ORDINANCE NO. 591
ORDINANCE AMENDING WAUSHARA COUNTY CODES
NOS. 8, 18, 22 and 58

WHEREAS, the Waushara County Planning and Zoning Committee did file Draft #7 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 18, 2016; 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 its consideration.

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

1. That Waushara County Codes Nos. 8, 18, 22 and 58 are amended.

2. That these codes shall be effective upon the approval and recording with the Office of the County Clerk for Waushara County.

Ordinance No. 591

Ayes ___ Nays ___ Abstain ___ Absent ___ ☑ Voice Vote

☑ Approved and enacted this 15th day of March 2016.

☐ Denied this 15th day of March 2016.

Approved as to Form:

Ruth Zouski
Corporation Counsel

Submitted by:

Mark Kerschner, Chair
Planning and Zoning Committee

Signed by:

Donna R. Kalata, Chair
Waushara County Board of Supervisors
ORDINANCE NO. 591 (DRAFT#7)2-18-15
ORDINANCE AMENDING WAUSHA COUNTY CODE
CHAPTERS 8, 18, 22, AND 58

WHEREAS, Waushara County has enacted Chapters 8, 18, 22, 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 WAUSHA COUNTY CODE CHAPTER 8 (Building and Mechanical Code):

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

Explanatory notations are in italics

A PORTION OF SECTION 8-33 IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

Sec. 8-33. - Definitions.

Rebuilt: Reconstruction or repairs to a building that is damaged or demolished to the extent of 50 percent or greater of its equalized assessed value shall be considered to be rebuilt.

Used Building: Any building that has previously been used in another location, or is on-site but has previously been used for another purpose, is considered to be a used building. Buildings that change their use are subject to changes of use regulations and restrictions contained in this and other applicable codes.

Explanatory Note: The state does not define a rebuilt structure or the use of a used building in a new location as new construction.

A PORTION OF SECTION 8-43 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 8-43. - Occupancy permit.

If the building inspector, after completing all required inspections, finds that a building has been constructed in accordance with the applicable codes, then the inspector shall issue an occupancy permit. If the building fails to comply with the code in minor respects which do not threaten the safety, health or welfare of the building's occupants, the building inspector may issue a temporary occupancy permit for 30 days or a specified term. No person may have occupancy of any new, used, or rebuilt building until an occupancy permit is issued.

Explanatory Note: And it was not clear when an occupancy permit is required. We have had some issues with used, rebuilt, or relocated dwellings and wanted to clarify when an occupancy permit is needed because of health and safety concerns.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHA COUNTY CODE CHAPTER 18 (Floods):

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

Explanatory notations are in italics

A PORTION OF SECTION 18-31 (a)(7)2 and (8) IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

Sec. 18-31. - Nonconforming uses.

2. Non-Residential structures:
   (a) Shall meet the requirements of subsections 18-31(4), (3), and (4) through (7) (a)/(1-3).
   (b) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation or, together with attendant utility and sanitary facilities, shall meet the standards in section 18-37.
   (c) In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 18-123.

(8) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with subsection 18-83(a), flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 18-37 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of subsection 18-31(a)(7)b. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

A PORTION OF SECTION 18-33 (a)(7) IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

(a) Authority; duties and powers. The zoning administrator is authorized to administer this code and shall have the following duties and powers:
   (7) Submit copies of amendments and biennial reports to the FEMA regional office.

A PORTION OF SECTION 18-83 (a)(2) IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

Sec. 18-83. - Standards for developments in floodway areas.

(a) Generally.
   (1) Any development in the floodway shall comply with section 18-61 and have a low flood damage potential.
   (2) Applicants shall provide the following data to determine the effects of the proposal according to subsection 18-61(a) and subsection 18-63(b)(3).
a. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
b. An analysis calculating the effects of this proposal on regional flood height.

Explanatory Note: Since the last update to our floods code, DNR noted a few typos in the model ordinance and those are fixed with these changes.

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

(amended sections are underlined) (deleted sections are strikethrough)

Explanatory notations are in italics

A PORTION OF SECTION 22-174 IS HEREBY CREATED AND AMENDED TO READ AS FOLLOWS:

Sec. 22-174. - Appeals.
(a) Authority. The committee (Land Water & Education or LWE) is authorized to hear and decide appeals where it is alleged there is error in any decision, determination, or order issued by the director or his designee, except that this authority does not include the authority to hear appeals from a citation or any decision, determination, or order that may be appealed to the circuit court or that is otherwise subject to judicial review. Appeals under the ordinance codified in this article will be conducted in accordance with Wis. Stats. ch. 68.
(b) Exemptions. The committee is authorized to hear and decide special exceptions to the terms of this article. Such exemptions may be granted based on one or more of the following findings:
(1) Staff is not available to develop conservation plans or schedules of implementation.
(2) Severe weather or other catastrophic events beyond the control of the land owner or operator make implementation impractical.
(3) Implementation of all components of the conservation plan and schedule does not result in full compliance with this article. An exemption under this section may be granted only if all components of the conservation plan and schedule are implemented.
(4) Exemptions from the agricultural waste standards will be forwarded to the DNR as stated in NR 151.0577(4).
(5) Except as outlined in section 22-171.
(6) Exemptions from the setback requirements of this Code may be granted where no practicable alternative location exists; and where comparable environmental protection is provided; and public health, safety and welfare are protected.

