ORDINANCE NO. 610
ORDINANCE AMENDING WAUSHARA COUNTY CODE
CHAPTERS 18, 42, 54 AND 58

(DRAFT#8) 3-16-17

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):

(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 Assessment for the Wild Rose Dam", dated August 2013 by General Engineering Company, and approved by the WDNR October 4, 2013.
(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) The Kristine Lake Dam Failure Analysis and Assessment, dated November 2015 by VPI Engineering, LLC, and approved by the WDNR on August 2, 2016.
(5) (6) 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.

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

Sec. 18-7. - Official maps and revisions.
Explanatory note: Another dam failure analysis and dam assessment has been completed and approved by DNR, and the detailed flood data contained in the report can be utilized when assessing risk and appropriate limitations on development downstream of the dam.

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

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

A PORTION OF SECTION 42-7 DEFINITIONS IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 42-7. - Definitions.

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

**Adjoining** means that lots or parcels shall be considered adjoining for the purpose of this ordinance if they share a common boundary of at least 66 feet. Parcels separated by public roads or navigable streams shall not be considered adjoining unless they are surveyed as one parcel on a Certified Survey Map.

**Agency** means the county zoning committee.

Explanatory note: We have never had a definition of adjoining lands, and this could mean having a property owner purchase an adjoining property that is only adjoining by a small amount and in such a way that access cannot be obtained onto the adjoining parcel. This did not seem like a good idea.

A PORTION OF SECTION 42-11 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 42-11. - Exceptions to chapter provisions.

(a) The provisions of this chapter shall not apply to transfers of interest in lands by will or pursuant to court order; leases for a term not to exceed ten years, mortgages or easements; or the sale or exchange of parcels of land between owners of adjoining property if the resultant recorded documents state no additional lots are thereby created, the lands are considered adjoining as defined in this chapter, and the lots resulting are not reduced below the minimum sizes required by this chapter, chapter 58 of this Code or other applicable laws or ordinances.

(b) The sale or transfer of lands acquired through this exception separate from adjoining lands under the same ownership is prohibited, unless all applicable provisions of this chapter and chapter 58 of this Code are complied with.
Explanatory Note: See the definition of adjoining above. This will insure that purchases of adjoining property are usable and can be further developed if necessary in the future including the development of a public road.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSCHARA COUNTY CODE CHAPTER 54 (Utilities):

A PORTION OF SECTION 54-35(c) is HEREBY AMENDED AS FOLLOWS:

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

Explanatory notations are in italics

Sec. 54-35. - Basic principles.
(a) Need. Every building that has or is required to have plumbing fixtures and that is intended for human habitation or occupancy shall be provided with an approved method of treatment and disposal of domestic sewage and sanitary wastewater. This may be through connection to a public sewer system, a POWTS or other means approved by the department.
(b) Prohibited discharges. Every POWTS shall be designed, located, constructed and maintained to prevent any discharge of sewage, partially treated sewage or effluent into drain tiles, onto the ground surface, into the structure served, into the surface or subsurface waters of the state (including zones of seasonal saturation) or into zones of bedrock. The term "surface waters" shall have the meaning described in Wis. Stats. § 281.01.
(c) Maintenance. Every POWTS shall be maintained so as to prevent prohibited discharges designated in subsection (b) of this section. In addition, every POWTS located within Waushara County shall be entered into the county's inventory and maintenance program, and shall be regulated as provided in SPS 383.255 and 383.54 of the Wisconsin Administrative Code. Notice of maintenance requirements for each system requiring servicing more than once each year shall be recorded with the register of deeds office prior to sanitary permit issuance.
(d) Sizing. Every private on-site wastewater treatment system (POWTS) shall be designed and constructed to adequately dispose of all the sewage and sanitary wastewater generated in the structure or facility it is serving.
(e) Installation, inspection and approval prior to occupation. The private on-site wastewater treatment or sanitation system for newly constructed structures shall be installed, inspected, and approved before the structure can be occupied.

Explanatory note: Maintenance reporting requirements were initially the result of Waushara County's participation in the Wisconsin Fund Program. Since that time, an inventory of all POWTS in the county was required, and mandatory maintenance is required of all systems as noted in SPS 383. This reflects this change in statutory requirements.

SECTION 54.66 (l) IS HEREBY AMENDED TO READ AS FOLLOWS:

(l) Wisconsin Fund Septic Tank POWTS Inventory and Maintenance Program.
(1) The applicant for a land use permit that involves construction or remodeling such that there will be an increase in wastewater load, or where the structure is to be rebuilt, or is to be replaced with a new or different use or structure, and the construction will be served by an existing POWTS that has been determined to meet the requirements of this Code and Wis. Admin. Code ch. SPS 383; or any applicant for a state sanitary permit shall be provided written notice of the septic tank entered into the POWTS inventory and maintenance program at the time the land use permit or state sanitary permit is issued. The records of this notification shall be maintained by the department. Upon sale of the property, the owner shall also provide written notification of the maintenance program to the buyer.

