ENROLLED ORDINANCE 161-12

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE BY AMENDING VARIOUS SECTIONS AS IT PERTAINS TO THE DEFINITION OF VARIANCES, APPLICANTS, SPECIAL EXCEPTIONS, STREETS, JUNK, MOTOR VEHICLES, POULTRY AND OTHER PROVISIONS PERTAINING TO REGULATION OF UNDESIRABLE STRUCTURES AND JUNK, PLANNED UNIT DEVELOPMENT (PUD) PROVISIONS REGARDING OPEN/GREEN SPACE, UPDATING REFERENCES TO THE DIVISIONS OF THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE, REFERENCES TO POULTRY AND LIVESTOCK, HEIGHT LIMITATIONS, ACCESSORY STRUCTURES IN BUSINESS AND INDUSTRIAL DISTRICTS AND THE PROVISIONS REGARDING LIVESTOCK ON LESS THAN 3 ACRES (SZ-1459C)

WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Shoreland and Floodland Protection Ordinance on January 23, 1970; and

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinance pursuant to Section 59.971, Wisconsin Statutes; and

WHEREAS, the Waukesha County Department of Parks and Land Use, Planning and Zoning Division Staff is in the process of undertaking a review of the current Ordinance and have recommended certain revisions to the Ordinance; and

WHEREAS, the proposed amendments have been the subject of a public hearing held on April 12, 2006, following the notice and procedures of Section 59.69, Wisconsin Statutes; and

WHEREAS, the proposed amendments have been duly referred, considered and approved by the Waukesha County Park and Planning Commission at its meeting of May 4, 2006; and

WHEREAS, the proposed amendments are on file in the Department of Parks and Land Use, Room 230, 1320 Pewaukee Road in Waukesha, Wisconsin; and

WHEREAS, the Waukesha County Park and Planning Commission has forwarded the proposed amendments and the Staff Report and Recommendation to the Land Use, Parks and Environment Committee and to the Waukesha County Board of Supervisors with its recommendation that the proposed amendments be approved.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the text of the Waukesha County Shoreland and Floodland Protection Ordinance is hereby amended in accordance with the proposed amendments adopted by the Land Use, Parks and Environment Committee and on file with the Department of Parks and Land Use.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon passage and publication.

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE BY AMENDING VARIOUS SECTIONS AS IT PERTAINS TO THE DEFINITION OF VARIANCES, APPLICANTS, SPECIAL EXCEPTIONS, STREETS, JUNK, MOTOR VEHICLES, POULTRY AND OTHER PROVISIONS PERTAINING TO REGULATION OF UNDESIRABLE STRUCTURES AND JUNK, PLANNED UNIT DEVELOPMENT (PUD) PROVISIONS REGARDING OPEN/GREEN SPACE, UPDATING REFERENCES TO THE DIVISIONS OF THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE, REFERENCES TO POULTRY AND LIVESTOCK, HEIGHT LIMITATIONS, ACCESSORY STRUCTURES IN BUSINESS AND INDUSTRIAL DISTRICTS AND THE PROVISIONS REGARDING LIVESTOCK ON LESS THAN 3 ACRES (SZ-1459C)

Presented by:
Land Use, Parks, and Environment Committee

William A. Mitchell, Chair

Keith Hammitt

Keith Harenda

Pauline T. Jaske

Walter L. Kolb

Vera Stroud

Peter M. Wolff

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 6-16-06, Kathy Nickolaus
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:
Approved: ✓
Vetoed:
Date: 6/19/06, Daniel P. Vrakas
Daniel P. Vrakas, County Executive

PROPOSED AMENDMENTS
TO THE
WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE

SECTION 1

Create a subsection to Section 2(b) to read as follows:

(New definition)

Variance means an authorization granted by the Board of Adjustment to construct or alter a building, land use or structure in a manner that deviates from this Ordinance.