(c) Who may appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision, or determination made by the director, or his/her designee, of the LCD. Such appeals shall be made within ten calendar days of the decision of the inspector or administrative officer. The officer from whom the appeal is taken shall forthwith transmit to the land, water, and education committee (LWE) all the papers constituting the record upon which the action appealed from was taken, and schedule a hearing with the LWE committee at their next regularly scheduled business meeting, provided the next regularly scheduled business meeting is at least 15 days following the filing of the appeal or exception, to provide for proper noticing of the appeal or exception to all interested parties. At the time of the appeal, a fee in an amount on file at the land conservation and zoning office shall be paid to the county. Appeal of a decision of the land, water, and education committee shall be made in accordance with Wis. Stats. ch. 68, and subsection (a) of this section.

Explanatory Note: Our code did not allow for proper time to process appeals and exception requests before coming before the Committee.

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

(amended sections are underlined) (deleted sections are strikethrough)

Explanatory notations are in italics

A PORTION OF SECTION 58-9 IS HEREBY CREATED and AMENDED TO READ AS FOLLOWS:


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, and is intended to provide shelter for one or more days in a calendar year.

Explanatory note: Seasonal Dwellings continue to be an issue and quickly go from a weekend place to more permanent housing without meeting basic health and safety requirements including sanitation, and minimal construction standards. We continually look to update this section so that housing of all sorts meets minimum health and safety requirements.

Footprint means the land area covered by a structure at ground level as measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave of greater than 24 inches, if present, projected to natural grade. For structures with eaves of 24 inches or less, the footprint shall be bounded by the furthest exterior wall. For structures without walls or roofs, such as open decks, stairways, and patios, the footprint shall be bounded by the furthest portion of the structure projected to natural grade. For the purposes of replacing or reconstructing a non-conforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior walls to the eaves, projected to natural grade, or from the floor of an open structure (one without roof or walls), down to natural grade, or upward to enclose previously open space, as this would constitute a lateral expansion.
Explanatory Note: Changes in NR 115 and other sections of governing statutes necessitate a definition and clarification of footprint vs. floor area.

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

Explanatory Note: We continue to have problems with inoperative vehicles and other items accumulating on properties and being used for storage.

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. A seasonal residence shall only be allowed if it meets the requirements of the Wisconsin Uniform Dwelling Code, or has a valid Conditional Use Permit for storage of an unoccupied travel trailer, camping trailer, or mobile camper as noted in Sections 58-334 and 58-454 of this code.

Explanatory Note: Some people who place travel trailers use them as seasonal residences, and this would address this issue. They are inspected and have proper sanitary facilities, so I don't have a problem with that. Conversely, it would be useful in curtailing the casual camper on vacant lands from staying there more than 21 days, when there are no permits or inspections involved. And some of those have been a problem in the past, especially on smaller residential parcels.

Structural alteration means any change in the supporting members of a building such as load-bearing walls, walls columns, roof or floor rafter, foundations, window or doorway headers, beams or girders, or any substantial changes in the roof and exterior walls in excess of $1,000.00 in value.

Explanatory Note: We wanted to tie the definition of a structural alteration more closely to sections where it is used within the code.

A portion of SECTION 58-144 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-104. - Powers.

Powers of the board of adjustment are as follows:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.

2. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship or be unnecessarily burdensome, and so that the spirit of the chapter shall be observed and substantial justice done. If any application for a variance has been denied by the board of adjustment, the applicant may not reapply for the same or substantially the same variance within 12 months of the date the decision was made on the initial application.

3. To grant variances for renewable energy resource systems. If the board denies an application for a variance for a renewable energy resource system, the board shall provide a written statement of its reasons for denying the application.

4. To authorize, pursuant to section 58-235, expansion of or changes to nonconforming uses.

5. To interpret the zoning regulations including, but not limited to, the classification of unclassified uses pursuant to section 58-231 and the determination of zone boundary lines pursuant to section 58-278.

Explanatory Note: This updates this section to be in compliance with current laws and interpretations.

A portion of SECTION 58-164 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-164. - Site plan requirements.

