ORDINANCE AMENDING WAUSHARA COUNTY CODE
CHAPTERS 8, 22, 42, 54, AND 58

WHEREAS, Waushara County has enacted Chapters 8, 22, 42, 54, and 58, to promote and protect the public health, safety, comfort, convenience, prosperity, aesthetics, and other aspects of the general welfare and to affix reasonable standards as applicable thereto; and

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

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

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 8 (Building and Mechanical Code):

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

Explanatory notations are in italics

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

Sec. 8-33. - Definitions.
As used in this article, the following terms have the meaning prescribed herein: (Any item not defined herein shall follow the Wisconsin Administrative Code definitions.)

Primitive Rural Hunting Cabin. A structure used for housing registered hunters immediately prior, during, and immediately after Wisconsin hunting seasons as listed on the Wisconsin DNR website. Documentation that the cabin was initially constructed prior to December 31, 1997 is required. In addition, the cabin shall meet all of the following requirements: the cabin shall be located on a parcel that is greater than 40 acres in size; the parcel shall be entirely within the AG (General Agricultural) zoning district; and the cabin shall not contain any plumbing or electricity.

Explanatory Note: There was a change in applicability of building codes contained in the budget bill, and there was not much for a definition of what constituted a “primitive rural hunting cabin”. We felt it was advisable to include one so we could figure out when these codes may or may not apply. Thus this definition.
SECTION 8-35 (c) IS HEREBY CREATED TO READ AS FOLLOWS:

Sec. 8-35. - Permit required.

(a) No owner or contractor may commence construction of any building or mechanical system on a structure referenced in section 8-34 above, prior to obtaining a valid permit from the municipal building inspector.

(b) The construction which shall require a building permit includes, but is not limited to:
   (1) New one- and two-family dwellings, including decks serving an exit from the dwelling, and commercial buildings.
   (2) Additions that increase the physical dimensions of a building including decks.
   (3) Alterations or additions to the building structure, that are either greater than $1,000.00 market value, (cost shall include market labor value, or alterations to the building's heating, electrical or plumbing systems), or that constitute 100 square feet or more in area.
   (4) Alteration of plumbing, venting, electrical or gas supply systems.
   (5) Any electrical wiring for new construction, additions and alterations.
   (6) Any HVAC for new construction, additions and alterations.
   (7) Any plumbing for new construction, additions and alterations.
   (8) All electrical wiring associated with swimming pools.
   (9) New or re-wired electrical services.
   (10) Any conversion of a building from one use to a different use.

(c) In addition to the construction activities noted above, the demolishing or razing of any one- and two-family dwellings, or the razing of any commercial buildings shall require a valid permit from the building inspector. Whenever a building or structure is razed or demolished hereunder, all debris and materials resulting from such demolition shall be removed from the premises, all basements and other excavations and depressions revealed or caused by such demolition shall be filled to the general grade of the premises, and all surfacing on such premises shall be removed. All appurtenant structures on the premises no longer useful for the intended use of the premises shall likewise be razed or demolished and the resulting debris removed from the premises. All resulting vacant areas shall be seeded or planted as required by the building inspector.

(c)(d) The following construction activities shall not require a building permit:
   (1) Detached one- and two-family accessory structures, including residential swimming pools and major equipment replacements (i.e., furnace, water heater, air conditioning, etc.).
   (2) Re-siding, reroofing and finishing of interior surfaces, installation of cabinetry, and repairs which are deemed minor by the building inspector. Notwithstanding this section, however, a permit accompanied by structural load-bearing calculations shall be required for re-roofing a building if the proposed re-roofing would constitute a third or more layer of roofing.
(3) Normal repairs of HVAC, plumbing and electrical equipment or systems such as replacing switches, receptacles, light fixtures and dimmers.
(4) Agricultural structures.
(5) Structures or remodeling when the proposed work is less than $1,000.00 market value and less than 100 square feet in area. All building codes shall be complied with whenever the structure or remodeling will be to a one or two-family dwelling, or any commercial building, regardless of whether a permit is required by this section.

