ORDINANCE NO. 583
ORDINANCE AMENDING WAUSHARA COUNTY CODES
NOS. 18, 22, 40, 42 & 58

WHEREAS, the Waushara County Planning & Zoning Committee did file attached draft #5 Ordinance Amending Waushara County Codes, and

WHEREAS, the Waushara County Planning Committee did consider said application at a regular meeting held at the Waushara County Courthouse on February 19, 2015, and

WHEREAS, the said Planning Committee did approve said request with the following conditions:

1. The implementation of these code changes shall be immediate, except Waushara County continues to delay enforcement of Section 58-903(q) of Waushara County’s Zoning Code relative to Impervious Surface regulations. Implementation of Section 58-903(q) shall be delayed until the last date of implementation mandated by Wisconsin DNR for NR-115 standards, which is currently October 1, 2016.
2. The application is referred to the Waushara County Board of Supervisors, for their consideration.

THEREFORE, the Waushara County Board of Supervisors do hereby ordain as follows:

1. That the Waushara County Codes Nos. 18, 22, 40, 42 and 58 are amended.
2. That these Codes shall be effective upon approval and recording with the office of the County Clerk for Waushara County.

Ordinance No. 583

Ayes ______ Nays ______ Abstain ___Absent _____ { X } Voice Vote

☑ Approved and adopted this 17th day of March, 2015.

☐ Denied this 17th day of March, 2015.

Approved as to Form:
/s/ Ruth Zouski
Ruth Zouski
Corporation Counsel

Submitted by:
/s/ Mark Kerschner
Mark Kerschner, Chair
Waushara County Planning & Zoning

Attest:
/s/ Melanie R. Stake
Melanie R. Stake
Waushara County Clerk

Signed by:
/s/ Donna R. Kalata
Donna R. Kalata, Chair
Waushara County Board of Supervisors
ORDINANCE NO. 583 (DRAFT#5)1-30-15

ORDINANCE AMENDING WAUSHARA COUNTY CODE
CHAPTERS 18, 22, 40, 42, AND 58

WHEREAS, Waushara County has enacted Chapters 18, 22, 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 18 (Floods):

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

Explanatory notations are in italics

A PORTION OF SECTION 18-7 IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

Sec. 18-7. Official maps and revisions.

The boundaries of all floodplain districts are designated as A, AE, AH, AO, or A1-30 on the maps based on the flood insurance study (FIS) listed below. Any change to the base flood elevations (BFE), or any changes to the boundaries of the floodplain or floodway in the FIS, or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA, through the letter of map change process (see § 18-39 amendments) before it is effective. No changes to (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Zoning Administrator, Waushara County. If more than one map or revision is referenced, the most current approved information shall apply.

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**FIRM Effective Date:** 6/18/2013

**FIS:** 55137CV000A

**FIS Effective Date:** 6/18/2013

**Approved by:** The DNR and FEMA

**Official maps:** Based on other studies

(2) The Upper White River Millpond Dam Failure Analysis Approval and Hazard Rating Assignment, dated November 29, 2011.

   Approved by: The DNR

(3) The Dam Failure Analysis and Hazard Rating Assignment for the Wild Rose Dam, dated October 4, 2013.

   Approved by: The DNR

(4) The Dam Failure Analysis Approval and Hazard Rating Assignment, Pine River Dam, Section 4, Town of Leon, dated December 2013.

   Approved by: The DNR

(5) Floodplain Study Appendix: All DNR- and FEMA-approved floodplain maps, flood profiles, floodway data tables, regional or base flood elevations and other information shall be located in the appendix on the last page of this code. The community shall provide the most up to date appendix to the DNR and FEMA regional offices.