A preliminary site plan containing the applicable information listed in this section shall accompany applications for conditional use permits, variances, and zone changes and shall accompany applications for land use permits for all accessory buildings on vacant lands, for accessory structures exceeding one story in height, and where required by the zoning administrator or other sections of this chapter. In the case of a variance application to a side, rear, front, or road setback, a site plan shall include a plat of survey showing all improvements, or a certified survey map, unless there is such a survey or recorded subdivision plat on file, and all existing iron or identifying the property lines are found. In addition, any placement of any used structure, mobile home, travel trailer, or construction of any structure which requires a land use or conditional use permit, and involves used materials shall be required to submit a preliminary site plan, including color photographs of the new or used structure, used structure, mobile home, or travel trailer, as well as a detailed description of materials and methods of finishing the exterior. Required site plan information shall be as follows:

1. Topography of the site including slopes, drainage courses, navigable waters, wetland areas and elevations of the proposed building sites.

2. Existing trees and other vegetative cover.

3. The ordinary high-water mark of abutting navigable water.

4. The exact location of the lot lines and the area of the lot.

5. The site of all existing and proposed structures and buildings on the subject property, including underground and surface storage areas, sanitary facilities and the location of all structures and buildings within 100 feet on adjoining properties.

6. The proposed uses.

7. The engineering design for all work in respect to waterways or floodproofing.

8. The dimensions and location of areas to be graded including the original and final elevations of the area.
(9) The location and dimensions of areas to be filled including the original and final elevations and the type of fill material to be used.
(10) When not serviced by a public sewer system, a county sanitary permit issued pursuant to article II, chapter 38 of this Code.
(11) Landscaping including proposed tree cutting and/or walls or fences to be used for screening.
(12) Design of the ingress and egress.
(13) Off-street parking.
(14) Height of all structures where height standards prevail.
(15) The locations and types of all signs.
(16) Locations and widths of existing and proposed rights-of-way.
(17) In the case of development projects that, in the opinion of the zoning administrator, have the potential of being hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreline cover, or property values in the county and its communities, or contrary to the purposes and intent of this chapter, impact studies and analysis prepared by a qualified individual including, but not limited to, environmental reports, assessments, or impact statements, as deemed necessary by the county or its agent or representative. The cost for such a study or analysis shall be paid in accordance with subsection 58-8(c).
(18) Elevation drawings showing all four sides of proposed structures.
(19) A floor plan showing all proposed interior walls, cabinets, appliances, plumbing fixtures, and uses of the space being proposed shall be submitted with a permit application.
(18) Additional information as required by the zoning administrator.

Explanatory Note: We are now requiring site plans and elevation views for all permit applications in the hopes of catching any issues with code compliance before construction takes place. This codifies that practice.

A portion of SECTION 58-166 IS HEREBY AMENDED AND CREATED TO READ AS FOLLOWS:

Sec. 58-166. - Expiration or conflict.

(a) Any land use and conditional use permits shall expire within one year of the date of issuance, except that an extension for a period of up to one additional year may be granted by the zoning committee upon the showing of valid cause. A fee for such extension shall be charged. All structures shall be completed within the life of the permit. For the purposes of this section, a structure shall be deemed complete when all exterior siding, roofing, doors, windows and trim have been installed.
(b) Any permit issued in conflict with the provisions of this chapter shall be null and void.
(c) Voluntary Termination of a permit. The applicant or holder of any land use or Conditional Use permit issued by the Waushara County Land Conservation and Zoning Office may give notice in writing to the Department of a request to terminate the permit. The Planning and Zoning Committee shall place the request on their agenda and take official action regarding the voluntary request to terminate at their earliest convenience. Upon such termination, the owner of the premises shall bring all such land and buildings into conformity with the district in which it is located, and all other provisions of this Code, within sixty (60) days of the date of termination.

(d) Termination of a permit by Committee action. If the Planning and Zoning Committee finds that the applicant or holder of any land use or Conditional Use permit issued by the Waushara County Land Conservation and Zoning Office is in violation of the terms of the permit issuance or this chapter, it has the authority to permanently revoke the permit, and issue orders to bring the property into compliance with the provisions of this code, and other state and local regulations.

Explanatory Note: Another typo. And clarifies when and how a permit may be revoked or terminated by the landowner or the Planning and Zoning Committee.

