permit. The mitigation plans shall include enforceable obligations of the property owner to establish and / or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Register of Deeds. For purposes of administration, and in order to meet the above requirements the mitigation plan shall meet the requirements specified in Appendix "A" of this code.

(3) All other provisions of the shoreland and zoning code shall be met.

(d) 'Replacement or relocation of nonconforming principal structure.' An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setback may be replaced or relocated on the property provided all of the following requirements are met:

(1) The use of the structure has not been discontinued for a period of 12 months or more.

(2) The existing principal structure is at least 35 feet from the ordinary high water mark (60 feet from the ordinary high water mark of class I, II, and III trout streams).

(3) No portion of the replaced or relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure.

(4) The replaced or relocated structure is limited to its existing building envelope, including no increase in building footprint or impervious surfaces, unless vertical expansions are done in accordance with the provisions of section 58-235(2)(b).

(5) The county determines that no other location is available on the property to construct a principal structure that can be contained within the existing building envelope and that will result in compliance with the required water setback.

(6) The County shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner within the life of the land use permit. The mitigation plans shall include enforceable obligations of the property owner to establish and / or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Register of Deeds. For purposes of administration, and in order to meet the above requirements the mitigation plan shall meet the requirements specified in Appendix "A" of this code.

(7) All other provisions of the shoreland and zoning code shall be met.

(e) 'Boathouses.' The maintenance and repair of nonconforming boathouses which extend beyond the ordinary high water mark of any navigable waters shall be required to comply with s. 30.121, Stats.

(f) Any structural alteration or repair to any nonconforming use or structure located within the floodplain shall comply with chapter 18 of this Code.

(g) An existing accessory building or structure that was lawfully placed when constructed but that does not comply with the required water setbacks of this code may be maintained and repaired within its existing building envelope

(h) Any expansion, relocation, or replacement of a non-conforming dwelling shall require the removal of all other structures that contain living space or amenities associated with human habitation, located on the same lot or parcel.

(Ord. No. 76, § 2.10, 3-13-1984; Ord. No. 122, § 1, 6-13-1989; Ord. No. 289, § 1(2.10), 5-9-2000; Ord. No. 512, 3-10-2009; Ord. No. 512, 3-10-2009)

Sec. 58-392. Designation. (Effective Date April 17, 2012)

(a) *Generally.* This O-SW zone includes all shorelands subject to regulation under article VI of this chapter which are designated wetlands ~~of five acres or more~~ as shown on the wetlands maps that have been adopted and made a part of this chapter in section 58-277. Wetlands located in the shoreland area that extend across corporate limits of an adjacent municipality or across the shoreland boundary shall be included in this zone if the total contiguous wetland area is five acres or more.

(b) *Locating shoreland/wetland boundaries.* Where an apparent discrepancy exists between the O-SW shoreland/wetland zone boundary shown on the official wetlands maps and the actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate field office of the state department of natural resources to determine if the shoreland/wetland zone as mapped is in error. If the department staff concur with the zoning administrator that particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a land use permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning map, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period of time.

(Ord. No. 76, § 8.02, 3-13-1984)

SECTION 58-823 IS HEREBY AMENDED TO READ AS FOLLOWS: (Effective Date April 17, 2012)

Sec. 58-823. Area regulations.

(a) *Lot reductions.* After adoption of the ordinance from which this section is derived, no lot area shall be so reduced that the dimensional and yard requirements required by this chapter cannot be met.

(b) *Lot divisions.* No improved lot shall hereafter be divided into two or more lots after the adoption of the ordinance from which this section is derived, and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform with all applicable regulations of the zone in which the property is located.

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

(2) *Substandard lots not served by public sanitary sewer.* A substandard lot not served by a public sanitary sewer which is at least 10,000 square feet in area and at least 65 feet in width at the building setback line and at least 65 feet in width at the ordinary high-water mark may be used as a building site upon issuance of a land use permit if it meets all of the requirements of subsection (c)(1)a--d of this section.

(3) *Other substandard lots.* Except for lots which meet the requirements of subsections (c)(1) or (c)(2) of this section, a building land use permit for the improvement of a lot having lesser dimensions than those stated for the respective zones shall be issued only after granting of a variance by the board of adjustment.