Explanatory note: While going through the process of contracting with a new building inspector, it was noted that many municipalities require a raze permit, and that it may be advantageous to require one to make sure demolition materials are properly disposed of and to keep the tax records on track. So a raze permit for 1 and 2 family dwellings and commercial buildings is being proposed by this amendment. Also, a third layer of roofing is no longer allowed by the state code, so there is no reason to require a permit.

SECTION 8-38 (2)(g) is HEREBY CREATED TO READ AS FOLLOWS:

Sec. 8-38. - Certified municipality status.

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

(1) **Responsibilities.** The county shall assume the following responsibilities for the department of safety and professional services (department):
   a. Provide inspection of commercial buildings with certified commercial building inspectors.
   b. Provide plan examination of commercial buildings with certified commercial building inspectors.
   b. The department shall require that all new electrical service and re-connection service shall have both a permit issued to and work verified by a master electrician.

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

f. The department may waive its jurisdiction for the plan review of a specific project, where agreed to by a certified municipality, in which case plans and specifications shall be submitted to the certified municipality for review and approval.

(2) Plan Submission For Commercial Buildings. Plans for commercial buildings shall follow requirements for Wisconsin Administrative Code SPS 361.30. Two sets of Department approved plans and a building permit application shall be submitted to the Building Inspection Department for the further processing and calculation of fees. Plans that fall under the exemption for submittal to the Department will still require two sets of plans submitted to the Building Inspection Department along with the building permit application. Those plans must be drawn to scale and contain sufficient detail for code compliance review.

(3) Plan submission procedures. All commercial buildings, structures and alterations require plan submission as follows:

a. Building permit application;

b. Application for review—SBD-118:
   1. Fees per Tables SPS 302.31-2 and SPS 302.31;
   2. Fees apply to all commercial projects.

c. Four sets of plans:
   1. Signed and sealed per SPS 361.31;
   2. One set of specifications;
   3. Component and system plans;
   4. Calculations showing code compliance.

Explanatory Note: The State Code does not require Plan Examination responsibilities of an Inspector. While the prior Building Inspector with the County performed both services, General Engineering follows State Code and only performs Inspections. The State Code also does not require electrical service reconnections to have the work performed or under the jurisdiction of a master electrician. However, the power companies have requested that Waushara County continue requiring the work be performed and/or verified by a master electrician for both their safety and that of the general public.

FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 22 (Health and Sanitation):

SECTION 22-172 IS HEREBY AMENDED AS follows:
Sec. 22-172. - Minimum standards.

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

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

2. **Manure management and utilization.** The standard for management of waste storage facilities and utilization of waste is standard 590 (nutrient management) in the technical guide.

3. **Closure of waste storage facilities.** The standards for closure of waste storage facilities is standard 360 (closure of waste impoundments) in the technical guide.

4. **Subsequent modification of standards.** The standards of the technical guide are adopted and by reference made a part of this article as if fully set forth in this section. Any further amendment, revision or modification of the standards are incorporated in this section and made a part of this article, except that Standard 313 noted in Section (1) above shall utilize the January 2014 version regardless of future modification.

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

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

**Explanatory note:** There are some changes to the 313 Standard that will make it very expensive to construct a compliant manure storage facility, if not outright impossible. The 2014 standard is adequate to protect the water resources of the County and staff encourages staying with that standard, at least for the time being.

**FOLLOWING ARE AMENDMENTS PROPOSED TO THE WAUSHARA COUNTY CODE CHAPTER 42 (Subdivisions):**
Amended sections are underlined  
Deleted sections are stricken  
Explanatory notations are in italics

A PORTION OF SECTION 42-7 IS HEREBY CREATED AS FOLLOWS:

Lot means a land area of 15 acres or less, that has a width and depth sufficient to provide the space necessary for one principal structure, an accessory structure, and any sewage services necessary to serve the structures, together with the open spaces required by the Waushara County Codes, and which abuts on a public street or other officially approved means of providing access to the lot.

Lot Width means the shorter dimension(s) of the perimeter dimensions of a parcel. Lot width is measured from the closest points of the lot lines that are considered as the length of the lot, and shall meet the minimum requirements of this chapter and Chapter 58 of Waushara County Codes if applicable. A lot may have more than one portion that is considered as the width portion of the lot.