SECTION 2

Create a subsection to Section 2(b) to read as follows:

(New definition)

Applicant: The applicant for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other application for governmental approval under this ordinance shall be the landowner, specifically a person or entity holding fee title to the property, as set forth below.

a. In the case of a corporation, an officer or by a member of the corporation who has overall responsibility for the operation of the site for which the permit is sought.
b. In the case of a limited liability company, a member or manager.
c. In the case of a partnership, a general partner.
d. In the case of a sole proprietorship, the proprietor.
e. For a unit of government, by an elected official or other duly authorized representative.
f. In the case of an individual, by the individual, an attorney, or one allowed to act as power of attorney.

SECTION 3

Create a subsection to Section 2(b) to read as follows:

(New definition)

Special Exception means a request for a minor adjustment to the requirements of the Zoning Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. The special exception must be necessary and desirable and must not adversely affect adjacent property owners. A special exception differs from a variance in that a special exception does not necessarily require the demonstration of an unnecessary hardship or practical difficulty. In the granting of a special exception, the approving body must still consider whether the proposed special exception would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects and may impose such restrictions or conditions they deem necessary for the protection of adjacent properties and the public interest and welfare.

SECTION 4
Create a subsection to Section 2(b) to read as follows:
(New definition)
Street, Arterial: Arterial Street means a road providing for efficient, safe and direct connection to or separation of developed areas for circulation to destinations outside the developed area and deemed as such on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the municipality.

SECTION 5
Create a subsection to Section 2(b) to read as follows:
(New definition)
Street, Collector: Collector Street means a road providing for circulation to serve local traffic moving between minor streets and arterial streets as designated on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the municipality.

SECTION 6
Create a subsection to Section 2(b) to read as follows:
(New definition)
Street, Minor: Minor Street means any other road not deemed as a collector or arterial street on the "Established Street and Highway Width Map for Waukesha County" or other official map adopted by the municipality.

SECTION 7
Create a subsection to Section 2(b) to read as follows:
(New definition)
Junk means garbage, waste, refuse, trash, any motor vehicle upon which no current license plate is displayed, any inoperable or abandoned motor vehicle, any used tire or used motor vehicle part, and any scrap material such as metal, lumber, furniture, paper, cans or bottles. Any trailer which is required to be licensed by the State of Wisconsin, but which is unlicensed, or any trailer which is abandoned or inoperable is considered junk under this ordinance.

SECTION 8
Create a subsection to Section 2(b) to read as follows:
(New definition)
Motor vehicle means any automobile, truck, trailer, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, and for the purposes of this zoning ordinance shall include but not be limited to boats, recreational vehicles, all-terrain vehicles, motorized farm equipment and mobile machinery, motorcycles and snow mobiles.

SECTION 9
Create a subsection to Section 2(b) to read as follows:
(New definition)
Poultry means domesticated birds kept for eggs or meat or as pets.

SECTION 10

Create a subsection to Section 2(b) to read as follows:

(New definition added after public hearing based upon comments received from the public.)

Environmentally significant areas are lands which are zoned as C-1 Conservancy District, A-E Exclusive Agricultural Conservancy District, or E-C Environmental Corridor District or designated as primary environmental corridor, secondary environmental corridor or isolated natural area on the Waukesha County Development Plan.

SECTION 11

Repeal and recreate Section 3(c)2 to read as follows:

(New section added after public hearing to clarify that no application is properly filed unless it is signed by the applicant. None of the subsections lettered (A) through (E) have changed.)

2. Application for: Zoning, occupancy and use permits shall be obtained from the county zoning administrator or designated deputy to the county zoning administrator as provided by section 20.02. No application for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other governmental approval under this ordinance shall be deemed to be properly filed unless it is signed by the applicant. Application shall be made prior to or at the same time as the application for a building permit, and shall be prepared in triplicate and shall include for the purpose of proper enforcement of this ordinance the following data:

   A. A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.

   B. An accurate map of the property, in triplicate, drawn to a reasonable scale and properly dimensioned showing:

      i. The boundaries of the property involved.

      ii. The location of the centerline of any abutting streets.

      iii. The location on the lot of any existing buildings, proposed additions, or proposed new buildings, including the measured distances between such buildings and from the lot lines and from the centerline of any abutting street to the nearest portion of such building.

      iv. The location of any existing structures, septic systems or wells within fifty (50) feet of the boundaries of the property involved.

      v. The proposed first floor elevation of any proposed buildings in relation to the existing and/or established grades of the lot, any abutting streets, and the average annual high water line of abutting streams, rivers or lakes.

      vi. The high water line of any stream or lake on which the property abuts.

      vii. The proposed location of private septic systems and private wells in areas not served by public sewage disposal systems and public water supplies and the location and results of soil borings and percolation tests.

