

Chapter 58 - ZONING

Footnotes:

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Cross reference— Any land use, zoning or rezoning ordinance or amendment to the zoning map saved from repeal, § 1-10(9); building and building regulations, ch. 8; floods, ch. 18; streets, sidewalks and other public places, ch. 40; subdivisions, ch. 42.

ARTICLE I. - IN GENERAL

Sec. 58-1. - Objectives of chapter.

To achieve the objectives outlined in Wis. Stats. §§ 59.70(1), 59.69, 59.692, 59.694, 281.31, 87.30 and 254.59, the board of supervisors ordains the zoning regulations of this chapter.

(Ord. No. 183, § 1(1.01), 3-8-1994)

Sec. 58-2. - Purpose and intent of chapter.

This chapter is adopted in order to promote and protect public health, safety, comfort, convenience, prosperity, aesthetics and other aspects of general welfare; and, more specifically, to fix reasonable standards to which buildings and structures shall conform; to regulate and restrict lot coverage and population density; to conserve the value of land and buildings in all of the unincorporated areas of the county; to guide the proper distribution and location of various land uses; to promote the safety and efficiency of the streets and highways; to provide for adequate light, air, sanitation and drainage; to conserve natural resources; to provide safety from fire and other hazards; to define the powers and duties to the administrative bodies as provided in this chapter; and to prescribe penalties for the violation of the provisions of this chapter or any amendment thereto. The shoreland provisions of this chapter are established to prevent the uncontrolled use of such shorelands and pollution of the navigable waters of the county. Further, Wis. Stats. § 281.31, provides that shoreland, subdivision, and zoning regulations shall: "Further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty." Wis. Stats. § 59.692, requires counties to effect the purposes of Wis. Stats. § 281.31, and to promote the public health, safety and general welfare by adopting zoning regulations for the protection of all shorelands in unincorporated areas that meet shoreland zoning standards promulgated by the department of natural resources. The purpose of the shoreland provisions of this chapter is to establish minimum shoreland zoning standards for a code enacted under Wis. Stats. §

59.692, for the purposes specified in Wis. Stats. § 281.31(1), and to limit the direct and cumulative impacts of shoreland development on water quality; near shore aquatic, wetland and upland wildlife habitat; and natural scenic beauty.

(Ord. No. 76, § 1.03, 3-13-1984; Ord. No. 535, § 1, 10-18-2011; Ord. No. 544, § 1, 4-17-2012)

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

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

(Ord. No. 76, § 1.04, 3-13-1984; Ord. No. 535, § 1, 10-18-2011; Ord. No. 544, § 1, 4-17-2012; Ord. No. 610, 4-18-2017)

Sec. 58-4. - Incorporation of state law provisions by reference.

This chapter incorporates by reference rules, regulations and laws as set forth in statute and Wisconsin Administrative Codes. These rules, regulations and laws shall apply until amended or renumbered and then shall apply as amended or renumbered.

(Ord. No. 269, § 13(1.05), 3-9-1999)

Sec. 58-5. - Force and effect of chapter provisions.

Following passage by the board of supervisors, this chapter shall be in full force and effect in each town, as provided in Wis. Stats. § 59.69. All provisions of this chapter shall apply within the shorelands as set forth in subsections 58-902(1) and (2), regardless of whether this chapter has been adopted by the respective town boards.

(Ord. No. 76, § 1.07, 3-13-1984)

Sec. 58-6. - Jurisdiction of chapter.

The provisions of this chapter shall apply to the land, water, air and all structures both above and below the ground within the unincorporated areas of the county.

(Ord. No. 76, § 2.01, 3-13-1984)

Sec. 58-7. - Compliance with chapter provisions.

No structures, land, water or air shall, after the effective date of the ordinance from which this chapter is derived, be used without full compliance with the provisions of this chapter and all applicable local, county and state regulations. No structure, with the exception of certain minor structures, or part thereof, shall, after the effective date of the ordinance from which this chapter is derived, be located, erected, moved, or reconstructed or altered and no substantial land use change made without a land use or conditional use permit. No highway access shall be created or moved except in compliance with the terms of this chapter. The county zoning administrator shall accept all applications, issue or deny all land use permits, investigate complaints, give notice of violations, and enforce the provisions of this chapter. The zoning administrator shall have access to premises and structures during reasonable hours to make those inspections deemed necessary by the zoning administrator or their designee to ensure compliance with this chapter. If, however, the zoning administrator or their designee is refused entry after presentation of identification, the zoning administrator shall procure a special inspection warrant in accordance with Wis. Stats. § 66.0119, except in cases of emergency.

(Ord. No. 88, § 1(2.02), 6-9-1987; Ord. No. 576, 3-18-2014)

Sec. 58-8. - General interpretations.

- (a) The following rules of construction shall apply to this chapter: The particular shall control the general; in the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control; the term "shall" is always mandatory whereas the term "may" is permissive; words used in the past tense shall include the future; words used with a singular number shall include the plural, unless the context clearly indicates the contrary; the term "building" or "structure" includes any part thereof; the phrase "used for"

includes "arranged for"; the word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity; unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows: The term "and" indicates that all the connected items, conditions, provisions or events shall apply; the term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination; the term "either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination; all measured distances shall be to the nearest integral foot, if a fraction is one-half foot or more, the integral foot next above shall be taken; the masculine gender includes the feminine and neuter.

- (b) The provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of this chapter and shall not be deemed a limitation or repeal of any other power granted by statute and related administrative codes.
- (c) The applicant shall reimburse the county for its full cost in engaging engineers and other experts to review the accuracy of the information submitted with any land use permit, conditional use permit or any other public hearing application. If the zoning administrator, agency, or board of adjustments determines that the public interest requires the county to engage special consultants, such as engineers, planners, or experts it shall require the applicant to deposit a sum deemed sufficient to defray the expected costs of such work by consultants. Any excess over actual cost shall be refunded to the applicant. Any deficiency shall be billed and a final decision be withheld until payment is made.

(Ord. No. 76, § 1.05, 3-13-1984; Ord. No. 490, 2-12-2008)

Sec. 58-9. - Definitions.

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

Access and viewing corridor means a strip of vegetated land that allows safe pedestrian access to the shore through the shoreline vegetation protection area.

Accessory use or structure means a use or detached structure customarily incidental to and subordinate to the principal use or principal structure, land or water which may or may not be located on the same lot or parcel serving the principal use or the principal structure.

Adult arcade means any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated, still or in motion picture machines, projectors, computers or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult bathhouse means a commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "specified sexual activities."

Adult body painting studio means a commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on "specified anatomical areas." An adult body painting studio does not include a tattoo parlor.

Adult bookstore means any commercial establishment having as its stock-in-trade the sale, rental or lease for any form of consideration, any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on "specified anatomical areas" or "specified sexual activities."
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- (3) Facilities for the presentation of "adult entertainment" as defined herein, including adult-oriented films, motion pictures, video cassettes, video reproductions, slides or other visual representations for observation by patrons therein.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which features:

- (1) Live performances which are characterized or distinguished by the exposure of "specified anatomical areas" or "specified sexual activities," or
- (2) Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult entertainment means any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:

- (1) "Specified sexual activities."
- (2) "Specified anatomical areas."

Adult massage parlor means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "specified sexual activities."

Adult motel means a hotel, motel or other similar commercial establishment which: Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, film, motion pictures, video cassettes, video reproductions, slides, or other visual

reproductions characterized by depicting or describing "specified sexual activities" or "specified anatomical areas," and has a sign visible from the public right-of-way which advertises the availability of this type of adult entertainment; or:

- (1) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (2) Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten hours.

Adult-oriented establishment includes: Adult arcade, adult bathhouse, adult body painting studio, adult bookstore, adult cabaret, adult massage parlor, adult motel, adult theater, and any commercial establishment presenting adult entertainment, whether or not such establishment is operated or maintained for a profit and where alcohol is not served or consumed.

Adult theater means an enclosed building such as theater, concert hall, auditorium or other similar commercial establishment which is used for presenting "adult entertainment".

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

Airport means a permanent facility used or intended to be used for the landing of aircraft of any type.

Airstrip means an unpaved surface used for the temporary or incidental landing of aircrafts.

Alley means a special public right-of-way affording only secondary access to abutting properties.

Animal unit means a unit equivalent to one cow, four hogs, ten sheep, ten goats, 100 poultry, and one horse, pony or mule.

Automobile service station means any building or premises which sells gasoline, oil and related products to the motoring public. This shall include repairs, washing and lubrication, but shall not include any body work, painting or dismantling.

Average lot width means the sum of the width of a lot at the water and at the building setback line divided by two for riparian lots. For all other lots, average lot width is the lot width at the building setback line.

Bed and breakfast establishment means any place of lodging that provides four or fewer rooms for rent for more than ten nights in a 12-month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

Board means the Waushara County Board of Supervisors.

Boardinghouse means a building where meals and lodging are offered for compensation for five but not more than 12 persons and where no more than five sleeping rooms are provided for such purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant.

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

Buildable area means the remaining area after the minimum open space, yard and setback requirements have been met.

Building means any structure which is or is to be permanently affixed to the land that is built, constructed or placed on such land for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

Building area means the area bounded by the exterior dimensions of the outer walls at the ground line.

Building envelope means the three-dimensional space within which a structure is built.

Building, principal, means the main building on a lot, intended for primary use as permitted by the regulations of the zone in which it is located.

Bulkhead line means a line in a harbor or navigable waters defining the channelward limit of solid fills or bulkheads.

Campgrounds means any parcel or tract of land owned by a person, state or local government designed, maintained, intended or used for the purpose of supplying a location for overnight camping or supplying accommodations for overnight use by a recreational vehicle, camping trailer, travel trailer or mobile camper open to the public and set aside for free or pay camping purposes. Two or more recreational vehicles, camping trailers, travel trailers or mobile campers shall constitute a campground.

Camping trailer, travel trailer and mobile camper or unit mean such mobile units designed to be used for temporary living or commercial purposes which may either be towed by a motorized vehicle or be a motorized vehicle. For the purposes of this definition, to come within the provisions of this definition, a camping trailer, travel trailer, or mobile camper or unit is to be used on a parcel less than 50 nonconsecutive calendar days within a calendar year with no more than ten calendar days in succession. For the purposes of this chapter, a camping trailer, travel trailer, or mobile camper or unit used on a parcel for 50 nonconsecutive calendar days or more within a calendar year shall be deemed a seasonal residence under the provisions of this chapter. For the purposes of this chapter, a camping trailer, travel trailer, or mobile camper or unit used within the provisions of this definition shall conform to all required setbacks of the respective district within which it is located.

Cemetery means a place containing one or more graves, cemetery lots, or other interment space intended for the storage or burial of human remains.

Certificate of compliance means official certification that a use, building or structure is in conformance with the provisions of this chapter.

Channel means a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

Club and/or lodge mean an association of persons who are bona fide members, which owns, hires, or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Commercial entertainment facilities means a site or facility where the principal use of the site or facility is to provide entertainment, and at which commercial activities occur, including, but not limited to, video arcades, entertainment and dance halls, opera houses, concert arenas and pavilions, and other similar sites or facilities not otherwise defined in this Code. For the purposes of this Code, adult-oriented establishments are not considered commercial entertainment facilities.

Commercial recycling operation means any operation involving the collection of aluminum, glass, paper and paper products, plastic or other salvageable material.

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

Conditional use means uses having characteristics so as to make their designation as a principal use within a particular zone permitted; provided that, certain conditions specified in the Code are met and that a permit is granted by the planning and zoning committee.

County planning and zoning committee means that committee or commission created or designated by the county board under Wis. Stats. § 59.69(2)(a), to act in all matters pertaining to county planning and zoning.

Day nursery/kindergarten means a facility where care and supervision is provided for four or more children under seven years of age for less than 24 hours per day for which the operator is compensated. Family child care homes, as defined in Wis. Stats. § 66.1017, do not constitute a day nursery/kindergarten, and are permitted, upon the issuance of a land use permit, in all districts where single-family dwellings are permitted.

Department means the department of natural resources.

Domestic chicken means a female hen or pullet.

Drainage system means one or more artificial ditches, the drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Dwelling, detached, means a residential building which is entirely surrounded by open space on the same lot.

Dwelling, duplex (two-family), means a residential building containing two dwelling units, excepting mobile homes.

Dwelling, multiple-family (apartment), means a building containing three or more dwelling units, including cooperative apartments, condominiums, apartments and similar arrangements.

Dwelling, single-family, means a residential building containing one dwelling unit.

Dwelling, single-family attached, means a group or series of three or more buildings each containing a single dwelling unit, attached at the side. Each building shall be separated by a party wall extending from footings through roofs. The term "attached dwellings" is intended to imply townhouses, patio or atrium houses or any other form that conforms to this definition.

Dwelling unit means a structure having provisions for living, sanitary and sleeping facilities, arranged for the use of one or more individuals of the same family, and is intended to provide shelter for one or more days in a calendar year.

Existing development pattern means that a principal structure exists within 250 feet of a proposed or existing principal structure along the shoreline.

Family means one or more persons related by blood, marriage or adoption, or a group of not more than five persons not so related, maintaining a common household in a dwelling unit.

Flea markets and rummage and garage sales mean flea markets, rummage sales or garage sales offering for sale household or other goods and shall be considered a commercial use if such activity is conducted at the same location for a period greater than ten days consecutively or in aggregate in one calendar year.

Floodplain means that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain is comprised of the FW floodway and the FF flood fringe as those terms are defined in ch. NR 116, Wisconsin Administrative Code.

Floor area means the total area of the building footprint, including all area encompassed by foundations, basement walls, exterior walls, roof overhangs greater than 24 inches in width, support structures, and any attachments or appurtenances. Floor area, as calculated for the minimum living space of a dwelling unit, shall be completely enclosed, considered habitable under the building and mechanical code requirements, and be at least seven feet in height from floor to ceiling.

Floor area, gross, means, for the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or

working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities to the production or processing of goods, or to business or professional offices.

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

Forestry means the production and management of trees as a crop.

Fur farm means a tract of land or buildings devoted, in whole or in part, to the raising of fur-bearing animals for commercial purposes.

Garage, private, means a structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports are considered garages.

Garage, public or commercial, means any garage other than a private garage.

Height, building, means the vertical distance measured from the nearest finished grade to the nearest highest point of the roof.

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

Home occupation means a gainful occupation conducted by a member of the family within his place of residence or an accessory building on the same parcel of the residence, where the space used is incidental to residential use, and is clearly and obviously subordinate of such residential use. No article is sold or offered for sale except such as produced by such home occupation.

Hotel means a building containing lodging rooms, a common entrance lobby, halls and stairway; where each lodging room does not have a doorway opening directly to the outdoors, except for emergencies and where more than 50 percent of the lodging rooms are for rent to transient guests, with or without meals, for a continuous period of less than 30 days.

Hunting or fishing shelter means a building or structure without permanent toilet or kitchen facilities, intended solely for fishing, hunting or trapping and only for temporary occupancy.

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surfaces excludes frozen soil, but includes all rooftops and paved or other solid surfaces unless specifically designed, constructed, and maintained to be pervious. All structures and vehicular or pedestrian accesses that are comprised of less than 50 percent impervious surfaces shall not be considered impervious. All roadways as defined by Wis. Stats. § 340.01(54), or sidewalks as defined by Wis. Stats. § 340.01(58), shall also be excluded from impervious surface calculations.

Inoperative vehicle means a motor vehicle which is abandoned, disassembled, non-operative, disabled, junked, wrecked or no longer licensed. Commercial type vehicles including, but not limited to, dump trucks, school buses, construction vehicles, semi-tractors; self-propelled machinery such as mowers, tillers or seeders; and recreational vehicles such as boats, snowmobiles, ATV's, or motorcycles, which are not fully operative, in active use, or licensed are considered inoperative vehicles.

Kennel means a place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place where more than five adult dogs are kept for any purpose, other than a dog breeding facility as defined per ATCP 16 which is prohibited. For the purposes of enforcement, any dog five months of age or older is considered an adult dog.

Lot means a parcel of land, whether legally described or subdivided as one or more lots or parts of lots, and which is occupied or intended for occupancy by one principal building or principal use, together with any accessory buildings such as open spaces as are required by this chapter; and having its principal frontage upon a street or road.

Lot area means the area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfares.

Lot depth means the average horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot lines means a property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.

Lot width means the average horizontal distance between the side lot lines of a lot measured within the lot boundaries or the minimum distance between the side lot lines within the buildable area.

Maintenance and repair means general activities which do not involve structural alterations or repairs to the structure. These include redecorating, refinishing, remodeling, drywall and other wall coverings, trim, painting, insulation, siding, and shingles; upgrades to existing electrical and plumbing systems; the replacement of windows or doors; the repair of cracks and the application of waterproof coatings to foundations. It does not include replacement of components that would require any structural or load bearing alterations to accommodate the new component. Activities that are exempt under subsection 58-235(b)(7), or that are under official orders to correct a health or safety violation, shall also be considered as maintenance and repair.

MET tower means a meteorological tower used for the measurement of wind speed.

Mineral extraction and processing means the removal of rock, slate, gravel, sand, top soil or other natural material from the earth by excavating, stripping, leveling or any other such process.