Explanatory Note: The Town of Leon has had a dam failure analysis prepared for the Pine River Millpond dam. This analysis includes a detailed study of the area downstream of the dam on the Pine River that would be affected in case of dam failure. This more accurate data is being adopted for use in administering floods code requirements in the areas downstream of the Pine River Dam.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 22—Article IV (Manure Waste Storage):

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

Explanatory notations are in italics

A PORTION OF SECTION 22-112 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 22-112. Findings and declaration of policy.
(a) The board of supervisors finds that storage of manure and agricultural wastes in storage facilities not meeting technical design and construction standards is a threat to cause pollution of the surface waters and groundwaters of the county and may result in harm to the health of county residents and transients, to livestock, aquatic life and other animals and plants, and to the property tax base of the county. The board of supervisors also finds that improper management or utilization of manure and agricultural wastes,
including land application of stored animal waste, may cause pollution of the groundwaters and surface waters of the county.

(b) The board of supervisors further finds that the technical standards developed by the United States Department of Agriculture Natural Resources Conservation Service (USDA-NRCS), as applied by the land conservation committee, provide effective, practical, and environmentally safe methods of storing and utilizing manure and other agricultural wastes.

A PORTION OF SECTION 22-113 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 22-113. Purpose.
The purpose of this article is to regulate the location, design, construction, installation, alteration, closure, and use of manure agricultural waste storage facilities, in order to prevent water pollution and thereby protect the health of county residents and transients, prevent the spread of disease, and promote the prosperity and general welfare of the citizens of the county. It is also intended to provide for the administration and enforcement of this article and to provide penalties for its violation.

A PORTION OF SECTION 22-114 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 22-114. Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural Waste means other animal or agricultural wastes including but not limited to milkhouse waste and silage leachate when stored on a concrete pad or other similar impermeable surface.

Manure means excreta from livestock or poultry which may contain materials, such as bedding, soil, hair, feathers, or other debris normally included in typical manure handling operations. Manure may also be excreta from livestock or poultry mixed or diluted with water or other agricultural waste, milk house waste.

Manure Waste storage facility means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure and other animal or agricultural wastes.

Permit means the signed, written statement issued by the department under this article authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter, or abandon a manure waste storage facility and to use or dispose of waste from the facility.

Explanatory Note: As we looked at our code and what wastes were necessary to be regulated in their treatment, storage, and dispersal, it became apparent that some updating to our definitions section would be needed if we wanted to regulate things
consistently for all farms. Silage Leachate, milkhouse waste, and manure are all possible pollutants and health hazards if not stored, treated, and dispersed of properly, and thus our definitions have been changed to address all of these items for farms of all sizes.

Sec. 22-171. Activities subject to regulation.
(a) Generally. Any person, who designs, constructs, closes, installs, operates, or substantially alters a manure waste storage facility, or who employs another person to design construct, install or substantially alter such facility on land subject to this article, shall be subject to the provisions of this article, and will be entitled to apply for cost sharing with the department. The requirements of this article are in addition to any other permits or requirements that may apply to construction or closure of manure waste storage facilities.
(b) Closure requirement. A manure waste storage facility must be closed and restored to a safe and sanitary condition in compliance with NRCS Technical Standard 360 when an operation where the facility is located ceases operation, or manure waste has not been added or removed from the facility for a period of 24 months. An exemption to this section may be granted by the committee if all of the following conditions exist:
   (1) The waste storage impoundment is converted to other uses and, if applicable groundwater standards are met. The converted impoundment shall meet the requirements as set forth in the applicable NRCS, FOTG, Section IV, practice standard for the intended purpose. In this instance, the facility is considered abandoned and shall not be used for the purpose of storing manure or agricultural waste;
   (2) The facility poses no health and human risk;
   (3) The facility poses no environmental threat to surface or ground water;
   (4) The owner maintains a closure plan that identifies the requirements outlined in standard 360;
   (5) The facility is designed, constructed and maintained in accordance with NR 151.05;
   (6) The facility is designed to store manure or agricultural waste for a period of time longer than 24 months; and
   (7) Retention of the facility is warranted based on anticipated future use.

If all these conditions exist, the committee may grant an exemption under the authority described in section 22-174.
(c) Compliance with permit requirements. A person is in compliance with this article if he follows the procedures of this article receives a permit from the department before beginning activities subject to regulation under this article, and complies with the requirements of the permit.