C. Where the use involves human occupancy or use, and where such use is not served by sanitary sewer and water, a county sanitary permit shall be required prior to issuance of the county zoning permit.

D. A fee, as may be established and periodically modified under section 41(b) 5. shall accompany each application. Such fee shall be paid by cash, check or money order to the Waukesha County Park and Planning Commission.

SECTION 12

Repeal and recreate Section 3(d)3 to read as follows:

(Separated provisions regarding junk from those regarding undesirable structures. Removed the requirement to prove a decrease in property values due to junk on the property. Requires all junk to be secure from public view and establishes exceptions.)

3. Junk and Undesirable Buildings or Structures

A. Junk, as defined by this ordinance, shall at all times be stored in an enclosed building thereby securing it from the view of the public and adjacent property owners.

i. This subsection is not intended to regulate or place limitations on any property properly zoned junk yard, salvage dealer, or other junk, waste disposal or storage activity for which a valid license from the State or Wisconsin or other necessary municipal issuing authority is required and proper permits have been issued and all such licenses and permits are in full force and effect and the operation is in full compliance therewith.

ii. This subsection is not intended to regulate or place limitations on the storage of idle, but operable farm equipment on farms greater than 35 contiguous acres or the storage of inoperative or abandoned farm equipment on farms greater than 35 contiguous acres if such inoperative or abandoned farm equipment is screened from the view of the public and adjacent property owners by a natural or man-made visual barrier.

iii. This subsection is not intended to regulate or place limitations on the storage of idle but operative snow removal vehicles or equipment, or lawn mowing equipment.

iv. This subsection is not intended to regulate or place limitations on the orderly storage of firewood for fuel.

v. This subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for the project authorized by an active zoning permit and which are stacked, stored and secured on the site in an orderly method.

B. No building or structure shall be erected, structurally altered or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood. The determination by the

Plan Commission shall be stated in writing, including the reason for denying a permit or conditions of approval for a permit, and may be based upon considerations that the design or appearance is of such an unorthodox or abnormal character as to have an adverse effect on the nearby properties or general desirability of the neighborhood.

SECTION 13
Repeal and recreate Section 3(e)3 to read as follows:
(Changed zoning administrator to zoning agency.)

3. Unclassified Uses: Any use not specifically listed as permitted use or conditional use shall be considered to be prohibited except as hereinafter provided. Where deemed appropriate the Plan Commission and Zoning Agency shall have the authority to authorize uses not specifically enumerated or authorized under other procedures or zoning districts under the terms of Section 4(g)28 of this Ordinance and shall state in writing the justification for allowing or denying said application for conditional use.

SECTION 14
Repeal and recreate Section 4(g)(8)A to read as follows:
(Corrected section by setting 50% as a maximum, not a minimum.)

A. A floor area ratio of no more than 50% be allowed.

SECTION 15
Repeal and recreate Section 4(g)22.A.i to read as follows:
(Corrected title for Environmental Health Division)

i. That all sanitary provisions are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.

SECTION 16
Repeal and recreate Section 4(g)22.B to read as follows:
(Revised Planned Unit Development Terms to incorporate changes recommended by ad hoc committee of the County Board for the study of open space and green space.)(In subsection (i) changes County Zoning Agency to Zoning Administrator and changes "may be" to "made".)

Residential Planned Unit Development:

(a) The following table may be utilized to compute the maximum dwelling unit density requirements of the P.U.D., except that areas which are Upland or Secondary Environmental Corridors are also subject to (b) below.