Lot Length means the longer of the dimensions of the perimeter of a parcel. Where the longer dimensions are perpendicular to each other, factors such as road or water frontage and other factors shall be used in determining the lot length.

Explanatory Note: This came up recently when there was a flag lot that had a narrow portion that the surveyor tried to argue was the lot length. So it appeared we needed to define these items to clarify the issue for everyone involved. In doing so it appears we should also beef up our definition of a lot.

A PORTION OF SECTION 42-127 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 42-127. - Installation of improvements guaranteed.
(a) Completion of improvements. Before final plat approval of a final plat or Certified Survey Map, the subdivider shall be required to complete all improvements specified in the final subdivision plat as approved by the county planning agency.
(b) Waiver of completion; fiscal surety. The county planning agency may waive the requirement that the subdivider complete all required improvements before final plat or Certified Survey Map approval if the subdivider provides a fiscal surety at the time of application for Certified Survey Map or final plat approval. Such fiscal surety shall be in an amount estimated by the county planning agency as sufficient to secure to the county the satisfactory construction and installation of the incomplete portion of required improvements. Such bond, certified check, escrow account or irrevocable letter of credit shall comply with all statutory requirements and shall be satisfactory to the corporation counsel as to form, sufficiency, and manner of execution. The period within which required improvements must be completed shall be specified by the county planning agency in the resolution approving the final plat and shall
be incorporated in the fiscal surety and shall not in any event exceed two years from the date of final approval. Such fiscal surety shall be approved by the county planning agency, and the planning agency may, upon proof of difficulty, approve such extension of the completion date set forth in such fiscal surety for a maximum period not to exceed one additional year.

(c) Inspection. One week prior to the time each improvement is to be constructed and upon its completion, the subdivider shall notify the county zoning administrator so that adequate inspection can be made.

(d) Issuance of permits. No building or sanitary installation permit shall be issued for any lot, tract, or parcel of land which was created by subdivision after the effective date of the ordinance from which this chapter is derived and not in conformance with the regulations of this chapter, and no excavations of land or construction of any public or private improvements shall take place or commenced except in conformance with the regulations of this chapter.

Explanatory note: Recently we had a Certified Survey Map proposed that was dependent on installation of a public road, and the developer wanted to bond for the installation rather than install the road prior to map approval. We have always required the installation prior to CSM approval but have allowed bonding for plats, and we thought maybe bonding on a CSM might be ok as well.

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

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

Explanatory notations are in italics

SECTION 54-66 (l) is HEREBY AMENDED TO READ AS FOLLOWS:

(l) 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; All properties served by an existing POWTS, or any applicant for a state sanitary permit for a new or replacement POWTS, shall be entered into the POWTS inventory and maintenance program at the time it is determined that a POWTS exists on the property, or at the time the land use permit or state sanitary permit is issued.

(2) All 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 of the POWTS, or the date when the system was
first documented and placed into the inventory, and at least once every three years thereafter, unless upon inspection by a properly licensed individual as noted in Section (3) below, 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 the entire POWTS shall be conducted by a master or master restricted plumber, by a journeyman or journeyman restricted plumber, by a currently licensed POWTS inspector, by a certified septage servicing operator licensed under Ch. NR 114, or by a registered POWTS maintainer 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) 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 POWTS maintenance until conditions permit.

(6) The inventory and maintenance program shall comply with any directives of Wis. Stats. § 140.20(5) 145.20(5), the Wisconsin State Plumbing Code, and this chapter, or any other governing language and amendments.

Explanatory Note: The mandatory maintenance program has evolved over the years from a requirement for participation in the Wisconsin Fund Grant Program, to being a program that is required to be completed by every County in the State. We have constantly worked to update our code to coincide with the changing requirements. Good news is, I think the program is done changing, at least for a while, so these should be the last changes necessary. And finally, upon inspection by DSPS staff, they found a typo in our statutory reference.

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

(underlined) (deleted sections are stricken)
PORTIONS of SECTION 58-9 ARE HEREBY CREATED and AMENDED TO READ AS FOLLOWS:

Section 58-9 Definitions.