(2) All septic POWTS treatment and holding tanks installed after the start of this program shall be visually inspected and pumped within three years of the date of the installation and at least once every three years thereafter, unless upon inspection the tank is found to have less than one-third of the volume occupied by sludge and scum. Septic or anaerobic treatment tanks shall be sized based on not less than a three-year maintenance cycle in order to facilitate this requirement. Maintenance cycles of less than three years may be considered by the department on a case by case basis.

(3) At the time that the POWTS treatment or holding tank is inspected, a visual inspection of a the entire POWTS shall be conducted by a master or master restricted plumber, by a journeyman or journeyman restricted plumber, person licensed under Wis. Stats. § 281.48, by a currently licensed POWTS inspector, by a certified septicage servicing operator licensed under Ch. NR 114, or by a registered POWTS maintainer an authorized county or state employee to determine the condition of the tank and whether wastewater from the POWTS is ponding on the ground surface, or is backing up into the structure served by the POWTS.

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

(5) Septic-tank POWTS maintenance certification forms shall be mailed to the landowner by the department at least 30 days prior to its due date. Circumstances such as inclement weather, road weight restrictions, and site limitations may necessitate a delay in septic-tank POWTS maintenance until conditions permit.

(6) The inventory and maintenance program shall comply with any directives of Wisconsin Statutes 140.20 (5), the Wisconsin State Plumbing Code, and this chapter, or any other governing language and amendments. Any Wisconsin fund applicant aggrieved by a determination of eligibility may appeal such a determination pursuant to section 54-63, section 58-106 relating to appeals and Wis. Stats. ch. 68.
Explanatory note: The septic system maintenance requirements started out as a requirement to be eligible for the Wisconsin Fund Grant Program. Since that time inventory and maintenance of all systems became the law, and Waushara County has complied within the time periods specified by the legislature. These changes merely reflect the change in the law, and moving the mandate from the Wisconsin Fund Grant Program to a general requirement in Wisconsin Statute and the State Plumbing Code.

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—

A portion of 58-3 IS HEREBY AMENDED AS FOLLOWS:

Sec. 58-3. - Abrogation and greater restrictions.

(a) This chapter is not intended to repeal, impair or abrogate private covenants, deed restrictions or easements, except that where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances or parts of ordinances of the county inconsistent with this chapter, to the extent of the inconsistency only, are repealed.

(b) This chapter contains shoreland regulations which, when applied within the jurisdictional area as defined in Wis. Stats. § 281.31(2)(d), take precedence over ordinance provisions adopted pursuant to Wis. Stats. § 59.69. However, where a county zoning ordinance enacted under a statute other than Wis. Stats. § 59.69, is more restrictive than the shoreland provisions contained in this chapter, that code shall remain in full force and effect to the extent of the greater restriction, but not otherwise. The provisions of this chapter apply to county regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas except as provided in Wis. Stats. § 59.692(7) 61.353 and 62.233. Unless specifically exempted by law, all cities, villages, towns, counties and, when Wis. Stats. § 13.48(13), applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland codes. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning codes if Wis. Stats. § 30.2022(1), applies.

(c) If an existing town ordinance relating to shorelands is more restrictive than this chapter or any amendments to this chapter, the town ordinance continues in full force and effect to the extent of the greater restrictions, but not otherwise.

Explanatory Note: This language is actually incorrect and needs to be removed.

A portion of SECTION 58-9 IS HEREBY CREATED and AMENDED TO READ AS FOLLOWS:

Section 58-9 Definitions.
Average lot width means the sum of the width of a lot at the water and at the building setback line divided by 2 for riparian lots. For all other lots, average lot width is the lot width at the building setback line.

Explanatory note: NR 115 and the Statutes have inserted language about average lot width without providing guidance as to how that is measured. This should clear up those concerns.

Boathouse means a permanent structure that is currently, or has been used in the past, for the storage of watercraft and associated materials; that is currently or will be located less than 75 feet to the OHWM; and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

Explanatory note: Boathouses continue to undergo changes in how they are to be regulated by the state legislature, and changes are needed in local code to coincide with state changes.

Building, principal, means the main building on a lot, intended for primary use as permitted by the regulations of the zone in which it is located. The principal structure shall include all porches, patios, decks, entryways, and other attachments. On residential lots it is the main single family dwelling and all of its appurtenances, and on commercial lots it is the main commercial structure and all of its appurtenances. Detached decks, screen houses, patios, gazebos and other similar structures used for incidental living purposes, shall meet the required setbacks of a principal structure, unless otherwise exempted in this chapter.

Explanatory Note: Principal buildings have always included all attachments such as decks, patios, porches, entryways, etc. This just clarifies that and fits in with the accessory structure definition where those are things that are detached from the principal structure. And clarifies the setbacks and use of detached decks, screen houses, patios, gazebos and other similar structures.

Comparable size means the same footprint and 3 dimensional building envelope or smaller.

Explanatory note: NR 115 and State Statutes refer to replacement of certain structures as long as they are comparable size but do not offer further guidelines. This will clarify that situation should it arise.

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

Explanatory note: It has always been obvious to staff that a home based business must be established on the same parcel as a business owner’s home, and not a rental property or something else. This was added just to clarify that.