(4) *Planned Unit Developments.* Planned Unit Developments shall conform to the zoning requirements of the respective RM, RS-P, or RM-P districts in which they lie, and the requirements of Chapter 42- Waushara County Code-Subdivisions.

(Ord. No. 76, § 2.11, 3-13-1984)

SECTION 58-825 IS HEREBY CREATED TO READ AS FOLLOWS: (Effective Date April 17, 2012)

Sec. 58-825. Height regulations and exceptions.

(d) Heights of any structures or buildings within the required water setbacks shall conform to the provisions of section 58-903(t) of this code.

(Ord. No. 76, § 2.13, 3-13-1984; Ord. No. 183, § 1(2.13), 3-8-1994; Ord. No. 421, 4-12-2005)

SECTION 58-826(c)(3) IS HEREBY AMENDED TO READ AS FOLLOWS: (Effective Date April 17, 2012)

Sec. 58-826. Setback.

(c) *Water setback.* All buildings and structures, except those enumerated in this subsection (c), shall be set back at least 75 feet from the ordinary high-water mark of navigable waters, except class I, II, and III trout streams, in which case the required setback from the ordinary high-water mark shall be at least 100 feet:

- (1) All boathouses shall be set back a minimum of ten feet from the ordinary high-water mark or two feet above the ordinary high-water mark, whichever is less.
- (2) Patios must be 75 feet from the ordinary high-water mark (100 feet from the ordinary high-water mark of class I, II, and III trout streams), whether poured-in-place, prefabricated, patio block, brick or stone.
- (3) Stairs, elevated walkways and piers landward of the ordinary high-water mark are allowed within the required setback only when necessary to access the shoreline because of steep slopes, rocky or wet unstable soils, and only if the following conditions apply:
 - a. A maximum width of 60 inches (outside dimensions) is allowed. Maximum allowable width shall be measured perpendicular to the direction of travel
 - b. Attached benches, seats, tables, etc., are prohibited.
 - c. Canopies and/or roofs are prohibited.
 - d. Stairways, walkways, piers, and landings shall be elevated above the ground surface rather than being excavated. Stairways, walkways and sidewalks established for the purposes of accessing boathouses, gazebos or other buildings, or that are parallel with the water rather than perpendicular to the water shall be set back at least ten feet from the ordinary high water mark.
 - e. Landings are allowed when required for safety purposes and shall not exceed 40 square feet. A maximum width of 60 inches (outside dimensions) is allowed. Maximum allowable width shall be measured perpendicular to the direction of travel.
- f. (4) 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. (5) 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.

(4) (6) _____ 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, foundations, 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. The structure that is the subject of the request for a permit has no sides or has open or screened sides. The structure shall not be attached to any other structure unless the side of such structure at the point of attachment is open or screened.
- e. The side yard shall be the minimum required in the specific zoning district.
- f. The structure shall not exceed a height of 15 feet.
- g. Prior to issuance of a zoning permit for such structure, a vegetative buffer zone shall be established that covers at least 70 percent of the half of the shoreland setback area that is nearest the water. The definition of a vegetative buffer zone is an area along, and parallel to, the ordinary high-water mark, one-half of the distance from the water's edge landward to the building setback line, that is either undisturbed or restored with native vegetation that provides natural features and functions for fish and wildlife habitat, water quality protection, and natural scenic beauty. For the purposes of administering the provisions of this subsection, the standards contained in NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat shall be used as a guide in determining if such natural features and functions are sufficient. In addition to such provisions, the vegetative buffer zone shall provide the following:
 1. The vegetative buffer zone shall preserve or establish a full range of water quality, habitat and natural shoreline beauty protection functions and shall specifically provide measures:
 - i. To screen from view from the water all other

structures within 300 feet of the ordinary high-water mark to the extent feasible; and

