

ENROLLED ORDINANCE 159-70

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE BY CREATING, AMENDING AND RENUMBERING VARIOUS SECTIONS

WHEREAS the Waukesha County Park and Planning Commission formed a Study Workgroup in 2001 to analyze and make recommendations regarding the role of the Park and Planning Commission in the review of zoning matters under the Zoning Code, Shoreland and Floodland Protection Ordinance, and in the development processes; and

WHEREAS the Report of the Park and Planning Commission Study Group has been reviewed and a petition has been made for amendments to the Waukesha County Shoreland and Floodland Protection Ordinance pursuant to Section 59.692, Wisconsin Statutes; and

WHEREAS the purpose of the proposed amendments is to incorporate recommendations from the Report of the Park and Planning Commission Study Group, update references to the Wisconsin Statutes or Wisconsin Administrative Codes, substantively modify sections of the Shoreland and Floodland Protection Ordinance, update sections to reflect changes in the law, correct typographical errors, and change references to the Department of Parks and Land Use and the divisions thereof; and

WHEREAS the proposed amendments have been the subject of a public hearing held on June 7, 2004 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 October 7, 2004; 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 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.

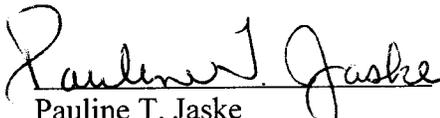
BE IT FURTHER ORDAINED that this ordinance shall become effective upon passage and publication.

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE BY CREATING, AMENDING AND RENUMBERING VARIOUS SECTIONS

Presented by:
Land Use, Parks, and Environment Committee

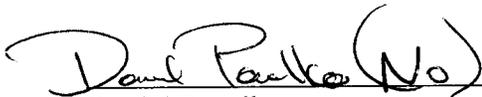

Walter L. Kolb, Chair

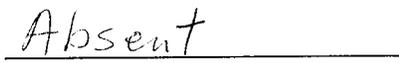

Kathleen M. Cummings


Pauline T. Jaske

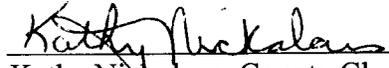

Scott J. Klein


Bill Kramer

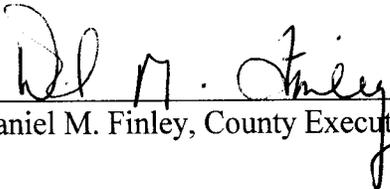

Daniel Pavelko


Vera Stroud

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

Date: 11-29-04, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved:
Vetoed:
Date: 11-30-04, 
Daniel M. Finley, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/23/04

(ORD) NUMBER-1590076

- 1 K. HERRO.....AYE
- 3 D. STAMSTA.....
- 5 J. MARCHESI.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....
- 13 J. MORRIS.....
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....NAY
- 23 J. TORTOMASI.....AYE
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....
- 29 P. BULLERMANN.....
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....NAY
- 35 C. SEITZ.....NAY

- 2 R. THELEN.....AYE
- 4 H. CARLSON.....NAY
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLEF.....AYE
- 12 J. GRIFFIN.....AYE
- 14 A. KALLIN.....NAY
- 16 P. MANKE.....AYE
- 18 B. MORRIS.....AYE
- 20 M. KIPP.....AYE
- 22 G. BRUCE.....AYE
- 24 B. KRAMER.....AYE
- 26 S. KLEIN.....AYE
- 28 P. TASKE.....
- 30 K. NILSON.....NAY
- 32 P. GUNDRUM.....NAY
- 34 R. SINGERT.....NAY

TOTAL AYES-21

TOTAL NAYS-08

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTERS-29

1 **AMENDMENTS TO THE WAUKESHA COUNTY SHORELAND AND FLOODLAND**
2 **PROTECTION ORDINANCE**

3
4 **As approved by the County Board on 11/23/04.**
5

6
7
8 Section 1:

9 Repeal and recreate section 1.01 to read:

10
11 This ordinance is adopted under authority granted by Chapters 59, 87, 145 and 281 of the
12 Wisconsin Statutes and amendments thereto. (Ord. No. 141-44. § I, 7-22-86):
13

14
15 Section 2:

16 Repeal and recreate Section 2.01 to read:

17
18 General interpretation.

19 For the purpose of this Ordinance, and when not inconsistent with the context, words
20 used herein in the present tense include the future, words in the singular number include
21 the plural, and words in the plural number include the singular; the word "structure"
22 includes buildings; the word "occupied" includes designed or intended to be occupied;
23 the word "used" includes designed or intended to be used; the word "inhabit" includes
24 intended to be inhabited; the word "shall" is always mandatory and not merely
25 permissive; "county" refers to the County of Waukesha, Wisconsin; "town board" refers
26 to the town board of supervisors of any town under the jurisdiction of this Ordinance;
27 "plan commission" refers to local town plan commission established under village
28 powers pursuant to Chapter 62 Wisconsin Statutes, the Town Park Commission
29 established pursuant to Chapter 60 Wisconsin Statutes, or any other agency created by the
30 town board and authorized by statute to plan land use; and reference to any officer such
31 as "clerk," "building inspector," "engineer," or "attorney," means that officer appointed or
32 otherwise officially designated by the town or county in such capacity, unless otherwise
33 specifically designated; the words "code" and "Ordinance" are to be used
34 interchangeably; and the word "person" may be taken for persons, associations,
35 partnerships or corporations
36

37
38 Section 3

39 Repeal and recreate section 2.02(2) to read:

40
41 Base setback line: The ultimate street line as established by the building location
42 provisions of this code and from which all required road setbacks shall be computed.
43
44
45

1 Section 4:
2 Repeal and recreate 2.02(3) to read:
3
4 Basement: A level of a building that is more than one-half below the finished grade on at
5 least one side.
6
7

8 Section 5:
9 Repeal and recreate 2.02(9) to read:
10
11 Building, height of: The vertical distance measured from the lowest point of the exposed
12 structure to the primary horizontal soffit of the uppermost floor.
13
14

15 Section 6:
16 Create a subsection to 2.02 to read:
17 Contractor's Yard: The exterior premises on which construction and maintenance
18 materials (i.e. salt, sand, cement, decorative block, stone, etc.) or landscaping materials
19 (i.e. sand, gravels, stone, timbers, wood chips, etc.) or construction or maintenance
20 equipment (i.e. bulldozers, front-end loaders, back-hoes, trucks, trailers, etc.) are stored
21 to be utilized for off-site construction, maintenance, or landscaping purposes. Where
22 landscape materials are stored or sold for retail or wholesale markets and accessory to an
23 otherwise permitted use by right, such uses shall not be considered a contractor's yard.
24
25

26 Section 7:
27 Repeal and recreate 2.02(15) to read:
28
29 Dwelling, multiple family: A building or portion thereof designed for and occupied by
30 more than one (1) family, including row houses, duplex houses, town houses and
31 apartments.
32
33

34 Section 8:
35 Create a subsection to 2.02 to read:
36 Fur-bearing animals: Animals which are specifically raised for their pelts, including, but
37 not limited to badger, beaver, bobcat, coyote, fisher, fox, lynx, marten, mink, muskrat,
38 opossum, otter, raccoon, skunk, weasel and wolf.
39
40

41 Section 9
42 Create a subsection in 2.02 to read:
43
44 Land altering activity: Any man-made change of the land surface, including removing
45 vegetative cover which changes the land surface, cutting of trees which changes the land
46 surface, excavating, soil removal, filling, grading, dredging and channel improvements in
47 excess of those limits set forth in Section 3.04(5), but not including agricultural land uses

1 such as planting, growing, cultivating and harvesting of crops, growing and tending of
2 gardens and harvesting of trees, and tree nurseries.
3
4

5 Section 10:

6 Create a subsection to 2.02 to read:
7

8 Open Space: Land area used for recreation, agriculture, resource protection, amenities
9 for recreational purposes or buffers.
10

11
12 Section 11:

13 Create a subsection to 2.02 to read:
14

15 Green Space: A natural or man-made land area not occupied by any structure or
16 impervious surface.
17

18
19 Section 12:

20 Create a subsection to 2.02 to read:
21

22 Open Space, Public: Lands which are open space, dedicated and owned by a public
23 entity, such as a town, city, village, county or other public entity, and used for a public
24 purpose.
25

26
27 Section 13:

28 Create a subsection to 2.02 to read:
29

30 Open Space, Common: Lands which are open space and owned in common by
31 individuals within a development or land trusts or other private conservation
32 organizations, if access is available to the public, and as may be agreed to in the approval
33 of the development by the plan commission of the local community and either the zoning
34 administrator or the zoning agency.
35

36
37 Section 14:

38 Repeal and recreate section 2.02(24) to read:
39

40 Floor area ratio: The term "floor area ratio" or F.A.R. shall be used to indicate the total
41 floor area of buildings allowed on a given lot, expressed as a percentage ratio to the total
42 area of the lot; i.e., an F.A.R. of one hundred (100) percent allows a floor area equal to
43 the total area of the lot, an F.A.R. of fifty (50) percent allows a floor area of one-half the
44 total area of the lot, etc. A floor ratio of fifty (50) percent could be applied to a one-story
45 building occupying fifty (50) percent of the lot or a two-story building occupying twenty-
46 five (25) percent of the lot.

1 Section 15:

2 Repeal section 2.02 (27).

3
4
5 Section 16:

6 Repeal and recreate section 2.02(28a) to read:

7
8 Grading, minor; including filling and land altering activities: Those land altering
9 activities or projects that do not exceed land disturbance greater than three thousand
10 (3,000) square feet in area and/or fifteen (15) cubic yards in aggregate.
11

12
13 Section 17:

14 Repeal and recreate 2.02(32) to read:

15
16 Home occupation: Any occupation for monetary gain or financial support conducted
17 entirely within the principal residence.
18

19
20 Section 18:

21 Create a subsection to 2.02 to read:

22
23 Hotel: See Motel.
24

25
26 Section 19:

27 Create a subsection to 2.02 to read:

28
29 Impervious Surface: Land area and surfaces where precipitation is unable to infiltrate
30 into the soil. Such surfaces include, but are not limited to roadways and pathways that
31 are paved with concrete or asphalt, roofs, patios and similar surfaces.
32

33
34 Section 20:

35 Create a subsection to 2.02 to read:

36
37 Livestock: Animals which are typically kept for breeding, production of agricultural
38 products, sale or pleasure, including, but not limited to cattle, bovine, emus, llamas,
39 alpaca, pigs, swine, hogs, sows, horses, sheep, goats and bison.
40

41 Section 21:

42 Repeal and recreate 2.02(33) to read:

43
44 Lot, legal nonconforming: Any lawfully created lot or parcel which existed at the time of
45 passage of this Ordinance or any amendment thereto, which does not meet the current
46 dimensional requirements of the district in which it is located.