Explanatory Note: Other areas of the code needed to be changed to be in sync with the new definitions and wastes regulated.
Sec. 22-172. Minimum standards.
Compliance with this article shall be through standards, specifications, and policies adopted by the committee. Standards and specifications are minimums. The following components of the USDA Natural Resources Conservation Service's Technical Guide will be used when a storage facility is to be designed, constructed, installed, closed or substantially altered:

1. Manure waste storage facilities. The standards for design and construction of manure waste storage facilities are standard 313 (waste storage facility), 629 (waste treatment), and 634 (manure transfer), and 635 (vegetated treatment area) in the technical guide. Any new waste storage facility shall not be located within 100 feet of any property line or public road right-of-way, or within 300 feet of any navigable body of water as determined by subsection 58-902(b) of this Code.


4. Subsequent modification of standards. The standards of the technical guide are adopted and by reference made a part of this article as if fully set forth in this section. Any further amendment, revision or modification of the standards are incorporated in this section and made a part of this article.

5. The following practices are prohibited pursuant of this section:
   a. Overflow of livestock waste storage facilities.
   b. Unconfined manure stacking (piling) within a water quality management area.
   c. Direct runoff from animal lots or stored manure to waters of the state.
   d. Unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate or self-sustaining vegetative sod cover.

6. Facility owners and operators are entitled to apply for cost-sharing where appropriate to comply with the ordinance.

Sec. 22-173. Permits.
(a) Required. A permit application or design review application from the department is required for the following activities:

1. Construction or substantial alteration of a manure waste storage facility;
2. To meet the requirements of subsection 22-171(b) for proper closure and restoration of a facility declared abandoned;
3. To close any facility that is no longer used for storage;
4. To review a certified engineer’s design.

(b) Exception. Emergency repairs, such as repairing a broken pipe or equipment, leaking dikes, or the removal of obstructions from transfer pipes, may be performed
without a permit. All repairs must be reported to the department within two working days. The department will then determine whether a permit will be required for any additional alteration or repair to the facility and whether the facility is considered to be substantially altered.

(c) Application fee. A nonrefundable application fee will be required for a permit for the construction or closure of a manure waste storage facility. A nonrefundable fee will be charged for a permit for construction or closure of a manure waste storage facility after any construction or closure has commenced without a permit.

1. Design review application fee. A nonrefundable fee will be required for any design submitted to the department from a certified agricultural engineering practitioner for a permit for the construction or closure of a manure waste storage facility.

2. Appeal fee. A nonrefundable appeal fee will be paid at the time of appeal to the county.

3. Exemption fee. A nonrefundable exemption fee will be charged for any person requesting an exemption.

4. Permit or exemption fees.] The committee shall establish fees to be paid by the person requesting the permit or the exemption to the department at the time of filing to defray the cost of administration, investigation, advertising and processing of permits and exemptions. These fees shall be kept on file with the land conservation and zoning office and may be modified from time to time by the committee.

(d) Manure Storage facility plan. Each application for a permit under this section shall include a manure storage facility plan meeting NRCS 313, 629, and 634, and 635 standards when required. At a minimum, the plan shall include:

1. The total amount of manure waste produced, including wastewater, bedding, and the number and kinds of animals for which storage is provided.

2. A plan view of the facility and its location in relation to buildings within 250 feet and homes within 500 feet of the proposed facility. The sketch shall be drawn to scale with a scale no smaller than one inch equals 100 feet and should include a north arrow and temporary benchmark.

3. The structural details, including dimensions, cross-sections showing elevations, concrete thickness and quantity, reinforcing type and specifications.

4. Make and model of prequalified structure, if used. Concrete quantity is not included in a prequalified structure.

5. Agitation access layout, grading plan to keep clean water from entering structure, seeding specifications, and tile and drainfill layout, if needed.

6. The construction and material specifications, including, but not limited to, applicable specifications for earthen fill, excavation, concrete, reinforcing steel, timber and pipes.