Mitigation means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

Mobile home means a structure, transportable in one or more sections, which is eight body feet deep or more in width and is 32 body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems contained therein. The length of a mobile home means the distance from the exterior of the front wall (nearest to the exterior of the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments. The width of a mobile home means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

Mobile home park means any plot of ground owned by a person, state or local government upon which two or more units occupied for dwelling or sleeping purposes, regardless of mobile home ownership, are located and whether or not a charge is made for such accommodations.

Mobile home, permanent, means a mobile home placed upon land owned, rented or leased by the mobile home owner, provided that the wheels have been removed and a permanent foundation has been constructed and the mobile home has been permanently affixed to such foundation including an approved water and sewer system.

Motel means a building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of transients, and where there is no permanent occupancy of any unit except by the owner, his agent or employees.

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

- (1) Such lands are not adjacent to a natural navigable stream or river;
- (2) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and
- (3) Such lands are adjacent to artificially constructed drainage ditches, ponds, or stormwater retention basins that are not hydrologically connected to a natural waterbody.

Nonconforming use or structure means any structure, land or water, lawfully used, occupied or erected at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, which does not conform to the regulations of this chapter or amendments thereto. Nonconforming structures in the shoreland zone shall meet the provisions in section 58-235 herein.

Nonmetallic mining and processing means the removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other such process. Operations conducted solely for domestic or farm use at an individual's residence or farm and operations that affect less than one acre of total area over the life of the mining and processing operation are exempted from this definition.

Ordinary high-water mark means the point on the bank or shore up to which the presence or action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

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

Private sewage disposal system means a sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks, and privately owned common sewer facilities, including package treatment plants, lagoons and irrigation systems.

Public and semi-public buildings means structures principally of an institutional nature and serving a public need such as churches, hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services; but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

Public open space means any publicly owned open area including, but not limited to, the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public sewage disposal system means sewers and sewage treatment facilities used in connecting therewith which are maintained and operated by a municipality or sanitary district.

Recreation area means park, playground, ball field, ski hill, sport field, swimming pool, riding stables, riding academies, boarding or other facilities and area constructed for recreational activities and open for uses by the public or private organization.

Regional flood means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to have a one percent chance in any given year to occur on a particular waterbody because of like physical characteristics.

Resort means an area containing one or more permanent buildings utilized principally for the accommodation of the public for recreational purposes.

Roadside stand means a farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of farm products.

Routine maintenance of vegetation means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

Salvage yard means a site or facility at which salvageable materials are stored or sold or at which wrecking, dismantling or demolition of salvageable materials are conducted, including but not limited to, automobile junkyards, scrap metal salvage yards and similar uses, except commercial recycling operations. Two or more inoperative vehicles or pieces of equipment stored outside of a completely enclosed building shall constitute a salvage yard.

Satellite antenna dish means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to what are commonly referred to as "satellite earth stations," TVROs and satellite microwave antennas. The term "satellite antenna dish" is deemed as included under the definition of the term "structure."

Seasonal residence means a dwelling unit to be used for part-time occupancy during certain periods of the year and not intended for permanent year-round use. For the purposes of this definition, the term "seasonal residence" shall include camping trailers, travel trailers, and mobile campers or units used on a parcel for commercial or living purposes for more than 50 nonconsecutive calendar days within a calendar year. A seasonal residence shall only be allowed if it meets the requirements of the Wisconsin Uniform Dwelling Code, and has a valid conditional use permit for storage of an unoccupied travel trailer, camping trailer, or mobile camper as noted in sections 58-334 and 58-454 of this Code.

Setback means the minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of-way, ordinary high-water mark, or prospective line to the nearest vertical wall or other element of a building or structure. Any overhang of a building or structure that exceeds 24 inches from the exterior wall shall conform to all required setbacks listed in this Code.

Shooting range means an area designed and constructed for the discharge of firearms that is open for club members or public use; excluding individually owned and used target and archery ranges.

Shoreland means lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Shoreland-wetland zoning district means a zoning district, created as a part of a county shoreland zoning code, comprised of shorelands that are designated as wetlands on the Wisconsin Wetland Inventory Maps prepared by the department, which have been adopted and made a part of this Code.

Shoreline vegetation protection area means that area along the shoreline that is designed to contain, or has been verified as having, vegetation similar to that which would naturally occur on the site; in adequate amounts to provide groundcover, an understory layer, and overstory cover; and that provides wildlife habitat, helps control erosion, screens structures landward of the buffer, and enhances the natural scenic beauty of the waterbody and shoreline.

Sign means a name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land; and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sign, accessory, means a sign which is utilized in conjunction with a sign of a principal use.

Sign, gross surface area of, means the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside the limits of such sign and, nor forming an integral part of the display.

Site plan, final, means a final drawing or design which will show the land use, construction or practice as set forth by the county planning and zoning committee.

Site plan, preliminary, means a drawing or design which shows the proposed land use, construction or practice that will affect the present land form of the site and its vegetation.

Small wind energy system means a wind energy generation facility that is designed to supply energy to the subject property and that has a total installed nameplate capacity of 300 kilowatts or less, and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts each. Small wind energy facilities are permitted in all zones shown on the official zoning maps of Waushara County provided they are at least one times their maximum blade height from all residences and property lines other than that of the owner of the system, and that they are at least one times their maximum blade height from any public buildings, road ROW's, and overhead public transmission lines. All noticing and other requirements of Chapter PSC 128 Wisconsin Statutes shall be complied with. Other definitions not defined here shall have the same meaning as noted in PSC 128.

Solid and hazardous waste disposal sites and facilities means commercial and municipal establishments or operations such as sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, and other establishments or operations for the storage, collection, transportation, transfer, processing, treatment, recovery or disposal of solid or hazardous waste, including the land spreading of petroleum contaminated soils but excluding commercial recycling operations.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means and includes any of the following, simulated or actual:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
- (3) Showing of human genitals in a state of sexual stimulation or arousal.
- (4) Excretory functions during a live performance, display or dance of any type.

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

Story means a continuous level supporting surface in any structure that extends horizontally partially or throughout the structure, and that constitutes a different level or stage in the structure.

Street (avenue, place, road, terrace, parkway, boulevard or court) means a right-of-way of a required width, which affords a primary means of access to abutting property.

Street line means the dividing line between a lot and a continuous street.

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

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

Temporary amusement park means any facilities, mobile structure, or structures used for recreation, entertainment, such as carnivals and circuses, which are located on a site for a period not longer than 30 days.

Toxic materials means materials which are capable of causing injury to living organisms by chemical means.

Unit development, planned, means a type of development that may be permitted in zoning districts to achieve greater design flexibility.

Unnecessary hardship means that circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the zoning code.

Use, principal, means the primary use of a property or structures.

Used dwelling, single-family means any structure that has previously been used in another location, is on-site but has previously been used or constructed for another purpose, or is constructed wholly or in part of used materials and intended for use as a single-family dwelling.

Water setback means the distance which a building shall be required to be set back, placed, located or erected from the ordinary high-water mark line.

Waterway means navigable water, rivers, streams, ditches, lagoons, canals and channels.

Wetlands means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and which have soils indicative of wet conditions.

Wind energy facility means an electricity generating facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, MET towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s), and which generates more than 300 kilowatts total capacity or that has individual wind turbines that generate greater than 100 kilowatts each. Wind energy facilities may only be constructed in areas that are zoned A-G and O-F on the official Zoning Map of Waushara County. All noticing and other requirements of Chapter PSC 128 Wisconsin Statutes shall be complied with. Other definitions not defined here shall have the same meaning as noted in PSC 128 Wisconsin Statutes.

Wind turbine means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base and pad transformer, if any; provided that such a system only be a wind turbine for purposes of this Code if it both has a total height greater than 170 feet and nameplate capacity of greater than 100 kilowatts. Total height refers to the distance measured from the ground level to the blade extended at its highest point. Wind turbines are permitted in all zones, except all floodplain zones, the O-SW zone, and the O-N zone.

Wireless communications facilities means radio or TV broadcasting studios and/or towers, personal wireless service facilities, telephone and communications antennas, transmitters and receiving stations and other similar types of communication facilities. Home satellite service antennae and dishes are not included in this definition.

Wireless communications facility—Class 2 co-locations means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a freestanding support structure for the facility or engage in substantial modification to the existing structure to accommodate the new facility.

Wireless communications facility—New structures and Class 1 co-locations means the placement and/or construction of a freestanding new wireless communication tower or the placement of a new mobile service facility on an existing structure such that the owner of the facility does not need to construct a freestanding

support structure for the facility but does need to engage in substantial modification of the existing structure to accommodate the new facility.

Yard means an open space on a lot which is unoccupied and obstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

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

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

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

Zoning administrator means the official appointed to administer this chapter and whose duties are outlined in the division 3, article II of this chapter.

(Ord. No. 76, § 27.01, 3-13-1984; Ord. No. 90, § 2, 6-9-1987; Ord. No. 104, § 3, 7-12-1988; Ord. No. 159, §§ 20, 23, 24, 6-9-1992; Ord. No. 183, § 1(27.01), 3-8-1994; Ord. No. 227, §§ 4, 5, 4-8-1997; Ord. No. 269, § 23(27.01(82)), 3-9-1999; Ord. No. 289, § 1(27.01), 5-9-2000; Ord. No. 343, 3-12-2002; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 464, 11-14-2006; Ord. No. 470, 3-13-2007; Ord. No. 490, 2-12-2008; Ord. No. 522, 3-9-2010; Ord. No. 532, 3-8-2011; Ord. No. 535, § 1, 10-18-2011; Ord. No. 541, 3-20-2012; Ord. No. 544, § 1, 4-17-2012; Ord. No. 554, 3-19-2013; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 591, 3-15-2016; Ord. No. 610, 4-18-2017; Ord. No. 624, 3-20-2018; Ord. No. 635, 3-19-2019; Ord. No. 651, 4-21-2020; Ord. No. 661, 4-20-2021)

Cross reference— Definitions generally, § 1-2.

Secs. 58-10—58-40. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Footnotes:

--- (2) ---

Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 58-41. - Violations.

- (a) It shall be unlawful to construct or use any structure, building, land or water in violation of any provisions of this chapter. In case of any violation, the board of supervisors, the zoning administrator, the zoning committee, town board, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.
- (b) Every structure, fill, building, dwelling or use constructed, placed or maintained in violation of this chapter is deemed a public nuisance, and the construction, placement or creation of such nuisance may be enjoined, and the maintenance of such nuisance may be abated by an action instituted in circuit court by the county to enjoin the construction or continued maintenance of such structure, fill, building, dwelling or use.
- (c) Failure to post permits required under the terms of this chapter on the site shall constitute a violation of the provisions of this chapter.

(Ord. No. 93, § 2(2.18), 9-8-1987)

Sec. 58-42. - Penalties for violation of chapter.

Any person who fails to comply with the provisions of this chapter or any order of the zoning administrator, zoning committee, board of adjustment or county board issued in accordance with this chapter or resists enforcement shall, upon conviction, forfeit not less than \$10.00, nor more than \$200.00 per offense, and the costs of prosecution for each violation and in default of such payment shall be imprisoned in the county jail for a period not to exceed six months. Each day a violation exists or continues shall constitute a separate offence.

(Ord. No. 289, § 1(2.19), 5-9-2000)

Sec. 58-43. - Hearings.

- (a) *Notice.* Whenever a public hearing is required under the terms of this chapter, a class 2 notice shall be given as per Wis. Stats. § 985.07. Such notice shall specify the date, time and location of the hearing and the matter to be presented. All such hearings shall be held before the zoning committee or the board of adjustment.
- (b) *Prohibition.* No hearing shall be held for any property where taxes are shown as being delinquent, as determined by the Waushara County Treasurer.

(Ord. No. 76, § 2.17, 3-13-1984; Ord. No. 490, 2-12-2008)

Secs. 58-44—58-60. - Reserved.

DIVISION 2. - ZONING COMMITTEE

Footnotes:

--- (3) ---

Cross reference— *Administration, ch. 2.*

Sec. 58-61. - Creation and composition.

Pursuant to Wis. Stats. § 59.68, there is created a county zoning committee. The zoning committee shall consist of five members, four county board supervisors, who are elected by the county board and one citizen member who is appointed by the county board chair with confirmation of the county board. Such positions shall be for terms of two years. From its members, the zoning committee shall elect a chair, vice-chair and secretary whose terms shall be for two years.

(Ord. No. 76, § 24.01(1), 3-13-1984; Ord. No. 497, 5-13-2008)

Sec. 58-62. - Rules, meetings and minutes.

Subject to change by the county board, the zoning committee may adopt such rules and regulations governing its procedure as it considers necessary or advisable. Meetings of the zoning committee are held at the call of its chair and at such other times as the committee may determine. When a special meeting of the committee is requested, the person requesting such meeting shall pay a sum sufficient to pay any expenses incurred by the county in conducting the special meeting pursuant to division 7, of this article. All meetings of the committee shall be open to the public. The zoning committee shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the committee and shall be a public record.

(Ord. No. 76, § 24.01(2), 3-13-1984)

Sec. 58-63. - Powers and duties.

The zoning committee shall have such powers and duties as are prescribed by this chapter and Wis. Stats. § 59.69, and shall act as the county planning agency pursuant to Wis. Stats. § 236.02(1). The zoning committee shall appoint a county zoning administrator for the administration and enforcement of the provisions of this chapter, and shall be responsible for overseeing the office of the zoning administrator. It may authorize the town chair of each town to appoint a deputy zoning agent to assist in the enforcement and administration of this chapter. Compensation for the deputy zoning administrator shall be the responsibility of the town. The zoning committee shall keep a record of planning and zoning studies, its resolutions, transactions, findings and determinations.

(Ord. No. 76, § 24.01(3), 3-13-1984)

Secs. 58-64—58-80. - Reserved.

DIVISION 3. - ADMINISTRATOR

Footnotes:

--- (4) ---

Cross reference— *Officers and employees, § 2-221 et seq.*

Sec. 58-81. - Creation.

There is created the office of the county zoning administrator.

(Ord. No. 76, § 24.02(1), 3-13-1984)

Sec. 58-82. - Duties.

In administering and enforcing this chapter, the county zoning administrator and any of his deputies shall perform the following duties:

- (1) Provide necessary forms for applications for use permits, advise applicants as to the provisions of this chapter and provide assistance in preparing applications.
- (2) Issue land use permits, conditional use permits and certificates of compliance where the provisions of this chapter have been complied with.
- (3) Survey the county, upon the adoption of this chapter and, when necessary upon the passage of amendments, identify and record information relative to nonconforming uses and structures.
- (4) Maintain files of applications; zoning committee, county board or zoning administrator actions on such applications; permits issued; inspections made; enforcement actions taken and other relevant information.
- (5) Make administrative decisions and determinations as are assigned to the zoning administrator under the terms of this chapter.

(Ord. No. 76, § 24.02(2), 3-13-1984)

Sec. 58-83. - Powers.

The county zoning administrator and his duly appointed deputies shall have the powers and authority including, but not limited to, the following:

- (1) At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof.
- (2) Upon reasonable cause or question as to proper compliance, to revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter.

The responsibilities of the administrator may be delegated by the administrator to personnel employed by or assigned to the zoning department.

(Ord. No. 76, § 24.02(3), 3-13-1984; Ord. No. 317, § 1.08, 5-8-2001)

Secs. 58-84—58-100. - Reserved.

DIVISION 4. - BOARD OF ADJUSTMENT

Footnotes:

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Cross reference— *Administration, ch. 2.*

Sec. 58-101. - Creation.

Pursuant to Wis. Stats. § 59.694, there is created a county board of adjustment for the purpose of hearing certain appeals and applications and granting variances from the provisions of this chapter.

(Ord. No. 76, § 25.01, 3-13-1984)

Sec. 58-102. - Composition.

- (a) The membership of the board of adjustment shall consist of five regular members and two alternate members. Of the regular members one shall be a county board supervisor, and four shall be citizen members. Both alternate members shall be citizen members. All members of the board of adjustment shall reside in the unincorporated areas of the county. No two members of the board of adjustment shall reside in the same town. The terms of the county board member of this board shall coincide with his term as county board supervisor. All regular citizen members shall have a term of three years and the citizen alternate members shall have staggered three-year terms. All terms shall commence upon appointment and appointments shall be made at the regularly scheduled April county board meeting. Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.
- (b)

The board of adjustment shall select its own chair and other officers, except that annually the county board chair shall designate one alternate members as the 1st alternate and the other as the 2nd alternate. Official oaths shall be taken by members in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment (Wisconsin Act 34).

(Ord. No. 76, § 25.02, 3-13-1984; Ord. No. 438, 3-14-2006; Ord. No. 497, 5-13-2008)

Sec. 58-103. - Rules, meetings and minutes.

- (a) The county board shall adopt rules for the conduct of the business of the board of adjustment, in accordance with the provisions of any ordinance adopted pursuant to Wis. Stats. § 59.69. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the county board.
- (b) Meetings of the board of adjustment are held at the call of its chair and at such other times as the board may determine. When a special meeting of the board is requested, the person requesting such meeting shall pay a sum sufficient to pay any expenses incurred by the county in conducting the special meeting pursuant to division 7 of this article. The chair, or in his absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.
- (c) The board of adjustment shall keep minutes of its proceedings, showing the work of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- (d) The 1st alternate member shall act, with full power, when a regular member of the board of adjustment refuses to vote because of a conflict of interest or is absent. The 2nd alternate member shall act, with full power, when the 1st alternate member refuses to vote because of a conflict of interest or is absent, or if more than one regular member of the board of adjustment refuses to vote because of a conflict of interest or is absent (Wisconsin Act 34).