1 Section 22:

2 Create a subsection to 2.02 to read:

3
4 Lot of Record: A platted lot or lot described in a Certified Survey Map, which has been
5 approved by the Town and has been recorded in the office of the Waukesha County
6 Register of Deeds, or a metes and bounds description of a lot which has been recorded in
7 the Waukesha County Register of Deeds Office prior to the adoption of this original
8 Ordinance (June 23, 1970).
9

10
11 Section 23:

12 Repeal and recreate 2.02(48) to read:

13
14 Navigable waters: Those intermittent and perennial rivers, streams, ponds, lakes and
15 flowages shown on the U.S.G.S. Topographic Quadrangle 7.5 minutes series maps of
16 Waukesha County (and as periodically updated) and those stream reaches shown on the
17 large scale topographic mapping control survey project for Waukesha County conducted
18 under section 87.31 Wisconsin Statutes. Any water is considered navigable in fact if it
19 meets the test outlined in state laws. Determinations of navigability are ultimately field
20 determinations and map delineations are merely the best representation of navigable
21 conditions at any particular time.
22

23
24 Section 24:

25 Repeal and recreate 2.02(49e) to read:

26
27 Patio: A structure characterized by a flat, open, horizontal surface or platform usually
28 constructed of concrete, brick, wood, or other natural or man-made materials which is
29 located on the surface of the ground or at the average grade of the ground surface.
30

31
32 Section 25:

33 Create a subsection to 2.02 to read:

34
35 Planned Unit Development, Mixed: A Planned Unit Development which is a mixture of
36 retail, service uses, industrial uses or residential uses. Buildings associated with open
37 space and recreational uses, either public or private, shall be considered part of the open
38 space use.
39

40
41 Section 26:

42 Repeal and recreate section 2.02(58) to read:

43
44 Restaurant: "Restaurant" means and includes any building, room or place wherein meals
45 or lunches are prepared, served or sold to transients or the general public, and all places
46 used in connection therewith. Meals or lunches shall not include soft drinks, ice cream,

1 milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting
2 of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall
3 not constitute such taverns to be restaurants. The term restaurant does not apply to
4 churches, religious, fraternal, youth or patriotic organizations, service clubs and civic
5 organizations which occasionally prepare or serve or sell meals or lunches to transients or
6 the general public, nor shall it include any private individual selling foods from a
7 movable or temporary stand at public farm sales. Section 254.61(5) Wisconsin Statutes.
8
9

10 Section 27:

11 Create a subsection in 2.02 which reads:

12
13 Retaining Wall: A structure more than 18 inches in height from grade or a combination
14 or series of multiple structures more than 24 inches in height from grade, constructed of
15 man-made or natural materials for the purpose of retaining land or stone and resisting the
16 lateral pressure of the land or stone.
17

18
19 Section 28:

20 Repeal section 2.02(62).
21
22

23 Section 29:

24 Create a subsection to 2.02 to read:

25
26 Setback, road: The horizontal distance between the base setback line and the closest
27 point of a principal or accessory structure, excluding a roof overhang measuring twenty-
28 four inches (24") or less.
29
30

31 Section 30:

32 Repeal and recreate section 2.02(63) to read:

33
34 Setback, shore: The horizontal distance between the closest point of a structure or
35 building and the ordinary high water mark of navigable waters, the one-hundred year
36 floodplain, or the conservancy/wetland district, whichever distance is greater.
37
38

39 Section 31:

40 Repeal 2.02(67).
41
42

43 Section 32:

44 Create a subsection to 2.02 to read:

45
46 Stable, boarding: A tract of land or structure where horses or other livestock are kept for
47 hire, boarding, sale or used for commercial recreational purposes.

1 Section 33:

2 Create a subsection to 2.02 to read:

3
4 Stable, private: A tract of land or structure where horses or other livestock are kept for
5 personal use by the property owner or occupant of the principal residential structure on
6 the property.
7

8
9 Section 34

10 Repeal and recreate 2.02(72) to read:

11
12 Structure: Any man-made object with form, shape and utility, that is constructed or
13 otherwise erected, attached to or permanently or temporarily placed, either upon the
14 ground or upon another structure. For the purposes of this ordinance, the term “structure”
15 includes swimming pools, hot tubs, patios, decks, gazebos, retaining walls, monuments,
16 entrance gates, radio towers and television towers, but does not include landscaping or
17 earthwork including graded areas, filled areas, ditches, berms, or earthen terraces. The
18 term “structure” does not include flag poles, mailboxes, fences, basketball hoops, satellite
19 dishes 18 inches or less in diameter, or small objects that are easily moved by hand, such
20 as lawn chairs, portable grills, portable picnic tables, temporary fences, bird feeders,
21 birdhouses and birdbaths.
22

23
24 Section 35:

25 Repeal and recreate section 2.02(78) to read:

26
27 Mobile Home Park Any plot or plots of ground upon which two (2) or more units
28 occupied for dwelling or sleeping purposes are located, regardless of whether or not a
29 charge is made for such accommodations. Wisconsin Statutes section 66.0435.
30

31
32 Section 36:

33 Repeal and recreate section 3.02(3) to read:

34
35 Statutory Exemption for Farm Drainage Ditches: Under sections 87.30(1m) and
36 281.31(2m) of the Wisconsin Statutes, this ordinance does not apply to non-structural
37 uses of lands (i.e., pasture, cultivation) adjacent to farm drainage districts if all of the
38 following situations exist:
39

- 40 A. Such lands are not within the floodplain of a natural stream or river.
41
42 B. Those parts of the drainage ditches adjacent to these lands were non-navigable
43 streams before ditching.
44
45 C. Such lands are maintained exclusively in non-structural uses.
46

1 Should a question arise as to the applicability of this section, an interpretation shall be
2 sought as provided for under Section 21.02 of this Ordinance or by the Wisconsin
3 Department of Natural Resources. The submission of plans and supporting
4 documentation shall be required to enable the staff or the DNR to make a finding to
5 support the claim of exemption. Where farm drainage ditches exist and the agricultural
6 uses are terminated, and the lands are changed to urban uses, this exception expires and
7 the subject stream and shoreland and floodland areas shall fall under all provisions and
8 the jurisdiction of this Ordinance.
9

10 However, regardless of the agricultural use of the land, any building and structure is
11 subject to the provision of this Ordinance relative to size, location or other matters
12 relating to building and structures.
13
14

15 Section 37:

16 Repeal and recreate section 3.03(1) to read:
17

18 Zoning, occupancy and use permits: No structure, land or water or part thereof located in
19 the unincorporated shoreland or floodland areas of Waukesha County shall hereafter be
20 located, erected, moved, reconstructed, extended, enlarged, converted or structurally
21 altered until: first, a county sanitary permit has been issued, where applicable, by the
22 county health department unless municipal sewer is available in which case no sanitary
23 permit is required; and second, a county zoning permit has been issued by the county
24 zoning administrator, certifying that such activity complies with the provisions of this
25 ordinance; and third, a conditional use permit, where applicable, has been issued by the
26 county zoning agency certifying that such activity complied with the provisions of this
27 ordinance. Such permits shall be obtained before any change is made in the type of use or
28 before any nonconforming use is resumed, changed, extended or granted conditional use
29 status pursuant to section 3.15 of this ordinance. Within shorelands, all land owners, state
30 agencies and other governmental jurisdictions unless specifically exempted by section
31 13.48(13) Wisconsin Statutes, are required to comply with the provisions of this
32 ordinance. However, where the substantive terms and objectives of this ordinance have
33 been addressed and fulfilled by the Wisconsin Department of Natural Resources where
34 concurrent (DNR and county) jurisdiction with this ordinance exists, so as to avoid
35 duplication of effort, the terms of this ordinance shall not be imposed. The construction,
36 reconstruction, maintenance and repair of state highways and bridges by the Wisconsin
37 Department of Transportation or other roads and highways as may be under federal
38 jurisdiction or receiving federal aid, may be exempt pursuant to section 30.12(4) (a)
39 Wisconsin Statutes.
40
41

42 Section 38:

43 Repeal and recreate section 3.03(4) to read:
44

45 Expiration: If within six (6) months of the date of issuance of a zoning permit, the
46 proposed construction or preparation of land for use has not commenced, or if within

1 eighteen (18) months an occupancy and use permit has not been issued, if required by the
2 Town, or the construction has not been completed, said zoning permit shall expire, except
3 that upon showing of valid cause, the Zoning Administrator may grant an extension of
4 such permit for a period not to exceed six (6) months. Said permit extension shall be
5 issued for the full fee and based upon full conformance with this Ordinance at the time of
6 issuance for the new permit. If the construction has not commenced or is not completed
7 after a total of twenty-four (24) months, a new permit must be applied for and received
8 subject to all fees and subject to the Ordinance in effect at the time of such new permit
9 issuance. Previous incomplete work is not entitled to a new permit if the Ordinance no
10 longer permits said use or structure or if changes to the Ordinance have been made
11 subsequent to the original issuance of the permit.
12
13

14 Section 39:

15 Repeal and recreate 3.03(6) to read:

16
17 Zoning and Occupancy and Use Permits - Site Plans and Plans of Operation: Certain
18 permitted uses as well as certain conditional uses require the submission of a Site Plan
19 and Plan of Operation which provide a detailed description of the proposed use and serve
20 as a basis for consideration prior to approval of the plan commission, and either the
21 zoning agency or zoning administrator. The purpose of such a Site Plan and Plan of
22 Operation review is to document the permit file, determine adequacy of the data
23 submitted to describe the permitted and accessory uses and buildings proposed and
24 document the plan and method of operation to enable a determination of compatibility
25 with the Ordinance and consideration of approval. A Site Plan and Plan of Operation
26 shall include the following information, as well as any other specific information
27 requested by the plan commission, zoning agency or zoning administrator to review the
28 plans and determine compliance with the regulations of this Ordinance:
29

30 (A.) A Plan of Operation is a statement of operations, signed by the property owner and
31 tenant or operator of the business or use, including a detailed description of the request,
32 number of employees, hours of operation, and types of uses, products or services offered.
33

34 (B). A Site Plan and/or Plat of Survey of the property (in standard engineering or
35 mapping scale which permits a clear representation of the property to a scale not to
36 exceed two hundred (200) feet to one (1) inch), in quadruplicate, showing the location
37 and dimensions of all existing and proposed buildings and structures and other attributes
38 on the site, the location, number and arrangement of parking spaces or loading areas,
39 lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other
40 factors affecting the development of the site.
41

42 (C). A stormwater management and erosion control plan consistent with the
43 requirements of the Waukesha County Construction Site Erosion Control and Stormwater
44 Management Ordinance. A grading plan, where required, shall be submitted in
45 quadruplicate to the same scale as the Site Plan, including existing and proposed contours
46 at a maximum of two (2) foot vertical intervals for slopes less than twelve (12) percent

1 and at no more than five (5) foot intervals for slopes twelve (12) percent or greater,
2 existing and proposed features (i.e. berms, swales, ponds, ditches, storm sewers, inlets,
3 etc.), vegetative plan, timetable for completion, the name of the responsible party and a
4 letter of credit, if deemed necessary. The plan commission, zoning agency or zoning
5 administrator has the discretion to request a grading plan in a scale different than the Site
6 Plan in order to show with sufficient detail the contours and features of the property.
7

8 (D). One set of building plans, State approved if required, at a standard architectural
9 scale, including exterior elevation drawings of all sides of all buildings proposed.
10

11 (E). A rendering of all signs visible from the exterior, along with the location,
12 dimensions, overall height, illumination and colors of the signs.
13

14 (F). Lighting or photometric plan, including cut sheets of each type of exterior light
15 fixture proposed or existing.
16

17 (G). A detailed landscaping plan showing the location, sizes and types of proposed
18 vegetation, including seeding mixtures and the amount of topsoil and mulch, the
19 timetable for completion, and any surfacing plan for parking and loading areas.
20
21

22 Section 40:

23 Repeal and recreate 3.04(1) to read:
24

25 Building must be on a lot: Every building hereafter erected, structurally altered or
26 relocated shall be located on a lot as defined herein. Any building used for the principal
27 use permitted in that district shall constitute the principal building and there shall be no
28 more than one (1) principal building on a lot except in business districts, industrial
29 districts, planned unit developments and agricultural districts. In the agricultural district,
30 no more than one (1) residence may be permitted on a single parcel of land unless it can
31 be demonstrated that more than one (1) residence is necessary and accessory to the
32 principal agricultural use of the property. The plan commission and the zoning agency
33 may give approval to permit more than one (1) principal building on a lot in any district
34 where such grant would not be contrary to the spirit and intent of the Ordinance, and
35 provided that sufficient lot area is provided and the building so located so as to
36 individually meet the setback, offset, and lot size and open space requirements of the
37 district in which it is located. No accessory building shall be constructed until the
38 principal building is under construction or completed.
39