A portion of SECTION 58-232 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-232. Accessory uses and structures.
Accessory buildings, structures and uses 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:

1. Accessory buildings, structures and uses shall be compatible with the principal uses and shall not be used for lounging, cooking, eating, sleeping, or any form of human habitation, occupancy or living purposes, even if on a temporary or incidental basis.
2. Accessory buildings, structures and uses shall not be established prior to the principal use unless the landowner submits a detailed site plan in accordance with section 58-164 and executes a verified affidavit and restrictive covenant running with the land regarding the use of the accessory building for living purposes, meeting the following requirements:
   a. A subscription clause.
   b. The legal description of the property.
   c. The names of the person(s) and corporations having an interest in the property who shall also execute the covenant and affidavit.
   d. The names and addresses of all persons, firms or corporations holding a security interest in the property who shall also execute the covenant and affidavit.
   e. A statement that the affidavit and covenant is given by the owner and all interested parties in the property in order to obtain a land use permit from the county zoning office for the purposes of constructing an accessory building on the described property in accordance with the provisions of this chapter.
   f. The affidavit and restrictive covenant running with the land shall bind the property owners, grantees, successors, heirs or assigns of the property.
   g. Set forth the condition that should buildings permitted as an accessory use be used for living purposes as a dwelling under this chapter that any land use permit issued by the county shall be null and void and the occupancy of such dwelling for living purposes shall be considered to be a violation of this chapter.

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.

(3) Any accessory buildings or structures shall not exceed one story or 18 feet maximum building height in the RS-10, RS-20 and R-M zoning districts.

(4) Any accessory buildings or structures shall not exceed one story in any agricultural zoning district, unless the accessory building or structure is used for general farm use, as defined in subsection 58-453(2) of this Code.

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

(6) An accessory building, structure or use in a side or rear yard shall not be less than 7½ feet from any property line, except that on a corner lot, a reverse 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.

(7) 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 in this article for that zone in which they are located. No accessory building shall have any wall, nor any individual door or access opening be more than 1/3 transparent. Interior walls and plumbing are not permitted unless it is demonstrated it is necessary for the intended accessory use of the building. No decks, porches, fireplaces, or other appurtenances normally associated with living are permitted.

(8) All accessory buildings that are planned to have more than one story, level or stage, either wholly or partially above or below grade, or accessory buildings with plumbing or other features that are normally associated with dwellings shall be required to execute an accessory affidavit to be recorded with the property as a restrictive covenant as outlined in subsection 58-233(2)(2)(2) above. The affidavit shall serve to limit the use of the structure as noted on the land use permit, along with any and all associated site plans, and shall serve to insure compliance with any restrictions noted on the permit and site plans. It shall note that the structure cannot be used for, nor shall it be arranged for, any type of permanent, temporary, or incidental living purposes at any time, unless substantially altered to be in full compliance with all state and local codes pertaining to habitable structures.

Explanatory note: (7) It has become apparent that design parameters applicable to boathouses should also be included for accessory buildings. (8) Some accessory structures continue to be used for living purposes, so an affidavit may be helpful in preventing the construction or following up on those constructed in violation of our codes. And correcting a typographic error should be Section 58-232 instead of 58-233.

SECTION 58-235. Nonconforming structures and uses.

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

(1) "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 there to may be continued although such use or structure does not conform with the provisions of this chapter subject to the limitations listed in subsection (2) of this section.

(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) — (c), below, unless permanently changed to conform to the regulations of this chapter.

(3) "Discontinued nonconforming use." If a nonconforming use is discontinued for a period of 12 months or more, any future use of the structure or property shall conform to the Code. All nonconforming uses are permitted a 25 percent expansion over the lifetime of the nonconforming use.

(4) "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.

(5) "Repairs and expansions of nonconforming structure." a. 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 subsection (a)(4) listed above.

b. An existing principal or accessory 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), or that doesn't meet the applicable visual clearance setback, shall comply with subsection (a)(4) above, and may also expand its total building footprint by no more than 25 percent, 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 subsection 58-903(3), if applicable. If the expansion shall consist solely of an open deck or patio on the principal structure, the expansion shall not exceed 50 percent of the existing footprint of the nonconforming structure. If the proposed expansion to the principal structure shall consist of both enclosed space and an open deck or patio, then each portion shall be limited to 25 percent of the
c. In lieu of a 25 percent building footprint expansion, an existing nonconforming structure that is one-half or more of any required setback of this Code (other than water setback), the owner or agent may repair, alter, or replace up to 25 percent of the structural components of the existing nonconforming structure once over the lifetime of the structure. These structural components include portions of load-bearing walls, roof or floor rafters, foundations, and window and doorway headers.

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

(7) "Exemptions." Nonconforming structures damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation. As required by Wis. Stats. §§ 59.66(10m), or 59.66(14a), if a landowner can establish that a nonconforming structure (nonconforming due to any setback other than shoreline), was damaged or destroyed after March 2, 2003 (or October 14, 1997 if within the shoreline 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:

a. 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.

b. Except as provided in Wis. Stats. § 87.36(14d), nonconforming structures that are subject to regulation under chapter 16 of this Code may not be reconstructed or repaired except in compliance with such chapter.