- ii. To detain or infiltrate all runoff prior to leaving the buffer area.
2. All vegetative buffer zones shall provide a tree canopy, shrub layer and ground cover.
 3. The buffer area shall be a no disturbance area as described in section 59-903(n).
 4. Placement of the structure is not authorized until the vegetative buffer zone has been established for at least three months.
 5. Any permit issued under this section shall not be valid until notice of its conditions is recorded by affidavit with the county register of deeds.
 6. Structures that, in the opinion of the ~~land conservation department~~ Land Conservation and Zoning Department, are necessary to control shoreline erosion caused by wave or ice action on navigable waters are allowed within the required water setback. The design and construction techniques of said structures shall be approved by the ~~land conservation department~~ Land Conservation and Zoning Department.
- h. (7) All of the structures listed in ~~a (1)~~ a (1) through ~~g (5)~~ g (5) of this section located 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 be located within the view corridor described in subsection 58-903(n).
- i. (8) Repairs, modifications, or replacement of any of the structures listed in a through g of this section which existed lawfully at the time of the adoption of this Code and are located 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), but located outside of the view corridor shall conform to section 58-235 of this Code.
- j. (9) In the case of a property that does not have a clearly defined view corridor, one shall be established and identified based primarily on existing vegetation, but shall also be based on the location of any existing structures 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). All future structures and 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 be limited to that corridor.

- (10) Broadcast signal receivers and satellite antenna dishes that are six feet or less in diameter are permitted within the required water setback.
- (11) Utility transmission and distribution lines, pole, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch.Comm 83, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or to otherwise control storm water runoff from the structure.
- (12) Paths or roads that are necessary for public access or to carry out any other permitted activity of this code, including but not limited to, wildlife habitat enhancement, or approved horticultural or silvicultural practices shall be permitted as necessary.
- (13) Buildings and structures to be constructed or placed in a floodplain shall comply with the applicable requirements of Chapter 18 of the Waushara County Floods Code.

(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 a least one dwelling on either side of the applicant's lot, within ~~200~~ 250 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 class I, II, or III trout streams. ~~This subsection shall not apply to state or federal (class "A") highways or class I, II, or III trout streams.~~

(Ord. No. 76, § 2.14, 3-13-1984; Ord. No. 194, § 4, 4-11-1995; Ord. No. 289, § 1(2.14), 5-9-2000; Ord. No. 320, 5-8-2001; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 490, 2-12-2008)

**SECTION 58-827(b) IS HEREBY AMENDED TO READ AS FOLLOWS:
(Effective Date April 17, 2012)**

Sec. 58-827. Structures permitted within setback lines.

(b) Petroleum and gas transmission lines, telephone, telegraph and power transmission towers, poles and lines, water towers, pumping stations, well pump house covers, private on-site wastewater systems that comply with ch. Comm 83, and other utility structures that have no feasible alternative location outside of required setbacks, as long as those structures, if located within the shoreland area, employ best management practices to infiltrate or otherwise control stormwater runoff from the structure. ~~and portable equipment both above and below the ground that are readily removable in their entirety. Additions to and replacements of all such structures may be made, provided that the owner will file with the zoning administrator an agreement in writing that the owner will move or remove all new construction additions and replacements erected after the adoption of the ordinance from which this section is~~

~~derived at his expense, when necessary to the public interest (i.e., highway construction, airport, sewer and water lines, etc.).~~
(Ord. No. 76, § 2.15, 3-13-1984)

SECTION 58-903 IS HEREBY AMENDED TO READ AS FOLLOWS: (Effective Date April 17, 2012 except (q) which remains effective on February 1, 2014)

Sec. 58-903. General shoreland zoning provisions.

(a) *Generally.* The zoning provisions of this chapter apply to the shoreland jurisdictional area as defined by section 58-902(a)(1) and (2). Additional restrictions may apply in the shoreland/wetland zone as provided in divisions 5 and 6, article IV of this chapter.

(b) *Lot size regulations.* The following minimum lot sizes shall apply only if more restrictive than those established for the underlying zone:

(1) Lots served by public sanitary sewer shall have a minimum average width of 65 feet and a minimum width of 65 feet at the building line and at the ordinary high-water mark. The minimum lot area shall be 10,000 square feet.

(2) Lots not served by public sanitary sewer shall have a minimum average width of 100 feet and a minimum width of 100 feet at the building line and at the ordinary high-water mark. The minimum lot area shall be 20,000 square feet.

(c) *Substandard lots.* Substandard lots shall meet the requirements of section 58-823(c).

(d) *Building and structure setbacks.* Building and structure setbacks shall meet the requirements of section 58-826.

(e) *Building elevation.* All structures intended for human habitation or occupancy shall have the lowest inhabitable floor constructed not less than two feet above the ordinary high-water mark or the regional flood elevation, whichever elevation is higher.