40 Where the use of the land is principally for agricultural pursuits, and on parcels of
41 thirty-five (35) acres or more, farm buildings may be allowed without the necessity of
42 having a residence in place or under construction subject to the approval of the plan
43 commission and zoning agency if it is determined that the building will not be contrary to
44 the spirit and intent of the Ordinance and will not include the operation of a commercial
45 boarding or riding stable for horses or agricultural pursuits specializing in the forced
46 feeding of livestock, and where it is determined that the use of the building will be

1 accessory to a farming operation which is consistent with the use provisions of the district
2 in which it is located.
3
4

5 Section 41:

6 Repeal and recreate 3.04(5)(B) to read:
7

8 Within shorelands--grading, clean fill disposal sites, topsoil removal, filling, alteration or
9 enlargement of waterways, removal or placement of stream or lake bed materials,
10 excavation, channel cleaning and clearing, ditching, drain tile laying, dredging, lagooning
11 and soil and water conservation structures are conditional uses and must be approved in
12 accordance with Section 3.07(7)(I) of this Ordinance except as may otherwise be
13 permitted in Sections 3.04(5)(C) and (D) or 5.03(1). In addition, such uses may require a
14 permit from the state agency having jurisdiction pursuant to Chapter 30 of the Wisconsin
15 Statutes and, where applicable, a federal permit from the U.S. Army Corps of Engineers
16 except as may be waived pursuant to Section 3.03(1) of this Ordinance. All such uses
17 and activities shall be consistent with the uses permitted in the Conservancy/Wetland
18 district if they occur within that district.
19
20

21 Section 42:

22 Repeal and recreate 3.04(5)(C) to read:
23

24 No change in the existing topography or drainage courses on any land shall be allowed
25 which will result in adversely altering the drainage or increasing any portion of the
26 existing slope through fill and/or grading to a ratio greater than three (3) horizontal to one
27 (1) vertical. The construction of a retaining wall (stone, ties, brick or other material) five
28 (5) feet or less from a property line may be specifically authorized by the plan
29 commission and zoning agency and an agreement made between said plan commission
30 and zoning agency and applicant stating that the method and purpose of construction will
31 not in any way adversely affect drainage or aesthetics of the adjacent lot. A retaining
32 wall greater than five (5) feet from a property line may be allowed pursuant to issuance of
33 a Zoning Permit as long as said wall will serve to promote the purpose and intent as
34 stated in this Ordinance. All retaining walls shall be set back at least seventy-five (75)
35 feet from the ordinary high water mark of a navigable body of water and outside of the
36 conservancy/wetland district, unless the zoning administrator determines that the
37 retaining wall is necessary to abate a known and identified soil erosion and sedimentation
38 problem.
39

40 Fill or grading considered by the zoning administrator to be necessary backfill and/or
41 excavation for an otherwise permitted structure may be permitted without the necessity of
42 securing a conditional use permit as long as said fill or grading is accessory to said
43 construction and does not create slopes greater than three (3) horizontal to one (1) vertical
44 and does not extend to a distance greater than thirty (30) feet from the foundation and
45 does not divert runoff directly onto adjacent property or adversely affect adjoining
46 property. In order to make such a determination, the property owner shall submit a

1 grading plan of existing and proposed grades on the subject lot and adjacent lands where
2 said accessory fill and/or grading is closer than twenty (20) feet to a property line.

3
4 Land altering activities extending greater than thirty (30) feet from the foundation may be
5 allowed subject to issuance of a minor grading permit (zoning permit) as provided for in
6 Section 3.04(5)(D) without benefit of a Conditional Use Permit unless the quantities and
7 the area of fill and grading exceed those limits defined herein for minor grading, filling
8 and land altering activity. This provision excludes the area normally associated with
9 septic system installation and normal driveway construction.

10
11 Further, no fill or alterations on existing topography shall be allowed under any
12 circumstances which will alter the drainage or topography in a way which will adversely
13 affect the surrounding lands. In making such a determination, the zoning administrator
14 shall have the authority to determine the affect of the construction or fill on surrounding
15 property and require improvements and/or facilities as may be in the best interest of
16 preserving the topography and drainage system and which will have the effect of
17 lessening the impacts on either upstream, downstream or adjacent properties. In case of a
18 dispute or question arising as to the adversity or affect of the project on either the
19 property owner, adjacent owners or the general public, said question shall be submitted to
20 the Board of Adjustment for resolution to the question. Land altering activities may also
21 be subject to locally adopted or State mandated Erosion and Sediment Control ordinances
22 in addition to the requirements set forth herein.

23
24
25 Section 43:

26 Repeal and recreate 3.04(5)(D) to read:

27
28 Land Alteration, Streambank and Shoreline Stabilization: Streambank and shoreline
29 stabilization structures and minor grading, filling and land altering activities as defined
30 herein (excluding retaining walls and fill within seventy-five (75) feet of ordinary high
31 water mark and in the 100 Year Floodplain) may be permitted administratively in
32 Shoreland areas and without a Conditional Use Permit and in conformance with best
33 management practices promulgated by the Department of Parks and Land Use, Land
34 Resources Division when located outside of Conservancy/Wetland areas, and within the
35 100 Year Floodplain and where the site is above the ordinary high water mark, subject to
36 the following:

- 37
38 1. Said project may be authorized administratively through the granting of a minor
39 grading permit (zoning permit) when the following standards are satisfied:
40
41 a. Submittal of a complete and accurate set of plans which include a contour
42 map at a scale of not less than 1" = 200' at a contour interval of at least
43 two (2) foot increments, a vegetation plan and schedule, the period of
44 construction activity, the methods used during and after construction to
45 provide protection from the forces of erosion and sedimentation upon

1 adjacent land and waterbody, and how the project will relate to adjoining
2 property.

- 3
- 4 b. An administrative determination that the project has no public impact on
5 or will not adversely affect adjacent or surrounding properties and that the
6 activity will serve to prevent erosion and sedimentation of the surrounding
7 area on the adjacent waterbody.
- 8
- 9 c. The review and written approval, if necessary, of the Wisconsin
10 Department of Natural Resources.
- 11
- 12 d. Entering into a stipulated agreement with the County concerning the scope
13 of work, type of material used, method of construction, final grades,
14 re-establishment of vegetative cover, date of completion and any other
15 items deemed appropriate.
- 16
- 17 e. The performance of such land altering activity must not impede drainage,
18 reduce the floodwater storage capacity of the floodland or raise flood
19 stages. If an increase would result, compensating flood storage capacity
20 shall be provided on the site. This is based on the assumption that there
21 will be an equal degree of encroachment extending for a significant reach
22 on both sides of the stream.
- 23

24

25 Section 44:

26 Repeal and recreate 3.04(6)(A)1(g) to read:

27

28 The board of adjustment may grant a variance from these regulations only if the structure
29 will meet the standards set forth in chapters NR115, NR116, and COMM 83 of the
30 Wisconsin Administrative Code.

31

32

33 Section 45:

34 Repeal and recreate section 3.04(8) to read:

35

36 Surface Water Withdrawal: Diversion, or discharge for irrigation, processing, cooling, or
37 other purposes are Conditional Uses requiring review and approval by the zoning agency
38 in accordance with Section 3.07 of this Ordinance. The zoning agency shall then advise
39 the State Agency having jurisdiction under Chapters 30 and 281 of the Wisconsin
40 Statutes of its findings prior to the issuance of the required State permits and federal
41 permits as may be required by the U.S. Army Corps of Engineers.

42

43 When the substantive terms of this provision are met through the application of the
44 Wisconsin Statutes, Department of Natural Resources Administrative Code or the
45 requirements of the U.S. Army Corps of Engineers, a separate action of the zoning
46 agency pursuant to Section 3.03(1) of this Ordinance is unnecessary.

1 Section 46:

2 Repeal and recreate section 3.04(9) to read:

3
4 Shoreland cutting: Tree and shrubbery cutting shall be regulated to preserve shore cover,
5 protect natural beauty, preserve wildlife habitat and protect spawning areas, control
6 erosion and reduce the flow of effluents, sediments and nutrients from the shoreland area
7 and shall be limited in accordance with the following provisions:
8

- 9 (1) In the area parallel to the ordinary high water mark and extending thirty-five (35)
10 feet inland from all points along the ordinary high water mark, each property is
11 allowed one (1) access/view corridor. The access/view corridor may extend along
12 30% of the shoreland frontage of the property to a depth of thirty-five (35) feet
13 inland. Within the access/view corridor, selective cutting or removal of trees and
14 shrubbery is allowed. Such cutting or removal shall only be allowed using
15 accepted forest management and soil conservation practices to protect water
16 quality. In the remainder of the area parallel to the ordinary high water mark and
17 extending thirty-five (35) feet inland, the trees and shrubbery shall remain
18 undisturbed, unless they are dead, dying, diseased, or a noxious invasive species,
19 in which case a shoreland cutting plan shall be submitted to the zoning
20 administrator for review and upon approval a zoning permit will be issued, and all
21 trees or shrubbery removed in the remainder area outside of the access/view
22 corridor must be replaced with native trees and shrubbery which are equally as
23 effective in retarding runoff, controlling erosion and preserving natural beauty.
24
- 25 (2) Natural trees or shrubbery shall be preserved as far as practicable. Where natural
26 trees or shrubbery are removed in the remainder area outside of the access/view
27 corridor, they shall be replaced with other trees or shrubbery which are equally
28 effective in retarding runoff, controlling erosion and preserving natural beauty.
29
- 30 (3) Any removal or trees or shrubbery in an area designated as Primary or Secondary
31 Environmental Corridor by this ordinance or Isolated Natural Area on the
32 Waukesha County Development Plan shall require a shoreland cutting plan to be
33 submitted prior to any cutting, including the cutting of trees or shrubbery which
34 are dead, dying or diseased or a noxious invasive species. Said shoreland cutting
35 plan shall be submitted to the zoning administrator for review and upon approval
36 a zoning permit will be issued. An application for such a permit shall include a
37 sketch of the lot providing the following information: location of parking,
38 topography of the land, existing vegetation, proposed cutting, area, dimensions,
39 type of trees or shrubbery to be removed, whether any of the trees or shrubbery
40 are dead, dying or diseased or a noxious invasive species, and a proposed
41 replanting plan. The zoning administrator may grant such a permit only if it finds
42 that the shoreland cutting plan:
43
- 44 a. Will be effective in retarding runoff, controlling erosion and preserving
45 natural beauty, and
46

1 b. Will provide substantial visual screening from the water of dwellings,
2 accessory structures and parking areas. Where the plan calls for replacement
3 plantings, the zoning administrator may require the submission of a Letter of
4 Credit that guarantees the performance of the planted tree or shrubbery
5 replacement by the lot owner.
6

7 4. Shoreland cutting that disturbs the surface of the land requires an additional
8 permit for the land altering activities.
9

10
11 Section 47:

12 Repeal and recreate section 3.04(11) to read:
13

14 Site Protection: Any property disturbed with land altering activities as may be authorized
15 through the issuance of a Zoning Permit or a Conditional Use Permit, shall be required to
16 protect the disturbed land surface of the lot or building site that is susceptible to erosion
17 while under construction and which is not occupied with buildings, dedicated parking
18 areas or other hard surfaced areas with suitable stabilization measures. Said disturbed
19 areas shall be permanently stabilized and continuously maintained with suitable
20 vegetative cover or other approved landscape material and shall be required to conform
21 with the provisions of the Waukesha County Construction Site Erosion Control and
22 Stormwater Management Ordinance and the Uniform Dwelling Code for one and two
23 family dwellings. A Letter of Credit or other forms of financial guarantee to ensure
24 performance may be required by the building inspector, plan commission, the zoning
25 administrator, zoning agency or the Waukesha County Department of Parks and Land
26 Use, Land Resources Division.
27
28