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

d. Any filling, grading or dredging associated with reconstruction or repair must comply with subsection 59-903(0).

e. 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. Proper verification of the size, location, height, and dimensions of the nonconforming principal structure shall be made by department staff prior to commencement of the maintenance, repair, or replacement, and those verified dimensions strictly adhered to.

f. 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.

(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 shoreline area that do not meet required water setbacks:

(1) "Maintenance, and repair, or replacement of nonconforming principal structure." An existing principal structure that was lawfully placed when constructed but that is less than the required water setback 25 feet from the ordinary high water mark (50 feet from the ordinary high water mark of class 1, II and III trout streams) may be maintained, and repaired, or replaced within its existing building envelope.

(2) "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 59-903(b), 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. Proper verification of the size, location, height, use and dimensions of the nonconforming principal structure shall be made by department staff prior to commencement of the maintenance, repair, or replacement, and those verified dimensions strictly adhered to as required by this code.

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 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 applicable Waushara County Codes, including but not limited to floodplain, sanitary, shoreland and zoning codes, 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, 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. All other provisions of applicable Waushara County Codes, including but not limited to floodplain, sanitary, shoreland and zoning codes, shall be met.

(4) "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:

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. 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. Proper verification of the size, location, height, use and dimensions of the nonconforming principal structure shall be made by department staff prior to commencement of the replacement and those verified dimensions shall be strictly adhered to as required by this code.

d. The replaced or relocated structure is limited to its existing building envelope, including no increase in building footprint or in ground area surface, and no increase in impervious surfaces is permitted, unless vertical expansion is done in accordance with the provisions of subsection 58-235(b)(2) 903(a).

e. 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.

f. 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.

g. All other provisions of applicable Waushara County Codes, including but not limited to floodplain, sanitary, shoreland and zoning codes, shall be met.

(5) "Replacement and/or 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 setback may be replaced and/or expanded vertically, 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. No portion of the replaced and/or vertically expanded structure may be located any closer to the ordinary high-water mark than the closest point of the existing principal structure. And proper verification of the size, location, use and dimensions of the nonconforming principal structure is made by department staff prior to commencement of the vertical expansion, and those verified dimensions are strictly adhered to.

c. Replacement and/or vertical expansion is limited to the existing building footprint with no increase in impervious surfaces, and to the height limitations in subsection 58-903(b).

d. All other provisions of applicable Waushara County Codes, including but not limited to floodplain, sanitary, shoreland and zoning codes, shall be met.

(6)(b) "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 Wis. Stats. § 30.121.

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

(b) 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.

(e) Any expansion, relocation, or replacement of a nonconforming 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.
Open decks and patios attached to the principal structure on a parcel, and that are within any required setback of this Code, may be authorized to have an exact replacement of the nonconforming open deck or patio by the zoning administrator without the necessity of seeking a variance from this chapter, provided all of the following provisions are met:

a. Proper verification of the size, location, height, and dimensions of the nonconforming deck or patio is made by qualified staff prior to commencement of the maintenance, repair, or replacement, and those verified dimensions are strictly adhered to.

b. The repair, maintenance, or replacement of the attached open deck or patio does not make the principal structure any more nonconforming than before the replacement.

c. The existing open deck or patio is entirely contained on the applicant's property and does not go over a lot line, into a right-of-way or easement, is located in any wetland area, or extends beyond the ordinary high-water mark of a navigable body of water.

d. All other code requirements, including building codes, are complied with.

e. 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, maintenance, or replacement even though such action is allowed under this section.

For the purposes of replacing or reconstructing a non-conforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior walls to the eaves, projected to natural grade, or from the floor of an open structure (one without roof or walls), down to natural grade, or from the floor of an open structure upward to enclose previously open space, as this would constitute a lateral expansion.

Explanatory note: NR 115 has undergone some changes and now allows for vertical expansions of non-conforming structures which are non-conforming due to water setbacks. All other sections of our zoning code, as well as other applicable codes still apply. By making this change in our code, along with changes in the Appendix covering mitigation, will allow Waushara County's Code to remain in compliance with state regulations. Also, the provision for replacement of certain non-conforming structures due to natural causes beyond the control of the landowner was removed from the statutes in the last state budget.

SECTIONs 58-453 and 58-454 ARE HEREBY AMENDED AND CREATED TO READ AS FOLLOWS:

Sec. 58-453. - Permitted uses.
Permitted uses in the A-G zone are as follows:

(1) Airstrip.

(2) General farming including dairying, grazing and livestock and poultry raising, field crops, nurseries, forestry, greenhouses, orchards and wild crop harvesting, beekeeping, truck farming, horticulture, viticulture, and the growing and sales of Christmas trees, greenhouses, and farm markets and the sale of other agricultural and horticultural products, provided that these products are grown as part of the agricultural operation. No new building or pen for housing or feeding livestock or poultry shall be located within 100 feet of any boundary of a residential lot other than that of the owner, lessee or his employees. New buildings housing animals, barnyards or feedlots shall be at least 100 feet from any navigable water and shall be located to prevent the drainage of manure into any navigable water.