Navigable water and navigable waters mean Lake Superior, Lake Michigan, all natural inland lakes within the state and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the state portion of the boundary waters, which are navigable under the laws of this state. Under Wis. Stats. § 281.31(2)(d), notwithstanding any other provision of law or administrative rule promulgated there under, shoreland codes required under Wis. Stats. § 59.692, and this chapter do not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river;
2. Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and
3. Such lands are maintained in nonstructural agricultural use. Such lands are adjacent to artificially constructed drainage ditches, ponds, or storm water retention basins that are not hydrologically connected to a natural water body.

Explanatory Note: The definition of navigable changed in Statutes and needs to be adjusted in our code as well.

Previously developed means that a parcel has previously had all or part of a principal structure located within its boundaries.

Explanatory note: Again NR 115 and Statutes have this language but do not provide a definition or clarification of previously developed.

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

Explanatory note: Our plans and the current regulations are not just for stormwater retention, but rather for treatment and infiltration also.

Structural alteration means any change in the supporting members of a building such as load-bearing walls, wall columns, roof or floor rafters, foundations, window or doorway headers, beams or girders, or any substantial changes in the roof and exterior walls that would require the issuance of a land use permit in excess of $1,000.00 in value.
Construction or relocation of non-loadbearing interior walls, new or relocation of existing appliances, plumbing fixtures or mechanical equipment, provided load bearing structural alterations are not necessary to accommodate the new or relocated appliance, fixture, or equipment; and the construction of code compliant access walkways, landings, and stairs; are not considered structural alterations.

Explanatory note: We continue to struggle with what is allowed for non-conforming structures within the shoreland area, and what should be allowed to non-conforming structures in the general zoning area. Hopefully this clarifies some of those things for the public and staff.

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

Explanatory note: Changes in NR 115 require us to list more specific examples of structures even though we always considered these items to be structures.

Yard, front, means a yard extending along the full width of the front lot line between the side lot lines, and which is generally located on the street or access side of a lot.

Yard, rear, means the portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot, and which is generally located on the opposite side from the street or access side of a lot.

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

Explanatory note: It appears that having side, rear, and front yards defined might be advantageous as we move forward with things that we regulate such as fences, privacy walls, etc.

PORTIONS OF SECTION 58-163 ARE HEREBY DELETED AND RELOCATED TO SECTION 58-903 (p) AS NOTED LATER IN THIS DOCUMENT:

Sec. 58-163. - Conditional use permit.
   (a) Required. All uses listed as conditional uses within the respective zones require a conditional use permit.
   (b) Application. Applications for conditional use permits shall be made to the zoning administrator on forms furnished by the zoning administrator. The application shall be accompanied by a preliminary site plan containing the information listed in section 58-164 and fee payment as on file at the zoning office.
(c) **Hearing.** The zoning administrator shall fix a reasonable time and place for public hearing before the zoning committee on the application. Notice of the time and place of such hearing shall be given by publication in the county of a class II notice under Wis. Stats. ch. 985. If the application for a conditional use permit includes area within the shorelands of floodplain, the department of natural resources shall be notified at least ten days prior to the date of such hearing.

(d) **Standards in reviewing.** In reviewing proposed conditional uses, the zoning committee shall be guided by the following standards and requirements. Additional standards as enumerated in section 58-236 shall apply to selected conditional uses.

1. All conditional uses must be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the county and its communities.

2. Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required for all conditional uses.

3. With respect to conditional uses within shorelands, the standards set forth in Wis. Stats. chs. 284 and 283, particularly as they relate to the avoidance or control of pollution, shall apply.

(e) **Conditions attached to conditional use permits.** Upon consideration of the factors listed in subsection (d) of this section and the purposes of this chapter, the zoning committee may attach such conditions, in addition to those required by specific permits, as it deems necessary in furthering the purposes of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration, modification of sewage disposal and water supply facilities, modification of other waste disposal methods and facilities, landscaping, periods of operation, operational controls, sureties, deed restrictions, and adequate floodproofing. When floodproofing is required, the zoning committee shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood protection elevation for the particular area.

(f) **Review by town board.** The county zoning administrator shall mail to the clerk of the town within which the conditional use is proposed a copy of all maps, plans and other documents submitted by the applicant for a conditional use permit and notice of the time and place of the public hearing to be held on the proposed conditional use. Such information shall be mailed at least ten days prior to the hearing. The town board or its representative may attend the hearing and in any event may then or earlier indicate its position with regard to granting, denying, granting in part or conditionally the application. Failure of the town board to communicate its position on the application shall be deemed to constitute approval by the town board of whatever action the zoning committee may take. If the town board or its representative shall at such hearing request an extension, it shall be granted for a period which the zoning committee shall consider reasonable.

(g) **Decision.** The zoning committee shall decide all applications within 90 days after the public hearing and shall transmit a signed copy of its decision to the applicant and to the town clerk of the town in which the subject site is located. Upon granting of the conditional use permit, a final site plan shall be filed as part of the records for the permit issued. The final site plan shall include all the information required under section 58-164. If an application for a conditional use permit has been denied, the
applicant may not reapply for a conditional use permit involving the same or substantially the same use within 12 months of the date the decision was made on the initial application. A copy of all decisions granting or denying applications for conditional use permits for property located in a floodplain or shoreland area shall be transmitted to the state department of natural resources within ten days after a conditional use permit has been granted.