(Ord. No. 76, § 25.03, 3-13-1984; Ord. No. 438, 3-14-2006)

Sec. 58-104. - Powers.

Powers of the board of adjustment are as follows:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement or administration of this chapter.
- (2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship or be

unnecessarily burdensome, and so that the spirit of the chapter shall be observed and substantial justice done. If any application for a variance has been denied by the board of adjustment, the applicant may not reapply for the same or substantially the same variance within 12 months of the date the decision was made on the initial application.

- (3) To grant variances for renewable energy resource systems. If the board denies an application for a variance for a renewable energy resource system, the board shall provide a written statement of its reasons for denying the application.
- (4) To authorize, pursuant to section 58-235, expansion of or changes to nonconforming uses.
- (5) To interpret the zoning regulations including, but not limited to, the classification of unclassified uses pursuant to section 58-231 and the determination of zone boundary lines pursuant to section 58-278.

(Ord. No. 76, § 25.04, 3-13-1984; Ord. No. 591, 3-15-2016; Ord. No. 624, 3-20-2018)

Sec. 58-105. - Principles guiding decisions.

The following are principles that shall guide the county board of adjustment:

- (1) The burden is upon the appellant to prove the need for a variance.
- (2) Pecuniary hardship, loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales, are not sufficient reasons for granting a variance.
- (3) The board is bound to accept this chapter and the zoning map as being correct.
- (4) The plight of the appellant must be unique, such as a shallow or steep parcel of land, or situation caused by other than his own action.
- (5) The hardship justifying a variance must apply to an individual appellant's parcel or structure and not generally to other properties in the same district.
- (6) The variance must not be detrimental to adjacent properties.
- (7) The board of adjustment in fulfilling its duties may modify, alter or change an application.
- (8) The board of adjustments may, upon consideration of the factors listed in this section and the purposes of this chapter, attach reasonable and related conditions, in addition to those required by specific permits, as it deems necessary in furthering the purposes of this chapter. Such conditions may include modification of the private on site wastewater treatment system, water supply, landscaping, re-vegetation, and removal or modification of other non-conforming structures that may exist on the property. If re-vegetation is required, the standards contained in NRCS 643A and Wisconsin Biology Technical Note #1 - Shoreland Habitat shall be used to determine adequacy.

(Ord. No. 76, § 25.05, 3-13-1984; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006)

Sec. 58-106. - Appeals.

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the building inspector or other administrative officer. Such appeal shall be taken within ten calendar days of the decision by such administrative officer by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. At the time of the appeal, a fee in an amount on file at the zoning office shall be paid to the county.

(Ord. No. 76, § 25.06, 3-13-1984)

Sec. 58-107. - Stays.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(Ord. No. 76, § 25.07, 3-13-1984)

Sec. 58-108. - Hearing appeals.

The board of adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under Wis. Stats. ch. 985, as well as give due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(Ord. No. 76, § 25.08, 3-13-1984)

Sec. 58-109. - Order on appeal.

In exercising the powers described in section 58-104, such board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that shall have all the powers of the officer from whom the appeal is taken.

(Ord. No. 76, § 25.09, 3-13-1984)

Sec. 58-110. - Majority rule.

The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in an ordinance.

(Ord. No. 76, § 25.10, 3-13-1984)

Sec. 58-111. - Court review.

Any persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board.

(Ord. No. 76, § 25.11, 3-13-1984)

Sec. 58-112. - Certiorari.

Any persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality may, within 30 days after the filing of the decision in the office of the board, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

(Ord. No. 76, § 25.12, 3-13-1984)

Sec. 58-113. - Costs.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceeding under this division shall have preference over all other civil actions and proceedings.

(Ord. No. 76, § 25.13, 3-13-1984)

Secs. 58-114—58-130. - Reserved.

DIVISION 5. - CHANGES AND AMENDMENTS

Sec. 58-131. - Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the county board may, by ordinance, change the district boundaries (rezone) or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the zoning committee.

(Ord. No. 76, § 26.01, 3-13-1984)

Sec. 58-132. - Initiation.

A petition for amendment of any county zoning ordinance may be made by any property owner in the area to be affected by the amendment, by the town board of any town wherein the chapter is in effect, by any member of the county board, or by the zoning administrator.

(Ord. No. 76, § 26.02, 3-13-1984)

Sec. 58-133. - Petitions.

- (a) Petitions for any change to the district boundaries or amendments to the regulations of this chapter shall be filed with the zoning office (who is acting on behalf of the county clerk for this purpose), describing the premises to be rezoned or the regulations to be amended, listing the reasons justifying the petition, specifying the proposed use and having attached the following:
- (1) A site plan drawn to scale not less than one inch to 400 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
 - (2) The owner's list of names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.
 - (3) Additional information required by the zoning committee or county board.
 - (4) Payment of a fee in the amount on file at the zoning office to defray the cost of administration, investigation, advertising and processing of the amendment application.

(b)

If a petition for a boundary change (rezoning) or amendment has been denied by the county board, the petitioner may not re-petition for the same or substantially the same change or amendment within 12 months of the date the decision was made on the initial petition.

- (c) The zoning office shall immediately refer such petition to the zoning committee for its consideration, report and recommendations. A reporting of all petitions referred under this section shall be made to the county board at its next succeeding meeting.

(Ord. No. 76, § 26.03, 3-13-1984; Ord. No. 496, 5-13-2008)

Sec. 58-134. - Hearings.

Upon receipt of the petition by the agency it shall call a public hearing on the petition. Notice of the time and place of the hearing shall be given by publication in the county of a class 2 notice, under Wis. Stats. ch. 985. If an amendment to an ordinance, as described in the petition, has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the zoning agency. If the petition is for any change in an airport affected area, as defined in Wis. Stats. § 62-23(6)(am)1.b., the agency shall mail a copy of the notice to the owner or operator of the airport bordered by the airport affected area. A copy of such notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment, and shall be submitted to the appropriate district office of the state department of natural resources where section 58-395 applies.

(Ord. No. 76, § 26.04, 3-13-1984; Ord. No. 490, 2-12-2008)

Sec. 58-135. - Town board.

If a town affected by the proposed amendment disapproves of the proposed amendment, the town board of such town may file a certified copy of the resolution adopted by such board disapproving of the petition with the zoning committee prior to, at or within ten days after the public hearing. If the town board of the town affected in the case of an ordinance relating to the location of boundaries of districts files such a resolution, or the town boards of a majority of the towns affected in a case of all other amendatory ordinances file such resolutions, the zoning committee may not recommend approval of the petition without change, but may only recommend approval with change or recommend disapproval. A town may extend its time for disapproving any proposed amendment by 20 days if the town board adopts a resolution providing for the extension and files a certified copy of the resolution with the clerk of the county in which the town is located. The 20-day extension shall remain in effect until the town board adopts a resolution rescinding the 20-day extension and files a certified copy of the resolution with the clerk of the county in which the town is located.

(Ord. No. 76, § 26.05, 3-13-1984; Ord. No. 490, 2-12-2008)

Sec. 58-136. - Recommendations.

- (a) As soon as possible after such public hearing, the zoning committee shall act, subject to section 58-135 on such petition either approving, modifying and approving, or disapproving of the petition. If its action is favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit such proposed ordinances directly to the county board with its recommendations. If the zoning committee, after its public hearing, shall recommend denial of the petition, it shall report its recommendation directly to the county board with its reasons for such action. Proof of publication of the notice of the public hearing held by the zoning committee and proof of the giving of notice to the town clerk of such hearing shall be attached to either report. Notification of the town board resolutions filed under section 58-135 shall be attached to either such report.
- (b) Upon receipt of such report, the county board may adopt the ordinance as drafted by the zoning committee or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition as recommended by the zoning committee in which case it shall re-refer the petition to the zoning committee with directions to draft an ordinance to effectuate the petition and report the same back to the county board which may then adopt or reject such ordinance.

(Ord. No. 76, § 26.06, 3-13-1984)

Sec. 58-137. - Protest.

In case a protest against a proposed amendment is filed with the county clerk at least 24 hours prior to the date of the meeting of the county board at which the report of the zoning committee is to be considered, duly signed and acknowledged by the owners of 50 percent or more of the area proposed to be altered, or by abutting owners of over 50 percent of the total perimeter of the area proposed to be altered included within 300 feet of the parcel proposed to be rezoned, action on such ordinance may be deferred until the zoning committee has had a reasonable opportunity to ascertain and report to the county board as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of three-fourths of the members of the county board present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded. If a proposed amendment under this paragraph would make any change in an airport affected area, as defined under Wis. Stats. § 62.23(6)(am)1.b., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency is to be considered, no ordinance which makes such a change may be enacted except by the affirmative vote of two-thirds of the members of the board present and voting.

(Ord. No. 76, § 26.07, 3-13-1984; Ord. No. 490, 2-12-2008)

Sec. 58-138. - Enactment.

If any such amendatory ordinance makes only the change sought in the petition and if the petition was not disapproved at or within ten days after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in his office the date on which such ordinance becomes effective, and he shall notify the town clerk of all towns affected by such ordinance of such effective date and also insert such effective date in the proceedings of the county board. Any other such amendatory ordinance, when so adopted, shall, within seven days thereafter, be submitted in duplicate by the county clerk by registered mail to the town clerk of each town in which lands affected by such ordinance are located. If after 40 days from the date of such adoption a majority of the towns have not filed certified copies of resolutions disapproving such amendment with the county clerk, the amendment shall thereupon be in effect in all of the towns affected by the ordinance. Any such ordinance relating to the location of boundaries of districts shall within seven days after adoption by the county board be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by such change are located and shall become effective 40 days after the adoption of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of such ordinance with the county clerk. If such town board approved the ordinance, such ordinance shall become effective upon the filing of the resolution of the town board approving the same with the county clerk. The county clerk shall record in his office the date on which such ordinance becomes effective and he shall notify the town clerk of all towns affected by such ordinance of such effective date and also make such report to the county board, which report shall be printed in the proceedings of the county board.

The county zoning agency shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance or amendment that affects the allowable use of the property owned by the person. If the county zoning agency completes a draft of a proposed zoning ordinance or if the agency receives a petition, the agency shall send a notice, which contains a copy of the proposed ordinance or petition, to each person on the list whose property, the allowable use of which, may be affected by the proposed ordinance or amendment. The notice shall be by mail or in any reasonable form that is agreed to by the person and the agency. The agency may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this paragraph may take effect even if the agency fails to send the notice that is required by this paragraph.

(Ord. No. 76, § 26.08, 3-13-1984; Ord. No. 490, 2-12-2008)

Secs. 58-139—58-160. - Reserved.

DIVISION 6. - PERMITS

Sec. 58-161. - Purpose of issuance.

The primary purpose of issuing permits is to ensure compliance with the provisions of this chapter. Applications for permits within designated floodplain areas shall comply with the provisions of this division and chapter 18 of this Code. Applications for highway access permits shall comply with section 58-828. Where a state permit is required under Wis. Stats. §§ 30.19, 30.12, 30.195, or 30.20, or any other applicable state regulation, such permit shall accompany applications for permits under this division. Any permit issued under this division shall be conspicuously posted on the site where the permitted activity is conducted.

(Ord. No. 88, § 2(2.03), 6-9-1987)

Sec. 58-162. - Land use permits.

- (a) *Required; exception.* All uses listed as permanent uses within the respective zones require a land use permit, except that no permit is required for a structure or remodeling if the proposed work is less than \$1,000.00 market value and less than 100 square feet in area. In the event work is conducted within the shoreland area, a "no-fee" land use permit shall be required when the structure or remodeling is below the previously outline requirements. All applicable setbacks and other provisions of this chapter shall be complied with.
- (b) *Application.* Applications for land use permits shall be made to the zoning administrator on forms furnished by the zoning administrator, including fees which are on file in the zoning office. The zoning administrator may require the applicant to furnish a preliminary site plan containing the information listed in section 58-164.
- (c) *Decision.* The zoning administrator shall, in writing, grant or deny the land use permit within 30 days of the date of the application except where a preliminary site plan is required, in which case, the permit shall be granted or denied within 60 days. Upon granting the land use permit, the zoning administrator may require that a final site plan be filed as part of the records for the permit issued.
- (d) *Prohibition.* No land use permit shall be issued for any property where taxes are shown as being delinquent, as determined by the Waushara County Treasurer, or where there exists on the same property, or any other property owned by the same party, an outstanding violation of any county code, unless the issuance of such land use permit will result in compliance with such code.

(Ord. No. 88, § 2, 6-9-1987; Ord. No. 90, § 1(2.03(1)), 6-9-1987; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 635, 3-19-2019)

Sec. 58-163. - Conditional use permit.

- (a) *Required.* All uses listed as conditional uses within the respective zones require a conditional use permit.
- (b) *Application.* Applications for conditional use permits shall be made to the zoning administrator on forms furnished by the zoning administrator. The application shall be accompanied by a preliminary site plan containing the information listed in section 58-164 and fee payment as on file at the zoning office.
- (c) *Hearing.* The zoning administrator shall screen applications for completeness; and determine whether the proposed use may be considered as a conditional use in the underlying zone or whether the proposal should be considered as a permitted or conditional use in another zone. If the zoning administrator determines that the proposed application and use are complete and appropriate as presented, he/she shall fix a reasonable time and place for public hearing before the zoning committee on the application. Notice of the time and place of such hearing shall be given by publication in the county of a class II notice under Wis. Stats. ch. 985.
- (d) *Standards in reviewing.* In reviewing proposed conditional uses, the zoning committee shall be guided by the following standards and requirements. Additional standards as enumerated in section 58-236 shall apply to selected conditional uses.
 - (1) All conditional uses must be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the county and its communities.
 - (2) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required for all conditional uses.
- (e) *Conditions attached to conditional use permits.* Upon consideration of the factors listed in subsection (d) of this section and the purposes of this chapter, the zoning committee may attach such conditions, in addition to those required by specific permits, as it deems necessary in furthering the purposes of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration, modification of sewage disposal and water supply facilities, modification of other waste disposal methods and facilities, landscaping, periods of operation, operational controls, sureties, deed restrictions, and adequate floodproofing. When floodproofing is required, the zoning committee shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood protection elevation for the particular area.
- (f) *Review by town board.* The county zoning administrator shall mail to the clerk of the town within which the conditional use is proposed a copy of all maps, plans and other documents submitted by the applicant for a conditional use permit and notice of the time and place of the public

hearing to be held on the proposed conditional use. Such information shall be mailed at least ten days prior to the hearing. The town board or its representative may attend the hearing and in any event may then or earlier indicate its position with regard to granting, denying, granting in part or conditionally the application. Failure of the town board to communicate its position on the application shall be deemed to constitute approval by the town board of whatever action the zoning committee may take. If the town board or its representative shall at such hearing request an extension, it shall be granted for a period which the zoning committee shall consider reasonable.

- (g) *Decision.* The zoning committee shall decide all applications within 90 days after the public hearing and shall transmit a signed copy of its decision to the applicant and to the town clerk of the town in which the subject site is located. Upon granting of the conditional use permit, a final site plan shall be filed as part of the records for the permit issued. The final site plan shall include all the information required under section 58-164. If an application for a conditional use permit has been denied, the applicant may not reapply for a conditional use permit involving the same or substantially the same use within 12 months of the date the decision was made on the initial application.
- (h) *Discontinuance.* If the conditional use is discontinued for 12 consecutive months or more, any future use of the structure or premises shall not be re-established without a hearing, as required in subsection (c) above.
- (i) Appeals of a decision by the planning and zoning committee as it relates to a conditional use permit shall be made to the circuit court in accordance with the procedures contained in Wis. Stats. § 59.694(10).

(Ord. No. 76, § 2.03(2), 3-13-1984; Ord. No. 289, § 1(2.03(2)), 5-9-2000; Ord. No. 490, 2-12-2008; Ord. No. 610, 4-18-2017; Ord. No. 624, 3-20-2018)

Sec. 58-164. - Site plan requirements.

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

- (1) Topography of the site including slopes, drainage courses, navigable waters, wetland areas and elevations of the proposed building sites.
- (2) Existing tree and other vegetative cover.
- (3) The ordinary high-water mark of abutting navigable water.
- (4) The exact location of the lot lines and the area of the lot.
- (5) The site of all existing and proposed structures and buildings on the subject property, including underground and surface storage areas, sanitary facilities and the location of all structures and buildings within 100 feet on adjoining properties.
- (6) The proposed uses.
- (7) The engineering design for all work in respect to waterways or floodproofing.
- (8) The dimensions and location of areas to be graded including the original and final elevations of the area.
- (9) The location and dimensions of areas to be filled including the original and final elevations and the type of fill material to be used.
- (10) When not serviced by a public sewer system, a county sanitary permit issued pursuant to article II, chapter 38 of this Code.
- (11) Landscaping including proposed tree cutting and/or walls or fences to be used for screening.
- (12) Design of the ingress and egress.
- (13) Off-street parking.
- (14) Height of all structures where height standards prevail.
- (15) The locations and types of all signs.
- (16) Locations and widths of existing and proposed rights-of-way.
- (17) In the case of development projects that, in the opinion of the zoning administrator, have the potential of being hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the county and its communities, or contrary to the purposes and intent of this chapter, impact studies and analysis prepared by a qualified individual including, but not limited to, environmental reports, assessments, or impact statements, as deemed necessary by the county or its agent or representative. The cost for such a study or analysis shall be paid in accordance with subsection 58-8(c).
- (18) Elevation drawings showing all four sides of proposed structures.
- (19) A floor plan showing all proposed interior walls, cabinetry, appliances, plumbing fixtures, and uses of the space being proposed shall be submitted with a permit application.
- (20) Additional information as required by the zoning administrator.