(3) New dwelling, single-family.

(4) Home occupations.

(5) New single-family dwelling established as a second farm residence accessory to the agricultural use, subject to the following limitations:

a. Such single-family dwelling is used as a single-family dwelling.

b. Such single-family dwelling is occupied by a person who, or by 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 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 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 single-family dwelling into compliance with subsection (5)b of this section, or cause such single-family dwelling to be removed from the premises.

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

(6) Sawmill, temporary.

(7) Silos, Types 1, 2, 3, 5, 6.

(8) Unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle is permitted as an accessory use to single-family and two-family dwellings, provided that such storage is within 300 feet of such dwelling. Such unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle shall conform to all required water setbacks.

(9) Except as otherwise required in this chapter, the storage, handling, refinement, processing, utilization, shipping, distribution, and application of agricultural products, equipment and other materials normally associated with, and considered part of a permitted general farming activity, providing that these products are grown as part of the agricultural operation, as defined in subsection (2) of this section, is considered as permitted uses, as long as the resultant storage, handling, refinement, processing, utilization, shipping, distribution, and application conforms with all other applicable laws and regulations including, but not limited to, the laws and regulations...
regulations of the DNR, DATCP, EPA, and SARA regulations.

(10) Housing for migrant workers that complies with Section 68.69 4(e) of Wisconsin Statutes.

Sec. 68-454. - Conditional uses.
Conditional uses in the A-G-2 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 59-453(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 that is not in compliance with Wis. Stats. 58.69 4(e).
(19) Hunting or fishing shelter.
(20) Incinerator, public.
(21) Maple syrup processing plant.
(22) Reserved.
(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.

Explanatory Note: There were changes in the Wisconsin Statutes some years back that govern a local government’s ability to regulate migrant housing, and our code is being updated now to reflect that.

SECTIONS 58-662, 58-682, 58-722, 58-752, and 58-782 ARE HEREBY AMENDED TO READ AS FOLLOWS:

Division 14. C-G General Commercial Zone
Sec. 58-661. - Purpose.

This C-G general commercial zone provides for uses found in small commercial areas as located throughout the county.

Sec. 58-662. - Lot size, height, yard and setback regulations.
(a) Lot size. Lot sizes in the C-G zone are as follows:
   (1) Minimum area: None.
   (2) Minimum width: 50 feet.
(b) Maximum height. Maximum height in the C-G zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75% of the height of the structure.
(c) Yard and setback. Yard and setback regulations in the C-G zone are as follows:
   (1) Minimum front yard: See section 58-826 (highway setback).
   (2) Minimum side yard: None, except when adjoining O, R, A and M zones where the setback shall be according to the adjoining zone.
   (3) Minimum rear yard: None.
   (4) Minimum water setback: 75 feet.

Division 15. C-C Community Commercial Zone
Sec. 58-682. - Purpose.

This C-C community commercial zone provides for uses found in the central business district of small communities.

Sec. 58-682. - Lot size, height, yard and setback regulations.
(a) Lot size. Lot sizes in the C-C zone are as follows:
   (1) Minimum area: None.
   (2) Minimum width: 50 feet.
(b) Maximum height. The maximum height in the C-C zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75% of the height of the structure.
(c) Yard and setback. Yard and setback regulations in the C-C zone are as follows:
   (1) Minimum front yard: See section 58-826 (highway setback).
(2) Minimum side yard: none, except when adjoining O, R, A and M zones where the setback shall be according to the adjoining zone.

(3) Minimum rear yard: none.

(4) Minimum water setback: 75 feet.

Division 16. C-S Service Commercial Zone
Sec. 58-721. - Purpose.
This C-S service commercial zone provides for commercial service type uses, uses specifically oriented towards the traveler, tourist or vacationer.

Sec. 58-722. - Lot size, height, yard and setback regulations.
(a) Lot size. Lot size regulations in the C-S zone are as follows:
   (1) Minimum area: 10,000 square feet.
   (2) Minimum width: 75 feet.
(b) Maximum height. The maximum height in the C-S zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75% of the height of the structure.

(c) Yard and setback. Yard and setback regulations in the C-S zone are as follows:
   (1) Minimum front yard: See section 58-826 (highway setback).
   (2) Minimum side yard: none, except when adjoining O, R, A and M zones where the setback shall be according to the adjoining zone.
   (3) Minimum rear yard: 20 feet.
   (4) Minimum water setback: 75 feet.

Division 17. M-G General Manufacturing Zone
Sec. 58-751. - Purpose.
This M-G general manufacturing zone is intended for any manufacturing or industrial operation which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the county as a whole by reason of noise, dirt, smoke, odor, traffic, physical appearance or any other similar features.