Agricultural Event Center means a farm based enterprise or business that provides a facility for hire to host social or business gatherings including but not limited to meetings, parties, seminars, weddings, receptions, and barn dances in a renovated agricultural structure or structures. The center must promote the retention of the rural nature of the parcel and community in which it is located.

Domestic Chicken means a female hen or pullet.

Explanatory note: Wedding barns are all the rage and it seemed appropriate in our General Agricultural Zone that we specify this is a Conditional Use in that zone. Also, there have been several requests for chickens in the residential zone and it appears that this may be ok provided certain conditions can be met.

SECTION 58-104 IS HEREBY AMENDED AS FOLLOWS:

Sec. 58-104. - Powers.

Powers of the board of adjustment are as follows:

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

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

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

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

(5) To interpret the zoning regulations including, but not limited to, the classification of unclassified uses pursuant to section 58-231 and the determination of zone boundary lines pursuant to section 58-278.
Explanatory Note: The BOA will continue to hear appeals of decisions of the Zoning Administrator. CUP decisions will now go to the Circuit Court rather than the BOA.

SECTION 58-163 IS HEREBY AMENDED TO READ AS FOLLOWS:

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 screen applications for completeness; and determine whether the proposed use may be considered as a conditional use in the underlying zone or whether the proposal should be considered as a permitted or conditional use in another zone. If the zoning administrator determines that the proposed application and use are complete and appropriate as presented, he/she 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.

(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.

(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.

(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.

(i) **Appeals of a decision by the Planning and Zoning Committee as it relates to a conditional use permit shall be made to the Circuit Court in accordance with the procedures contained in Section 59.694 (10) of the Wisconsin Statutes.**

Explanatory note: The Property Rights bill contains language regarding appeals of CUPs and notes that they should be made to the Circuit Court and not the BOA. Also, it was noted that the ZA should have some ability to guide landowners when making CUP and Zone Change requests so that the code is not undermined.

**SECTION 58-235 (b) and (c) IS HEREBY AMENDED TO READ AS FOLLOWS:**

(b) 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 (b)(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 (b)(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, remodeling, rebuilding, renovation 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, renovated, rebuilt, remodeled, 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 (b)(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 (b)(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 patio, 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. § 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. § 87.30(1d), nonconforming structures that are subject to regulation under chapter 18 of this Code may not be reconstructed or repaired except in compliance with such chapter.

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.

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

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

(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 chapter.
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.

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

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

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

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

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

e. The zoning administrator may deny a zoning permit for the repair or maintenance of an open deck as a nonconforming use if good cause is shown that the public safety or public health will be harmed by such repair, maintenance or replacement even though such action is allowed under this section.

For the purposes of replacing or reconstructing a 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 recently enacted Property rights bill now allows repair, maintenance, rebuilding, remodeling, and renovation of all existing non-conforming structures without limitation. So these changes to our code are necessary to comply with state law.

SECTION 58-236 (b)(20) IS HEREBY CREATED TO READ AS FOLLOWS:

Reserved. Agricultural Event Center. An agricultural event center may be established as a conditional use within the AG (General Agricultural) zone, on parcels of 5 acres or more, in an existing outbuilding or outbuildings that have been on the premises for 5 years or more. In addition to site specific conditions imposed by the Planning and Zoning Committee following their onsite, and testimony at the public hearing, agricultural event centers shall be in compliance with the following conditions:
a. The event center shall not have alterations made that will irreparably affect the future use of the premises for agricultural use.

b. The operation of the event center shall be seasonal and sporadic for the purpose of holding family and corporate events as noted in the definition.

c. Setbacks to the structure(s) used and all outdoor spaces utilized with the operation of the agricultural event center shall be at least 50 feet from the property lines.

d. Any outdoor spaces to be utilized for the events shall be kept in a clean, safe and healthful condition so as to reduce accidents and injuries.

e. All other codes shall be complied with and all permits shall be obtained. These include but are not limited to event permits from the Sheriff’s Dept., health codes related to food preparation and service, alcoholic beverage service as determined by the state and town, building codes as administered by the local building inspector, fire codes at both the state and local level, and sanitary facilities as determined by state and local codes.

f. Off-street parking shall be provided with one space necessary for every 2 patrons at maximum capacity.