(h) Discontinuance. If the conditional use is discontinued for 12 consecutive months or more, any future use of the structure or premises shall not be re-established without a hearing, as required in subsection (c) above.

SECTION 58-167(a) IS HEREBY AMENDED AS FOLLOWS:

Sec. 58-167. - Exemptions.

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

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

Explanatory Note: There were some exemptions listed for shoreland areas that were not allowed by new shoreland zoning rules.

SECTION 58-168 (12) IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 58-168 – Permitting of Wireless Communications Facilities

(12) Upon cessation of the operation of the tower, the tower and other improvements to the property shall be removed. The applicant shall furnish sureties which will enable the county to remove such improvements if the applicant/owner fails to do so. The amount of such sureties shall be determined by the zoning administrator but shall not exceed $20,000.00. The form and type of such sureties shall be approved by the corporation counsel. Such fiscal surety shall be periodically checked. (no less than once every 3 years), for sufficiency and validity. The site shall also be inspected periodically for viability and code compliance for a period not to exceed five years and will be renewed thereafter. The fiscal surety and the site shall be considered valid and up to date upon a favorable review of the fiscal surety, the operation and maintenance of the facility by the zoning committee and corporation counsel. All local units of
government within the county shall be exempted from having to furnish fiscal sureties.

Explanatory Note: Many bonds and letters of credit are automatically renewed, rather than have an end date. This is more in keeping with the way things are done now, and still allows for and requires a periodic review of sites and the fiscal sureties in place should the site need to be dismantled.

SECTION 58-194 IS HEREBY AMENDED AS FOLLOWS:

Sec. 58-194. - Doubling Tripling of fees.
Fees for permits, when the applicant applies for such permits after a use has commenced or a structure has been wholly or partially erected for which a permit is required under the provisions of this chapter, shall be double triple the amount on file at the zoning office. Payment of such fee shall not exempt the applicant from any penalty imposed under section 58-42.

Explanatory Note: This was done at the request of the Planning and Zoning Committee as a tool to persuade individuals to get permits prior to commencing construction.

A PORTION OF SECTION 58-231 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-231. - Uses restricted.
In any zone, no building or land shall be used, no building shall be erected, structurally altered or relocated after the effective date of the ordinance from which this chapter is derived, except for one or more of the uses as established in this chapter for that zone and the with the restrictions established under section 58-236, where applicable.

(1) Any dwelling assembled or placed shall have not less than 720 square feet of habitable space. For purposes of determining habitable space, decks, patios, open porches, attached garages, basements (where the floor of such basement is below finished grade), and any portions of attics or lofts which are less than seven feet in height shall not be used in determining habitable space.

(2) In addition to the above noted requirements, any manufactured mobile home placed or moved shall meet the following requirements as well as those of subsection 58-236(b)(11).

a. The unit shall be placed on a permanent foundation with adequate anchoring provisions to prevent wind damage.

b. The foundation of the unit shall be entirely enclosed to prevent access by vermin or debris, and shall be of fireproof material.

c. All requirements of the Wisconsin Uniform Dwelling Code shall be complied with including, but not limited to the foundation and all electrical and plumbing connections.

Explanatory Note: When we removed mobile home requirements and considered all homes equal except whether they were used or not, we overlooked this section. And I figured it was a good place to put the anchoring and fireproofing conditions we use to have in our mobile home section.
SECTION 58-235 (a) through ( ) IS HEREBY DELETED, RELOCATED TO SECTION 58-903 (s) and AMENDED AS NOTED LATER IN THIS DOCUMENT:

Sec. 58-235. - Nonconforming structures and uses.
Relative to setbacks and uses other than shoreland nonconforming structures see 58-903 (s).
(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 thereto may be continued although such use or structure does not conform with the provisions of this chapter subject to the limitations listed in subsection (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)a—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(q), if applicable. If the expansion shall consist solely of an open deck or patio on the principal structure, such open deck or patio may consist of up to 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
pavilion, then each portion shall be limited to 25 percent of the existing square footage of the nonconforming structure.

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. Structural components include all 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. § 59.69(10m), if a landowner can establish that a nonconforming structure (nonconforming due to any setback other than shoreland), was damaged or destroyed after March 2, 2006 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. § 57.30(1d), nonconforming structures that are subject to regulation under chapter 18 of this Code may not be reconstructed or repaired except in compliance with such chapter.

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(o).

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 shoreland area that do not meet required water setbacks:

(1) "Maintenance, 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 may be maintained, 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 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.

c. 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/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 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 Wausau County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.

(4) "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 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.
   c. No portion of the 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 relocated structure is limited to its existing building footprint and no increase in impervious surfaces is permitted, unless the increase in impervious surface complies with the provisions of subsection 58.003(g).
   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 Wausau 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(t).  
   d. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.  

(6) "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.  

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

(8)(2) 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 shall comply with Section 58-903 of this code, may be maintained and repaired within its existing building envelope.  