Sec. 58-752. - Lot size, height, yard and setback regulations.
(a) Lot size. Lot sizes in the M-G zone are as follows:
   (1) Minimum area: 20,000 square feet.
   (2) Minimum width: 150 feet.
(b) Maximum height. The maximum height in the M-G zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75% of the height of the structure.
(c) Yard and setback. Yard and setback requirements in the M-G zone are as follows:
   (1) Minimum front yard: See section 58-826 (highway setback).
   (2) Minimum side yard: 20 feet.
   (3) Minimum rear yard: 20 feet.

Division 18. M-I Intensive Manufacturing Zone
Sec. 58-781. - Purpose.
This M-I intensive manufacturing zone is intended to provide for uses which by their nature can exhibit characteristics harmful, noxious, or detrimental to surrounding uses.

Sec. 58-782. - Lot size, height, yard and setback regulations.
(a) Lot size. Lot size regulations in the M-I zone are as follows:
   (1) Minimum area: 20,000 square feet.
   (2) Minimum width: 150 feet.
(b) Maximum height. The maximum height in the M-I zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75% of the height of the structure.
(c) Yard and setback. Yard and setback regulations in the M-I zone are as follows:
   (1) Minimum front yard: See section 58-826 (highway setback).
   (2) Minimum side yard: 20 feet.
   (3) Minimum rear yard: 20 feet.
   (4) Minimum water setback: 75 feet.

Explanatory Note: Cell tower setbacks must coincide with other setbacks for taller structures in Commercial Zones.

SECTION 58-824 IS HEREBY AMENDED TO READ AS FOLLOWS:
Sec. 58-824. - Yard and open space regulations.
(a) All yards and other open spaces allocated to a building (or group of buildings comprising one principal use) shall be located on the same lot as such building. The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot requirements for any other building.
(b) Except as otherwise provided in this chapter, any side yard or rear yard abutting a zone boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths of such yards in the two districts which abut the zone boundary line.
(c) The following shall not be considered to be obstructions when located in the required yards specified, subject to the requirements of section 58-231:
   (1) In any yards. Marquees and awnings adjoining the principal building and overhanging roof eaves that do not exceed 24 inches from the exterior of the structure, chimneys, ornamental light standards,
flagpoles, arbors, trellises, trees, shrubs, coin-operated telephones, satellite antenna dishes that are six feet or less in diameter, stains no more than five feet in width, walkways and sidewalks no more than five feet in width, landings of 40 square feet or less (and less than 5 feet in width) whenever necessary for safety purposes, piers, wharves, bridges, retaining walls, permitted signs, open access to off-street parking areas and open space uses customarily accessory to the principal use, and outdoor fuel-dispensing equipment.

(2) Fences. Fences are permitted on the property lines in all districts, but shall not, in any case, exceed a height of six feet in residential districts and shall not be closer than two feet to any public right-of-way. Security fences are permitted only in residential districts, except residential districts, but shall not exceed ten feet in height and shall be of an open type similar but not limited to woven wire or wrought iron fencing. In all districts within the visual clearance triangle, the provisions of subsections 55-826(e) or 55-827(g) shall prevail. Landowners are responsible for complying with any other applicable regulations including, but not limited to, Wis. Stats. chs. 90 and 844.

Explanatory Note: The exemption for stairs, walkways and landings was not noted in all yards, and we felt it should be.

SECTION 55-826 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 55-826. Setback.

(a) Generally. Buildings shall be set back in accordance with the requirements of this section and shall meet the yard requirements of the respective zones.

(b) Highway setback. All state and federal highways in the county are designated class A highways. All county trunk highways not designated class A are designated class B. All other public roads in the county are designated class C highways. Class A highway setback shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater. Class B highway setback shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way line, whichever is greater. Class C highway setback shall be 30 feet from the centerline of the highway or 20 feet from the right-of-way line, whichever is greater.

(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 on steep slopes where a 10 foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is also 2 feet above the ordinary high-water mark may be used as the closest setback point, whichever is less.

(2) Patios must be 75 feet from the ordinary high-water mark (500 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. The exact replacement of attached open decks and patios within the water setback may be permitted if in compliance with subsection 58-235(b)9.

(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 constructed of any material, including but not limited to concrete, paver block, stone, or timbers that are at or below grade are prohibited. Stairways, walkways, piers and landings shall be elevated above the ground surface rather than being excavated. Sidewalks and walkways may be constructed of any material at or below grade provided no stairs are necessary to traverse the slope. 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.

(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.

(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.

(6) Open structures in the shoreline setback area shall be as required by Wis. Stats. § 56.69(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 subsection 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 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 groundcover.

3. The buffer area shall be a no disturbance area as described in subsection 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 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 and zoning department.