7. The location of any wells within 300 feet of the manure storage facility.

8. The location of any sinkholes within 400 feet of the manure storage facility.

9. The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility. Certain site conditions or liner materials may require soil descriptions to a depth of five feet.
(10) The elevation of a high groundwater level or bedrock, if encountered in the soil profile, and the date of any such determination.
(11) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 500 feet of the facility, the location, elevation, and distance to the body of water shall be shown.
(12) A time schedule for construction of the facility.
(13) A description of the method to be used in transferring manure and other agricultural waste into and from the facility.
(14) A description of the location and type of fences, warning signs and safety features needed to meet the technical standards.
(15) Certification by a registered professional engineer (PE), department of agriculture, trade and consumer protection (DATCP), LCD, or natural resources conservation service (NRCS) certified agricultural engineering practitioner that the plans meet the requirements of the article.
(16) A written operation, maintenance, and safety plan for the facility.
(17) A nutrient management plan consistent with ATCP 50.04(3)(e).

(e) Closure plan. Each application for a closure permit under this article shall include a closure plan prepared in accordance with technical standard 360 that specifies the following:

(1) A description of the type and size of the manure storage facility and an estimate of the amount of manure in the facility.
(2) A description of where and how the manure and soil saturated with manure will be land applied in accordance with technical standard 590.
(3) A description of where the liner, if any, will be disposed of.
(4) A description of how the transfer system will be removed or permanently plugged.
(5) A description of how the excavated area will be filled in and where the clean fill will come from.
(6) A plan view showing the final grade, the area to be reseeded, and how runoff will be diverted away from the site.
(7) Certification by a registered professional engineer (PE), department of agriculture, trade and consumer protection (DATCP), LCD, or natural resources conservation service (NRCS) certified agricultural engineering practitioner that the plans meet the requirements of the article.

(f) Review of application. The department shall receive and review all permit applications. Permit applications must be received on forms approved by the department. The department shall determine if the proposed facility meets required standards set forth in this article. Within 30 days after receiving the completed application and fee, the department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the department shall so notify the permit applicant. The department has 30 days from the receipt of the additional information in which to approve or disapprove the application. If the applicant receives no response within 30 days of application, the application will be considered approved and the applicant may proceed as if a permit had been issued.
Permit conditions. All permits issued under this article shall be issued subject to the following conditions and requirements:

1. Manure Waste storage facility design, construction, management, and utilization activities shall be carried out in accordance with the department approved manure facility plans and applicable standards specified in section 22-172.

2. The permittee shall give five working days notice to the LCD before starting any construction activity authorized by the permit.

3. Approval in writing must be obtained from the director or his designee prior to any modifications to the approved manure waste facility plan.

4. A registered PE, or a DATCP, LCD, or NRCS certified agricultural engineering practitioner will document on-site inspections throughout construction and within 30 days of completion, the facility must be certified as meeting standards, including as-built plans and design changes. The certification must be made by a registered PE, or by a DATCP, LCD, or NRCS certified agricultural engineering practitioner. This certification must be made before the storage facility is put into service.

5. A registered PE, or a DATCP, LCD, or NRCS certified engineering practitioner will document on-site inspections throughout the closure. Manure Waste storage facility closure shall be carried out in accordance with the facility closure plan and applicable standards as set forth in subsection (e) of this section. Once completed, the closure shall be certified as meeting the requirements of this article by a registered PE, or by a DATCP, LCD, or NRCS certified agricultural engineering practitioner.

6. The LCD may conduct on-site inspections during and after construction.

7. Activities authorized by permit must be completed within 12 months from the date of issuance after which such permit shall be void. Extensions of up to one year may be granted by the land conservation committee upon written request from the permittee.

(h) Permit revocation. The department may revoke any permit issued under this article if the holder of the permit has misrepresented any material in the permit application or plans referenced in this article, or if the holder of the permit violates any of the conditions of the permit.

Explanatory Note: Again we needed to make our language consistent and regulations clear, so other areas of the code needed to be changed to be in sync with the new definitions and wastes regulated.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 40 (Streets, Sidewalks, and Other Public Places)

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

Explanatory notations are in italics
A PORTION of SECTION 40-37(g)(5) and (11) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 40-37. - General provisions of system.