(9)(3) Any expansion, relocation or replacement of a 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.  

(10)(4) 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. (44)(5) For the purposes of replacing or reconstructing a nonconforming 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: The sections specific to shoreland need to be deleted, and moved to Section 58-903, and are amended somewhat in that section. This merely deletes them from the general zoning section, and renumbers the section to account for the deletions.

SECTION 58-277 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-277. - Incorporation of maps.
The location and boundaries of the respective zones are shown on the town zoning maps and accompanying detail maps, and are referred to and referenced as the "Zoning Maps of Waushara County, Wisconsin". The "1994 Wisconsin Wetland Inventory Maps, Waushara County, Wisconsin" the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer, shall be used in accordance with section 58-392 in determining the location of shoreland/wetland zone boundaries. These maps, together with all explanatory matter and regulations thereon, are an integral part of this chapter and its articles. In the event of a conflict between boundaries shown on a town map and a zoning detail map, the latter shall govern and prevail. Official copies of the zoning maps, together with a copy of this chapter, shall be kept by the zoning administrator and shall be available for public inspection during official hours. These maps shall be certified by the chair of the county board and attested by the county clerk. Any changes or amendments affecting zoning boundaries or explanatory matter shall be recorded on the applicable maps. All such changes shall be made in accordance with the provisions of Wis. Stats. § 59.69, and as subsequently amended, and with this chapter.

Explanatory note: DNR has changed what maps are considered to be the official wetland inventory maps, and how they are to be named in our code.

SECTION 58-304 Conditional Uses in the O-N Zone 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(e)(p).

Explanatory Note: The applicable section for filling and grading is (p) instead of (o).

SECTION 58-391 IS HEREBY AMENDED AS follows:

DIVISION 5. - O-SW SHORELAND/WETLAND SHORELAND-WETLAND ZONE

Sec. 58-391. - Purpose.
The purpose of the O-SW shoreland/wetland shoreland-wetland zone is to maintain safe and healthful conditions, to prevent water pollution, to protect fishing spawning grounds and aquatic life and to preserve shore cover and natural beauty. Development in wetlands should be limited. When development is permitted in a wetland, it should occur in a manner that minimizes the adverse impacts upon the wetland. Wetlands provide fish spawning grounds and wildlife habitat. The natural plant and animal communities found in wetlands provide ecological balance to a watercourse. Wetlands help prevent water pollution and flooding problems. The shoreland-wetland zone is an overlay zone, and a shoreland-wetland zoning district as required by NR 115.04 Wisconsin Administrative Code.

Explanatory Note: I think it is much clearer to state the shoreland wetland zone is an overlay district separate from the other zoning districts in our code. And I think it is cleaner to note that the name of the zone is shoreland-wetland, and not shoreland/wetland. The / mark has always kind of meant an either/or situation to me and not inclusive as the real name is meant to be.

SECTION 58-826 (c) through (e) ARE HEREBY AMENDED TO READ AS follows and 58-826(c) is HEREBY RELOCATED TO ARTICLE VI, and RENUMBERED AS NOTED IN 58-903(d):

Sec. 58-826. - 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 63 feet from the centerline of the highway or 30 feet from the right-of-way line, whichever is greater.
(e) 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:
(1) All boathouses shall be set back a minimum of ten feet from the ordinary high-water mark or on steep slopes where a ten-foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is also two feet above the ordinary high-water mark may be used as the closest setback point.

(2) Patios must be 75 feet from the ordinary high-water mark, 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 58.236(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, or other natural features, 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 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 feet 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 shoreland setback area shall be as required by Wis. Stats. § 59.602(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 68-903(n).

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

d. The structure that is the subject of the request for a permit has no sides or has open or screened sides. The structure shall not be attached to any other structure unless the side of such structure at the point of attachment is open or screened.

e. The side yard shall be the minimum required in the specific zoning district.

f. The structure shall not exceed a height of 15 feet. Height of any structure allowed under this section shall comply with any restriction of the general zoning code in addition to the height limits under shoreland zoning.

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 68-903(n).

4. Placement of the structure is not authorized until the vegetative buffer zone has been established for at least three months.
6. 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 shall be located within the view corridor described in subsection 58-003(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, but located outside of the view corridor shall conform to section 58-235 of this Code.

9. In the case of a property that does not have a clearly defined view corridor, one shall may be established and identified based primarily on existing vegetation, but shall may also be based on the location of any existing structures within 35 feet of the ordinary high-water mark. All future structures and disturbances within 35 feet of the ordinary high-water mark 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. Comm 83, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or to otherwise control 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)(c) 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, nor less than 75 feet to the centerline of a state or federal (class "A") highway. 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 either 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.

(e)(d) Visual clearance. In each quadrant of every intersection, there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them 300 feet from a Class A highway intersection, 200 feet from a Class B highway, and 150 feet from a Class C highway intersection. If two highways of a different class intersect, the greater distance shall apply to both centerlines. Within this triangle, no object over two feet in height above these streets shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this subsection. Natural vegetation and agricultural crops shall also be exempt from this subsection.

Explanatory note: DNR has requested that shoreland regulations be separated from general zoning requirements so it is more apparent what regulations are applicable on a property.