(Ord. No. 76, § 2.03(3), 3-13-1984; Ord. No. 289, § 1(2.03(3)), 5-9-2000; Ord. No. 470, 3-13-2007; Ord. No. 490, 2-12-2008; Ord. No. 591, 3-15-2016)

Sec. 58-165. - Certificate of compliance.

The zoning committee or zoning administrator may require that a certificate of compliance be obtained for any use for which a variance, conditional use permit, or land use permit has been granted. The zoning administrator shall issue such certificate upon inspecting the site and determining that the use, buildings and premises are in conformance with the provisions of this chapter. A certificate of compliance shall be obtained when there is a change of any nonconforming use.

(Ord. No. 76, § 2.03(4), 3-13-1984)

Sec. 58-166. - Expiration or conflict.

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

(Ord. No. 159, § 3(2.05), 6-9-1992; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 591, 3-15-2016)

Sec. 58-167. - Exemptions.

The following uses are exempted from the requirements of section 58-161 and division 7 of this article and are permitted in any zone: Poles, towers, wires, cables, conduits, vaults, laterals, pipe, mains, valves or any other similar distribution equipment for telephone or other communications and electric power, gas, water and sewer lines.

(Ord. No. 76, § 2.06, 3-13-1984; Ord. No. 532, 3-8-2011; Ord. No. 610, 4-18-2017; Ord. No. 635, 3-19-2019)

Sec. 58-168. - Permitting of wireless communications facilities.

- (a) A land use permit is required for placement of all new wireless communication facilities, Class 1 co-locations and Class 2 co-locations. In addition to the other requirements of this Code, a complete application shall contain all of the following information:
- (1) The name and business address of, and the contact individual, for the applicant.
 - (2) The appropriate fee as indicated on the current fee schedule posted in the land conservation and zoning office.
 - (3) The location of the proposed or affected support structure.
 - (4) The location of the proposed mobile service facility.
 - (5) A construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications, if the application is for a Class 2 co-location or to substantially modify an existing support structure that constitutes a Class 1 co-location.
 - (6) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - (7) If an application is to construct a new mobile service support structure, an explanation as to why the applicant has chosen the proposed location and why the applicant did not choose co-location on an existing facility, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 - (8) Any new mobile support structures shall be setback from the nearest property lines and any other structures a distance of not less than 75 percent of the total height, unless the applicant provides an engineering certification that shows the new or substantially modified mobile

service support structure is designed to collapse within a smaller area than the aforementioned setback limit.

- (9) The application shall indicate that emergency contact information shall be posted at the wireless communication facility and filed with the Waushara County Sheriff's Department. This information shall be kept current with the ownership and maintenance of the facility.
 - (10) All new wireless communications facilities that are 200 or more feet in height shall be painted alternate aviation orange and white, and shall be outfitted with dual lighting mechanisms, including daytime strobes and nighttime red incandescent lighting.
 - (11) All towers that have guy wires, shall have the outermost guy wires outfitted with large orange balls for increased visibility by small aircraft in accordance with recommendations by the FAA.
 - (12) Upon cessation of the operation of the tower, the tower and other improvements to the property shall be removed. The applicant shall furnish sureties which will enable the county to remove such improvements if the applicant/owner fails to do so. The amount of such sureties shall be determined by the zoning administrator but shall not exceed \$20,000.00. The form and type of such sureties shall be approved by the corporation counsel. Such fiscal surety shall be periodically checked (no less than once every three years) for sufficiency and validity. The site shall also be inspected periodically for viability and code compliance. The fiscal surety and the site shall be considered valid and up to date upon a favorable review of the fiscal surety, and the operation and maintenance of the facility by the zoning committee and corporation counsel. All local units of government within the county shall be exempted from having to furnish fiscal sureties.
- (b) If the application is submitted under this section, but it is determined that the application is not complete, the land conservation and zoning office shall notify the applicant in writing that the application is not complete within ten days of the date of receiving the application, pertinent attachments, and fee.
- (c) Within 90 days of the receipt of a completed application for a new wireless communications facility or a class 1 co-location, or within 45 days of the receipt of a completed application for a class 2 co-location, the land conservation and zoning department shall complete its review and determination on the application, except that the applicant and the department can agree in writing to an extension to the 45- or 90-day period.

(Ord. No. 576, 3-18-2014; Ord. No. 610, 4-18-2017)

Secs. 58-169—58-190. - Reserved.

DIVISION 7. - FEES

Sec. 58-191. - Enumeration.

The zoning committee shall establish fees to be paid by the person requesting the permit or variance to the zoning administrator or authorized deputy at the time of filing to defray the cost of administration, investigation, advertising and processing of permits and variances. These fees shall be kept on file at the zoning office and may be modified from time to time by the zoning committee.

(Ord. No. 307, § 2(2.04), 12-12-2000; Ord. No. 360, 11-12-2002)

Sec. 58-192. - For special meetings of zoning committee or board of adjustment.

Fees for special meetings of the zoning committee or board of adjustment shall be determined by the chair of the committee.

(Ord. No. 211, § 1(2.04(2)), 11-14-1995)

Sec. 58-193. - Local units of government exempted.

All local units of government within the county shall be exempted from any fees required by this division.

(Ord. No. 211, § 1(2.04(3)), 11-14-1995)

Sec. 58-194. - Tripling of fees.

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

(Ord. No. 211, § 1(2.04(4)), 11-14-1995; Ord. No. 610, 4-18-2017)

Secs. 58-195—58-230. - Reserved.

ARTICLE III. - USE REGULATIONS

Sec. 58-231. - Uses restricted.

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

- (1) Any dwelling assembled or placed shall have not less than 720 square feet of habitable space. For purposes of determining habitable space, decks, patios, open porches, attached garages, basements (where the floor of such basement is below finished grade), and any portions of attics or lofts which are less than seven feet in height shall not be used in determining habitable space.
- (2) In addition to the above noted requirements, any manufactured home placed or moved shall meet the following requirements as well as those of subsection 58-236(b)(11):
 - a. The unit shall be placed on a permanent foundation with adequate anchoring provisions to prevent wind damage.
 - b. The foundation of the unit shall be entirely enclosed to prevent access by vermin or debris, and shall be of fireproof material.
 - c. All requirements of the Wisconsin Uniform Dwelling Code shall be complied with including, but not limited to the foundation and all electrical and plumbing connections.

(Ord. No. 76, § 2.09(1), 3-13-1984; Ord. No. 343, 3-12-2002; Ord. No. 610, 4-18-2017)

Sec. 58-232. - Accessory uses and structures.

Accessory buildings and uses customarily incidental to the permitted use shall be permitted subject to the requirements of this section and other requirements, as may be designated for that zone in which they are located, and the following requirements:

- (1) Accessory buildings, structures and uses shall be compatible with the principal uses and shall not be used for lounging, cooking, eating, sleeping, or any form of human habitation, occupancy or living purposes, even if on a temporary or incidental basis.
- (2) Accessory buildings, structures and uses established prior to the principal use, and accessory building, structures and uses with overhead storage or an approved additional level or stage are required to submit a detailed site plan in accordance with section 58-164 and execute a verified affidavit and restrictive covenant running with the land regarding the use of the accessory building for living purposes, meeting the following requirements:
 - a. A subscription clause.
 - b. The legal description of the property.
 - c. The names of the persons, firms and corporations having an interest in the property who shall also execute the covenant and affidavit.
 - d. The names and addresses of all persons, firms or corporations holding a security interest in the property who shall also execute the covenant and affidavit.
 - e.

A statement that the affidavit and covenant is given by the owner and all interested parties in the property in order to obtain a land use permit from the county zoning office for the purposes of constructing an accessory building on the described property in accordance with the provisions of this chapter.

- f. The affidavit and restrictive covenant running with the land shall bind the property owners, grantees, successors, heirs or assigns of the property.
- g. Set forth the condition that should buildings permitted as an accessory use be used for living purposes as a dwelling under this chapter that any land use permit issued by the county shall be null and void and the occupancy of such dwelling for living purposes shall be considered to be a violation of this chapter.

Such affidavit and restrictive covenant running with the land shall be recorded in the register of deeds office for the county and shall be considered a restrictive covenant running with the land and shall inure to the benefit of the county, all abutting and contiguous properties to that of the subject property, as well as the residents of the county.

- (3) Any accessory buildings or structures shall not exceed one story or 18 feet maximum building height in the RS-10, RS-20 and R-M zoning districts. Accessory structures in a shoreland zone shall also comply with 58-903.
- (4) Any accessory buildings or structures shall not exceed one story in any agricultural zoning district, unless the accessory building or structure is used for general farm use, as defined in subsection 58-453(2) of this Code. Landowner shall submit an accessory building affidavit in accordance with subsection (2) of this section.
- (5) Within an accessory structure, building or use an overhead storage area will be permitted in both the residential and agricultural zoning districts. Said area shall not span the entire foot print of the structure, shall not exceed 50 percent or 400 square feet of the floor area, whichever is more restrictive, shall not contain any walls, doors, and/or windows, shall not exceed a ceiling height of seven feet and shall have a minimum of one open side to area below. The landowner shall submit an accessory building affidavit in accordance with subsection (2) of this section.
- (6) An accessory building, structure or use in a side or rear yard shall not be less than 7½ feet from any property line, and other setbacks required elsewhere.
- (7) Interior walls and plumbing are not permitted unless it is demonstrated it is necessary for the intended accessory use of the building. No decks, patios, fireplaces, or other appurtenances normally associated with living are permitted. Individual doors or access openings shall be no more than one third transparent.

(Ord. No. 76, § 2.09(2), 3-13-1984; Ord. No. 89, § 1(2.09(2)), 6-9-1987; Ord. No. 194, § 1(2.09(2)), 4-11-1995; Ord. No. 370, 5-13-2003; Ord. No. 438, 3-14-2006; Ord. No. 490, 2-12-2008; Ord. No. 496, 5-13-2008; Ord. No. 522, 3-9-2010; Ord. No. 541, 3-20-2012; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 591, 3-15-

2016; Ord. No. 635, 3-19-2019; Ord. No. 651, 4-21-2020)

Sec. 58-233. - Temporary uses.

- (a) Uses such as real estate sales field office, temporary sawmills or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the zoning administrator upon issuance of a land use permit for a period not to exceed six months, unless specified otherwise herein.
- (b) A single camping trailer, travel trailer, or mobile camper or unit (as defined in section 58-9) may be used for temporary living purposes during the construction of a single-family or two-family home in all districts providing that all of the following conditions are met:
 - (1) The placement of the unit is for a period of time beginning upon the date of the issuance of the applicable land use permit, not to exceed one year.
 - (2) The unit is served by sanitary facilities that meet all minimum requirements of division 2, article II of chapter 54, and the applicable state administrative codes.
 - (3) A building permit has been issued from the building inspector for the new home.
 - (4) And all other requirements of this chapter are complied with.
- (c) A temporary asphalt plant located in a permitted non-metallic mining facility is permitted as a temporary use for a period not to exceed six months, provided it is associated with a permitted highway improvement project, a land use permit is obtained documenting the temporary use, and the plant complies with all state and federal regulations regarding the operation of such a facility. Multiple permits issued to the same operator in substantially the same location over subsequent years will not be considered a temporary permit.

(Ord. No. 76, § 2.09(3), 3-13-1984; Ord. No. 320, 5-8-2001; Ord. No. 512, 3-10-2009; Ord. No. 554, 3-19-2013; Ord. No. 635, 3-19-2019)

Sec. 58-234. - Prohibited structures and uses.

- (a) Any use not listed as a permitted or conditional use shall be considered to be prohibited except as provided in this article. Where deemed appropriate, the zoning committee and the zoning administrator shall have the authority to authorize uses not specifically enumerated in this article. Any person aggrieved by these determinations can appeal to the board of adjustment as authorized by sections 58-104 and 58-106.
- (b) Portable storage facilities (including shipping containers, cargo containers, portable on demand storage (PODS), and store and move (SAM) containers, busses, heavy duty trucks and their bodies, semi-trailers, freight containers, mobile homes and similar items) which are no longer in use for their designated purposes and/or are un-licensed and considered un-road worthy are prohibited.

(Ord. No. 183, § 1(2.09(4)), 3-8-1994; Ord. No. 651, 4-21-2020)

Sec. 58-235. - Nonconforming structures and uses.

- (a) Relative to setbacks and uses other than shoreland. For shoreland nonconforming structures see subsection 58-903(s).
- (b) The following general provisions shall apply to all nonconforming uses and structures:
 - (1) *"Continued use."* Any nonconforming use or structure which existed lawfully at the time of the adoption of the ordinance from which this chapter is derived or amendment thereto may be continued although such use or structure does not conform with the provisions of this chapter subject to the limitations listed in subsection (b)(2) of this section.
 - (2) *"Limitations."* Any nonconforming use or structure which constitutes a human health hazard shall not be permitted to continue as nonconforming. No nonconforming structure or use during its total lifetime shall be expanded in excess of the parameters of subsections (b)(5)a—c, below, unless permanently changed to conform to the regulations of this chapter.
 - (3) *"Discontinued nonconforming use."* If a nonconforming use is discontinued for a period of 12 months or more, any future use of the structure or property shall conform to the Code. All nonconforming uses are permitted a 25 percent expansion over the lifetime of the nonconforming use.
 - (4) *"Maintenance, remodeling, rebuilding, renovation and repair of nonconforming structure."* An existing structure that was lawfully placed when constructed but that does not comply with one or more of the required setbacks of this Code may be maintained, renovated, rebuilt, remodeled, and repaired within its existing building envelope.
 - (5) *"Repairs and expansions of nonconforming structure."*
 - a. An existing principal or accessory structure that was lawfully placed when constructed but is less than one-half of any required setback of this Code (other than required water setback) shall comply with subsection (b)(4) listed above.
 - b. An existing principal or accessory structure that was lawfully placed when constructed but is one-half or more of any required setback of this Code (other than required water setback), or that doesn't meet the applicable visual clearance setback, shall comply with subsection (b)(4) above, and may also expand its total building footprint by no more than 25 percent, providing the expansion does not increase the degree of nonconformity, is not constructed to a height that is higher than any portion of the existing structure, and complies with all other provisions of this Code, including the impervious surface limitations of subsection 58-903(q), if applicable. If the expansion shall consist solely of an open deck or patio on the principal structure, such open deck or patio may consist of up to 50 percent of the existing footprint of the nonconforming structure. If the proposed

expansion to the principal structure shall consist of both enclosed space and an open deck or patio, then each portion shall be limited to 25 percent of the existing square footage of the nonconforming structure.

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

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

- (1) Any structural alteration or repair to any nonconforming use or structure located within the floodplain shall comply with chapter 18 of this Code.
- (2) An existing accessory building or structure that was lawfully placed when constructed but that does not comply with the required water setbacks of this Code shall comply with section 58-903 of this chapter.
- (3) Open decks and patios attached to the principal structure on a parcel, and that are within any required setback of this chapter, may be authorized to have an exact replacement of the nonconforming open deck or patio by the zoning administrator without the necessity of seeking a variance from this chapter, provided all of the following provisions are met:
 - a. Proper verification of the size, location, height and dimensions of the nonconforming deck or patio is made by qualified staff prior to commencement of the maintenance, repair or replacement, and those verified dimensions are strictly adhered to.
 - b. The repair, maintenance or replacement of the attached open deck or patio does not make the principal structure any more nonconforming than before the replacement.
 - c. The existing open deck or patio is entirely contained on the applicant's property and does not go over a lot line, into a right-of-way or easement, is located in any wetland area, or extends beyond the ordinary high-water mark of a navigable body of water.
 - d. All other Code requirements, including building codes, are complied with.
- (4) For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior walls to the eaves, projected to natural grade; or from the floor of an open structure (one without roof or walls), down to natural grade; or from the floor of an open structure upward to enclose previously open space, as this would constitute a lateral expansion.

(Ord. No. 76, § 2.10, 3-13-1984; Ord. No. 122, § 1, 6-13-1989; Ord. No. 289, § 1(2.10), 5-9-2000; Ord. No. 512, 3-10-2009; Ord. No. 535, § 1, 10-18-2011; Ord. No. 541, 3-20-2012; Ord. No. 544, § 1, 4-17-2012; Ord. No. 554, 3-19-2013; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 591, 3-15-2016; Ord. No. 610, 4-18-2017; Ord. No. 624, 3-20-2018; Ord. No. 635, 3-19-2019)

Sec. 58-236. - Selected conditional uses.