29 Section 48:

30 Repeal and recreate 3.04a(1) to read:
31

32 Uses Restricted: In any district, no building or land shall be used and no building shall be
33 hereafter erected, structurally altered or relocated except in conformance with the
34 regulations hereinafter established for the district in which the property is located, or as
35 otherwise provided in this Ordinance. Where a change in use, change of ownership or
36 operator or a new use of a building or premises is proposed in any Business, Industrial
37 District or Public and Institutional District, a Site Plan and Plan of Operation shall be
38 prepared for review and approval pursuant to Section 3.03(6) of this Ordinance. Where a
39 change in ownership or operator of a building or premises is proposed in any Business,
40 Industrial District or Public and Institutional District or at the site of a legal
41 non-conforming use or a conditional use, a Plan of Operation shall be prepared for review
42 and approval pursuant to Section 3.03(6) of this Ordinance.
43
44
45

1 Section 49:

2 Repeal and recreate 3.07(7)(H) to read:

3
4 Contractor's Yard: In A-1 Agricultural Districts, A-5 Mini-Farm District, B-3 General
5 Business District, Q-1 Quarry District, or Industrial Districts subject to the following:

- 6
7 1. The minimum lot area shall be at least five (5) acres.
8
9 2. All buildings used in the conduct of the business shall be located at least one
10 hundred (100) feet from the lot line of an adjoining lot in a residential district or at
11 least fifty (50) feet from a lot line of an adjoining lot in any other district.
12
13 3. No such use shall be allowed on any parcel, except as may front directly upon and
14 have access to an arterial or major collector street, as defined in the Waukesha
15 County Shoreland and Floodland Subdivision Control Ordinance or within an
16 established industrial park, where the roads can accommodate the heavy
17 equipment.
18
19 4. A planting screen at least ten (10) feet high in initial height shall be provided
20 between any abutting property line and the proposed use. The plan commission
21 or the zoning agency may increase or decrease the planting screen requirements as
22 may be deemed appropriate.
23
24 5. In determining whether or not the proposed conditional use should be approved,
25 the plan commission and zoning agency shall make a determination that the
26 proposed conditional use is compatible with adjacent land uses. If it is determined
27 that the proposed conditional use would in any way be incompatible with the
28 adjacent land uses or represent an adverse effect or nuisance to adjacent land uses,
29 the proposed conditional use shall not be approved.
30
31 6. A Site Plan and Plan of Operation shall be submitted to the plan commission and
32 zoning agency for review and approval and must include the type and quantity of
33 equipment and vehicles owned or leased by the property owner, the storage of
34 materials, and hours of operation.
35
36

37 Section 50:

38 Repeal and recreate 3.07(7)(I) to read:

39
40 Land-altering Activities: Land-altering activities in excess of those limits set forth in
41 Section 3.04(5) of this Ordinance may be permitted as a conditional use in any district,
42 except the Conservancy/Wetland District unless rezoned to allow such activity.
43

44 Highway construction which may be exempted by Wisconsin statutes by a written
45 Memorandum of Understanding between the Wisconsin Department of Natural
46 Resources and Department of Transportation for a specific highway project, home

1 construction and the attendant limited grading and fill necessary to achieve positive
2 drainage away from the foundation and dredging as may be allowed in Section 3.04(5) of
3 this Ordinance and minor grading as defined in the Ordinance, shall be excluded from
4 regulation under this provision, but may be regulated elsewhere under this Ordinance.
5

6 The above land-altering activities permitted as a conditional use shall be subject to the
7 following:
8

- 9 1. Detailed plans, at a scale of not less than 1" = 100', of the project including areas
10 to be graded, filled or otherwise altered along with seeding and/or vegetation
11 plans and planting schedule and erosion and sedimentation practices to be
12 employed shall be submitted for review and approval.
13
- 14 2. No such use shall create flooding, concentrated runoff, inadequate drainage,
15 unfavorable topography, excessive erosion and sedimentation, or restrict
16 navigation in navigable waters.
17
- 18 2. Such use shall comply with any ordinances or regulations established by a town
19 and other county regulation as well as Chapter 30, 87, and 281 of the Wisconsin
20 Statutes and any federal regulations.
21
- 22 3. Such use conforms to Sections 3.04(4), (5) and (9) of this Ordinance.
23
- 24 4. If a rezoning is required, the procedure established in this Ordinance shall be
25 complied with and the amendment to any other appropriate zoning district shall be
26 approved.
27
- 28 5. The proposed grading and land-altering activities shall conform to the Waukesha
29 County Construction Site Erosion Control and Stormwater Management
30 Ordinance and a permit under that ordinance must be received from the Waukesha
31 County Department of Parks and Land Use, Land Resources Division prior to the
32 issuance of the Conditional Use Permit.
33
34

35 Section 51:

36 Repeal and recreate section 3.07(7)(O) to read:
37

38 Multiple Family Units: In the R-3 Residential District, B-1 Restricted Business District,
39 AD-10 Agricultural Density District, RRD-5 Rural Residential Density District,
40 A-5 Mini Farm District or in a Planned Unit Development which may be allowed
41 pursuant to Section 3.07(7)(Q) of this Ordinance, subject to the following:
42

- 43 1. Only a duplex (2-family residential use) may be allowed in the AD-10
44 Agricultural Density District and the RRD-5 Rural Density District.
45
- 46 2. Only a duplex (2-family residential use) may be allowed in a A-5 Mini
47 Farm District and only if the duplex is proposed to be made by

1 conversion of a farm dwelling that existed at the time of the adoption
2 of this original Ordinance (July 30, 1970).

- 3
- 4 3. The location and building plans, and a Site Plan and Plan of Operation
5 shall be submitted to and approved by the Plan Commission and
6 Zoning Agency.
7
- 8 4. The minimum lot area shall be determined by the number of units to
9 be constructed. The number of units shall be based on a density of one
10 (1) unit for each fifteen thousand (15,000) square feet of land area,
11 exclusive of wetlands or 100 Year Floodplain or lands zoned C-1.
12 Where the use will be served by municipal sewerage facilities, the
13 density requirements can be increased to a minimum of ten thousand
14 (10,000) square feet per unit and eight thousand (8,000) square feet if
15 both municipal sewer and water service is available. The density may
16 be further increased if the requirements of Section 3.05(4) are met.
17 The width of the lot shall be increased as the size of the lot increases in
18 order to avoid excessively long and narrow lots and shall, however, be
19 no less than one hundred and eighty (180) feet in width. The amount of
20 green space on the property, exclusive of parking areas, driveways,
21 roads and other paved or impervious areas, shall be five thousand
22 (5,000) square feet per unit.
23
- 24 5. The manner in which the units are to be serviced with sewerage
25 disposal is subject to approval by the State Department of Commerce
26 and the Waukesha County Department of Parks and Land Use,
27 Environmental Health Division prior to any approval of the proposed
28 conditional use by the plan commission and the zoning agency.
29
- 30 6. The minimum floor area per unit shall be nine hundred (900) square
31 feet for one bedroom units, one thousand (1,000) square feet for
32 two-bedroom units, and one thousand one hundred (1,100) square feet
33 for three-bedroom units.
34
- 35 7. Architectural review of the project may be required by the plan
36 commission and zoning agency.
37
- 38 8. There shall be two (2) off-street parking spaces required for each
39 dwelling unit. The location and arrangement of these parking spaces
40 shall be subject to the approval of the plan commission and the zoning
41 agency.
42
- 43 9. The offset, setback and landscaping requirements are subject to
44 approval by the plan commission and the zoning agency. However, the
45 offset requirements shall not be reduced to less than twenty (20) feet
46 from any lot in a residential district. The road setback minimum shall

1 be fifty (50) feet. The maximum height shall not exceed thirty five
2 (35) feet. Additional height may be permitted if the offset and setback
3 requirements are increased by one (1) foot for each additional one (1)
4 foot in height beyond thirty-five feet.
5
6

7 Section 52:

8 Repeal and recreate section 3.07(7)(T)3(e)(1)b to read:
9

10 (b) A physical restoration plan showing the contours of the restoration, plantings and
11 other special features of restoration, the method by which such restoration is to be
12 accomplished and documentation that the plan complies with the Waukesha County Code
13 of Ordinances, Chapter 12 – Non-metallic Municipal Mining Restoration Ordinance or
14 other ordinances adopted pursuant to Section 295.14, Wisconsin Statutes and Section NR
15 135.32(2), Wisconsin Administrative Code.
16
17

18 Section 53:

19 Repeal and recreate section 3.07(7)(AA) 2 to read:
20

21 The Waukesha County Department of Parks and Land Use, Environmental Health
22 Division shall certify that the septic system will accommodate the proposed use and in
23 accordance with COMM 83, County and State Sanitary Codes.
24
25

26 Section 54:

27 Create section 3.07(7)(CC) to read:
28

29 Limited Family Business: The purpose and intent of this section is to provide a listing of
30 procedures and standards of operation for limited family businesses that may operate in
31 an attached garage or detached accessory building under a conditional use permit in
32 residential or agricultural districts.
33

- 34 1. A conditional use permit for a limited family business is designed to
35 accommodate small family businesses without the necessity for relocation or
36 rezoning, while at the same time protecting the interest of the adjacent property
37 owner and any future development of the area. Any expansion of the limited
38 family business will be subject to an amendment to the conditional use permit
39 and, if said amendment is denied, the conditional use permit would either
40 terminate or the expansion could not take place.
41
- 42 2. All employees, except one full-time equivalent, shall be members of the family
43 residing on the premises.
44

- 1 3. The plan commission and zoning agency shall determine the percentage of the
2 property that may be devoted to the limited family business and the more
3 restrictive determination shall apply.
- 4
- 5 4. The limited family business is restricted to a service oriented business or home
6 occupation business and is prohibited from manufacturing or assembling
7 products. The sale of products on the premises which are not produced by the
8 limited family business is prohibited. The sale of products available for sale as
9 accessories to the business may be permitted or limited by specific conditions in
10 the conditional use permit (i.e. hair care products such as shampoo and
11 conditioners normally associated with a business that cuts or styles hair).
- 12
- 13 5. The conditional use permit shall restrict the number and types of machinery and
14 equipment the limited family business operator may be allowed to bring onto the
15 premises and whether the machinery and equipment must be stored inside a
16 building.
- 17
- 18 6. The structures used in the limited family business shall be considered to be
19 residential accessory buildings and shall meet all the requirements for such
20 buildings. The design and size of the structures are subject to conditions in the
21 conditional use permit.
- 22
- 23 7. The conditional use permit shall automatically expire and terminate on the sale of
24 the property or its transfer to a non-occupant of the property.
- 25
- 26 8. The limited family business shall not operate on a parcel having less than the
27 minimum parcel size for the district in which it is located. For certain uses which
28 are determined by the town and county to have a potential adverse affect on
29 adjacent residential zoned properties, additional requirements regarding location
30 and site standards (i.e. screening) may be required as conditions of the use.
- 31

32

33 Section 55:

34 Create section 3.07(7)(U) 5 to read:

35

36 The location and building plans and a Site Plan and Plan of Operation shall be submitted
37 to and approved by the plan commission and the zoning agency.

38

39

40 Section 56:

41 Repeal and recreate section 3.07(7)(AA) 2 to read:

42

43 The Waukesha County Department of Parks and Land Use, Division of Environmental
44 Health, shall certify that the septic system will accommodate the proposed use and is in
45 accordance with COMM 83, County and State Sanitary Codes.