(f) *Boathouses.* A single boathouse may be allowed for each buildable lot of record, provided that such boathouse shall not contain plumbing or be used for human habitation. In addition, the following standards apply:

(1) No part of any boathouse shall exceed 15 feet in height.

(2) No decks or other structures associated with human habitation shall be attached or part of a boathouse.

(3) All boathouses shall have pitched roofs.

(4) No boathouse shall exceed 180 square feet in area. Any overhang of a boathouse that exceeds 24 inches from the exterior wall shall be included in calculating this square footage requirement.

(5) All boathouses shall be set back a minimum of ten feet from the ordinary high-water mark, or two feet above the ordinary high-water mark, whichever is less. Any stairway, walkway or sidewalk that accesses a boathouse shall also be set back at least ten feet from the ordinary high water mark.

(6) Prior to the issuance of a land use permit for a boathouse, the landowner shall be required to execute a verified affidavit and restrictive covenant running with the land regarding the use of the accessory building for living purposes, meeting the standards described in section 58-231.

(g) *Houseboats.* Houseboats stored above the ordinary high-water mark shall not be used for human habitation.

(h) *Piers, docks, wharves, boat shelters and boat hoists.* Piers, docks, wharves, boat shelters and boat hoists extending below the ordinary high-water mark shall comply with Wis. Admin. Code ch. NR 326, and other applicable state or federal regulations.

- (i) *Obstructions of navigable waters.* No watercraft or float shall be anchored, moored, or attached to the shore in any manner that will obstruct or interfere with:
- (1) Ingress and egress to or from public boat launching sites, docks, parks, swimming beaches, or other public access points.
 - (2) The ingress or egress of adjacent riparian property owners to and from navigable waters.
 - (3) The free navigation of any river, canal, water channel or slip.
- (j) *Dumps and sanitary landfills.* Dumps, sanitary landfills, junkyards and salvage yards are prohibited within the shorelands.
- (k) *Burning of sawdust.* The depositing or burning of sawdust is prohibited within 300 feet of navigable waters. All areas used for the burning of sawdust shall be surrounded by an unobstructed plowed firebreak 16 feet wide.
- (l) *Dumping and disposal.* The dumping or disposal of any fluid or viscous materials that are toxic, or in any manner would create a human health hazard including surface irrigation, lagooning or burial of sewage or other similar waste effluents or materials, is prohibited within 300 feet of navigable waters or within the floodplain or natural resource prevention zone. This provision does not include the spreading of fertilizer or the proper application of farm chemicals.
- (m) *Livestock housing.* Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located, designed and constructed so as to prevent animal waste material from entering watercourses, waterways, or other navigable waters, and shall be located not less than 100 feet from navigable waters.
- (n) *Removal of shore cover.*
- (1) The cutting or removal of woody perennial vegetation within the shorelands shall be carried out in a manner that will maintain or tend to improve water quality and preserve scenic beauty. Soil conservation and timber harvesting practices which are effective in controlling erosion and in preventing pollutants from entering navigable waters shall be used. These provisions shall not apply to the removal of shore cover for the sole purpose of improving trout habitat in designated class I, II and III trout waters. Vegetation may not be removed outside of the view corridor, except for the removal of exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation possessing an imminent safety hazard. Any removed vegetation shall be replaced by planting a comparable non-invasive species of vegetation in the same area.
 - (2) Slash material shall be disposed of in accordance with Wis. Stats. § 26.12(6) and (7).
- (3) The cutting or removal of woody perennial vegetation 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 be prohibited, except as follows:
- a. View corridor - The establishment of a view corridor is exempted from the provisions of removal of shore cover, providing that the combined width of all access and viewing corridors on all riparian lots or parcels under the same ownership does not exceed both 30 percent of the shoreline frontage and no more than 30 feet in any 100 feet ~~or 30 percent~~ of the lot or parcel's width, as measured ~~along at~~ the ordinary high-water mark, shall be cut to the depth of the 35-foot or 60-foot strip. No filling, grading, lagooning, dredging, ditching or excavating is allowed 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), except within this view corridor, and in accordance with subsection 58-903(p) herein.

b. Timber harvest is exempted from the provisions of this subsection (m)(3) if:

1. Such activity complies with Wisconsin's Forestry Best Management Practices for Water Quality described in the field manual published by the state department of natural resources (DNR);
2. The lands on which such activity takes place are enrolled in a forest management plan approved by the DNR; and
3. Such lands are located in a district which allows commercial timber harvest as a permitted use.

c. Agricultural cultivation is exempted from the provisions of this subsection (m) if:

1. Such activity complies with best management practices for agriculture described in the field manual published by the state department of agriculture;
2. The lands on which such activity takes place are enrolled in a farm plan approved by the county ~~land conservation department~~ Land Conservation and Zoning Department; and
3. Such lands are located in a district which allows commercial agriculture as a permitted use.