A-1	120,000 sq. ft. (2.75 acres) per dwelling unit
A-2	120,000 sq. ft. (2.75 acres) per dwelling unit
A-3	80,000 sq. ft. (1.84 acres) per dwelling unit
A-5	200,000 sq. ft. (4.59 acres) per dwelling unit
Environmental Corridor	5 acres per dwelling unit *
A-P	35 acres per dwelling unit
A-T	35 acres per dwelling unit

R-1a	39,000 sq. ft. (0.89 acres) per dwelling unit
R-1	39,000 sq. ft. (0.89 acres) per dwelling unit
R-2	25,000 sq. ft. (0.57 acres) per dwelling unit
R-3	15,000 sq. ft. (0.34 acres) per dwelling unit

* Calculation for Environmental Corridor shall occur as established in (b) below.

(b) If all of the Upland, Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved in their entirety within the public open space or common open space and preserved in its natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.

(c) Lands currently zoned C-1 or A-E may not be used in formulating the density of the project. When lands border a lake or other public body of water, pyramiding as defined herein, may be allowed if the minimum water frontage at the high water mark is one hundred (100) feet for the first dwelling unit and an additional twenty-five (25) feet for each additional dwelling unit thereafter. No more dwelling units may have access to the water body than would result from the application of this provision irrespective of the overall size of the development parcel.

(d) Public open space or common open space shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible and to provide protection of environmentally significant lands; they shall not consist of long, narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of public open space or common open space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said public open space or common open space shall be subject to review and approval of the Plan Commission and Zoning Administrator in order to qualify the project for consideration as a P.U.D. Public open space or common open space shall be a minimum of 30% of the entire development, while no more than 10% of the entire acreage of the development included in the required 30% open space can be Conservancy or A-E zoned land. In any development, no more than 5% of the public open space may be used for public buildings, such as schools, fire stations, municipal buildings, etc.

(e) In public open space or common open space containing environmentally significant areas, a maximum of 2% of the environmentally significant areas may be used for limited construction of recreational related structures and recreational trails.

(f) Public open space or common open space shall contain at least 90% green space. Such public open space or common open space shall not be part of individual residential building lots and all but 5% of the open space shall be free of structures and impervious surface. The Zoning Administrator and the Plan Commission may increase as a special exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public's interest.

(g) Adequate guarantee shall be provided for permanent retention of the open space resulting from these regulations, either by private reservation for use of the residents within the

B. In all Business and Industrial Districts, when approved by the plan Commission as part of the plan of operation and site plan review, and where said buildings are used solely accessory to the principal use on said lot.

C. On parcels which are the subject of a conditional use permit and as regulated by the conditional use permit.

D. When a petitioner is proposing more square footage of accessory buildings than the 3% limit allows or as excepted above, the Board of Adjustment may grant a special exception to the above requirement in accordance with the procedure as outlined in Section 40 of this Ordinance. The petitioner must submit a current plat of survey by a registered surveyor indicating all existing buildings on the parcel, their location, total square footages and the number of stories in existing structures and proposed buildings. The Board of Adjustment may require a deed restriction to be recorded prior to issuance of the zoning permit, restricting the use of the oversized accessory buildings to uses accessory to the principal use of the premises and may not allow uses prohibited in the zoning district in which the building is located.

E. All accessory buildings shall be constructed in such a way that the exterior appearance is compatible with the design, style, architecture and appearance of the principal structures on the parcel. This determination shall be made by the local building inspector and the Zoning Administrator. In case of dispute, such questions shall be submitted to the Plan Commission and the Zoning Agency for review and approval in accordance with Section 3(d)3. This requirement does not apply to farming operations on more than thirty-five (35) acres.

F. In no case shall any accessory buildings be used for purposes not allowed in the underlying zoning district or as may be authorized by a conditional use permit.

G. Where more than two (2) such accessory buildings are proposed, the Plan Commission shall review said structures in light of the provisions of Section 3(d)12 and render a finding to allow or disapprove said structures.

SECTION 21

Repeal and recreate Section 3(m)2.B to read as follows:

(Corrected the reference to the Environmental Health Division.)

B. The waste disposal facilities and water supply facilities are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.

SECTION 22

Repeal and recreate Section 15(c)1 to read as follows:

(Clarifies that single family uses are permitted uses with no need for a conditional use permit in the AD-10 district and a duplex as a two family use requires a conditional use permit in this district.)