1 Section 57:

2 Repeal and recreate section 3.08(1)(A)1 to read:

3
4 On all streets or highways for which the ultimate width has been established by
5 the Highway Width Ordinance of Waukesha County, the base setback line shall
6 be located at a distance from the centerline equal to one-half such established
7 width as designated on the "Established Street and Highway Width Map of
8 Waukesha County."
9

10
11 Section 58:

12 Create section 3.08(1)(L) to read:

13
14 Retaining walls do not need to meet the road setback requirements of the individual
15 zoning district.
16

17
18 Section 59:

19 Repeal and recreate section 3.08(1)(D) to read:

20
21 No other structures of any kind, except necessary highway and traffic signs, open stairs
22 extending six (6) feet or less from the enclosed portion of the structure, open stairs in
23 combination with stoops and/or porches which are unenclosed and provide no more than
24 twenty (20) square feet in area and extend no more than six (6) feet from the enclosed
25 portion of the structure, public utility lines, rural mailboxes, and those signs permitted in
26 a residential or agricultural district shall be hereafter erected, altered or placed within
27 such base setback area. Monuments and-entrance gates are structures which require a
28 zoning permit and shall be located at least ten (10) feet from the base setback line and
29 shall not restrict safe access and visibility of the intersecting drive and the road and shall
30 be subject to review and approval by the plan commission and the zoning administrator
31 and the applicable municipality having jurisdiction over the road or highway.
32
33

34 Section 60:

35 Repeal and recreate section 3.08(1)(I) to read:

36
37 Every structure, except boathouses and any other structure excepted from shore
38 setback by another section of this Ordinance, shall have a shore setback of at least
39 seventy five feet from the ordinary high water mark of navigable waters, the one-
40 hundred year floodplain, or the conservancy/wetland district, whichever distance
41 is greater, except:

- 42
43 (1). Boathouses may be permitted within fifty (50) feet of the ordinary high
44 water mark of a navigable body of water or a Conservancy/Wetland
45 District boundary line, but not closer than five (5) horizontal feet from the

1 ordinary high water mark or within a wetland or 100 year floodplain area
2 or within a floodway.

- 3
4
- 5 (2) Boat hoists and piers may be erected on the bed of navigable waters
6 pursuant to Chapter 30 of the Wisconsin Statutes and Section 3.04(6)(C)
7 of this Ordinance.
8
 - 9 (3). Under the authority of Section 59.692(1v), Wisconsin Statutes, the zoning
10 administrator may grant a special zoning permit for a structure that
11 extends closer than seventy five (75) feet to the ordinary high water mark
12 of a navigable body of water if all of the following requirements are met,
13 but in no case is a structure exempt from the shore setback requirements
14 from the Conservancy/Wetland District boundary line:
15
 - 16 (a). The part of the structure that is nearest to the water is located at least
17 thirty five (35) feet landward from the ordinary high water mark.
18
 - 19 (b). The total floor area of all structures in the shore setback area of the
20 property shall not exceed two hundred (200) square feet. In
21 calculating the square footage, boathouses shall be excluded.
22
 - 23 (c). The structure that is subject to the request for special zoning
24 permission has no sides or has open or screened sides.
25
 - 26 (d). The zoning administrator shall review a plan submitted by the
27 applicant which shall be subject to the zoning administrator's
28 approval and which will be implemented by the owner of the
29 property to preserve or establish a vegetative buffer zone that
30 covers at least seventy (70) percent of half of the shore setback
31 area that is nearest to the water. The zoning administrator is
32 authorized to require implementation of the vegetative buffer plan
33 prior to the issuance of the zoning permit for the structure.
34
 - 35 (4). A retaining wall shall be set back at least seventy five (75) feet from the
36 ordinary high water mark of a navigable body of water and outside of the
37 conservancy district and wetlands and may be allowed if the zoning
38 administrator determines that the retaining wall is necessary to abate a
39 known and identified soil erosion and sedimentation problem.
40
 - 41 (5). A single stairway or walkway, determined by the zoning administrator to
42 be necessary for access to a lake, pond or river, shall be permitted to have
43 a shore setback of less than seventy five (75) feet provided the width of
44 the stairway or walkway does not exceed three (3) feet.
45
46

1 (6). Where there is an existing pattern of development with principal buildings
2 having shore setbacks less than seventy five (75) feet from the ordinary
3 high water mark of a navigable body of water or the Conservancy/Wetland
4 District boundary line, the setback requirements for new principal
5 buildings or additions to the principal building or structures immediately
6 adjacent thereto (such as decks or patios) shall be allowed to be reduced in
7 accordance with the following setback averaging formulas, however, in no
8 case shall the required minimum shore setback from the ordinary high
9 water mark or Conservancy/Wetland District boundary be reduced to less
10 than thirty (30) feet:
11

12 a. If there is a building which is non-conforming with respect to shore
13 setback with a similar use as the proposed building and located on
14 an adjacent parcel on one side of the proposed building and within
15 two hundred (200) feet of the proposed building, the average of the
16 shore setback of that building of similar use and the required
17 minimum shore setback shall apply.
18

19 b. If there are two buildings which are non-conforming with respect to
20 shore setback with similar uses as the proposed building and located
21 on adjacent parcels on each side of the proposed building and within
22 two hundred (200) feet of the proposed building, the average of the
23 shore setbacks of the two buildings of similar use shall apply.
24

25 c. If there are two buildings which are non-conforming with respect to
26 shore setback with similar uses as the proposed building and located
27 on adjoining parcels on each side of the proposed building and within
28 two hundred (200) feet of the proposed building, the average of the
29 shore setbacks of the two buildings of similar use shall apply.
30

31 d. In the case of a proposed addition to an existing building which has
32 less than the required shore setback, the shore setback of the addition
33 shall be calculated by the average of the existing building and the
34 shore setback of an existing building with a similar use as the proposed
35 addition if it is located on the adjoining parcel on the same side as the
36 proposed addition and within two hundred (200) feet of the proposed
37 addition.
38

39 e. In the case of a proposed addition to an existing building which has
40 less than the required shore setback, if there are not similar uses on
41 either adjoining parcels, the shore setback of the addition shall be
42 calculated by the average of the existing building and the required
43 minimum shore setback.
44

45 f. The effect of the shore setback regulations in combination with the
46 road setback regulations shall not reduce the buildable depth of such
47 lot to less than thirty (30) feet. Where such reduction would result in a

1 depth less than thirty (30) feet after applying the shore setback and
2 road setback averaging formulas, the zoning administrator shall have
3 the authority to modify the road setback, shore setback, and offset
4 provisions to the extent necessary to minimize the encroachment on
5 the offset and setback standards while maintaining the thirty (30) foot
6 depth.

7
8 g. In applying these shore setback averaging formulas to a proposed
9 principal building or addition to a principal building, the shore setback
10 measurements shall be taken from other principal buildings only and
11 the measurements shall not be from any immediately adjacent
12 structures, such as decks or patios.

13
14 h. In applying these shore setback averaging formulas to a proposed
15 structure, such as a deck or patio, which is immediately adjacent to the
16 principal building, the shore setback measurements may be taken from
17 other principal buildings or immediately adjacent structures, such as
18 decks or patios.

19
20 (7). A principal building, an addition to a principal building or a deck or patio
21 immediately adjacent to a principal building may be located as close as
22 fifty (50) feet from the Conservancy/Wetland District boundary if it is in
23 conformity with the required shore setback from the ordinary high water
24 mark and if the existing natural ground elevation adjacent to the lowest
25 level of the principal building, including an exposed basement, is at least
26 three (3) feet above the one-hundred year flood plain elevation or the high
27 water mark of the conservancy or wetland area.

28
29
30 Section 61:

31 Repeal Section 3.08(1)(J).

32
33
34 Section 62

35 Repeal Section 3.08(K).

36
37
38 Section 63:

39 Repeal and recreate section 3.08(2)(A) to read:

40
41 (A) No principal building or its accessory building shall be hereafter erected or altered
42 so that any roofed or enclosed portion thereof, excluding a roof overhang
43 measuring twenty four inches (24") or less, is closer to any lot line than the offset
44 distance hereinafter specified by the regulations for the district in which such
45 building is located, with the following exceptions:

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1. Only one (1) boathouse per lot is allowed and the boathouse may not be permitted closer than five (5)-feet from the ordinary high water mark.
2. In the case of a lot of record, which has a minimum average width less than the required minimum average width of the district in which it is located, the required offset for the principal structure from a side lot line may be reduced proportionately to the ratio between the actual average width and the required minimum average width, but not less than ten (10) feet except in accordance with Section 3.05(4) or as may be permitted within an approved Planned Unit Development.

Example: $\frac{\text{Actual Average Lot Width}}{\text{Required Minimum Average Lot Width}} \times \text{Required Offset} = \text{Reduced Offset}$

3. Offsets for detached accessory buildings exceeding two hundred (200) square feet in area on lots of one hundred and twenty (120) feet in width or less may be reduced to an amount equal to the proportionate amount between the actual width and one hundred and twenty (120) feet and not less than five (5) feet, even when consideration is given to Section 3.06(5). However, no detached accessory building shall be located closer than ten (10) feet to any structure used for residential purposes.
4. Offsets for buildings housing domesticated livestock, fur-bearing animals, pigeons, swine, goats and poultry, shall be not less than fifty (50) feet from an adjacent property line. This does not include doghouses or small enclosures housing normal and usual household type pets.
5. When a detached accessory structure lies on an adjacent lot and closer than five (5) feet of the common lot line, a new detached accessory structure may be located the same distance from the common boundary as the existing detached structure on the adjacent lot, as long as they are within ten (10) feet of each other. In such a case, the new detached accessory structure shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code. However, unless a common wall with a one-hour fire rating is constructed with agreement of both property owners, building sidewalls may be no closer than three (3) feet in order to accomplish proper maintenance. A deed restriction shall be recorded prior to issuance of the zoning permit prohibiting the construction of fences between said buildings and permitting maintenance of said buildings from adjacent properties.
6. One detached accessory building on any parcel which is less than two hundred (200) square feet in area may be located five (5) feet to the side lot line unless otherwise excepted under any other provision.
7. In the case of an extension or addition of a structure into the minimum offset distance, and where such extension would not extend closer to the side lot line

1 than the existing structure to which it is attached, a Special Exception may be
2 granted by the Board of Adjustment to allow such an extension or addition as
3 long as said extension or addition does not encroach closer to the side lot line
4 than an existing structure to which it is attached.
5

- 6 8. Offsets on decks and patios may be reduced to 60% of the distance between
7 the principal structure and the lot line, otherwise required for the principal
8 structure, but shall in no case be located closer than five (5) feet of a lot line.
9 This includes any reduction allowed in Section 3.06(5).
10
11 9. Retaining walls do not need to meet the offset requirements of the individual
12 zoning districts if they comply with the provisions of section 3.04(5) of this
13 Ordinance.
14
15

16 Section 64:

17 Repeal and recreate section 3.10(2)(E) to read:
18

19 Where a lot has less land area or width than required for the district in which it is located
20 or frontage as specified in section 3.10(2)(A) and was of record at the time of the passage
21 of this Ordinance (July 30, 1970), such lot may be used for any purpose permitted in such
22 district, but not for residential purposes for more than one (1) family; provided, however,
23 that in no case shall the setback, offset, open space or floor area ratio requirements be
24 reduced to less than that required in the R-3 residential district.
25

26 Such substandard lot shall be in separate ownership from abutting lands. If abutting lands
27 and the substandard lot are in the same ownership, the substandard lot shall not be sold or
28 developed unless it has a minimum width of one hundred (100) feet and a minimum area
29 of twenty thousand (20,000) square feet.
30
31

32 Section 65

33 Repeal and recreate section 3.19(1) to read:
34

35 Use permitted: Boathouses, as defined by this ordinance and in section 30.01(1d) of the
36 Wisconsin Statutes, are permitted in any district abutting a public or private body of
37 water, in which a single-family dwelling is permitted by right subject to the terms and the
38 conditions set forth herein and section 30.121 of the Wisconsin Statutes. Said boathouse
39 may be used for the storage of marine and accessory items used by the occupants of the
40 lot. Said boathouse shall be placed on a permanent foundation extending below the frost
41 line or a concrete slab and shall contain at least two hundred (200) square feet in area to
42 be considered a boathouse. Where a property line abuts the ordinary high water mark of
43 navigable water and a boathouse is desired but may be within the one-hundred year
44 floodplain, said structure could be allowed subject to the five-foot shore setback
45 provision within the floodplain but not within the floodway subject to the provisions of
46 section 3.04(6) of this ordinance.