(g) Criteria for assignment of numbers. The following criteria shall be followed when assigning address numbers:

(5) Address numbers shall be assigned to each lot within a proposed subdivision plat submitted to the county for review and approval under Wis. Stats. ch. 236. Address numbers shall be clearly displayed on the face of the plat and assigned as follows: Assignment of address numbers shall be based on the center point of the parcel boundary where it abuts the roadway to be used for ingress and egress to such parcel. Adjustment of the assigned address number may be made at the time of issuance of a building/zoning permit or sanitary permit so as to maintain uniform and consistent sequencing of address numbers. Corner lots displayed on the plat shall be assigned two address numbers, each to reflect the two different roads the property abuts.

(11) All roadways, both public and private, shall be named, and shall be shown on proposed plats and certified survey maps. In addition, the following shall apply: A driveway (principal access) that becomes a principal access for a third property shall be redefined as a roadway and, therefore, shall be named. As such, all present properties accessing upon the roadway shall be readdressed to coincide with the newly named roadway. If the roadway is considered a private road by the town, a recommendation will be made to the owner of the roadway to follow the existing county scheme. The following provisions shall apply when a new road name is proposed or an existing road name is proposed to be changed or extended: Request for proposed road name changes or naming new roads shall be made to the county. The county shall have the authority to approve or reject the proposed road name request based on existing road naming schemes. Road names using hyphens shall not be allowed.

Explanatory Note: When reviewing maps since the time that this code was first written and adopted, it has been noted that putting preliminary fire numbers on a plat has lead to confusion rather than being an aid to a developer or the County, so it was determined that this section should be stricken and the section shall require road names be shown for review instead.

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

(underlined) (stricken)

Explanatory notations are in italics
SECTION 42-46(a)(17) IS HEREBY CREATED TO READ AS FOLLOWS:

Sec. 42-46. - Plat data and submission requirements.
   (a) Preliminary plat. The preliminary plat shall be based upon a survey by a registered land surveyor and shall be submitted at a scale of not more than 100 feet to one inch, and shall show correctly on its face:

   (17) A plat that includes lots or outlots that extend to the water’s edge per Section 236.16(4) shall show on its face the following statement: “Any land below the ordinary high water mark of a lake or a navigable stream is subject to the public trust in navigable waters that is established under article IX, section 1, of the state constitution.”

(b) Final plat. The final plat of the proposed subdivision shall comply with the requirements of Wis. Stats. ch. 236 and section 42-47.

Explanatory Note: Statute changes from last year necessitate adding this statement on all certified survey maps and plats.

SECTION 42-48(b)(17) IS HEREBY CREATED TO READ AS FOLLOWS:

Sec. 42-48. - Certified survey map.

   (b) Procedure. No person shall divide any land located within the unincorporated county which shall result in a land division or minor subdivision without first filing for approval by the agency and subsequently recording with the county register of deeds a certified survey map which complies fully with Wis. Stats. § 236.34 and with all applicable requirements within this chapter. The agency or authorized representative shall, within 14 working days, approve, approve conditionally, or reject the certified survey map for a proposed land division based on determination of conformance with the provisions of this chapter. Authority to approve certified survey maps may be delegated by the agency to an authorized representative serving the agency. In the event of rejection or conditional approval, the land divider may appeal the decision of the authorized representative to the agency. The certified survey map shall be prepared by a land surveyor registered in the state, complying with the requirements of Wis. Stats. § 236.34 at a scale of not more than 500 feet to one inch. The land divider or registered land surveyor acting as the agent for the land divider shall submit the original copy and two copies along with a letter of transmittal. Such certified survey map, in addition to Wis. Stats. § 236.34, shall include:

   (17) A CSM that includes lots or outlots that extend to the water’s edge per Section 236.16(4) shall show on its face the following statement: “Any land below the ordinary high water mark of a lake or a navigable stream is subject to the public trust in navigable waters that is established under article IX, section 1, of the state constitution.”
Explanatory note: Statutes related to CSMs and plats were passed last year and there is a new requirement to note a Public Trust Doctrine reference on all plats and CSM's.

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

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

Explanatory notations are in italics

Portions of SECTION 58-9 ARE HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:


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

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 or semitractors; self-propelled machinery such as mowers, tillers, or seeders; and recreational vehicles such as boats, snowmobiles, ATV's, or motorcycles, which are not fully operative, in active use, or licensed are considered inoperative vehicles.