1. Residential
   - A. Single family uses.
   - B. Only a duplex as a two family residential use pursuant to issuance of a conditional use permit pursuant to Section 4(g)20 and compliance with the floor area requirements contained herein.

SECTION 23

Repeal and recreate Section 17(c)2.B to read as follows:

(A-5 Mini Farm Building location. Removes phrase "domestic" from livestock and removes misspelled word of "foul." Adds the exception for doghouses and removes the exception for house-hold type pets.)

B. Not less than fifty (50) feet from an adjacent property line for any building housing livestock, poultry or other animals. This does not include doghouses.

SECTION 24

Repeal and recreate Section 9(b)3 to read as follows:

(Environmental Corridor, Use Regulations. Remove the phrase "domestic" from livestock.)

3. Keeping of poultry and livestock, except that the keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres.

SECTION 25

Repeal and recreate Section 9(b)4.C to read as follows:

(Environmental Corridor, Use Regulations. Remove phrase "domestic" from livestock and remove typographical error. Makes section consistent with other sections by referencing adjacent property line.)

C. Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.

SECTION 26

Repeal and recreate Section 18(a)4 to read as follows:

(A-1 Ag District, Use Regulations. Remove the phrase "domestic" from livestock)

4. The keeping of poultry and livestock, except that the keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres.

SECTION 27
Repeal and recreate Section 18(a)6.D to read as follows:
(A-1 Permitted Uses. Remove the phrase "domestic" from livestock and relates distance to adjacent property line.)

D. Stables, barns, or poultry houses, which house livestock or poultry, shall not be less than fifty (50) feet from an adjacent property line.

SECTION 28
Repeal and recreate Section 19(a)1 to read as follows:
(A-2 Rural Home District. Clarified the minimum number of livestock or poultry on 3 acre lots and eliminated the requirement on a nonconforming use of having the permission of property owners within 300 feet.)

1. Any use permitted in the A-1 Agricultural District, except that the keeping of poultry or livestock shall not be permitted on any lot less than three (3) acres. There shall be no more than one head of livestock or twenty (20) poultry for the first three (3) acres of land. There may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land. All lands to be utilized for the keeping of livestock or poultry must be under the same ownership or additional leased lands may be used to increase the maximum permitted livestock or poultry if contiguous to the owners' property. Where such use lawfully existed prior to the date of this Ordinance, such use may be continued subject to the limitations regulating non-conforming use as regulated in Section 3(o) of this Ordinance.

SECTION 29
Repeal and recreate Section 20(a) to read as follows:
(A-3 Suburban Estate District, Permitted Uses. Cross-references the permitted uses back to A-2.)

(a) Use Regulations: Permitted Uses
Any use as permitted in the A-2 Rural Home District.

SECTION 30
Repeal and recreate Section 23(a)1 to read as follows:
(R-1 Residential District. Cross-references the permitted uses back to A-2)

(a) **Use Regulations: Permitted Uses:**
Any use as permitted in the A-2 Rural Home District.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-06/13/06 (ORD) NUMBER-1610012

1 K. HERRO.....AYE	2 R. THELEN.....AYE
3 T. ROLFS.....	4 R. HUTTON.....AYE
5 J. MARCHESE.....AYE	6 D. BROESCH.....AYE
7 J. JESKEWITZ.....AYE	8 J. DWYER.....AYE
9 P. HAUKOHL.....AYE	10 S. WOLFF.....AYE
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17 J. BEHREND.....AYE	18 B. MORRIS.....AYE
19 W. MITCHELL.....	20 P. WOLFF.....AYE
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23 J. TORTOMASI.....AYE	24 B. KRAMER.....AYE
25 K. CUMMINGS.....AYE	26 F. RUF.....AYE
27 D. PAULSON.....AYE	28 P. JASKE.....AYE
29 T. BULLERMANN.....	30 K. NILSON.....AYE
31 V. STROUD.....AYE	32 P. GUNDRUM.....
33 K. HAMMIT.....AYE	34 R. SINGERT.....AYE
35 P. MEYER.....AYE	

TOTAL AYES-31 TOTAL NAYS-00

CARRIED_____ DEFEATED_____

UNANIMOUS_X_ TOTAL VOTES-31