SECTION 58-827 IS HEREBY AMENDED TO READ AS FOLLOWS:

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

(a) Open fences are permitted within the required setbacks of subsections 58-826(b), (e) and (d). For the purposes of enforcement, an open fence is considered as a fence that, from a perpendicular position, does not block more than one-third of the view.

(b) Petroleum and gas transmission lines, telephone, telegraph and power transmission towers, poles and lines, water towers, pumping stations, well pump house covers, private on-site wastewater systems that comply with ch. Comm 83 SPS 383, and other utility structures that have no feasible alternative location outside of required setbacks, as long as those structures, if located within the shoreland area, employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.

(c) Underground structures not capable of being used as foundations for future prohibited overground structures are permitted.

(d) No trees or shrubbery shall be planted to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.

(e) Access or frontage roads constructed by the public to plans approved by the county highway committee are permitted.
(f) Permitted signs and signs placed by public authorities for the guidance or warning of traffic are permitted.

Explanatory Note: Another area where we need to separate shoreland rules from general zoning regulations and one last update from Comm 83 to SPS 83.

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

Sec. 58-864. - Types; maximum size; number and location. (Signs)
The following is a list of sign types, sizes, number permitted and locations:
(1) Type 1. Official traffic control signs, and informational or directional notices erected by federal, state or local units of government. Official signs may be placed within the highway right-of-way. No permit is required.
(2) Type 2. Signs advertising an on or off premise business or activity, an area of interest, service available, home occupation, professional office, or a public or semi-public use. Such signs in the O-N, O-F, O-P, O-SW, A-G, A-R, RS-10, RS-20, R-M, RS-P and RM-P zoning districts shall not be more than 32 square feet per side. Such signs in the C-C, C-S, C-G, M-G, and M-I zoning districts shall not be more than 100 square feet per side, providing that the minimum height of the bottom of the sign is not less than eight feet from the adjoining ground surface and does not otherwise obstruct vision or pose a safety concern. Such signs may be placed at the highway right-of-way. No permit is required. One type 2 sign is allowed per parcel. Multiple type 2 signs are may be allowed on the same parcel if a minimum spacing of 100 feet is maintained. No permit is required for a single type 2 sign in the O-N, O-F, O-P, O-SW, A-G*, A-R, RS-10, RS-20, R-M, RS-P, and RM-P zones. A permit is required for a single type 2 sign in the C-C, C-S, C-G, M-G, and M-I zones, or for multiple type 2 signs in any zone.
(3) Type 3. Signs advertising the sale, rent or lease of the property on which the sign is placed. Such signs shall not be more than 32 square feet per side. Such signs may be placed at the highway right-of-way. No permit is required. One type 3 sign is allowed per parcel. Multiple type 3 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained. No permit is required.
(4) Type 4. Signs advertising a general brand or product, an area of interest, a business conducted, or a service available on or off premise. Such signs shall not be more than 100 square feet per side, and shall comply with the setback requirements established in subsections 58-826(b) and (e). A minimum spacing of 300 feet shall be maintained between type 4 signs. A permit is required.
(5) Type 5. Signs on or attached to agricultural, commercial, or industrial buildings advertising a business conducted or service available on the premises. No sign shall be higher than the maximum height permitted in the respective zone. No permit is required. One type 5 sign is allowed per parcel. Multiple type 5 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained. No permit is required.
(6) Type 6. Signs indicating the direction to camps, campgrounds, recreation areas, resorts, residences or similar uses both on and off premise. Such signs shall not be more than 32 square feet per side. Where a common posting standard is provided, all such signs shall be attached to the standard directory. The resulting composite sign shall not exceed 100 square feet per side. Such signs may be placed at the highway right-of-way. No permit is required. One type 6 sign is allowed per parcel. Multiple type 6 signs are allowed on the same separate parcels if a minimum spacing of 100 feet is maintained. No permit is required.
Explanatory Note: We have always had some difficulty when reading this section so are trying to clear up some of the language to make it easier for all to understand. Hopefully this does it.

SECTION 58-902(b) IS HEREBY AMENDED TO READ AS FOLLOWS:

(b) Determination of navigability and ordinary high-water mark. The county zoning administrator shall make the initial determination whether or not a body of water is navigable under the laws of the state. The county zoning administrator shall also make the initial determination of the location of the ordinary high-water mark. When questions arise, the zoning administrator shall contact the appropriate district department of natural resources office for a determination of navigability or ordinary high-water mark. When such determination is made, the department of natural resources shall submit a copy of the findings to the county zoning administrator who shall maintain a file on such determinations in the county zoning office. The Zoning Administrator may also work with a professional land surveyor as outlined in Ch. 59.692(1h) of the Wisconsin Statutes.

Explanatory Note: Another recent law change provides professional land surveyors with more authority in this area. This just formalizes that in our code.

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

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

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

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

(3) A legally created lot within the shoreland area that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

a. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.

b. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

c. The substandard lot or parcel is developed to comply with all other code requirements.
Explanatory Note: Another recent change in Wisconsin law that needs to be clarified here.