- (a) *Generally.* Uses listed as conditional uses within the respective zones may be permitted upon the issuance of a conditional use permit pursuant to section 58-163. Conditional uses shall meet the general criteria enumerated in section 58-163 and the requirements of this section established for the respective conditional uses.
- (b) *Standards.* The standards for selected conditional uses are as follows:
- (1) *Campgrounds.* Campgrounds may be permitted, provided that:
- a. The minimum size of a campground shall be ten acres.
 - b. The maximum number of camping sites shall be ten per acre.
 - c. The minimum dimensions of a camping site shall be 50 feet wide by 40 feet long.
 - d. Each camping site shall be separated by a yard not less than 15 feet wide.
 - e. The minimum width of roads within campgrounds shall be 18 feet.
 - f. There shall be 1½ automobile parking places for each camping site.
 - g. There shall be a minimum setback of 40 feet from each camping site to the exterior lines of the campground.
 - h. All electrical wiring within the campground shall conform to state electrical codes.
 - i. Each camping site shall have a designated location marked or constructed for outdoor cooking or campfires, and no fires shall be allowed outside the designated areas.
 - j. Campgrounds shall create and maintain a 100-foot wide firebreak clear of flammable materials.
 - k. Campgrounds not served by public sewer systems shall have an approved private sewage system pursuant to Wis. Admin. Code and any subsequent amendments thereto.
 - l. Campgrounds shall conform to the requirements of Wis. Admin. Code HFS and any subsequent amendments thereto.
- (2) *Camps; recreational and educational.* Recreational and educational camps may be permitted, provided that:
- a. The minimum lot area shall be five acres.
 - b. The minimum lot width at the building line and at the water line shall be 300 feet.
 - c. No building shall be located within 100 feet of the exterior lot line of the camp.
 - d. All buildings and parking lots shall be screened from adjacent residential uses by a suitable species of vegetation.
 - e. Camps not served by a public sewer system shall have an approved private sewage system pursuant to Wisconsin Administrative Code and any amendments thereto.
 - f.

Camps shall conform to the requirements of Wis. Admin. Code HFS and any subsequent amendments thereto.

- (3) *Solid and hazardous waste disposal, processing, storage and transfer facilities.* No solid or hazardous waste disposal, processing, storage or transfer facility shall be located in the county except in conformance with a plan approved by the zoning committee. Such facilities shall comply with the requirements of this section and the applicable requirements of Wis. Admin. Code chs. NR 180 and 181 and any subsequent amendments thereto. The zoning committee may require the applicant to provide a plan of operations describing the design, management and operational characteristics of the facility. A conditional use permit is required for the expansion or alteration of any existing solid waste disposal facility. The zoning committee shall consider the following standards and criteria prior to issuing a conditional use permit for solid waste facilities:
- a. The facility shall be designed to accept wastes generated within the county or from agricultural or agribusiness sources from adjoining counties.
 - b. Whether the facility constitutes an appropriate use in consideration of adopted land use plans, site factors, neighboring land uses, and environmental factors.
 - c. There is reasonable assurance that the facility will not endanger public safety or security in relation to potential hazards of fire, explosion, leakage, or unauthorized entry to the site.
 - d. Potential pollution of land, air, surface water and groundwater; excessive noise, vibration, odors, dust and blowing refuse.
 - e. Potential damage or excessive wear on roads and bridges.
 - f. Traffic hazards.
 - g. Potential impact on land values of surrounding properties.
 - h. Plans for reuse upon termination of operations at the site.
 - i. All such facilities shall have minimum side and rear yards of 100 feet each and shall be located a minimum of 500 feet from any public right-of-way.
 - j. A 100-foot-wide firebreak completely surrounding the facility shall be created and maintained.
- (4) *Home occupations.* Home occupations include, but are not limited to, activities such as dressmaking, tv/radio repair, dog grooming, sign painting, tool sharpening, professional offices, etc., subject to the following limitations:
- a. Such use is clearly incidental to the principal use of the premises.
 - b. Such use does not involve any exterior alteration that would effect a substantial change in the residential character of the structure.

- c. The home occupation shall not exceed 20 percent of the floor area or more than 600 square feet of the residence. In the case of a home occupation being located within an accessory building on the same parcel of land as the residence, such home occupation shall not exceed 600 square feet (including storage area for inventory and supplies). In the case of a home occupation being located both within the residence and an accessory building on the same parcel of land, such home occupation shall not exceed a cumulative total of 600 square feet (including storage area for inventory and supplies). If any home occupation is located either partially or entirely in an accessory structure, commercial building codes may apply.
 - d. Other than the immediate family, no more than one person may be employed in the home occupation.
 - e. There shall be no exterior display or storage of goods, storage of products, materials, inventory, supplies, parts, or scrap or waste materials.
 - f. There shall be no more than one advertising sign on the premises, and such sign shall not exceed 32 square feet in area.
 - g. Adequate off-street parking shall be provided and shall be maintained in a reasonably dust-free condition and is adequately screened from adjoining residential properties. The amount of parking spaces shall be dictated by section 58-432 and the county zoning administrator.
 - h. The establishment of a home occupation, where allowed by ordinance, shall require the issuance of a land use permit or conditional use permit, depending on the respective zoning district, and shall be accompanied by a site plan meeting all the requirements of section 58-164.
 - i. No home occupation shall generate excessive dust, glare, noise, odor, smoke or vibration or pose a hazard to public safety, nor involve the storage or use of toxic or hazardous materials or waste that meets or exceeds the threshold requirements of SARA regulations relating to reporting or planning facilities.
- (5) *Salvage yards.* No salvage yard shall be permitted in the county except in conformance with a plan approved by the zoning committee. The zoning committee may require the applicant to file a plan of operation describing the design, management and operational characteristics of the facility, including a site plan showing the layout of the operation and location of the salvage materials, types and quantity of materials, equipment, fencing and maintenance of the operation. A conditional use permit is required for the alteration or expansion of any existing salvage yard. New, and the expansion of existing, salvage yards shall comply with the following requirements:

- a.

Salvage materials shall not be located within 600 feet of public roads, streets and highways, and all such uses shall have minimum side and rear yards of 100 feet.

- b. Salvage yards shall be enclosed by a suitable fence or planting screen so that the materials are not visible from other property in the vicinity of the facility, nor from any public right-of-way such as roads, streets, highways and waterways. If trees are used, they shall be capable of screening the yard all year, or other methods shall be used in combination with the trees. Fences and other types of screening shall be maintained in a state of repair. Materials shall not be piled higher than such fence or screen.
 - c. Salvage materials shall not be piled higher than the height of the fence or planting screen, nor shall such materials be piled against the fence.
 - d. A 100-foot-wide firebreak surrounding the facility shall be created and maintained.
 - e. No person shall establish a new salvage yard or expand an existing salvage yard within 1,000 feet of any navigable lake, pond or flowage, 300 feet of a navigable river or stream, or within a floodplain or wetland.
 - f. No garbage or similar putrescible material shall be present at the site.
 - g. No open burning of solid waste shall be conducted.
 - h. Any windblown material from the operation shall be collected daily and properly disposed.
 - i. Any person who maintains or operates a salvage yard, when the yard is closed by the operator or property owner, shall close the yard by removing all salvageable materials within 120 days.
- (6) *Commercial recycling operations.* Commercial recycling operations may be permitted, provided that:
- a. Such operations do not involve wrecking, dismantling, or demolition of salvageable material.
 - b. Such operations do not involve the sorting of refuse to recover salvageable materials.
 - c. Salvageable materials shall be stored in an enclosed structure or container.
- (7) *Farm equipment sales, service and repairs.* Farm equipment sales, service and repair facilities shall meet the following requirements:
- a. The minimum lot area for such uses shall be 20,000 square feet.
 - b. Equipment shall be stored at least 100 feet from highways or roads and at least 200 feet from any residential property.
 - c. The zoning committee may require that the operation be enclosed with a suitable fence or vegetative screen so that equipment and materials are not visible from adjacent properties or public rights-of-way.

(8)

Manufacturing. The zoning committee shall consider the following standards prior to issuing a conditional use permit for manufacturing facilities:

- a. Whether the facility constitutes an appropriate use in consideration of adopted land use plans, site factors, neighboring land uses, and environmental factors.
 - b. There is reasonable assurance that the facility will not endanger the public safety in relation to potential hazards of fire, explosion, traffic or accidental discharge of hazardous substances.
 - c. Potential pollution of land, air, surface and groundwater and excessive dust, glare, noise, odor, smoke and vibration.
- (9) *Marinas and boat liveries.* Marinas and boat liveries may be permitted, provided that:
- a. Such uses are located a minimum of 500 feet from public bathing beaches, parks and boat access sites.
 - b. Such facilities are designed and constructed so as not to interfere with adjacent riparian owner's use of the water for swimming, fishing or boating; nor interfere with or obstruct public use of navigable waters.
 - c. Fueling pumps and tanks shall be located a minimum of two feet above the ordinary high-water mark.
 - d. Marinas shall be equipped with approved facilities for the disposal of domestic wastes from boats pursuant to Wis. Admin. Code Comm and any subsequent amendments thereto.
 - e. The following standards shall apply to marinas and boat liveries:
 1. Minimum lot area:
Marinas: one acre.

Boat liveries: 25,000 square feet.
 2. Minimum lot width:
Marinas: 200 feet at the building line and at the water line.

Boat liveries: 125 feet at the building line and at the water line.
 3. Maximum building height:
Marinas: 20 feet.

Boat liveries: 20 feet.
 4. Minimum setback at the water line:
Marinas: 75 feet.

Boat liveries: 75 feet.

- (10) *Used dwelling, single-family.* A used dwelling, or dwelling made of used materials may be permitted, provided that:
- a. The proposed dwelling unit has a minimum floor area of 720 square feet.
 - b. The exterior of the used dwelling must be in "like-new" condition or plans for upgrades to the existing structure must be submitted.
 - c. The used dwelling shall meet all code requirements including those of the Uniform Dwelling Code.
 - d. The applicant shall demonstrate that the placement of a used dwelling shall meet Waushara County Code requirements and shall be finished in such a manner as to not aesthetically detract from its surroundings and aid in maintaining area property values. The following information shall be submitted to the zoning committee:
 1. Color photographs not less than 2½ inches by four inches showing the front and side on one of the photographs and the rear and opposite side on the other photograph of the dwelling unit or materials to be used in construction.
 2. A detailed site plan in accordance with section 58-164, and narrative noting the construction details and methods of finishing the exterior of the structure.
 3. Any additional information deemed necessary by the zoning administrator for full evaluation of the proposal.
 4. Demonstrate its construction and installation methods shall meet minimum standards for protection from fire, wind, and other natural disasters.
 - e. Footings and foundation including those for landings and stoops shall be placed below frost penetration level or at least 48 inches below adjacent grade, whichever is deeper for frost protection per SPS 321.16.
 - f. Soil evaluation or evaluation of existing POWTS may be required if requesting a sanitary re-connect permit.
- (11) *Mobile home parks.* No mobile home park shall be located in the county except in conformance with a plan approved by the zoning committee. Mobile home parks shall comply with the requirements of this section and Wis. Admin. Code chs. SPS 395 and HFS, and any subsequent amendments thereto. The zoning committee may require the applicant to provide a plan of operation describing the design, management and operation of the mobile home park. A conditional use permit is required for the expansion or alteration of an existing mobile home park. Mobile home parks shall meet the following requirements:
- a. Minimum area: five acres.
 - b. Maximum density: ten units per acre.

- c. Minimum site dimensions: 40 feet wide by 75 feet long.
 - d. Maximum mobile home height: 15 feet.
 - e. Minimum distance between units: 20 feet.
 - f. Minimum setback from service road: ten feet.
 - g. Open space: There shall be a minimum of 250 square feet of open space per unit exclusive of the individual mobile home sites and buffer yards.
 - h. No mobile home shall be located within 25 feet of the external boundaries of the mobile home park.
 - i. All setbacks and yards shall be seeded and landscaped.
 - j. Each mobile home shall be connected to a public water supply and a public sewer system where such systems are available. Where a public water supply is not available, mobile home parks shall be served by an approved community water system pursuant to Wis. Admin. Code ch. NR 111, and any subsequent amendments thereto. Where a public sewer system is not available, mobile home parks shall have an approved private sewage system pursuant to Wis. Admin. Code chs. SPS 382 and 383, and any subsequent amendments thereto.
- (12) *Nonmetallic mining and processing.* No nonmetallic mining or processing operation shall be located in the county except in conformance with a plan approved by the zoning committee. A conditional use permit is required for the expansion or alteration of any existing nonmetallic mining or processing operation. Nonmetallic mining and processing operations shall meet the following requirements:
- a. In addition to the site plan required under section 58-164, the applicant shall furnish a plan of operation describing the design, management and operation of the facility. Such plan shall include:
 1. A list of equipment, machinery and structures to be used.
 2. The source, quantity and disposition of any water which may be used.
 3. A topographic map of the site showing the existing topography at maximum vertical contour intervals of four feet.
 4. The location of trees and a description of the existing groundcover.
 5. The depth of all existing and proposed excavations.
 6. The location of existing and proposed roads.
 7. The location of all existing buildings and structures within 300 feet of the site boundaries.
 8. The names of all property owners within 300 feet of the site boundaries.
 - 9.

Restoration of the property complying with all applicable provisions of article VII of this chapter. Sites where the material to be used or sold is generated incidentally to the primary purpose of the project, including but not limited to the creation of wetlands, ponds and sedimentation basins shall be exempted from this provision. Required restoration of these sites is limited to a revegetation plan.

- b. The zoning committee shall consider the effects of the proposed operation upon existing streets, neighboring land uses, future land uses, drainage, water supply, soil erosion, natural beauty, character and land value of the locality. The committee shall also consider the potential effects of increased dust, smoke, odor, noise, vibration, traffic, and the practicality of restoring the site.
- c. No nonmetallic mining or processing operation shall be located within 300 feet of a residence other than that of the landowner or applicant or within 500 feet of a school or institution.
- d. No excavation shall take place within 50 feet of the external boundaries of the site.
- e. The zoning committee may require that the site be enclosed by a suitable fence to prevent unauthorized entry.
- f. The zoning committee may require that the site be enclosed by a suitable fence or vegetative screen so that materials are not visible from neighboring property and public rights-of-way including roads, streets, highways and waterways.

(13) *Recreation areas.* Recreation areas may be permitted, provided that:

- a. The location and proposed use is compatible with adjacent land and water uses.
- b. Stormwater runoff and erosion control practices shall be installed where required by the zoning committee to prevent soil erosion and the pollution of navigable waters.
- c. Entrances and exits are designed and located so as not to interfere with the public's or adjacent landowner's access to navigable waters.
- d. Lighting facilities are designed and located to minimize reflection and glare over the water, except for navigation aids.
- e. Recreation areas not served by public sewer systems shall have an approved private sewage disposal system pursuant to Wis. Admin. Code chs. SPS 382, 383 and 391, and any subsequent amendments thereto.
- f. Bleachers, spectator stands, motor-driven rides, concession stands, maintenance and storage buildings, parking lots and sanitary facilities shall be effectively screened from adjacent properties by vegetative growth.

(14) *Roadside stands.* Roadside stands, for products not produced or grown on the property, may be permitted, provided that:

- a.

The roadside stand or similar use conform to the setback, sign, and all other provisions of this chapter.

- b. The location of the stand is approved by the highway committee. The highway committee shall consider the potential traffic hazards posed by such facilities in making such determinations.

(15) *Shooting ranges for firearms.*

- a. The zoning committee shall evaluate the following criteria in determining whether to issue a conditional use permit for shooting ranges:
 1. Potential hazards to adjacent uses.
 2. Topography and groundcover.
 3. Noise.
- b. Shooting ranges shall meet the following requirements:
 1. The firing of rifled arms and shotgun slugs shall not be permitted directly toward or over navigable waters, public or private roads or drives, or toward any building or structure nor directly toward any population center which is located within 1½ miles.
 2. Shooting ranges shall provide:
 - i. An adequate shotfall or bullet impact area.
 - ii. A defined firing line or firing direction.
 - iii. Adequate backstops for the firing of rifled arms.
- c. Shooting ranges shall be clearly identified by signs not less than four square feet in gross area located at intervals of not more than 25 yards around the perimeter of the range.
- d. Shooting ranges shall be securely fenced off from adjacent lands and waters.

(16) *Public and semi-public uses.* The following public and semi-public uses may be permitted:

- a. Airports may be permitted, provided that such facilities meet the requirements of Wis. Stats. ch. 114, all applicable state and federal aviation regulations, and the following requirements:
 1. Within an approach area (a trapezoidal area with an inner width at the runway threshold of 250 feet, a length of 5,000 from the threshold to the outer width, and an outer width of 1,250 feet), the height of any object shall not exceed 1/20 the distance from the runway threshold.
 2. No structure used for human habitation may be located within 500 feet of the runway threshold.
 3. No dwelling, other than that of the owner of such airport, may be located within 300 feet of the centerline of a runway or within 300 feet of the center point of a helicopter landing area.

- b. Governmental and cultural uses such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - c. Public passenger transportation terminals such as heliports and bus and train depots, provided that all principal uses and structures are not less than 100 feet from any residential property line.
 - d. Utilities and communication towers with accessory buildings, except radio or television broadcast studios.
 - e. Churches; public, private and parochial preschools, elementary and secondary schools, provided that the lot area is not less than one acre, and all principal uses and structures are located not less than 50 feet from any lot line.
 - f. Institutions, colleges, universities, hospitals, sanitarium; religious, charitable, penal and correctional institutions; cemeteries and crematoria; provided, however, that all principal uses and structures are located not less than 50 feet from any lot line.
- (17) *Storage of unoccupied travel trailers, camping trailers or mobile campers.* The storage of unoccupied travel trailers, camping trailers or mobile campers on a parcel of land of ten acres or more on which no single-family or two-family dwelling exists is subject to the following conditions and requirements:
- a. Approval of the location and placement of the travel trailer, camping trailer or mobile camper shall be by the planning and zoning committee to ensure appropriate visual screening from adjacent properties and public roadways; proximity to waterways, floodplains, wetlands, parcel size and other matters of environmental concern.
 - b. The following information shall be furnished for consideration by the planning and zoning committee:
 - 1. The name of the landowner;
 - 2. The name of the owner of the travel trailer, camping trailer or mobile camper permitted to be stored on the premises;
 - 3. The vehicle identification number, certificate of title and registration of the travel trailer, camping trailer or mobile camper;
 - 4. Color photographs not less than 2½ inches by four inches showing the front and side on one of the photographs and the rear and opposite side on the other photograph of the travel trailer, camping trailer or mobile camper;
 - 5. A detailed site plan in accordance with section 58-164.
 - c. The travel trailer, camping trailer or mobile camper shall be roadworthy at all times and shall be capable of being immediately pulled off the premises.