1 Section 66

2 Create section 3.19(7) to read:

3
4 Boathouses prohibited: No boathouse shall be allowed on any lot which is less than
5 15,000 square feet in size or any lot having a minimum average width of less than 100
6 feet.
7

8
9 Section 67

10 Repeal and recreate section 5.03(C) to read:

11
12 The practice of silviculture including planting, thinning and harvesting of timber,
13 provided that no filling, flooding, draining, dredging, ditching, tiling or excavation is
14 done except as required to construct and maintain roads which are necessary to conduct
15 silvicultural activities which cannot, as a practical matter, be located outside the wetland
16 and which are designed and constructed to minimize the adverse impact upon the natural
17 functions of the conservancy/wetland area or except as required for temporary water level
18 stabilization measures to alleviate abnormally wet or dry conditions which would have an
19 adverse impact upon the conduct of silvicultural activities if not corrected. Where such
20 silvicultural practices will take place on areas larger than five (5) acres in size, a forest
21 management plan prepared in cooperation with a state forester shall be submitted to and
22 approved by the Waukesha County Waukesha County Department of Parks and Land
23 Use, Land Resources Division and the zoning agency prior to its implementation.
24

25
26 Section 68

27 Repeal and recreate section 5.03(D) to read:

28
29 The cultivation of agricultural crops if cultivation can be accomplished without filling,
30 flooding or artificial drainage of any wetlands through ditching, tiling, dredging or
31 excavating except that flooding, dike and dam construction and ditching shall be allowed
32 for the purpose of growing and harvesting cranberries. Where ditching and drainage for
33 agricultural purposes is to take place outside of a wetland but within the
34 conservancy/wetland area, said work may be permitted subject to review and approval by
35 the Waukesha County Department of Parks and Land Use, Land Resources Division and
36 the zoning agency without the benefit of a conditional use permit. Construction and
37 maintenance of roads shall be permitted if the roads are necessary for agricultural
38 cultivation and cannot be located outside the conservancy/wetland area and are designed
39 and constructed to minimize the adverse impact upon the natural functions of any
40 wetland area. No new drainage systems will be permitted in wetlands within the
41 conservancy/wetland zoned areas. Sod farms will be allowed subject to review and
42 approval of a conservation plan by the Waukesha County Department of Parks and Land
43 Use, Land Resources Division and the zoning agency.
44
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46

1 Section 69

2 Repeal and recreate section 6.22 to read:

3
4 All the following uses permitted by right in the A-B Agricultural Business District are
5 subject to Site Plan and Plan of Operation approval of the plan commission and zoning
6 administrator:

- 7
8 A. Warehousing, transfer and transport services of agricultural commodities.
9
10
11 B. Horticultural services, including the retail sale of nursery landscape material and
12 other agricultural crops and related commodities.
13
14 C. Feed milling operations.
15
16 D. Agricultural machinery sales and services.
17
18 E. Cheese factories.
19
20 F. Bulk milk collection, storage and distribution facilities.
21
22 G. Veterinarian services.
23
24 H. Custom grain drying.
25
26 I. Poultry and/or egg production.
27
28 J. Residential use may be permitted only in connection with or accessory to
29 otherwise permitted uses.
30
31 K. Any other use consistent with stated intent of this district subject to approval of
32 the Town Plan Commission and Zoning Administrator.
33
34

35 Section 70

36 Repeal section 7.01(J).

37
38
39 Section 71:

40 Repeal and recreate section 8.01c(C)(1)(g) to read:

- 41
42 (g) Home occupation and professional offices, as regulated in Section 7.01.
43
44
45

1 Section 72:

2 Repeal and recreate section 8.01c(C)(1)(h) to read:

3
4 (h) Hobby kennels, as regulated in Section 7.0l.
5
6

7 Section 73:

8 Repeal and recreate section 11.02a(1)(B)6 to read:

9
10 In the administration of the above standards, it is required that various standards set forth
11 above shall be subject to review and approval by the zoning administrator upon submittal
12 of appropriate data and information necessary to determine compliance with the above
13 regulations.
14
15

16 Section 74:

17 Repeal and recreate section 12.03(8) to read:

18
19 Temporary Uses: Lands and buildings within the district may be used on a temporary
20 basis for private and commercial uses usually not more than 1 week in duration. Such
21 uses might consist of carnivals, rental of said buildings for private gatherings, use of
22 buildings for temporary commercial displays or trade fairs and similar functions for the
23 purpose of fundraising or other special and unique events in conjunction with the
24 permitted use. Approval must be granted by the town board and the zoning administrator
25 for such temporary use and subject to any condition that may be imposed.
26
27

28 Section 75:

29 Repeal and recreate section 13.01(1)(B) to read:

30
31 The following retail or customer service establishments of a restrictive nature provided
32 the location, building and Site Plan and Plan of Operation have been submitted to, and
33 approved by, the plan commission and zoning administrator as being in keeping with the
34 character of the surrounding residential area.
35

- 36 1. Boarding or lodging houses.
- 37 2. Delicatessen.
- 38 3. Florist shop.
- 39 4. Funeral home.
- 40 5. Gift shop.
- 41 6. Interior decorator.
- 42 7. Professional office or studio.
- 43 8. Tea room or restaurant provided no liquor is served.
- 44 2. Tourist home.
- 45 3. Any similar use subject to the approval of the plan commission and zoning
46 administrator.

1 Section 76:

2 Repeal and recreate section 14.01(1)(B) to read:

3
4 Any of the following retail and customer service establishments, providing the
5 location, building and Site Plan and Plan of Operation are submitted to and
6 approved by the plan commission and the zoning administrator:
7

- 8 1. Art shop.
- 9 2. Appliance store.
- 10 3. Bakery (not over ten (10) employees).
- 11 4. Barber shop.
- 12 5. Beauty shop.
- 13 6. Bank or savings and loan office.
- 14 7. Clinic.
- 15 8. Clothing or drygoods store.
- 16 9. Confectionery store.
- 17 10. Drug store.
- 18 11. Furniture store.
- 19 12. Book or stationery store.
- 20 13. Fruit and vegetable market.
- 21 14. Grocery or other food products store.
- 22 15. Hardware store.
- 23 16. Ice cream store.
- 24 17. Jewelry store.
- 25 18. Meat and fish market.
- 26 19. Music and radio store.
- 27 20. News-stand.
- 28 21. Notion or variety shop.
- 29 22. Parking lot.
- 30 23. Pharmacy.
- 31 24. Radio and television sales and repair shop.
- 32 25. Photographer.
- 33 26. Restaurant,
- 34 27. Shoe store.
- 35 28. Soda fountain.
- 36 29. Tailor or dressmaking shop.
- 37 30. Telegraph and telephone office and telephone exchange.
- 38 31. Utility company office.
- 39 32. Any similar use subject to the approval of the plan commission and
40 zoning administrator.
41
42
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1 Section 77:

2 Repeal and recreate section 15.01(1)(B) to read:

3
4 The following business and trades of a more general nature, normally serving a larger
5 trade area, providing the location, building and Site Plan and Plan of Operation are
6 submitted to and approved by the plan commission and zoning administrator:
7

- 8 1. Wholesalers and distributors.
- 9 2. Theaters, dance halls, arcades, video game parlors and other amusement places.
- 10 3. Used car lots.
- 11 4. Dry cleaning and dyeing establishments.
- 12 5. New and used automobile sales rooms and lots, sale of snowmobiles, personal
13 watercraft, boats and marina equipment along with repair and service shops for
14 such equipment, storage yards and garages for said equipment, vehicles and
15 supplies, and contractors yards, but not including the storage and/or sale of junked
16 or wrecked equipment or parts.
- 17 6. Printing and publishing houses.
- 18 7. Dairies and bottling plants.
- 19 8. Hotels, subject to the provisions of section 3.07(7)(N).
- 20 9. Laundries.
- 21 10. Lockers and cold storage plants.
- 22 11. Any similar use subject to the approval of the plan commission and zoning
23 administrator.
24

25
26 Section 78:

27 Repeal and recreate section 15.12 to read:

28
29 The plan commission and zoning administrator must review and approve building plans
30 and a Site Plan and Plan of Operation for each building proposal or change in use in order
31 to achieve a satisfactory relationship between the permitted use, its operating
32 characteristics, the arterial highway system, and adjacent uses.
33
34

35 Section 79:

36 Repeal and recreate section 15.13(C) to read:

37
38 Off-street Parking and Loading Areas: Provided detailed site plans, including landscaping
39 and buffering, are submitted to and approved by the plan commission and zoning
40 administrator. Front, rear and side yard paved setbacks shall not be less than ten (10)
41 feet. Shared drives and shared parking areas may be allowed among adjacent properties
42 where appropriate and practical through the use of cross-easements or other internal
43 linkages between the properties with approval of the plan commission and zoning
44 administrator.
45
46

1 Section 80:

2 Repeal and recreate section 15.13 D to read:

3
4 Signs: Allowed by conditional use to evaluate size, orientation and compatibility with the
5 entire site. Landscape and site plans for the signs must be submitted to, reviewed and
6 approved by the plan commission and zoning agency.
7

8
9 Section 81:

10 Repeal and recreate 15.14(1)D to read:

11
12 Communications facilities, including antenna masts and satellite dish antennas located in
13 the rear yard and roof-mounted satellite dish antennas and roof-mounted solar collectors
14 on the roof of the principal structure, provided a registered engineer shall certify that the
15 structure is adequate to support the load. All such facilities shall be screened from view
16 with the facility and screening approved by the plan commission and zoning agency.
17

18
19 Section 82:

20 Repeal and recreate section 15.17(1) to read:

21
22 Lot Size - Unsewered:

- 23 (a) Total site may not be less than ten (10) acres with outlots being created by
24 a PUD.
25 (b) When an unsewered lot is created, the plan commission and zoning
26 administrator may require the principal structure on the lot to be arranged
27 and dimensioned so as to allow further division of the parcel at such time
28 as sewer becomes available.
29

30
31 Section 83:

32 Repeal and recreate section 15.17(5) to read:

33
34 Side Yard Setback: Shall have a minimum offset of ten (10) feet; however, the plan
35 commission and zoning administrator may require a greater offset to accommodate future
36 expansion of the building or future paved driveway access to the rear of the building.
37

38
39
40 Section 84:

41 Repeal and recreate section 15.21B to read:

42
43 The plan commission and zoning administrator shall review and consider for approval a
44 building plan and a Site Plan and Plan of Operation for each building or use proposal to
45 determine if the proposed development complies with the locally adopted plan. The
46 review shall be required to achieve a satisfactory relationship between the permitted use,

1 its operating characteristics, the arterial highway system and adjacent uses such as retail,
2 residential, customer service, business park and light industrial.
3
4