Used dwelling, single family means any structure that has previously been used in another location, is on-site but has previously been used or constructed for another purpose, or is constructed wholly or in part of used materials and intended for use as a single family dwelling.

Explanatory Note: We continue to have problems with inoperative vehicles and other equipment so wanted to expand that definition. And you will see later why we are creating a definition of a used dwelling. It mainly has to do with changes that we are proposing to regulation of mobile homes.

SECTION 58-232 (5) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-232. Accessory uses and structures.

(5) No mobile home, semitrailer or other inoperative vehicle shall be used wholly or in part as an accessory building or commercial structure.

Explanatory note: We are re-working our language related to mobile homes to be in compliance with commonly accepted legal principles, and want to insure that those
and other similar structures are not employed as commercial structures or accessory buildings.

SECTION 58-235(a)(2) IS HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 58-235. Nonconforming structures and uses.

(2) "Limitations." Any nonconforming use or structure which constitutes a human health hazard shall not be permitted to continue as nonconforming. No nonconforming structure or use during its total lifetime shall be expanded in excess of the parameters of subsections (a)(5)a—c, below, unless permanently changed to conform to the regulations of this chapter.

Explanatory note: We needed to add this language to clarify that the 25% additions/alterations language applies to non-conforming structures as well as non-conforming uses and is limited by the noted subsections.

SECTION 58-235(b) (2) and (3) ARE HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 58-235. Nonconforming structures and uses.

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

(1) "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.

(2) "Vertical expansion of nonconforming principal structure within the setback." An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setbacks may be expanded vertically and laterally, provided that all of the following requirements are met:
   a. The use of the structure has not been discontinued for a period of 12 months or more.
   b. 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).
   c. Vertical expansion is limited to the existing building footprint with no increase in impervious surfaces, and to the height limitations in subsection 58-903(t), and lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high water mark than the closest point of the existing structure.
   d. 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, which is on file with the county zoning office.

e. All other provisions of the shoreland and zoning code shall be met.

(3) “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:

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

b. 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, which is on file with the county zoning office.

c. All other provisions of the shoreland and zoning code shall be met.

Explanatory note: NR 115 has undergone some changes and now allows for lateral expansions of non-conforming structures due to water setbacks provided mitigation is enforced. It also allows additions that meet all setbacks including water may be permitted without mitigation. This change in the code along with changes in the Appendix covering mitigation will allow these two options in compliance with state regulations known as NR 115.

SECTION 58-236 (b)(11) IS HEREBY DELETED And REPLACED AS FOLLOWS.

Sec. 58-236. Selected conditional uses.
(11) **Mobile homes located outside of mobile home parks.** Mobile homes may be permitted, provided that:

a. The mobile home has a minimum floor area of 720 square feet.

b. The mobile home is not more than four years old or, in lieu of this requirement, the applicant shall furnish the following information for consideration by the zoning committee:
   1. Two color photographs not less than 2½ inches by four inches showing the front and side on one of the photographs and the rear and opposite side on the other photograph.
   2. A statement of inspection from a licensed appraiser listing the estimated value of the mobile home, or a statement of the purchase price if the mobile home has been purchased within six months of the date of the application.
   3. Any additional information deemed necessary by the zoning administrator for full evaluation of the mobile home.

c. The unit is placed on a permanent foundation with adequate anchoring provisions to prevent wind damage. Such foundation shall entirely enclose the lower portion of the unit and be of fireproof materials.

(11) **Used dwelling, single family.** A used dwelling, or dwelling made of used materials may be permitted, provided that:

a. The proposed dwelling unit has a minimum floor area of 720 square feet.

b. The applicant shall demonstrate that the placement of a used dwelling shall meet Waushara County Code requirements and shall be finished in such a manner as to add to its surroundings and maintain area property values by furnishing the following information for consideration by the zoning committee:
   1. Two color photographs not less than 2½ inches by four inches showing the front and side on one of the photographs and the rear and opposite side on the other photograph of the dwelling unit or materials to be used in construction.
   2. A detailed site plan and narrative noting the construction details and methods of finishing the exterior of the structure.
   3. Any additional information deemed necessary by the zoning administrator for full evaluation of the proposal.
   4. Demonstrate its construction and installation methods shall meet minimum standards for protection from fire, wind, and other natural disasters.

c. The used dwelling shall meet all code requirements including those of the Uniform Dwelling Code.