(4) Any paths or roads permitted within the shoreland area shall be constructed to be effective in controlling erosion, and shall comply with the filling, grading, lagooning, dredging, ditching and excavating sections of this article. Any path, road or access constructed shall be constructed in such a fashion and located so that 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. Such path, road or access shall terminate once it reaches the ordinary high-water mark. A pier may extend from the path, road or access beyond the ordinary high-water mark, provided that it meets the standards required by the state department of natural resources.

(5) If any of the standards of this section are violated, the county shall seek, in addition to other penalties provided by this article, restoration of all the natural functions of the shoreline vegetation protection area in accordance with the standards contained in NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat, or at a minimum restoration of the shoreline vegetation to the level that existed prior to the violation in compliance with a plan prepared by a qualified professional and approved by the Land Conservation and Zoning ~~zoning~~ Department. In reviewing the plan the Land Conservation and Zoning Department shall determine if such plan adequately screens uses from the water, maintains a stable bank, retards the flow of pollutants and protects aesthetic values. As part of restoration that may be required under this section because of a violation of these standards, or that may be required in other parts of this code or as a result of a condition of a decision of the ~~zoning committee~~ Planning and Zoning Committee, board of adjustments or the zoning administrator, a verified affidavit and restrictive covenant running with the land regarding ~~this~~ vegetation protection area shall be executed. Such affidavit and restrictive covenant running with the land shall be recorded in the register of deeds office for the county and shall be considered a restrictive covenant running

with the land and shall inure to the benefit of the county, all abutting and contiguous properties to that of the subject property, as well as the residents of the county.

(6) ~~Except in the case of class I, II, and III trout streams,~~ if a principal building setback line is less than ~~35~~ 75 feet from the ordinary high water mark, or less than 100 feet from the ordinary high water mark of a class I, II, and III trout stream, than a vegetative buffer zone shall be established as described, but shall not be required closer than 15 feet to the principal structure, that covers at least 70 percent of the half of the building setback line that is nearest the water.

(7) A land use permit is required for any cutting, removal, or replacement of shoreline vegetation outside of the access and viewing corridor.

(o) *Storage.* Storage within the shoreland area shall meet the following requirements unless otherwise specified:

(1) *Accessory use.* All storage facilities shall be permitted only as an accessory use.

(2) *Grade.* Storage facilities shall not be less than two feet above the ordinary high-water mark except underground tanks.

(3) *Bulk materials.* Bulk materials, such as coal, sand, gravel, limestone or similar materials subject to erosion, shall be enclosed on three sides by a retaining wall in such manner to prevent erosion, and it shall be drained away from navigable water.

(4) *Indoor storage.* Petroleum products, chemicals and chemical compounds packaged in paper, cardboard, glass or metal which do not require outdoor storage, and plaster, lime and cement or similar products packaged in paper or cardboard containers shall be stored in an enclosed building when located within 300 feet of navigable waters.

(5) *Outdoor storage.* Petroleum products, chemicals, chemical compounds and inflammables packaged in any type of container or delivered in bulk which may not be stored indoors by reason of fire codes, insurance or bulk, when stored above the ground must have protective measures installed to prevent any spillage or leakage of the materials from entering any body of water or watercourse; or must be stored in an underground tank.

(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~~ Land Conservation and Zoning 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.
- e. Such filling and grading done within the GSW zone is done in accordance with the applicable sections of that zone.

(2) *Land use permit required.* A land use permit is required for filling, grading, lagooning, dredging, ditching and excavating in the shoreland where such activity involves any filling or grading of any area which is within 300 feet of the ordinary high-water mark of a navigable water has both of the following:

- a. Surface drainage towards the navigable body of water; and
- b. Involves a total area of between 2,000 and 10,000 square feet.