5 Section 85:

6 Repeal and recreate section 15.22 to read:
7

8 A. Permitted Principal Uses: The following principal uses are permitted provided the
9 building plan and a Site Plan and Plan of Operation have been submitted to and
10 approved by the plan commission and zoning administrator. Development prior
11 to sewers being installed in the area is contingent upon the ability of each use to
12 obtain the necessary sanitary septic system approvals from the proper authorities.
13

- 14 1. Community and customer service establishments including eating and
15 drinking establishments, overnight lodging, and indoor commercial
16 recreational facilities such as bowling alleys, physical fitness salons and
17 theaters. Such establishments may not be located adjacent to or opposite a
18 residential district (as designated in the Master Plan) and must be within
19 1,000 feet of a state trunk highway except as identified by Section 15.23
20 of this Ordinance.
21
- 22 2. Offices for the professions, business and utilities, studios, health care
23 facilities and clinics (not providing for overnight stay).
24
- 25 3. Automobile Drive-thru facilities such as financial services, fast food
26 establishments, provided the service rendered or product sold is provided
27 to each customer while they remain in or near their cars and provided to
28 one or a few vehicles at a time (as contrasted with an outdoor theater
29 where all cars are serviced at once). Such facilities must be located within
30 1,000 feet of a state trunk highway.
31
- 32 4. Laboratory, research and servicing operations. Servicing operations shall
33 not be for general retail or public consumption but limited to the servicing
34 of the specific product manufactured or assembled at that site.
35
- 36 5. Trades or light industrial operations of limited intensity, including
37 manufacturing, assembly, fabrication, and processing operations,
38 warehousing (on parcels greater than 3 acres), wholesaling, and
39 distribution operations, except as otherwise prohibited.
40

41 B. Permitted Accessory Uses: The following accessory uses are permitted provided
42 the building or structure plan and a Site Plan and Plan of Operation have been
43 submitted to and approved by the plan commission and zoning administrator.
44

- 45 1. Garages attached to the principal structure for storage of vehicles used in
46 conjunction with operation of the business.
47

- 1 2. Off-street parking and loading areas, provided detailed site plans,
2 including landscaping and buffering, are submitted to and approved by the
3 plan commission and zoning administrator. Front, rear and side yard
4 paved setbacks shall be not less than ten (10) feet. Shared drives and
5 shared parking areas among adjacent properties where appropriate and
6 practical are desirable through the use of cross-easements or other internal
7 linkages between properties.
8
- 9 3. Communications facilities, including antenna masts and satellite dish
10 antennas located in the rear yard and roof-mounted solar collectors on the
11 roof of the principal structure, provided a registered engineer shall certify
12 that the structure is adequate to support the load. All such facilities shall
13 be screened from view with the facility and screening approved by the
14 plan commission and zoning administrator. Screening shall be required
15 for any satellite dish exceeding 24 inches in size and where more than one
16 exists per property.
17
- 18 4. Bus or taxi shelters or waiting areas.
19
20

21 Section 86:

22 Repeal and recreate section 15.23 to read:

23
24 Only the following conditional uses may be permitted provided the building plan and a
25 Site Plan and Plan of Operation have been submitted to and approved by the plan
26 commission and zoning agency:
27

- 28 1. Child care facilities not accessory to a principal office use.
29
- 30 2. Cooling towers, silos or other similar uses accessory to the permitted principal
31 uses.
32
- 33 3. Automobile service and fuel stations.
34
- 35 4. Restaurants to be located within 1,000 feet of any residential area designated on
36 the Master Plan.
37
- 38 5. Fuel or vehicle repair stations serving trucks other than company motor vehicles.
39 Such facilities shall not be located within 1,000 feet of a residential area
40 designated on the Master Plan unless having direct access to a state trunk
41 highway.
42
- 43 6. Any outdoor recreation involving night operation with limitations on hours of
44 operation.
45
- 46 7. Retail stores and shops located beyond 1,000 feet of a state trunk highway.
47

- 1 8. Retail uses operated more than 16 hours per day.
- 2
- 3 9. Health care facilities providing for overnight stays.
- 4
- 5 10. Commercial vehicle terminals with roadway access to a state trunk highway.
- 6
- 7

8 Section 87:

9 Repeal and recreate section 15.24(1) to read:

10

11 Offensive Uses. No uses shall be permitted or maintained which, when conducted under
12 adequate conditions and safeguards in compliance with the provisions of this Chapter and
13 any additional conditions or requirements prescribed by the plan commission and zoning
14 administrator are or may become hazardous, noxious or offensive due to emission or
15 odor, dust, smoke, cinders, gas, fumes noise, vibrations, beat frequency, refuse matter,
16 water-carried waste or fugitive lighting.

17

18

19

20 Section 88:

21 Repeal and recreate section 15.26(1) to read:

22

23 1. Lot Size - Unsewered:

- 24
- 25 (a) Building site shall have a minimum lot size of 40,000 square feet.
 - 26 (b) When an unsewered lot is created, the plan commission and zoning
27 administrator may require the principal structure on the lot to be arranged
28 and dimensioned so as to allow further division of the parcel at such time
29 as sewer becomes available.
- 30

31 Section 89:

32 Repeal and recreate section 15.26(5) to read:

33

34 Side Yard Setback: Shall have a minimum offset of ten (10) feet; however, the plan
35 commission and zoning administrator may require a greater offset to accommodate future
36 expansion of the building or future paved driveway access to the rear of the building.

37

38

39 Section 90:

40 Repeal and recreate section 15.27(1) to read:

41

42 Landscape and Site Plans for signs must be submitted to, reviewed and approved by the
43 plan commission and the zoning administrator.

44

45

46

1 Section 91:

2 Repeal and recreate section 16.01a(1)(B) to read:

3
4 Trades or industries of a restrictive character which are not detrimental to the district or
5 to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor,
6 provided the location, building plan and a Site Plan and Plan of Operation have been
7 submitted to and approved by the plan commission and zoning administrator, but not
8 including any use enumerated under section 17.01a(1)(C) or any of the following:

- 9
10 1. Junk yards.
11 2. Drop forges, foundries, refineries, tanneries or any similar use, the normal
12 operation of which causes objectionable noise, odor, dust or smoke.
13
14

15 Section 92:

16 Repeal and recreate section 17.01a(1)(C) to read:

17
18 Any other commercial or industrial use not otherwise prohibited by law, provided
19 their location, building plan and a Site Plan and Plan of Operation have been
20 submitted to and approved by the plan commission and zoning administrator,
21 except the following:

- 22
23 1. Cement, lime, gypsum, or plaster of paris manufacture.
24 2. Acid manufacture.
25 3. Manufacture of explosives, but not including the making of small
26 arms ammunition.
27 4. Storage of explosives, except as incidental to a permitted use.
28 5. Fertilizer manufacture.
29 6. Offal or dead animal reduction.
30 7. Glue manufacture, fat rendering or distillation of bones.
31 8. Stockyards or commercial slaughter of animals.
32
33

34 Section 93:

35 Repeal and recreate section 17.01(1) to read:

36
37 Authority: There is hereby created a Board of Adjustment pursuant to Section 59.694 of
38 the Wisconsin Statutes, to consist of five (5) members and two (2) alternates to be
39 appointed by the County Executive and confirmed by the County Board. The first
40 appointments shall be for a term of one (1), two (2), and three (3) years respectively, and
41 thereafter on July 1 of each year the new appointment shall be for three (3) year terms.
42
43
44

1 Section 94

2 Repeal and recreate 17.01(2) to read:

3
4 General: All members of the board shall reside within the county and outside the limits
5 of incorporated areas, provided however, that no two (2) members shall reside in the
6 same town. A vacancy shall be filled for the unexpired term of any member whose term
7 becomes vacant, by appointment of the county executive and confirmation by the county
8 board. The actual and necessary expenses incurred by the board in performance of its
9 duties shall be paid and allowed as cases of other claims against the county. The members
10 of the board shall also receive per diem compensation as provided for by the county
11 board. The board shall appoint a chairman, a vice-chairman and shall adopt such bylaws
12 as the board deems necessary.
13
14

15 Section 95:

16 Repeal and recreate section 17.03(1)(A) to read:

17
18 To hear and decide appeals where it is alleged there is error in any order, requirement,
19 decision or determination made by an administrative official in the enforcement of
20 section 59.69 Wisconsin Statutes, or of this Ordinance
21
22

23 Section 96

24 Section 17.02(2) to read:

25 Meetings: Meetings of the board shall be held at the call of the chairman and at such
26 other times as the board may determine and shall be open to the public.
27
28

29 Section 97:

30 Repeal and recreate section 17.03(4) to read:

31
32 Enforcement of decision: In exercising the above-mentioned powers, such board may in
33 conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or
34 may modify the order, requirements, decision or determination appealed from, and may
35 make such order, requirement, decision or determination as ought to be made, and to that
36 end shall have all the powers of the officer from whom the appeal is taken; and may issue
37 or direct the issue of a permit provided that no such action shall have the effect of
38 permitting in any district a use prohibited in that district; of rezoning; of allowing a use or
39 variance which would have the effect of intensifying a use in a manner contrary to what a
40 similarly situated property would be allowed; of permitting, without the approval of the
41 county zoning agency, any building within the base setback area as established by section
42 3.08(1) of this ordinance, or of granting exceptions to chapters COMM83, NR115 or
43 NR116 of the Wisconsin Administrative Code, the Waukesha County Sanitary Ordinance
44 and any other state or local ordinance and any other federal, state, or local ordinance.
45
46

1 Section 98:

2 Repeal and recreate section 17.03(6) to read:

3
4 Further appeal: Any person or persons, jointly or severally, aggrieved by any decision of
5 the board of adjustment, or any taxpayer, or any officer, department, board or bureau of
6 the municipality, may appeal from a decision of the board of adjustment within thirty
7 (30) days after the filing of the decision in the office of the board of adjustment in the
8 manner provided in sections 59.692(4)(b), 59.693(4)(b), 59.694(4) and 59.694(10) of the
9 Wisconsin Statutes. (Ord. No. 141-44, §§ LVIII, LIX, 7-22-86)

10
11
12 Section 99:

13 Repeal and recreate section 18.01 to read:

14
15 Pursuant to the provisions of section 59.69 of the Wisconsin Statutes the county board
16 may amend the regulations of this Ordinance or change the district boundaries.

17
18
19 Section 100:

20 Repeal and recreate section 18.02(9) to read:

21
22 *Effectuation:* Any such amendatory ordinance when so adopted by the county board,
23 shall become effective after passage by the county board and publication pursuant to
24 Section 59.69, Wisconsin Statutes except as may be modified in section 18.05 herein. In
25 the case of floodplain amendments and adjustments, the amendment shall not become
26 effective until the Wisconsin Department of Natural Resources approves the amendment
27 after certification that the area has been removed from the floodplain and until a letter of
28 map amendment is issued by the Federal Insurance Administration of the Federal
29 Emergency Management Administration. Upon receipt of the above cited approvals, the
30 county clerk shall record in the clerk's office the date on which such ordinance is passed
31 by the county board and approved by the other agencies required to approve and shall
32 notify the town clerk of all towns affected by such ordinance of such date that the
33 ordinance will take effect and also make such report to the county zoning administrator
34 and the county board which report shall be printed in the proceedings of the county
35 board. (Ord. No. 141-44, §§ LXII-LXIV, 7-22-86)

36
37
38 Section 101:

39 Repeal and recreate section 18.03 to read:

40
41 (1) The county board may by ordinance zone and rezone any lands owned by the county
42 without necessity of securing the approval of the town boards of the towns wherein such
43 lands are situated, and without following the procedure outlined in Section 59.69 of the
44 Wisconsin Statutes, provided that the county board shall give written notice to the town
45 board of the town wherein such lands are situated of its intent to so rezone and shall hold

1 a public hearing on the proposed rezoning Ordinance and give notice of such hearing by
2 posting in five (5) public places in the town.