SECTION 58-903(c) IS HEREBY AMENDED AS FOLLOWS:

(c) Substandard lots. Substandard lots shall meet the requirements of subsection 58-903 (b)(3) above if in any unzoned town, and subsection 58-823(c) where general zoning standards apply.

Explanatory note: Again some tweaking out of shoreland vs. general zoning substandard lot regulations.

SECTION 58-826 (c) Water Setback WHICH WAS DELETED EARLIER, IS HEREBY RENUMBERED AS SECTION 58-903(d) and IS AMENDED AS FOLLOWS:

(d) Building and structure setbacks. Building and structure setbacks shall meet the requirements of section 58-826 (c) — Water setback. All buildings and structures, except those enumerated in this subsection (ed), shall be set back at least 75 feet from the ordinary high-water mark of navigable waters, unless. 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 principal structure 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 principal structure on each side of the proposed site. If there is no principal structure on one side of the proposed building site that lies within 250 feet, then the required setback of 75 feet shall be used to compute the average setback on that side. In no case shall averaging allow a setback of less than 35 feet from the ordinary high-water mark.

(1) All boathouses shall be set back a minimum of ten feet from the ordinary high-water mark or on steep slopes where a ten-foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is also two feet above the ordinary high-water mark may be used as the closest setback point.

(2) Patios must be 75 feet from the ordinary high-water mark, 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)(93).

(3) Stairs and 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, or other natural features, 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, 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 permitted 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 elevated stairs 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, sidewalks or 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 permitted or existing non-conforming structure. Such stairs, sidewalks, elevated walkways, or filled paths, walkways or piers shall terminate once it reaches the ordinary high-water mark or the entrance to the permitted or existing non-conforming 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 shoreland setback area shall be as required by Wis. Stats. § 59.692(1v), and as described below, 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 not include the area of any permitted or conforming boathouse, walkway, or stairs, deck, patio, foundations, supporting structures, appurtenances, overhangs greater than 24 inches in width, walkways wider than five feet or landings larger than 40 square feet.
retaining walls, platforms or other structures not otherwise exempted from meeting required water setbacks.
Boathouses shall be excluded.

d. The structure that is the subject of the request for a permit has no sides or has open or screened sides. The structure shall not be attached to any other structure unless the side of such structure at the point of attachment is open or screened.

e. The side yard shall be the minimum required in the specific zoning district.

f. The structure shall not exceed a height of 15 feet. Height of any structure allowed under this section shall comply with any restriction of the general zoning code (if applicable) in addition to the height limits under shoreland zoning.

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 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, but located outside of the view corridor shall conform to section 58-235 903(s) of this Code.

(9) In the case of a property that does not have a clearly defined view corridor, one shall may be established and identified based primarily on existing vegetation, but shall may also be based on the location of any existing structures within 35 feet of the ordinary high-water mark. All future structures and disturbances within 35 feet of the ordinary high-water mark shall be limited to that corridor.

(10) Broadcast signal receivers and satellite antenna dishes that are six feet or less in diameter are permitted within the required water setback.

(11) Utility transmission and distribution lines, pole, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. Comm 83 SPS 383, devices or systems used to capture and treat runoff from impervious surfaces, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or to otherwise control 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.

(14) Existing structures that are exempt from the water setback as noted above, may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the construction does not expand the footprint and does not go beyond the 3-dimensional building envelope of the existing structure. Expansion beyond the existing footprint may be
allowed if the expansion is necessary to comply with applicable state or federal requirements.

Explanatory Note: This section was not only relocated from a previous section where it was mixed in with general zoning requirements, but it was also amended to address some clarification of averaging, height of structures in the shoreland, and that vegetative buffers are not retroactively required to be replaced by this code.

SECTION 903 (f) IS HEREBY AMENDED AS FOLLOWS:

(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. **All boathouses shall be no more than one story.** The wall height of any boathouse shall be a minimum of 6 feet and a maximum of 10 feet in height. No part of any boathouse shall exceed 15 feet in height.
2. **No decks, patio doors, fireplaces, or other structures associated with human habitation shall be attached to or made part of a boathouse.**
3. **All boathouses shall have pitched roofs ranging in pitch from a minimum of 4:12 (rise to run) to a maximum of 6:12 (rise to run).**
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 ten-foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is also two feet above the ordinary high-water mark may be used as the closest setback point.** 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 one-third transparent. No transparent doors, windows or other openings are permitted on the water side of the boathouse.**
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.**
9. **Boathouses shall be contained entirely within the access and view corridor for a riparian parcel.**
10. **The construction of any boathouse which extends wholly or in part beyond the ordinary high-water mark of any navigable waters is prohibited by this code.**
11. **All boathouse shall comply with any other codes including all general zoning, and floodplain codes.**

Explanatory Note: Boathouse regulations are another shoreland item that continue to change how they can be regulated. These changes are meant to comply with NR 115 and make it clearer as to what is necessary to have a boathouse that meets statutory...
requirements and is in compliance with the intent of the boathouse provision. And it moves all of the boathouse requirements into one place in the shoreland regulations section of the code.