- d. The location and placement of the unit upon the premises must conform with all minimum water, highway and yard setbacks as determined by the committee. However, in no case may the minimum water setback be less than 75 feet and highway or yard setbacks be less than 100 feet.
 - e. The travel trailer, camping trailer or mobile unit shall not have any additions, attachments or permanent foundations attached or placed on or under such unit.
 - f. Should the unit be occupied at any time during the duration of the use permit, occupancy shall be limited to time frame established per section 58-9, definition "Camping trailer, travel trailer and mobile camper or unit," and shall be served by appropriate sanitary facilities. The following are considered appropriate sanitary facilities:
 1. If no running water exists (other than a hand pump located outside of the unit) a nonplumbing sanitation system or device is permitted, including, but not limited to, a portable self-contained toilet or vault privy. Depending upon the type of system selected, a sanitary permit may be required.
 2. If running water exists, a conventional septic tank/drainfield or other type of POWTS approved by DSPS and the Waushara County Utilities Code is permitted. A sanitary permit is required for this type of system or device.
 - g. No more than one unoccupied camping trailer, travel trailer, mobile camper or unit may be stored on a parcel.
 - h. The zoning administrator shall annually inspect the camping trailer, travel trailer, mobile camper or unit to determine that the use of the premises is in compliance with this chapter and, upon such determination, shall issue a certificate of compliance as provided in section 58-165. The fee for such annual inspection shall be on file at the zoning office. Properties found by the zoning administrator to be in noncompliance with the conditional use permit shall, after 30 days' written notice (from the date of mailing) to the property owner or occupant, forfeit the conditional use permit issued under this subsection, unless such property is brought into compliance within such 30-day period.
- (18) *Kennels*. Establishment of kennels shall only be established in conformance with all applicable state and local regulations, including any recommendations of the county humane officer, who shall be notified of any conditional use prior to the public hearing. In addition, the following shall be considered as minimum standards in the development of such kennels:
- a. All kennels must meet the requirements of Administrative Rule ATCP ch. 16.
 - b. If a kennel is required to be licensed by the state department of agriculture, trade and consumer protection, a copy of the approved license must be presented to the land conservation and zoning office within 30 days of the approval of a conditional use permit.

Copies of licenses must be submitted to the land conservation and zoning office on an annual basis within ten days of receipt of the license.

- c. All kennels not covered under subsection b. above, a copy of the approved kennel license issued by the county clerk must be presented to the land conservation and zoning office within 30 days of the approval of the conditional use permit. Copies of licenses must be submitted to the land conservation and zoning office on an annual basis within ten days of receipt of the license.
- d. All kennels established under this chapter shall meet DNR well setback requirements.
- e. Any kennel not submitting its required annual license with the land conservation and zoning department shall have its conditional use permit revoked.
- f. These standards are to be considered minimum requirements. Additional requirements may be established on a case-by-case basis at the discretion of the Waushara County Health Department and the Waushara County Humane Officer.

(19) *Agricultural event center.* An agricultural event center may be established as a conditional use within the AG (General Agricultural) zone, on parcels of five acres or more, in an existing outbuilding or outbuildings that have been on the premises for five years or more. In addition to site specific conditions imposed by the planning and zoning committee following their on-site, and testimony at the public hearing, agricultural event centers shall be in compliance with the following conditions:

- a. The event center shall not have alterations made that will irreparably affect the future use of the premises for agricultural use.
- b. The operation of the event center shall be seasonal and sporadic for the purpose of holding family and corporate events as noted in the definition.
- c. Setbacks to the structure(s) used and all outdoor spaces utilized with the operation of the agricultural event center shall be at least 50 feet from the property lines.
- d. Any outdoor spaces to be utilized for the events shall be kept in a clean, safe and healthful condition so as to reduce accidents and injuries.
- e. All other codes shall be complied with and all permits shall be obtained. These include, but are not limited to, event permits from the sheriff's department, health codes related to food preparation and service, alcoholic beverage service as determined by the state and town, building codes as administered by the local building inspector, fire codes at both the state and local level, and sanitary facilities as determined by state and local codes.
- f. Off-street parking shall be provided with one space necessary for every two patrons at maximum capacity.

(20)

Solar and wind energy facilities and wind turbines. The following shall be considered as minimum standards in the location and operation of solar and wind energy facilities and associated wind turbines:

- a. Except in areas which are subjected to low flying aircraft, such as adjacent to irrigated agricultural fields and adjacent to major highways which are used for aeronautical visual reference purposes, wind turbines shall be painted a nonreflective, nonobtrusive color, and shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- b. At solar and wind energy facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the solar and wind energy facility to the natural setting and the existing environment.
- c. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
- d. Electrical controls and control wiring and power lines shall be wireless or below ground, except immediately adjacent to the facility site.
- e. Solar panels and any associated structures shall, at a minimum, maintain a 50-foot perimeter setback and/or all roadway setbacks for principal structures within each respective zoning district as permitted herein. Wind turbines shall be set back from the nearest nonparticipating residence, public or semi-public buildings, a distance no less than the greater of 3.1 times their maximum blade tip height or 1,250 feet, whichever is less.
- f. Wind turbines shall be set back from the nearest nonparticipating property line, and any participating residence, a distance no less than 1.1 times their total height, unless appropriate easements are secured from adjacent property and participating residence owners.
- g. Wind turbines shall be set back from the nearest public road right-of-way, above ground public overhead communication or electric transmission lines, other than lines serving individual homes or outbuildings, a distance no less than 1.1 times their total height.
- h. Wind turbines shall not be climbable up to 15 feet above ground level.
- i. All solar facility electrical substations shall be effectively secured and locked. All access doors to wind turbine towers and electrical equipment shall be lockable.
- j. The blade tip of any wind turbine, shall, at its lowest point, have ground clearance of no less than 75 feet.
- k. Appropriate warning signage shall be placed on solar substation facilities, wind turbine towers, electrical equipment, and wind energy facility entrances.
- l.

Solar facilities shall maintain a continuous vegetative buff when located adjacent to the following zoning districts: A-R, RS-10, RS-20, R-M, RS-P, RM-P and/or existing properties that have been developed for residential uses. Overall design shall be incorporated into the development plans and as approved by the Waushara County Land Conservation Department and Planning and Zoning Committee.

- m. Upon cessation of the operation of the solar, wind energy facility or turbine, the individual panels, facility or turbine and other related improvements to the property shall be removed. The applicant shall furnish sureties which will enable the county to remove such improvements if the applicant/owner fails to do so. The amount of such sureties shall be determined by the zoning administrator. The form and type of such sureties shall be approved by the corporation counsel. Such fiscal surety shall be for a period not to exceed five years and will be renewed thereafter upon a favorable review of the operation and maintenance of such facility or turbine by the zoning committee and corporation counsel and updated cost estimates furnished by the applicant. All local units of government within the county shall be exempted from having to furnish fiscal sureties.
 - n. The following chapters of the Wisconsin Administrative Codes, as well as all subsequent revisions, are adopted by the county and shall be enforced by the zoning administrator:
 - 1. Ch. SPS 66.0401 Regulation relating to solar and wind energy systems;
 - 2. Ch. SPS 66.0403 Solar and wind access permits.
- (21) *Home-based businesses* include, but are not limited to businesses that fall within the standards listed, such as construction, excavation landscaper, plumber, electrician, and other family run contractor operations, minor vehicle repair and body work, small engine repair and sales, small truck and trailer terminals, minor welding and fabrication, storage, sales, and assembly, vehicle towing services, internet based businesses, commercial storage facilities and other similar family-based businesses where the business is incidental and subordinate to the residential use, and where the business conducted would not detract from neighboring land uses, would not pose a threat to public safety, health or the environment, and where such business can be conducted in such a manner where it would not prevent the property from converting back to strictly a residential use, if the business were ever to be abandoned subject to the following limitations:
- a. Such use is clearly incidental to the principal use of the premises.
 - b. Such use must be established on the same parcel as the one- or two-family dwelling.
 - c. Such use does not involve any exterior alterations, additions or buildings that would affect any substantial change in the residential character of the property, nor would the changes prevent the property from reverting back to strictly a residential use, if the business would ever be abandoned.
 - d. Such use shall not be contrary to any adopted municipal or county land use plan.

- e. Such use must meet all other applicable state and federal requirements and licenses, including applicable commercial building codes.
- f. Adequate sanitary facilities (to be determined by the commercial building inspector) shall be provided.
- g. Other than the immediate family, no more than four persons may be employed in a home-based business.
- h. There shall be no more than one advertising sign on the premises, and such sign shall not exceed 32 square feet in area.
- i. The home-based business shall not exceed 20 percent of the floor area or more than 600 square feet of the residence. In the case of a home-based business being located within an accessory building on the same parcel of land as the residence, such home-based business shall not exceed 2,000 square feet (including storage area for inventory and supplies). In the case of a home-based business being located both within the residence and an accessory building on the same parcel of land, such home-based business shall not exceed a cumulative total of 2,000 square feet (including storage area for inventory and supplies), unless otherwise granted by the planning and zoning committee. If any home-based business is located either partially or entirely in an accessory structure, commercial building codes may apply.
- j. Storage outside of a completely enclosed building of any products, building materials, wastes, materials, vehicles or equipment shall not exceed 5,000 square feet, and shall be stored behind a solid fence which screens such items from public roads and neighboring property lines, unless otherwise granted by the planning and zoning committee under subsection (21)m of this section.
- k. Any off-street parking area shall be maintained in a reasonably dust-free condition and shall be adequately screened from adjoining residential properties. The amount of parking spaces shall be dictated by section 58-432 and the county zoning administrator.
- l. Such use does not involve any new or used car sales.
- m. The planning and zoning committee may impose additional related conditions on any approval of a home-based business, such as additional setbacks, vegetative or artificial buffers, limitations on hours, traffic, signs, increases and/or decreases of size of areas to be utilized by the proposed business, etc.

(Ord. No. 76, § 21.02, 3-13-1984; Ord. No. 117, § 2, 4-4-1989; Ord. No. 183, § 1(21.02), 3-8-1994; Ord. No. 227, § 3, 4-8-1997; Ord. No. 269, § 1(24), 3-9-1999; Ord. No. 289, § 1(21.02), 5-9-2000; Ord. No. 300, § 21.02(j), 9-12-2000; Ord. No. 343, 3-12-2002; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 470, 3-13-2007;

Ord. No. 490, 2-12-2008; Ord. No. 512, 3-10-2009; Ord. No. 522, 3-9-2010; Ord. No. 541, 3-20-2012; Ord. No. 554, 3-19-2013; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 624, 3-20-2018; Ord. No. 635, 3-19-2019; Ord. No. 651, 4-21-2020)

Secs. 58-237—58-270. - Reserved.

ARTICLE IV. - DISTRICTS, ZONES AND MAPS

Footnotes:

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Cross reference— *Districts, § 18-91 et seq.*

DIVISION 1. - GENERALLY

Sec. 58-271. - Establishment of zoning districts.

In order to carry out the purpose and provisions of this chapter, zoning districts and zones are established in this article, and may be known by the accompanying abbreviated symbols.

(Ord. No. 76, § 4.01, 3-13-1984)

Sec. 58-272. - O-S open space zoning district.

- (a) The O-S open space zoning district is designed to encourage the preservation, conservation and development of land areas for a wide range of conservation and recreational purposes. The O-S district is further intended to designate forest reserve areas, natural resource lands, shoreline areas for the public benefit, scenic strips adjacent to drives, and parks to accommodate a wide range of activities and uses. The provisions of the O-S district encourage the utilization of agricultural, silvicultural and development practices which preserve environmental quality and enhance the scenic value and recreational opportunities within the county.
- (b) The O-S open space zoning district includes the following zones:
 - (1) O-N natural resources preservation zone.
 - (2) O-F forestry zone.
 - (3) O-P park and recreation zone.
 - (4) O-SW shoreland/wetland zone.

(Ord. No. 76, § 4.02, 3-13-1984)

Sec. 58-273. - A agricultural zoning district.

The A agricultural zoning district is designed to provide for and encourage agricultural uses of land, related uses, and certain residential uses in a rural environment. The two zones established in this section are designed to accommodate varying intensities in land use and the proximity to urban developing areas. The A agricultural zoning district includes the following zones:

- (1) AG-* general agricultural zone.
- (2) A-R agricultural residential zone.

(Ord. No. 76, § 4.03, 3-13-1984)

Sec. 58-274. - R residential zoning district.

The R residential zoning district is designed to encourage a suitable environment for family life by permitting under conditions appropriate neighborhood facilities and institutions, and by protecting the residential character against incompatible uses. The R district is further intended to preserve openness and avoid overcrowding by requiring certain minimum yards and yard areas and open spaces, and to make available a variety of dwelling types, densities and locations to serve a wide range of individual housing requirements. The R residential zoning district includes the following zones:

- (1) RS-10 residential single-family zone.
- (2) RS-20 residential single-family zone.
- (3) RM residential multifamily zone.
- (4) RS-P residential single-family planned development zone.
- (5) RM-P residential multifamily planned development zone.

(Ord. No. 76, § 4.04, 3-13-1984)

Sec. 58-275. - C commercial zoning district.

The C commercial zoning district is designed to promote the orderly development of commercial uses in accordance with the growth and development needs of the region. To provide for a wide range of commercial uses of varying intensity, three commercial zones are established within the C zoning district. These zones are designed to accommodate the respective uses and activities provided for in each zone. They are further designed to protect neighboring residential areas by establishing certain minimum yards, yard areas, and parking and loading requirements. The C commercial zoning district includes the following zones:

- (1) C-G general commercial zone.
- (2) C-C community commercial zone.
- (3) C-S commercial service zone.

(Ord. No. 76, § 4.05, 3-13-1984)

Cross reference— Businesses, ch. 10.

Sec. 58-276. - M manufacturing zoning district.

The M manufacturing zoning district is designed according to the principles to provide for a wide range of industrial uses and locations which have suitable access to air, rail and highway transportation facilities; are located in various quadrants of the county to reduce travel time to work and avoid traffic congestion; are located to minimize nuisances and adverse impacts on adjoining land uses, incorporate adequate rights-of-way, open space or other buffers where required to protect neighboring land uses; are located on arterial streets to minimize industrial traffic through residential areas; and are located and sized to meet the requirements of a variety of potential industrial uses. The M manufacturing zoning district includes the following zones:

- (1) M-G general manufacturing zone.
- (2) M-I intensive manufacturing zone.

(Ord. No. 76, § 4.06, 3-13-1984)

Sec. 58-277. - Incorporation of maps.

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

(Ord. No. 76, § 4.07, 3-13-1984; Ord. No. 522, 3-9-2010; Ord. No. 610, 4-18-2017)

Sec. 58-278. - Boundaries of zones.

When uncertainty exists with respect to the boundaries of the respective zones as shown on the zoning maps, the following rules shall apply:

- (1) When the width or length of boundaries are not clear, the scale of the map shall determine the approximate dimensions.
- (2) Zone boundaries are normally lot lines, section and quarter section lines and centerlines of streets, highways, railroads or alleys.
- (3) Chapter 18 of this Code shall govern the location of the floodplain zone.
- (4) The board of adjustment, in accordance with the provisions of this chapter, shall hear and decide the precise location of a zone boundary line when such line cannot otherwise be determined.

(Ord. No. 76, § 4.08, 3-13-1984)

Secs. 58-279—58-300. - Reserved.

DIVISION 2. - O-N NATURAL RESOURCE PRESERVATION ZONE

Sec. 58-301. - Purpose.

This O-N natural resource preservation zone provides for the conservation and protection of natural resources. Generally this O-N zone includes swamps, marshlands, rivers, lakeshores and other land of natural aesthetic value.

(Ord. No. 76, § 5.01, 3-13-1984)

Sec. 58-302. - Lot size, height, yard and setback regulations.

(a) *Residential lot size.* Residential lot sizes in the O-N zone are as follows:

- (1) Minimum area: One acre.
- (2) Minimum width: 150 feet.

(b) *Height.* The height limit in the O-N zone shall be 35 feet.

(c) *Yard and setback.* Yard and setback regulations in the O-N zone shall be as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 25 feet.
- (3) Minimum rear yard: 50 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 5.02, 3-13-1984)

Sec. 58-303. - Permitted uses.

Permitted uses in the O-N zone are as follows:

- (1) Agricultural, including animal and poultry husbandry, beekeeping, dairying and grazing, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture and viticulture.
- (2) Fish hatcheries and farm ponds.
- (3) Unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle is permitted as an accessory use to single-family and two-family dwellings, provided that such storage is within 300 feet of such dwelling. Such unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle shall conform to all required water setbacks.
- (4) Wildlife preserves.