3
4 (2) This subsection does not apply to land subject to a town zoning ordinance which is
5 purchased by the county for use as a solid or hazardous waste disposal facility or
6 hazardous waste storage or treatment facility, as these terms are defined under Chapter
7 282 of the Wisconsin Statutes.
8
9

10 Section 102:

11 Repeal and recreate section 18.04(1) to read:

12
13 Removal from map: When any lands previously under the jurisdiction of a county zoning
14 Ordinance shall have been finally removed from such jurisdiction by reason of
15 annexation to an incorporated municipality, and after the regulations imposed by the
16 county zoning Ordinance have ceased to be effective as provided in Section 59.69 of the
17 Wisconsin Statutes, the county board may, on the recommendation of its zoning agency,
18 adopt such amendatory Ordinances and shall remove or delete such annexed lands from
19 the official zoning map or written descriptions without following any of the procedures
20 provided in Section 59.69 Wisconsin Statutes, and such amendatory ordinances shall
21 become effective upon passage and publication. A copy of such ordinance shall be
22 forwarded by the county clerk to the clerk of each town in which the lands affected were
23 previously located. Nothing in this paragraph shall be construed to nullify or supersede
24 the provisions of section 80.64 of the Wisconsin Statutes.
25
26
27

28 Section 103:

29 Repeal and recreate section 18.05(3) to read:

30
31 If the department of natural resources notifies the county zoning agency that a proposed
32 text or map amendment to the shoreland/wetlands governed by this ordinance may have a
33 significant adverse impact upon any of the criteria listed in subsection (2) above, that
34 amendment, if approved by the County Board, shall contain the following provision:
35 "This amendment shall not take effect until more than thirty (30) days have elapsed after
36 written notice of the county board's approval of this amendment is mailed to the
37 department of natural resources. During that thirty-day period the department of natural
38 resources may notify the county board that it will adopt a superseding shoreland
39 ordinance for the county under Section 59.692(6) Wisconsin Statutes. If the department
40 does so notify the county board, the effect of this amendment shall be stayed until the
41 Section 59.692(6) adoption procedure is completed or otherwise terminated." (Ord. No.
42 141-44, § LXVII, 7-22-86)
43
44
45

1 Section 104:

2 Repeal and recreate section 20.01(1) to read:

3
4 Park and planning commission designated: The Waukesha County Park and Planning
5 Commission is hereby designated as the county zoning agency pursuant to Section
6 59.69(2)(a) of the Wisconsin Statutes.
7

8
9 Section 105:

10 Repeal and recreate section 20.01(4) to read:

11
12 Appeal: Any person or persons, jointly or severally, aggrieved by any decision of the
13 zoning agency, or any taxpayer, or any officer, department, board or bureau of the
14 municipality, may appeal from a decision of the zoning agency within thirty (30) days
15 after the filing of the decision in the office of the zoning agency by seeking the remedy
16 available by certiorari. No appeal shall be taken from a decision of the zoning agency to
17 the board of adjustment.
18

19
20 Section 106:

21 Repeal and recreate section 20.02(1) to read:

22
23 Designation: The Director of the Waukesha County Department of Parks and Land Use
24 is designated as "zoning administrator" for the administration and enforcement of the
25 provisions of this Ordinance and the zoning administrator has the authority to designate
26 staff under his or her direction to perform delegated tasks and duties.
27

28
29
30 Section 107:

31 Create section 20.02(5) to read:

32
33 Fee schedule: The fees referred to in other sections of this Ordinance shall be established
34 by the annual Waukesha County Budget adopted by the Waukesha County Board and
35 may from time to time be modified. The processing fees are related to costs involved in
36 handling zoning permit applications, Site Plan and Plan of Operation review, conditional
37 use petitions, appeals to the board of adjustment, and zoning amendments.
38

39
40 Section 108:

41 Repeal and recreate section 20.03(4) to read:

42
43 Enforcement by Citation: The County elects to use the citation method of enforcement
44 under Section 66.0113 of the Wisconsin Statutes for violations of this Code of
45 Ordinances, including those for which a statutory counterpart exists.

1 (A) In addition to all law enforcement officers, the issuance of citations is
2 expressly limited to the zoning administrator. The authority delegated to
3 such official or employees to issue citations may only be granted or
4 revoked by the County Board.

5
6 (B) The citation shall contain the following information:
7

- 8 1. The name and address of the alleged violator.
- 9 2. The factual allegations describing the alleged violation.
- 10 3. The time and place of the offense.
- 11 4. The section of the ordinance violated.
- 12 5. A designation of the offense in such a manner as can be reasonably
13 understood by a person making a reasonable effort to do so.
- 14 6. The time at which the alleged violator may appear in court.
- 15 7. A statement which, in essence, informs the alleged violator:
 - 16 a. That a cash deposit based on the schedule established by the
17 County Board, from time to time, and on file in the office of the
18 County Clerk, be made to and deposited with the Clerk of the
19 Waukesha County Circuit Court or the Sheriff's Department
20 prior to the time of the scheduled court appearance.
 - 21 b. That if a deposit is made, no appearance in court is necessary
22 unless he is subsequently summoned or the citation requests a
23 court appearance.
 - 24 c. That if a cash deposit is made and the alleged violator does not
25 appear in court, he will be deemed to have entered a plea of no
26 contest and submitted to a forfeiture, a penalty assessment, a jail
27 assessment crime lab assessment and drug/law enforcement
28 assessment and any applicable domestic abuse or consumer
29 information assessments of, if the court does not accept the plea
30 of no contest, a summons will be issued commanding him or her
31 to appear in court to answer the complaint.
 - 32 d. That if no cash deposit is made and the alleged violator does not
33 appear in court at the time specified, the court may issue a
34 summons or a warrant for the defendant's arrest or consider the
35 nonappearance to be a plea of no contest and enter judgment or
36 an action may be commenced to collect the forfeiture, penalty
37 assessment, jail assessment, crime lab assessment and drug/law
38 enforcement assessment and any applicable domestic abuse or
39 consumer information assessments.
 - 40 e. That if the court finds that the violation involves an ordinance
41 that prohibits conduct that is the same as or similar to conduct
42 prohibited by state statute punishable by fine or imprisonment or
43
44
45
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1 both, and that the violation resulted in damage to the property of
2 or physical injury to a person other than the alleged violator, the
3 court may summon the alleged violator into court to determine if
4 restitution shall be ordered.
5

6 8. A direction that if the alleged violator elects to make a cash deposit,
7 the statement which accompanies the citation shall be signed to
8 indicate that the statement required under subpara. 7. above has been
9 read. Such statement shall be sent or brought with the cash deposit.
10

11 9. Such other information as the County deems necessary.
12

13 (C). The schedule of cash deposits including penalty assessment, jail
14 assessment, crime lab assessment and drug/law enforcement assessment and any
15 applicable domestic abuse or consumer information assessments for use with
16 citations issued under this section shall be as adopted by the County Board from
17 time to time and such schedule shall be on file in the Offices of the Sheriff,
18 Zoning Administrator, County Clerk and Clerk of Court and receipts shall be
19 given for cash deposits.
20

21 (D). The procedures contained in Section 66.0113(3) of the Wisconsin Statutes,
22 relating to the options of an alleged violator and default are adopted and
23 incorporated herein by reference.
24

25 (E). This section does not preclude the County or any authorized officer
26 from proceeding under any other ordinance or law or by any other enforcement
27 method to enforce any ordinance regulation or order.
28
29
30

31 Section 109:

32 Repeal and recreate section 21.04 to read:
33

34 All ordinances or parts of ordinances of the county inconsistent or conflicting with this
35 ordinance, to the extent of the inconsistency only, are hereby repealed. All other
36 ordinances enacted by the county under Section 59.69 of the Wisconsin Statutes relating
37 to floodlands and shorelands are hereby superseded.
38

39
40 Section 110:

41 Repeal and recreate section 21.06 to read:
42

43 This ordinance shall be effective after a public hearing and recommendation by the
44 county park and planning commission, adoption by the county board, and a duplicate
45 copy submitted by the county clerk by registered mail to each town clerk, in accordance
46 with Section 59.692 of the Wisconsin Statutes.
47

1 Regulations contained herein shall not require approval or be subject to the disapproval
2 of any town in accordance with Section 59.692(2)(a) of the Wisconsin Statutes.
3
4

5 Section 111:

6 Create section 23.05 to read:
7
8

9 The Corporation Counsel shall be the official revisor and editor of this Code and the
10 Corporation Counsel, or his or her designee, is authorized to revise this Code in
11 accordance with any enrolled ordinance. The Corporation Counsel is hereby authorized
12 to make changes to the numbering sequence, lettering, organization, or formatting of an
13 enrolled ordinances or these Code sections, as needed to create a consecutive sequence
14 and orderly format of the code.
15
16
17

18 Section 112:

19 Repeal and recreate section 6.64 to read:
20

21 Height Limitations.
22

23 (1) Principal Building: Thirty-five (35) feet maximum.
24

25 (2) Accessory Building:

26 (A) Farm: Sixty (60) feet maximum.
27

28 (B) Other: Fifteen (15) feet maximum.
29
30
31
32

33 Section 113:

34 Repeal and recreate section 6.74 to read:
35

36 Height Regulations.
37

38 (1) Principal Building: Thirty-five (35) feet maximum.
39

40 (2) Accessory Building:

41 (A) Farm: Sixty (60) feet maximum.
42

43 (B) Other: Fifteen (15) feet maximum.
44
45
46
47
48

1 Section 114:

2 Repeal and recreate section 15.01 to read:

3
4 Use regulations.

5
6 (1) Permitted uses:

7
8 (A) Any use as permitted in the B-2 local business district, except that residential use
9 shall be permitted only in conjunction with or accessory to an otherwise
10 permitted use.

11
12 (B) The following business and trades of a more general nature, normally serving a
13 larger trade area, providing the location, building and site plan and plan of
14 operation are submitted to and approved by the plan commission:

- 15
- 16 1. Wholesalers and distributors.
- 17 2. Theaters, dance halls, arcades, video game parlors and other
18 amusement places.
- 19 3. Used car lots.
- 20 4. Dry cleaning and dyeing establishments.
- 21 5. New and used automobile sales rooms and lots, sale of
22 snowmobiles, personal watercraft, boats and marina equipment
23 along with repair and service shops for such equipment, storage
24 yards and garages for said equipment, vehicles and supplies, but
25 not including the storage and/or sale of junked or wrecked
26 equipment or parts.
- 27 6. Printing and publishing houses.
- 28 7. Dairies and bottling plants.
- 29 8. Laundries.
- 30 9. Lockers and cold storage plants.
- 31 10. Any similar use subject to the approval of the plan commission.

32
33 (C) Signs, billboards and other similar advertising media.
34
35
36

37 Section 115:

38 Repeal and recreate section 6.05 to read:

39
40 6.05. Height regulations.

41
42 (1) Dwelling: Thirty-five (35) feet maximum.

43 (2) Accessory buildings:

44 (A) Farm, sixty (60) feet maximum, other fifteen (15) feet maximum, except
45 that this height limit may be increased to allow structures up to one
46 hundred (100) feet maximum where the road setback and offset is equal to
47 or exceeds the height of the structure itself.
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Section 116:

Repeal and recreate section 8.03 to read:

8.03. Height regulations.

- (1) Principal building: Thirty-five (35) feet maximum.
- (2) Accessory buildings: Fifteen (15) feet maximum.

Section 117:

Repeal and recreate section 15.03 to read:

15.03. Height regulations.

- (1) Principal building: Thirty five (35) feet maximum.
- (2) Accessory buildings: Fifteen (15) feet maximum.