SECTION 58-903(p)(3) IS HEREBY AMENDED TO READ AS FOLLOWS:

(p)  Filling, grading, lagooning, dredging, ditching and excavating.

(1)  General standards. All filling, grading, lagooning, dredging, ditching and excavating within the required water setback, except for riprap and other waterline protection measures approved by the state department of natural resources and U.S. Army Corps of Engineers (regardless of size) shall be reclaimed by revegetation. Earth disturbances within the required water setback shall not be allowed where the resulting slope would be too steep to be stabilized with vegetation. Earth disturbances within 35 feet of the ordinary high-water mark 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 58-393.

c. A state or federal permit has been obtained for any filling, grading, lagooning, dredging, ditching or excavating for which a state or federal permit is required and such activities are in full compliance with the terms of this article.

d. Such filling, grading, lagooning, dredging, ditching or excavating is less than 2,000 square feet in area.

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

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

a. Surface drainage towards the navigable body of water; and

b. Involves a total area of between 2,000 and 10,000 square feet.

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

a. Surface drainage towards the navigable body of water; and
b. Involves a total area of greater than 10,000 square feet.
c. If the application for a conditional use permit includes area within the shorelands or floodplain, the Department of Natural Resources shall be notified at least ten days prior to the date of such hearing.
d. The standards set forth in Wis. Stats. Chs. 281 and 283, particularly as they relate to the avoidance or control of pollution, shall apply.
e. A copy of all decisions granting or denying applications for conditional use permits for property located in the a floodplain or shoreland area shall be transmitted to the State Department of Natural Resources within ten days after a conditional use permit decision has been made.

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

SECTION 58-903 (q)(1) IS HEREBY AMENDED TO READ AS FOLLOWS:

(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 or sidewalk 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 lines on said survey or plat are not found, then it is the landowner's responsibility to have a survey
done which clearly shows the total square footage of the parcel and all of the property irons clearly shown, and provide a copy of the survey to the land conservation and zoning department.

Explanatory note: It was brought to our attention that the stated way of calculating impervious surfaces has changed and you now use the entire lot area as the denominator and not just that portion that is within 300 feet.

SECTION 58-903 IS HEREBY AMENDED and RENUMBERED AS FOLLOWS:

Sec. 58-903(s) Nonconforming Structures and Uses

(a) The following general provisions shall apply to all non-conforming structures and uses within the shoreland area that do not meet the required water setback.

(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 thereto may be continued although such use or structure does not conform with the provisions of this chapter.

(2) "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.

(3) "Maintenance, repair, replacement, and vertical expansion." An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet in height as defined in this chapter. Expansion of the footprint may be allowed if the expansion is necessary to comply with state or federal requirements. All other requirements of this chapter must be complied with, and the use shall not be allowed to change with the expansion.

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

(1) "Maintenance, 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 may be maintained, repaired or replaced within its existing building envelope footprint. Expansion of the footprint may be allowed if necessary to comply with applicable state or federal requirements.

(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 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 if a non-conforming use.

b. The existing principal structure is at least 35 feet from the ordinary high-water mark.

c. 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/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 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 if a non-conforming use.

b. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.
(4) "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 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 if a non-conforming use.
b. The existing principal structure is at least 35 feet from the ordinary high-water mark.
c. No portion of the 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 relocated structure is limited to its existing building footprint and no increase in impervious surfaces is permitted, unless the increase in impervious surface complies with the provisions of subsection 58-903(q).
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 if a non-conforming use.
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(t).
d. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.

"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. If an existing boathouse has a flat roof, the flat roof may be used as a deck provided the roof area has no side walls or roof. A railing that meets DSPS standards may be installed for safety purposes.

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

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.

Explanation Note: The section on non-conforming structures due to water setback is being relocated to the shoreland provisions at DNR's request. Also language is being added about non-conforming uses at their request as well.

SECTION 58-903(t) IS HEREBY AMENDED AS FOLLOWS:

(t) Height limitations. No construction is permitted which results in any structure or building taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters (400 feet from the ordinary high-water mark of class I, II and III trout streams).

Explanation Note: Shoreland Zoning Statutes no longer allow any county to have restrictions more restrictive than those listed in NR 115, including for trout streams.

SECTION 58-1006 IS HEREBY AMENDED TO READ AS FOLLOWS:
Sec. 58-1006. - Final grading and slopes.

(a) All areas affected by mining shall be addressed in the reclamation plan approved pursuant to this article to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

(b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than three to one horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under s. 18 Section 58-963(9)(1) through (4); steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(c) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

Explanatory Note: It recently came to our attention that this section was not correctly noted when referencing alternative requirements.

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 No. 610

Ayes _____ Nays _____ Abstain _____ Absent _____ [X] Voice Vote

☑ Approved and enacted this 18th day of April 2017.
☐ Denied this 18th day of April 2017.

Approved as to Form:

[Signature]
Ruth Zouski
Corporation Counsel

Submitted by:

[Signature]
Donna R. Kalata, Chair
Executive Committee

Attest:

[Signature]
Melanie R. Stake
Waushara County Clerk

Signed by:

[Signature]
Donna R. Kalata, Chair
Waushara County Board of Supervisors