Explanatory Note: Multiple court cases have been decided in favor of mobile homes and other manufactured homes needing to be treated as just another form of housing and not subject to special restrictions. We have language that required all used homes to go through a conditional use permit process before placement so this would apply to mobile homes also. This would allow new mobile homes to be placed as a permitted use provided all proper permits in place. If challenged, I don't believe our current
restrictions on mobile homes would stand up in court anyway, so this is recommended to alleviate possible legal challenges. And because we now require a conditional use permit and public hearing for all used dwellings, this section has been changed to reflect what we will require for those types of applications.

SECTION 58-304 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-304. Conditional uses.
Conditional uses in the O-N zone are as follows:
(1) Bait store.
(2) Camps.
(3) Hunting or fishing shelter.
(4) Dwelling, single-family, only as accessory to a principal use.
(5) Filling, grading and work in respect to waterways requiring a permit under subsection 58-903(o).
(6) Golf course.
(7) Maple syrup processing plant.
(8) Mobile home, permanent, only as accessory to a principal use.
(9) Public and semipublic buildings.
(10) Recreation areas.
(11) Sawmill, permanent.

SECTION 58-334 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-334. Conditional uses.
Conditional uses in the O-F zone are as follows:
(1) Bait store.
(2) Blacksmithing.
(3) Camps.
(4) Cemetery.
(5) Dwelling, single-family.
(6) Dwelling, two-family.
(7) Filling, grading and work in respect to waterways requiring a permit under subsection 58-903(p).
(8) Golf course.
(9) Home occupation.
(10) Mobile home, permanent.
(11) Public and semipublic buildings.
(12) Nonmetallic mining.
(13) Recreation areas.
(14) Sawmill, permanent.
(15) Wind energy facility.
(16) 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.
(17) 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.
(18) Home-based business, accessory to a one- or two-family dwelling.

SECTION 58-364 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-364. Conditional uses.
Conditional uses in the O-P zone are as follows:
(1) Bait store.
(2) Blacksmithing.
(3) Campgrounds.
(4) Camps.
(5) Cemetery.
(6) Concession stand.
(7) Debarking operations.
(8) Dwelling, single-family, only as accessory to a principal use.
(9) Filling, grading and work in respect to waterways requiring a permit under subsection 58-903(o).
(10) Golf course.
(11) Mobile home, permanent, only as accessory to a principal use.
(12) Public and semipublic buildings.
(13) Recreation areas.
(14) Resorts.
(15) Sawmill.
(16) Stable.

SECTION 58-453(5) IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-453. - Permitted uses.
Permitted uses in the A-G-* zone are as follows:
(5) New mobile home (or single-family dwelling established as a second farm residence), accessory to the agricultural use, subject to the following limitations:
   a. Such mobile home (or single-family dwelling) is used as a single-family dwelling.
   b. Such mobile home (or single-family dwelling) is occupied by a person who, or a family at least one member of which, earns a substantial portion of his livelihood from farm operations on the farm parcel, or a parent or child of the operator of the farm.
   c. The occupant of the mobile home (or single-family dwelling) shall, at three-year intervals commencing on the date the land use permit for such use was issued, verify on a form provided by the zoning administrator his compliance with subsection (5)b of this section within 30 days of the receipt of such form. If the occupant fails to verify his compliance with subsection (5)b of this section, the zoning administrator shall, within 30 days, notify the occupant and the owner of such mobile home (or single-family dwelling) of noncompliance with the provisions of this section. Upon receipt of a notice of noncompliance, the owner
shall, within 90 days of the receipt of such notice, bring the mobile home (or single-family dwelling) into compliance with subsection (5)b of this section, or cause such mobile home (or single-family dwelling) to be removed from the premises.

d. Such agricultural use meets the definition of Wis. Stats. § 91.01(1).