(Ord. No. 76, § 5.03, 3-13-1984; Ord. No. 194, § 7, 4-11-1995; Ord. No. 320, 5-8-2001; Ord. No. 635, 3-19-2019)

Sec. 58-304. - Conditional uses.

Conditional uses in the O-N zone are as follows:

- (1) Bait store.
- (2) Camps.
- (3) Hunting or fishing shelter.
- (4) Dwelling, single-family, only as accessory to a principal use.
- (5) Golf course.
- (6) Maple syrup processing plant.
- (7) Reserved.
- (8) Public and semi-public buildings.
- (9) Recreation areas.

(Ord. No. 76, § 5.04, 3-13-1984; Ord. No. 583, 3-17-2015; Ord. No. 610, 4-18-2017; Ord. No. 635, 3-19-2019)

Secs. 58-305—58-330. - Reserved.

DIVISION 3. - O-F FOREST ZONE

Sec. 58-331. - Purpose.

This O-F forest zone provides for the continuation of forestry practices and related uses in those areas best suited to this activity. The O-F zone is further intended to encourage forestry and to recognize the value of the forest as a recreational resource.

(Ord. No. 76, § 6.01, 3-13-1984)

Sec. 58-332. - Lot size, height, yard and setback regulations.

(a) *Residential lot sizes.* Residential lot sizes in the O-F zone are as follows:

- (1) Minimum area: One acre.
- (2) Minimum width: 150 feet.

(b) *Height.* The height limit in the O-F zone shall be 35 feet.

(c) *Yard and setback.* Yard and setback regulations in the O-F zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 25 feet.
- (3) Minimum rear yard: 50 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 6.02, 3-13-1984)

Sec. 58-333. - Permitted uses.

Permitted uses in the O-F zone are as follows:

- (1) All uses permitted in the O-N zone.
- (2) Debarking operations.
- (3) Maple syrup processing plants.
- (4) Portable sawmill, not to operate in one location in excess of 12 months.
- (5) Unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle is permitted as an accessory use to single-family and two-family dwellings, provided that such storage is within 300 feet of such dwelling. Such unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle shall conform to all required setbacks.

(Ord. No. 76, § 6.03, 3-13-1984; Ord. No. 194, § 7, 4-11-1995; Ord. No. 320, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 635, 3-19-2019)

Sec. 58-334. - Conditional uses.

Conditional uses in the O-F zone are as follows:

- (1) Bait store.
- (2) Blacksmithing.
- (3) Camps.
- (4) Cemetery.
- (5) Dwelling, single-family.
- (6) Dwelling, two-family.
- (7) Golf course.
- (8) Home occupation.
- (9) Reserved.
- (10) Public and semi-public buildings.
- (11) Nonmetallic mining.
- (12) Recreation areas.
- (13) Sawmill, permanent.
- (14) Wind energy facility.
- (15) Storage of unoccupied travel trailers, camping trailers or mobile campers on parcels of ten acres or more on which no single-family or two-family dwelling exists.
- (16) Dog kennel, when located not less than 300 feet from any residential building other than that of the owner of such kennel, his agent or employee.
- (17) Home-based business, accessory to a one- or two-family dwelling.

(Ord. No. 76, § 6.04, 3-13-1984; Ord. No. 289, § 1(6.04), 5-9-2000; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 635, 3-19-2019)

Secs. 58-335—58-360. - Reserved.

DIVISION 4. - O-P PARK AND RECREATION ZONE

Footnotes:

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Cross reference— *Parks and recreation, ch. 30.*

Sec. 58-361. - Purpose.

This O-P park and recreation zone provides for the orderly and attractive grouping of recreational oriented service establishments and is further intended to encourage the maintenance and protection of natural resources.

(Ord. No. 76, § 7.01, 3-13-1984)

Sec. 58-362. - Lot size, height, yard and setback regulations.

(a) *Residential lot size.* Residential lot sizes in the O-P zone are as follows:

- (1) Minimum area: One acre.
- (2) Minimum width: 150 feet.

(b) *Height.* The height limit in the O-P zone is 35 feet.

(c) *Yard and setback.* Yard and setback regulations in the O-P zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 25 feet.
- (3) Minimum rear yard: 50 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 7.02, 3-13-1984)

Sec. 58-363. - Permitted uses.

Permitted uses in the O-P zone are as follows:

All uses permitted in the O-N zone.

(Ord. No. 76, § 7.03, 3-13-1984; Ord. No. 194, § 7, 4-11-1995)

Sec. 58-364. - Conditional uses.

Conditional uses in the O-P zone are as follows:

- (1) Bait store.
- (2) Blacksmithing.
- (3) Campgrounds.
- (4) Camps.
- (5) Cemetery.
- (6) Concession stand.
- (7) Debarking operations.

- (8) Dwelling, single-family, only as accessory to a principal use.
- (9) Golf course.
- (10) Reserved.
- (11) Public and semi-public buildings.
- (12) Recreation areas.
- (13) Resorts.
- (14) Sawmill, permanent.
- (15) Stable.

(Ord. No. 76, § 7.04, 3-13-1984; Ord. No. 583, 3-17-2015; Ord. No. 635, 3-19-2019)

Secs. 58-365—58-390. - Reserved.

DIVISION 5. - O-SW SHORELAND-WETLAND ZONE

Sec. 58-391. - Purpose.

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

(Ord. No. 76, § 8.01, 3-13-1984; Ord. No. 610, 4-18-2017)

Sec. 58-392. - Designation.

- (a) *Generally.* This O-SW zone includes all shorelands subject to regulation under article VI of this chapter which are designated wetlands as shown on the wetlands maps that have been adopted and made a part of this chapter in section 58-277. Wetlands located in the shoreland area that extend across corporate limits of an adjacent municipality or across the shoreland boundary shall be included in this zone if the total contiguous wetland area is two acres or more.
- (b) *Locating shoreland/wetland boundaries.* Where an apparent discrepancy exists between the O-SW shoreland/wetland zone boundary shown on the official wetlands maps and the actual field conditions at the time the maps were adopted, the zoning administrator shall contact the

appropriate field office of the state department of natural resources to determine if the shoreland/wetland zone as mapped is in error. If the department staff concur with the zoning administrator that particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a land use permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning map, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period of time.

(Ord. No. 76, § 8.02, 3-13-1984; Ord. No. 535, § 1, 10-18-2011; Ord. No. 576, 3-18-2014)

Sec. 58-393. - Permitted uses.

The following uses shall be allowed in the O-SW zone, subject to the general shoreland zoning regulations in article VI of this chapter, the provisions of Wis. Stats. chs. 30 and 31, and the provisions of other state and federal laws, if applicable:

- (1) Activities and uses which do not require the issuance of a land use permit, but which must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating, are as follows:
 - a. Hiking, fishing, trapping, hunting, swimming and boating.
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber.
 - d. The pasturing of livestock and construction and maintenance of fences.
 - e. The cultivation of agricultural crops.
 - f. The construction and maintenance of duck blinds.
 - g. The construction and maintenance of piers, docks and walkways, including those built on pilings.
 - h. The maintenance, repair, replacement and reconstruction of existing town and county highways and bridges.
- (2) Uses which do not require the issuance of a land use permit and which may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided as follows:
 - a. Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.
 - b. Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.

- c. Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
 - d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:
 - 1. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland; and
 - 2. Any filling, excavating, ditching or draining that is done will be in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
 - e. The construction and maintenance of railroad lines, provided that:
 - 1. The railroad lines cannot as a practical matter be located outside the wetland.
 - 2. Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (3) The following uses may be permitted upon the issuance of a land use permit or a conditional use permit if such use is listed as a conditional use in the underlying zone. A site plan is required for any of the uses listed in this section. The zoning administrator may submit any such plan to the department of natural resources, the U.S. Fish and Wildlife Service, the Soil Conservation Service or any other such agency or organization for review and comment. The zoning administrator may consider any such comments in determining whether to grant or deny a land use permit.
- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
 - 1. The road cannot as a practical matter be located outside the wetland; and
 - 2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
 - i. The road is designed and constructed as a single lane roadway with the minimum cross sectional area practical to serve the intended use;
 - ii. Road construction activities are carried out in the immediate area of the roadbed only; and
 - iii. Any filling, flooding, draining, dredging, ditching, tiling or excavating that is done is necessary for the construction or maintenance of the road.

- b. The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetland, provided that:
 - 1. Any such building does not exceed 500 square feet in floor area; and
 - 2. No filling, flooding, draining, dredging, ditching, tiling or excavating is to be done except for limited excavating and filling necessary to provide structural support for the building.
- c. The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:
 - 1. Any private recreation or wildlife habitat area is used exclusively for that purpose;
 - 2. No filling is done except for limited filling and grading necessary for construction and maintenance of boat launching ramps and access roads. Such construction shall meet the criteria under subsection (3)a of this section.
 - 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(Ord. No. 76, § 8.03, 3-13-1984)

Sec. 58-394. - Prohibited uses.

Any use not listed in section 58-393(1), (2) or (3) is prohibited in the O-SW zone, unless the wetland or a portion of the wetland is rezoned by an amendment of this chapter in accordance with the requirements of Wis. Stats. § 59.69(5)(e), Wis. Admin. Code ch. NR 115, and division 4, article II of this chapter.

(Ord. No. 76, § 8.04, 3-13-1984)

Sec. 58-395. - Rezoning of lands.

- (a) For all proposed text and map amendments to the O-SW shoreland/wetland zone, the appropriate district office of the state department of natural resources shall be provided with the following:
 - (1) A copy of every petition for a text or map amendment to the O-SW shoreland/wetland zone within five days of the filing of such petition with the county clerk.
 - (2) Written notice of the public hearing to be held on a proposed amendment, at least ten days prior to such hearing.
 - (3)

A copy of the county zoning agency's findings and recommendations on each proposed amendment, within ten days after the submission of those findings and recommendations to the county board.

- (4) Written notice of the county board's decision on the proposed amendment, within ten days after it is issued.
- (b) A wetland, or a portion thereof, in the O-SW shoreland/wetland zone shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
- (1) Stormwater and floodwater storage capacity;
 - (2) Maintenance of dry season streamflow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types.
- (c) If the state department of natural resources has notified the county zoning agency that a proposed amendment to the O-SW shoreland/wetland zone may have a significant adverse impact upon any of the criteria listed in this division, that amendment, if approved by the county board, shall contain the following provision: "This amendment shall not take effect until more than 30 days have elapsed since written notice of the county board's approval of this amendment was mailed to the state department of natural resources. During that 30-day period, the state department of natural resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under Wis. Stats. § 59.692. If the department does so notify the county board, the effect of this amendment shall be stayed until the adoption procedure under Wis. Stats. § 59.692(6) is completed or otherwise terminated."

(Ord. No. 76, § 8.05, 3-13-1984)

Sec. 58-396. - Setbacks.

All structures (as defined in section 58-9) other than those listed in section 58-393 shall maintain a minimum setback of 50 feet from said structure to any wetlands of two acres or more as shown on the wetlands maps that have been adopted and made a part of this chapter in section 58-277.

(Ord. No. 396, 3-9-2004)

Secs. 58-397—58-420. - Reserved.

DIVISION 6. - GWPOD GROUNDWATER PROTECTION OVERLAY DISTRICT

Sec. 58-421. - Purpose and authority.

- (a) The residents of the county, whether served by private wells or municipal supplies, depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this GWPOD groundwater protection overlay district is to institute land use regulations to protect the municipal water supplies, and to promote the public health, safety and general welfare of the residents of the county.
- (b) Statutory authority specified in the GWPOD groundwater protection overlay district was established by Wis. Stats. § 280.21, which specifically added groundwater protection to the statutory authorization for municipal planning and zoning to protect public health, safety and welfare.

(Ord. No. 195, § 1(8.10), 4-11-1995)

Sec. 58-422. - Definitions.

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

Groundwater protection overlay district (GWPOD) means that area contained in the county zoning maps, as indicated by the designation "GWPOD" (groundwater protection overlay district), as submitted by the municipality, and incorporated in this section as if fully set forth.

(Ord. No. 195, § 1(8.12), 4-11-1995)

Cross reference— Definitions generally, § 1-2.

Sec. 58-423. - Intent.

The areas to be protected are indicated on the county zoning maps by the designation "GWPOD." These lands are subject to the most stringent land use and development restrictions because of close proximity to wells and the corresponding high threat of contamination.

(Ord. No. 195, § 1(8.13), 4-11-1995)

Sec. 58-424. - Application of division regulations.

The regulations of this division shall apply to the unincorporated areas of the county that lie within the groundwater protection overlay district for municipal water supply wells, as approved by the county planning and zoning committee, and are in addition to the requirements in the underlying zoning district. If there is a conflict between the regulations of this division and the regulations of the underlying zoning district, the more restrictive provision shall apply.

(Ord. No. 195, § 1(8.11), 4-11-1995)

Sec. 58-425. - Permitted uses.

The following uses are permitted uses within the GWPOD district. Subject to the exemptions, waivers, and unclassified uses listed in section 58-429, uses not listed here or in section 58-426 are considered prohibited, unless a determination of similarity to a permitted or conditional use (based on potential for groundwater contamination) is made by the zoning administrator or zoning committee, as provided for in section 58-429(b).

- (1) Parks and playgrounds, provided that there are no on-site waste disposal or fuel storage tank facilities.
- (2) Wildlife areas.
- (3) Nonmotorized trails, such as biking, skiing, nature and fitness trails.
- (4) Municipally sewered residential land divisions and subdivisions, as defined in section 42-7 of this Code, free of flammable and combustible liquid underground storage tanks, subject to obtaining and following a construction site erosion control and stormwater management plan utilizing standards in the county technical guide adopted by the county land conservation department.
- (5) Unsewered (single-family) residential land divisions, as defined in section 42-7 of this Code, and development on existing lots of record on the effective date of the ordinance from which this division is derived, free of flammable and combustible underground storage tanks, subject to obtaining and following a construction site erosion control and stormwater management plan utilizing standards in the county technical guide adopted by the county land conservation department.
- (6) Agricultural activities, provided that such activities are conducted in accordance with a conservation plan based on the standards contained within the county technical guide and on the potential for groundwater contamination. The need for such a plan shall be determined by the county land conservation department.
- (7) Limited road salting.

(Ord. No. 195, § 1(8.14), 4-11-1995)

Sec. 58-426. - Conditional uses.

The following uses may be allowed as conditional uses within the GWPOD district: Commercial uses served by municipal sanitary sewer except those listed as prohibited in section 58-427, provided that there is proper containment of potential contaminants incorporated into the establishment of such commercial uses.

(Ord. No. 195, § 1(8.15), 4-11-1995)

Sec. 58-427. - Prohibited uses.

The following uses are prohibited within the GWPOD groundwater protection overlay district. These uses are prohibited based on the high probability that activities routinely associated with these uses (storage, use, and handling of potential pollutants) will cause groundwater contamination.

- (1) Animal waste facilities.
- (2) Any manufacturing or industrial businesses.
- (3) Asphalt products manufacturing.
- (4) Bus or truck terminals.
- (5) Bulk fertilizer and/or pesticide facilities.
- (6) Cemeteries.
- (7) Dry cleaning businesses.
- (8) Electroplating facilities.
- (9) Exterminating facilities.
- (10) Retail liquid motor fuel dispensing facilities.
- (11) Hazardous and/or toxic materials storage.
- (12) Hazardous and/or toxic waste facilities.
- (13) Junkyards or auto salvage yards.
- (14) Landfills or waste disposal facilities.
- (15) Paint and coating manufacturing.
- (16) Printing and duplicating businesses.
- (17) Radioactive waste facilities.
- (18) Recycling facilities.
- (19) Repair shops.
- (20) Salt storage.
- (21) Septage and/or sewage sludge spreading.

- (22) Spray wastewater facilities.
- (23) Petroleum product storage tanks.
- (24) Vehicle repair establishments, including auto body repair.
- (25) Wastewater treatment or disposal facilities.
- (26) Basement heating fuel storage tanks.

(Ord. No. 195, § 1(8.16), 4-11-1995)

Sec. 58-428. - Requirements for existing facilities.

Where any of the uses listed in section 58-426 exist within the GWPOD district on the effective date of the ordinance from which this division is derived, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved, and the appropriate permit issued by the zoning department, prior to any work being initiated. Expansion of prohibited uses are subject to the provisions of section 58-235.

(Ord. No. 195, § 1(8.17), 4-11-1995)

Sec. 58-429. - Exemptions, waivers, and unclassified uses.

- (a) Individuals and/or facilities, at their own expense, may request the county to add permitted, conditional, or prohibited uses within the GWPOD district. All requests shall be in writing on forms to be provided by the zoning department, and may be required by the zoning administrator to include an environmental assessment report prepared by a licensed environmental engineer. Such report shall be forwarded to the zoning administrator for recommendation to the county planning and zoning committee and final decision by the board of supervisors, following the text amendment procedures specified in division 5, article II of this chapter.
- (b) Unclassified uses not listed as a permitted or conditional use shall be considered to be prohibited except as provided in this division. Where deemed appropriate, the planning and zoning committee and the zoning administrator shall have the authority to authorize uses not specifically enumerated in this division. Any person aggrieved by these determinations can appeal to the board of adjustment, as authorized by sections 58-104 and 58-106.

(Ord. No. 195, § 1(8.18), 4-11-1995)

Sec. 58-430. - Determinations.

The boundaries of the GWPOD district shall be shown on the maps entitled, "Groundwater Protection Overlay Districts." Boundary determinations for specific properties shall be made by the zoning administrator by scaling distances from these maps.