7. All of the structures listed in subsections (1) through (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).
8. Repairs, modifications or replacement of any of the structures listed in subsections (6)(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 58-236 of this Code.
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 pump house covers, private on-site wastewater treatment systems that comply with ch. Corrn 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 otherwise control stormwater 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) of this section may be permitted by the zoning administrator where there is at least one dwelling or an accessory building on either side of the applicant's lot, within 250 feet of the proposed site built to less than the required setback. The reduced setback afforded by a dwelling on either side of the applicant's lot may be applied to the construction of either a dwelling or an accessory building. In the case where there are accessory structures or only one dwelling on either side of the applicant's lot built to less than the required setback, the reduced setback that may be allowed shall only apply to a permitted accessory structure. A setback less than that required by subsection (c) of this section may be permitted by the zoning administrator where there is at least one dwelling on either side of the applicant's lot, within 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. 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, not 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. In all cases, the reduced setback for a dwelling shall take into account the footprint of the structure being proposed. When averaging is allowed, the Zoning Administrator may average portions of an existing dwelling that are not enclosed with walls or roofs for similar proposed construction of portions of a dwelling that will not have walls or roofs; conversely, the Zoning Administrator may allow averaging of portions of an existing dwelling that are enclosed with walls and roofs for proposed construction of a dwelling that will be similarly enclosed with walls and roofs.

Explanatory Note: Recent changes in the budget have also affected the ability of the county to have more restrictive setbacks than the minimums in NR 115, and it has affected the way that counties are allowed to do averaging. Thus these changes in our code to remain in compliance with state law.

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

Sec. 58-903. General shoreland zoning provisions.
(1) 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 to 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 on steep slopes where a 10 foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is also 2 feet above the ordinary highwater mark may be used as the closest setback point, 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) No boathouse shall have any wall, door or access opening be more than 1/3 transparent.
(7) No boathouse shall have interior walls, insulation or plumbing.
(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. And the setback requirements are clarified.

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

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

(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 noninvasive species of vegetation in the same area.
(2) Slash material shall be disposed of in accordance with Wis. Stats. 5526.126 (f) and (f).
(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, provided 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 5 percent of the shoreline frontage and no more than 30 feet in any 100 feet of the lot or parcel's width, as measured at the ordinary high-water mark, shall be cut to the depth of the 35-foot or 60-foot setback. No filling, grading, excavating, 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
Ill-timed 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 (n)(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 (n) 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 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 path 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 543 A and Wisconsin Biology Technical Notes #1 - Shoreland Habitat", and this code as it pertains to the maximum access and viewing corridor width, 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 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 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) If a principal building setback line is less than 75 feet from the ordinary high-water mark, or less than 180 feet from the ordinary high-water mark of a class I, II or III trout stream, then a vegetative buffer zone shall be established as described, but shall not be required closer than 15 feet to the principal structure.

(7) 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: The latest budget bill changed the allowable water setback, and does not allow Counties to be more restrictive than NR 115. It also changed the maximum width of the access and viewing corridor.

Sec. 58-903(p). Filling, grading, lagooning, dredging, ditching and excavating.

(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 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 58-303.

   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.
Such filling and grading done within the O-SW zone is done in accordance with the applicable sections of that zone.

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

Sec. 58-903(q). Impervious surfaces.

(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 is not clearly shown, and provide a copy of the survey to the land conservation and zoning department.

Impervious Surfaces that are documented as meeting either of the following sub a. and b. below, shall be excluded from the impervious calculations under this section:

a. The impervious surface is treated by devices such as stormwater retention ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems approved by the Land Conservation and Zoning Department, and that have a verified maintenance agreement recorded with the deed to the property.

b. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil, and this discharge is determined to be adequate and does not require maintenance as determined by the Land Conservation and Zoning Department. A permanent easement shall be recorded with the deed to the property to secure the area for infiltration of the runoff for the life of the impervious surface.

2. "Impervious surface standard." Up to 15 percent 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 percent impervious surface, but less than 30 percent impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark is allowed; provided that, a land use or conditional use permit is issued that requires a mitigation plan meeting the requirements of subsection (i) 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 subsections (2) and (3) above, 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(b), Wisconsin Administrative Code and all the provisions of chapter 86, Waushara County Zoning Code.

Explanatory Note: Changes to Impervious surface language were instituted in both the last update to NR 115 and the most recent budget bill. This language complies with both of those.

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 __________

Ayea________ Nays______ Abstain______ ( ) Voice Vote

Approved and adopted this _______day of ________________, 2016.

Approved: __________________________

Submitted by: _______________________

Ruth Zouski,
Corporation Counsel

Mark Kerschner, Chairman
Planning & Zoning Committee

Attest:______________________________

Signed by:__________________________