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

SECTION 58-484 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-484. Conditional uses.
Conditional uses in the A-R zone are as follows:
(1) Bed and breakfast establishments.
(2) Church or other place of worship.
(3) Club or lodge.
(4) Day nursery/kindergarten.
(5) Dog kennel, when located not less than 300 feet from any residential building other than that of the owner, his agent or employees.
(6) Dwelling, two-family.
(7) Filling, grading and work in respect to waterways requiring a permit under section 58-903(p).
(8) Mobile home, permanent.
(9) Professional business office.
(10) Public or semipublic building.
(11) Raising or keeping ten or more animal units on less than five acres.
(12) Recreation area.
(13) Roadside stand.
(14) Cemeteries.
(15) Used dwelling, single-family.

SECTION 58-514 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-514. Conditional uses.

Sec. 58-514. Conditional uses.
Conditional uses in the RS-10 zone are as follows:
(1) Bed and breakfast establishment.
(2) Club or lodge.
(3) Day nursery/kindergarten.
(4) Dwelling, two-family.
(5) Filling, grading and work in respect to waterways requiring a permit under section 58-903(p).
(6) Golf course.
(7) Home occupation.
(8) Mobile home, permanent.
(9) Professional business office.
(10) Public or semipublic buildings.
(11) Recreation areas.
(12) Roominghouse or boardinghouse.
(13) Cemeteries.
(14) Churches.
(15) Used dwelling, single-family.

SECTION 58-544 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-544. Conditional uses.
Conditional uses in the RS-20 zone are as follows:
(1) Bed and breakfast establishments.
(2) Club or lodge.
(3) Day nursery/kindergarten.
(4) Dwelling, two-family.
(5) Filling, grading and work in respect to waterways requiring a permit under subsection 58-903(p).
(6) Golf course.
(7) Home occupation.
(8) Mobile home, permanent.
(9) Public or semipublic buildings.
(10) Recreation area.
(11) Roominghouse or boardinghouse.
(12) Cemeteries.
(13) Churches.
(14) Professional business office.
(15) Used dwelling, single-family.

Explanatory Note: Many of our zones stated that placement of any mobile home required a conditional use permit. And the General Agricultural Zone listed mobile homes separate from new single family dwellings and that distinction no longer exists in our code when placed for use as a single family dwelling. These changes enable new mobile homes to be placed as a permitted use, but will require that all used mobile homes go through the same public hearing process as other used homes do now.

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

Sec. 58-903. General shoreland zoning provisions.
(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 setback to the ordinary high-water mark as noted above.

(6) No boathouse shall have any wall, nor any individual door or access opening be more than 1/3 transparent.

(7) No boathouse shall have interior walls, insulation or plumbing.

(6) (8) 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.

Explanatory Note: We continue to have issues with boathouses being used for things other than storage of water based equipment and hope that this will help us make their use more clear to an applicant and allow us to regulate their construction and use while still permitting them for storage purposes.

SECTION 58-903(n)(7) IS HEREBY AMENDED TO READ AS follows:

Sec. 58-903(n). Removal of Shore Cover.

(n) Removal of shore cover.

(5) A land use permit is required for any cutting, removal, or replacement of shoreline vegetation outside of the access and viewing corridor that is not specifically listed as an exemption in (1) through (6) as noted above.

Explanatory Note: In the first re-write of NR115, a permit was required whenever you did anything to shoreline vegetation. This allows permitted activities to take place without having to obtain a permit.

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 583

Ayes_______ Nays________ Abstain_________ ( X ) Voice Vote

Approved and adopted this 17th day of March, 2015.

Approved: /s/ Ruth Zouski

Submitted by: /s/ Mark Kerschner

Ruth Zouski, Corporation Counsel

Mark Kerschner, Chairman

Planning & Zoning Committee
Attest:
/s/ Melanie R. Stake
Melanie Stake,  
Waushara County Clerk

Signed by:
/s/ Donna R. Kalata  
Donna Kalata, Chairperson  
Waushara Co. Board of Supervisors