Explanatory Note: As noted previously, agricultural event centers are becoming more prominent around the area. It appeared that we might want to make sure that if one was proposed, we had some minimums to apply to insure that it was not a detriment to the existing neighbors, the rural character of the area, or the future use of the property to serve as an agricultural use if the event center fails.

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

Sec. 58-454. - Conditional uses.
Conditional uses in the A-G-* zone are as follows:

(1) Airport.
(2) Animal hospital, zoo, rescue, sanctuary, or pound.
(3) Bed and breakfast establishments.
(4) Camps.
(5) Cemetery.
(6) Cheese factories and dairy processing plants.
(7) Christmas tree sales (other than sales permitted under subsection 58-453(2)).
(8) Church or other place of worship.
(9) Club or lodge.
(10) Day nursery/kindergarten.
(11) Dog kennel, when located not less than 300 feet from any residential building other than that of the owner of such kennel, his agent or employee.
(12) Farm equipment sales and/or service.
(13) Filling, grading and work in respect to waterways requiring a permit under subsection 58-903(p) of this chapter.
(14) Fish hatchery, commercial.
(15) Fur farm, when located not less than 300 feet from any residential building other than that of the owner of such fur farm, his agent or employee.
(16) Garden or nursery store.
(17) Grain elevator, commercial.
(18) Housing for migrant workers that is not in compliance with Wis. Stats. 59.694(e).
(19) Hunting or fishing shelter.
(20) Incinerator, public.
(21) Maple syrup processing plant.
(22) Reserved.
(23) Nonmetallic mining operations and associated asphalt plants.
(24) Professional business office.
(25) Public or semi-public building.
(26) Raising or keeping of ten or more animal units on five acres or less land.
(27) Recreation areas.
(28) Roadside stand.
(29) Sawmill, permanent.
(30) Solid and hazardous waste disposal, processing, storage and transfer facilities.
(31) Storage of unoccupied travel trailers, camping trailers or mobile campers on parcels of ten acres or more on which no single-family or two-family dwelling exists.
(32) Two-family dwellings.
(33) Wind energy facility.
(34) Home-based business, accessory to a one- or two-family dwelling.
(35) Used dwelling, single-family.
(36) Agricultural Event Center

Explanatory Note: Adding the Definition followed up by making it clear that this type of use in an existing agricultural building is to be considered a Conditional Use in the General Agricultural Zone, and not in any Residential Zones.

SECTION 58-543 IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 58-543. - Permitted uses.

Permitted uses in the RS-20 zone are as follows:
(1) Agricultural uses including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture.
(2) New dwelling, single-family.
(3) Signs: Types 1, 3, 6.
(4) Unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle is permitted as an accessory use to single-family and two-family dwellings, provided that such storage is within 300 feet of such dwelling. Such unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle shall conform to all required water setbacks.
(5) Raising or keeping of no more than 4 domestic chickens for egg production. Chickens shall be housed in an enclosure of not more than 50 square feet with an outside run of not more than 50 additional square feet. Chickens shall not be allowed to range free. All parts of the enclosure and run shall maintain a minimum setback of 20 feet to side and rear lot lines, 75 feet to the OHWM of a navigable body of water, and all pertinent road setbacks as noted in Section 58-826 of this code.

Explanatory note: Kyle is advocating for the keeping of domestic fowl on residential lots as has become the rage around the state and country. It seemed like this was a good place to start.