(3) *Conditional use permit required.* A conditional use permit is required for filling, grading, lagooning, dredging, ditching and excavating in the shoreland where such activity involves any filling or grading of any area which is within 300 feet of the ordinary high-water mark and has both of the following:

- a. Surface drainage towards the navigable body of water; and
- b. Involves a total area of greater than 10,000 square feet.

(4) *Permit conditions.* Upon receipt of permit application under subsections (p)(2) or (p)(3) of this section, the zoning administrator shall submit such application to the county ~~land conservation department~~ Land Conservation and Zoning Department technical staff for review and recommendations. Based upon the recommendations of the ~~land conservation department~~ Land Conservation and Zoning Department technical staff and other relevant information, the zoning administrator or ~~zoning committee~~ Planning and Zoning Committee may attach such conditions to the permit as it deems necessary to protect water quality and preserve floodplain storage capacity.

**** (The following section remains Effective February 1, 2014)**

(q) Impervious surfaces. Impervious surface standards are established to protect water quality and fish and wildlife habitat and protect against pollution of navigable waters. These impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high water mark of any navigable waterway, and shall require all of the following:

(1) 'Calculation of percentage of impervious surface' 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 300 feet of the ordinary high water mark by the total surface area of that portion of the lot or parcel that is within 300 feet of the ordinary high water mark, and multiplied by 100. All impervious surfaces on the lot or parcel, that are deemed to be a public road shall be excluded from these calculations. All calculations shall be done by

the landowner or their representative on forms furnished by the Land Conservation and Zoning Department, and shall be submitted to the Land Conservation and Zoning Department along with a copy of a survey or plat which clearly shows the total square footage of the parcel. If such a survey or plat cannot be furnished, or if all of the property irons on said survey or plat are not found, then it is the landowner's responsibility to have a survey done which clearly shows the total square footage of the parcel and all of the property irons clearly shown, and provide a copy of the survey to the Land Conservation and Zoning Department.

(2) 'Impervious surface standard' Up to 15% impervious surface is allowed on that portion of the lot or parcel that is within 300 feet of the ordinary high water mark.

(3) "Maximum impervious surface' Greater than 15% impervious surface, but less than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark is allowed, providing that a land use or conditional use permit is issued that requires a mitigation plan meeting the requirements of (r) of this section.

(4) 'Existing impervious surfaces' For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the standards in subs (2) and (3), the property owner may do any of the following:

(a) Maintenance and repair of all impervious surfaces;

(b) Replacement of existing impervious surfaces with similar surfaces within the existing building envelope, providing all other provisions and setbacks of this code are complied with;

(c) Relocation or modification of existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on January 1, 2012, and the construction meets the applicable setback requirements in NR 115.05(1)(b), Wisconsin Administrative Code and all the provisions of Chapter 58, Waushara County Zoning Code.

(The following sections shall become effective on April 17, 2012)

(r) 'Mitigation plans' Mitigation plans shall include all of the following:

(1) Mitigation plans shall be approved by the county and implemented by the property owner within the life of the land use permit.

(2) Mitigation plans shall include enforceable obligations of the property owner to establish and / or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

(3) The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted.

(4) The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Register of Deeds.

(5) For purposes of administration, and in order to meet the requirements of (2) and (3) above;

(a) Mitigation plans for sites that have greater than 15% impervious surface, but less than 30% impervious surface on the portion of a lot or

parcel that is within 300 feet of the ordinary high water mark shall meet the requirements specified in Appendix "A" of this code.

(s) 'Nonconforming uses and structures' Nonconforming uses and structures within the shoreland area shall comply with the requirements of section 58-235 of this code.

(t) 'Height limitations' No construction is permitted which results in any structure or building taller than 35 feet within 75 feet of the ordinary high water mark of any navigable waters (100 feet from the ordinary high-water mark of class I, II, and III trout streams).

(Ord. No. 76, § 3.02, 3-13-1984; Ord. No. 159, §§ 9--12, 6-9-1992; Ord. No. 183, § 1(3.02), 3-8-1994; Ord. No. 269, § 1(15, 16), 3-9-1999; Ord. No. 320, 5-8-2001; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 490, 2-12-2008)

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

, Chairman
Waushara Co. Board of Supervisors