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

Sec. 58-823. - Area regulations.
(a) Lot reductions. After adoption of the ordinance from which this section is derived, no lot area shall be so reduced that the dimensional and yard requirements required by this chapter cannot be met.
(b) Lot divisions. No improved lot shall hereafter be divided into two or more lots after the adoption of the ordinance from which this section is derived, and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform with all applicable regulations of the zone in which the property is located.
(c) Substandard lots.
   (1) Substandard lots served by a public sanitary sewer. A substandard lot served by a public sanitary sewer which is at least 7,500 square feet in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the at the ordinary high-water mark, may be used as a building site for a single-family dwelling upon issuance of a land use permit if it meets all of the following requirements:
      a. Such use is permitted in the zone.
      b. The lot was on record in the county register of deeds office prior to the effective date of the ordinance from which this section is derived
      c. The lot was never developed with one or more of its structures placed partly upon an adjacent lot or parcel. The lot was in separate ownership from abutting lands prior to the effective date of the ordinance from which this section is derived. If abutting lands and the substandard lot were owned by the same owner as of the effective date of the ordinance from which this section is derived, the substandard lot shall not be sold or used without full compliance with the terms of this section.
      d. All the dimensional requirements of this chapter (including side yard, water, and highway setback requirements) will be
are complied with when establishing a permitted use and associated structures, insofar as practical.

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

(3) If a substandard lot is sold and the proposed use and associated structures cannot be located on the lot to meet the requirements of this and other County Codes, the landowner has the right to apply for a variance to those requirements. However, the hardship presented may be considered a self-created hardship, and the variance is not guaranteed approval. Other substandard lots. Except for lots which meet the requirements of subsections (e)(1) or (c)(2) of this section, a land use permit for the improvement of a lot having lesser dimensions than those stated for the respective zones shall be issued only after granting of a variance by the board of adjustment.

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

Explanatory note: Another part of the property rights bill prohibits a municipality from restricting the sale of existing lots of record regardless of their size. Any permits for proposed structures and uses are still required to meet setback and other zoning code requirements, but the sale of the lot separate from other small parcels is prohibited provided the construction and use of the property complies with code requirements. Minimum lot size requirements for substandard lots has also been removed per new Wisconsin Statute and DNR Compliance Requirements.

SECTION 58-828(e) IS HEREBY CREATED TO READ AS FOLLOWS:

(e) For the purpose of providing safe and adequate access for emergency purposes, any new access that will serve as a shared access for more than two parcels or dwellings, shall be served by an access road that meets the minimum standards as set forth in Section 42-81 of the Waushara County Code.

Explanatory Note: It was noted that our requirement for adequate shared accesses was only mentioned in the R-M zone and it should be required for all shared accesses. Thus the insertion here.


SECTION 58-903 (o) IS HEREBY AMENDED TO READ AS FOLLOWS:
(o) **Storage.** In addition to the other provisions of this code, storage within the shoreland area shall meet the following requirements unless otherwise specified:

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

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

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

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

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

*Explanatory Note:* DNR felt that this section did not properly note that the other provisions of the shoreland code were included here, such as meeting setbacks, so the language was added to make sure people understood, setbacks must be met, etc.

**SECTION 58-903 (s)(1) WAS HEREBY AMENDED AS FOLLOWS:**

(s) **Nonconforming structures.**

1. The following general provisions shall apply to all nonconforming structures within the shoreland area that do not meet the required water setback:
   a. **“Continued use.”** Any nonconforming 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 structure does not conform with the provisions of this chapter.
   b. **“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.
   c. b. **“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.

Explanatory Note: Uses are governed under the general zoning code and not by shoreland zoning so this particular reference was removed.

SECTION 58-903(s) e. 4. i. IS HEREBY AMENDED TO READ AS FOLLOWS:

   e. "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:
       1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
       2. 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.
       3. 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).
       4. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.

   f. "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.

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

   h. 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.

i. Vertical expansion of structures granted a shoreland variance prior to July 13, 2015, shall be allowed to expand vertically provided all other provisions of this code are complied with.

Explanatory Note: A change in Statutes allows a property owner that has been granted a variance to the shoreland setback to expand vertically up to 35 feet. So this needed to be added to the code.

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

Ordinance ___________

Ayes_________ Nays_________ Abstain_________ ( ) Voice Vote

Approved and adopted this ______day of ______________, 2016.

Approved: Submitted by:

___________________________ _________________________
Ruth Zouski, Mark Kerschner, Chairman
Corporation Counsel Planning & Zoning Committee

Attest: Signed by:

___________________________ _________________________
Megan Kapp, Donna Kalata, Chairperson
Waushara County Clerk Waushara Co. Board of Supervisors