(Ord. No. 195, § 1(8.19), 4-11-1995)

Sec. 58-431. - Appeals.

Appeals to a boundary determination in the GWPOD district, or any other administrative decision by the zoning administrator or planning and zoning committee, shall be made to the county board of adjustment as provided for in sections 58-104 and 58-106, and supported with appropriate technical documentation as determined by the board of adjustment.

(Ord. No. 195, § 1(8.20), 4-11-1995)

Sec. 58-432. - Enforcement of division provisions.

- (a) If an individual and/or facility causes a release of any contaminants which endanger the GWPOD district, the activity causing such release shall immediately cease, and the individual and/or facility shall immediately initiate a cleanup according to local, state and federal standards, including the county emergency government.
- (b) The individual and/or facility shall be responsible for all costs of cleanup.
- (c) Following any such discharge, the county may require additional environmental and safety monitoring and/or bonds/sureties satisfactory to the director of the county emergency government and the corporation counsel.
- (d) The provisions of sections 58-41 and 58-42, and any other applicable sections relating to enforcement of this chapter shall apply.

(Ord. No. 195, § 1(8.21), 4-11-1995)

Secs. 58-433—58-450. - Reserved.

DIVISION 7. - A-G-*GENERAL AGRICULTURAL ZONE

Sec. 58-451. - Purpose.

This zone is designed primarily for large scale agricultural uses of land related to the growing of crops and raising of livestock.

(Ord. No. 76, § 9.01, 3-13-1984; Ord. No. 370, 5-13-2003)

Sec. 58-452. - Lot size, height, yard and setback regulations.

- (a) *Residential lot size.* Residential lot sizes in the A-G-* general agricultural zone are as follows:
 - (1) Minimum area: *

*Insert numerical suffix which indicated minimum acreage (Example: AG-5 equals five acres minimum acreage).

- (2) Minimum width: 100 feet.
- (b) *Height*. The height limit in the A-G-* zone is 35 feet.
- (c) *Yard and setback*. Yard and setback regulations in the A-G-* zone are as follows:
 - (1) Minimum front yard: See section 58-826 (highway setback).
 - (2) Minimum side yard: 20 feet.
 - (3) Minimum rear yard: 20 feet.
 - (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 9.02, 3-13-1984; Ord. No. 370, 5-13-2003)

Sec. 58-453. - Permitted uses.

Permitted uses in the A-G-* zone are as follows:

- (1) Airstrip.
- (2) General farming including dairying, grazing and livestock and poultry raising, field crops, nurseries, forestry, greenhouses, orchards and wild crop harvesting, beekeeping, truck farming, horticulture, viticulture, and the growing and sales of Christmas trees, greenhouses, and farm markets and the sale of other agricultural and silvicultural products, provided that these products are grown as part of the agricultural operation. No new building or pen for housing or feeding livestock or poultry shall be located within 100 feet of any boundary of a residential lot other than that of the owner, lessee or his employees. New buildings housing animals shall be at least 75 [feet] from any navigable water while barnyards or feedlots shall be at least 100 feet from any navigable water and shall be located to prevent the drainage of manure into any navigable water.
- (3) New dwelling, single-family.
- (4) Home occupations.
- (5) New single-family dwelling established as a second farm residence accessory to the agricultural use, subject to the following limitations:
 - a. Such single-family dwelling is used as a single-family dwelling.
 - b. Such single-family dwelling is occupied by a person who, or a family at least one member of which, earns a substantial portion of his livelihood from farm operations on the farm parcel, or a parent or child of the operator of the farm.
 - c.

The occupant of the single-family dwelling shall, at three-year intervals commencing on the date the land use permit for such use was issued, verify on a form provided by the zoning administrator his compliance with subsection (5)b of this section within 30 days of the receipt of such form. If the occupant fails to verify his compliance with subsection (5)b of this section, the zoning administrator shall, within 30 days, notify the occupant and the owner of such single-family dwelling of noncompliance with the provisions of this section. Upon receipt of a notice of noncompliance, the owner shall, within 90 days of the receipt of such notice, bring the single-family dwelling into compliance with subsection (5)b of this section, or cause such single-family dwelling to be removed from the premises.

d. Such agricultural use meets the definition of Wis. Stats. § 91.01(2).

- (6) Sawmill, temporary.
- (7) Unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle is permitted as an accessory use to single-family and two-family dwellings, provided that such storage is within 300 feet of such dwelling. Such unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle shall conform to all required setbacks.
- (8) Except as otherwise required in this chapter, the storage, handling, refinement, processing, utilization, shipping, distribution, and application of agricultural products, equipment and other materials normally associated with, and considered part of a permitted general farming activity, providing that these products are grown as part of the agricultural operation, as defined in subsection (2) of this section, is considered as permitted uses, as long as the resultant storage, handling, refinement, processing, utilization, shipping, distribution, and application conforms with all other applicable laws and regulations including, but not limited to, the laws and regulations of the DNR, DATCP, EPA, and SARA regulations.
- (9) Housing for migrant workers that complies with Wis. Stats. § 59.694(e).

(Ord. No. 76, § 9.03, 3-13-1984; Ord. No. 159, § 16(9.03(2)), 6-9-1992; Ord. No. 194, § 7, 4-11-1995; Ord. No. 201, 6-13-1995; Ord. No. 289, § 1(9.03), 5-9-2000; Ord. No. 320, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 583, 3-17-2015; Ord. No. 591, 3-15-2016; Ord. No. 635, 3-19-2019; Ord. No. 651, 4-21-2020)

Sec. 58-454. - Conditional uses.

Conditional uses in the A-G-* zone are as follows:

- (1) Airport.
- (2) Animal hospital, zoo, rescue, sanctuary, or pound.
- (3) Bed and breakfast establishments.
- (4) Camps.
- (5)

Cemetery.

- (6) Cheese factories and dairy processing plants.
- (7) Christmas tree sales (other than sales permitted under subsection 58-453(2)).
- (8) Church or other place of worship.
- (9) Club or lodge.
- (10) Day nursery/kindergarten.
- (11) Dog kennel, when located not less than 300 feet from any residential building other than that of the owner of such kennel, his agent or employee.
- (12) Farm equipment sales and/or service.
- (13) Fish hatchery, commercial.
- (14) Fur farm, when located not less than 300 feet from any residential building other than that of the owner of such fur farm, his agent or employee.
- (15) Garden or nursery store.
- (16) Grain elevator, commercial.
- (17) Housing for migrant workers that is not in compliance with Wis. Stats. § 59.694(e).
- (18) Hunting or fishing shelter.
- (19) Maple syrup processing plant.
- (20) Reserved.
- (21) Nonmetallic mining operations and associated asphalt plants.
- (22) Public or semi-public building.
- (23) Raising or keeping of ten or more animal units on five acres or less land.
- (24) Recreation areas.
- (25) Roadside stand.
- (26) Sawmill, permanent.
- (27) Storage of unoccupied travel trailers, camping trailers or mobile campers on parcels of ten acres or more on which no single-family or two-family dwelling exists.
- (28) Dwelling, two-family.
- (29) Solar or wind energy facility.
- (30) Home-based business, accessory to a one- or two-family dwelling.
- (31) Used dwelling, single-family.
- (32) Agricultural event center.
- (33) Shooting ranges.

(Ord. No. 76, § 9.04, 3-13-1984; Ord. No. 117, § 1(9.04(31)), 4-4-1989; Ord. No. 159, §§ 17, 18, 6-9-1992; Ord. No. 227, § 2(9.04(33)), 4-8-1997; Ord. No. 269, § 21(9.04(25)), 3-9-1999; Ord. No. 289, § 1(9.04), 5-9-2000; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 541, 3-20-2012; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 591, 3-15-2016; Ord. No. 624, 3-20-2018; Ord. No. 635, 3-19-2019; Ord. No. 651, 4-21-2020)

Secs. 58-455—58-480. - Reserved.

DIVISION 8. - A-R AGRICULTURAL RESIDENTIAL ZONE

Sec. 58-481. - Purpose.

This A-R agricultural residential zone is intended to provide a semirural type of environment, allowing for general agricultural use.

(Ord. No. 76, § 10.01, 3-13-1984)

Sec. 58-482. - Lot size, height yard and setback regulations.

(a) *Residential lot size.* Residential lot sizes in the A-R zone are as follows:

- (1) Minimum area: one acre.
- (2) Minimum width: 100 feet.

(b) *Height.* The height limit in the A-R zone is 35 feet.

(c) *Yard and setback.* Yard and setback regulations in the A-R zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 20 feet.
- (3) Minimum rear yard: 20 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 10.02, 3-13-1984)

Sec. 58-483. - Permitted uses.

Permitted uses in the A-R zone are as follows:

- (1) General farming (same as subsection 58-453(2)).
- (2) New dwelling, single-family.
- (3) Home occupation.
- (4)

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

(Ord. No. 76, § 10.03, 3-13-1984; Ord. No. 194, § 7, 4-11-1995; Ord. No. 320, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 635, 3-19-2019)

Sec. 58-484. - Conditional uses.

Conditional uses in the A-R zone are as follows:

- (1) Bed and breakfast establishments.
- (2) Church or other place of worship.
- (3) Club or lodge.
- (4) Day nursery/kindergarten.
- (5) Dog kennel, when located not less than 300 feet from any residential building other than that of the owner, his agent or employees.
- (6) Dwelling, two-family.
- (7) Public or semi-public building.
- (8) Raising or keeping ten or more animal units on less than five acres.
- (9) Recreation area.
- (10) Roadside stand.
- (11) Cemeteries.
- (12) Used dwelling, single-family.

(Ord. No. 76, § 10.04, 3-13-1984; Ord. No. 159, § 18, 6-9-1992; Ord. No. 269, § 22(10.04(10)), 3-9-1999; Ord. No. 343, 3-12-2002; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 576, 3-18-2014; Ord. No. 583, 3-17-2015; Ord. No. 635, 3-19-2019)

Secs. 58-485—58-510. - Reserved.

DIVISION 9. - RS-10 RESIDENTIAL SINGLE-FAMILY ZONE

Sec. 58-511. - Purpose.

This RS-10 residential single-family zone is intended to provide a suitable environment for single-family residential development on moderate size lots in areas with public sewer systems.

(Ord. No. 76, § 11.01, 3-13-1984)

Sec. 58-512. - Lot size, height, yard and setback regulations.

(a) *Residential lot size.* Residential lot sizes in the RS-10 zone are as follows:

- (1) Minimum area: 10,000 square feet.
- (2) Minimum width: 75 feet.

(b) *Height.* The height limit in the RS-10 zone is 35 feet. For height limits on accessory buildings, see section 58-232.

(c) *Yard and setback.* Yard and setback regulations in the RS-10 zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 15 feet.
- (3) Minimum rear yard: 20 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 11.02, 3-13-1984; Ord. No. 490, 2-12-2008)

Sec. 58-513. - Permitted uses.

Permitted uses in the RS-10 zone are as follows:

- (1) Agricultural uses including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture.
- (2) New dwelling, single-family.
- (3) Unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle is permitted as an accessory use to single-family and two-family dwellings, provided that such storage is within 300 feet of such dwelling. Such unoccupied storage of a single camping trailer, mobile camper, houseboat or other recreational vehicle shall conform to all required setbacks.

(Ord. No. 76, § 11.03, 3-13-1984; Ord. No. 194, § 7, 4-11-1995; Ord. No. 320, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 635, 3-19-2019)

Sec. 58-514. - Conditional uses.

Conditional uses in the RS-10 zone are as follows:

- (1) Bed and breakfast establishment.
- (2) Club or lodge.
- (3) Day nursery/kindergarten.

- (4) Dwelling, two-family.
- (5) Golf course.
- (6) Home occupation.
- (7) Public or semi-public buildings.
- (8) Recreation areas.
- (9) Roominghouse or boardinghouse.
- (10) Cemeteries.
- (11) Churches.
- (12) Used dwelling, single-family.

(Ord. No. 76, § 11.04, 3-13-1984; Ord. No. 159, § 18, 6-9-1992; Ord. No. 343, 3-12-2002; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 583, 3-17-2015; Ord. No. 635, 3-19-2019)

Secs. 58-515—58-540. - Reserved.

DIVISION 10. - RS-20 RESIDENTIAL SINGLE-FAMILY ZONE

Sec. 58-541. - Purpose.

This RS-20 residential single-family zone is intended to provide a suitable environment for single-family residential development on large lots in areas without public sewer systems.

(Ord. No. 76, § 12.01, 3-13-1984)

Sec. 58-542. - Lot size, height, yard and setback regulations.

(a) *Residential lot size.* Residential lot sizes in the RS-20 zone are as follows:

- (1) Minimum area: 20,000 square feet.
- (2) Minimum width: 100 feet.

(b) *Height.* The height limit in the RS-20 zone is 35 feet. For height limits on accessory buildings, see section 58-232.

(c) *Yard and setback.* Yard and setback requirements in the RS-20 zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 15 feet.
- (3) Minimum rear yard: 20 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 12.02, 3-13-1984; Ord. No. 490, 2-12-2008)

Sec. 58-543. - Permitted uses.

Permitted uses in the RS-20 zone are as follows:

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

(Ord. No. 76, § 12.03, 3-13-1984; Ord. No. 194, § 7, 4-11-1995; Ord. No. 320, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 512, 3-10-2009; Ord. No. 624, 3-20-2018; Ord. No. 635, 3-19-2019)

Sec. 58-544. - Conditional uses.

Conditional uses in the RS-20 zone are as follows:

- (1) Bed and breakfast establishments.
- (2) Club or lodge.
- (3) Day nursery/kindergarten.
- (4) Dwelling, two-family.
- (5) Golf course.
- (6) Home occupation.
- (7) Public or semi-public buildings.
- (8) Recreation area.
- (9) Roominghouse or boardinghouse.
- (10) Cemeteries.
- (11) Churches.

(12) Used dwelling, single-family.

(Ord. No. 76, § 12.04, 3-13-1984; Ord. No. 159, § 18, 6-9-1992; Ord. No. 343, 3-12-2002; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 583, 3-17-2015; Ord. No. 635, 3-19-2019)

Secs. 58-545—58-570. - Reserved.

DIVISION 11. - R-M RESIDENTIAL MULTIPLE-FAMILY ZONE

Sec. 58-571. - Purpose.

This R-M residential multiple-family zone provides for multiple-family dwellings in a residential environment.

(Ord. No. 76, § 13.01, 3-13-1984)

Sec. 58-572. - Lot size, height, yard and setback regulations.

- (a) *Generally.* The regulations for this R-M zone apply to multiple-family dwellings served by public sewage systems. Multifamily dwellings not served by public sewage systems shall meet the requirements of this section and have an approved private sewage system pursuant to Wis. Admin. Code chs. SPS 382 and 383, and any subsequent amendments thereto. For the purpose of providing safe and adequate access for emergency purposes, any new development in the R-M zone involving more than two dwelling units shall be served by an access road that, at the minimum, meets the design standards identified in section 42-81 of this Code.
- (b) *Lot size regulations.* Lot size regulations in the R-M zone are as follows:
 - (1) Minimum area: 12,000 square feet.
 - (2) Minimum width: 75 feet.
 - (3) Minimum lot area per dwelling unit: 4,000 square feet.
- (c) *Height.* The height limit in the R-M zone is 35 feet. One additional foot of height up to a maximum of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. For height limits on accessory buildings, see section 58-232.
- (d) *Yard and setback.* Yard and setback regulations in the R-M zone are as follows:
 - (1) Minimum front yard: See section 58-826 (highway setback).
 - (2) Minimum side yard: ten feet.
 - (3) Minimum rear yard: 20 feet.
 - (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 13.02, 3-13-1984; Ord. No. 490, 2-12-2008; Ord. No. 541, 3-20-2012)

Sec. 58-573. - Permitted uses.

Permitted uses in the R-M zone are as follows:

- (1) Agricultural uses including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture.
- (2) Dwelling, multiple-family and duplex.
- (3) Dwelling, single-family.

(Ord. No. 289, § 1(13.03), 5-9-2000; Ord. No. 320, 5-8-2001; Ord. No. 512, 3-10-2009; Ord. No. 635, 3-19-2019)

Sec. 58-574. - Conditional uses.

Conditional uses in the R-M zone are as follows:

- (1) Bed and breakfast establishments.
- (2) Day nursery/kindergarten.
- (3) Golf course.
- (4) Home occupation.
- (5) Mobile home park.
- (6) Public and semi-public buildings.
- (7) Retail consumer goods, sales and service conducted solely for the convenience of the resident of a multifamily dwelling.
- (8) Roominghouses or boardinghouses.
- (9) Cemeteries.
- (10) Churches.
- (11) Used dwelling, single-family, multiple-family and duplex.

(Ord. No. 76, § 13.04, 3-13-1984; Ord. No. 159, § 18, 6-9-1992; Ord. No. 343, 3-12-2002; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 635, 3-19-2019)

Secs. 58-575—58-600. - Reserved.

DIVISION 12. - RS-P RESIDENTIAL SINGLE-FAMILY PLANNED DEVELOPMENT ZONE

Sec. 58-601. - Purpose.

The purpose of the RS-P single-family planned development zone is to provide the means whereby land may be planned and developed as a unit for residential uses under standards and conditions which encourage good design and promote a stable living environment. The RS-P zone is intended to permit flexibility and variety in development, to encourage the preservation of natural features and open space, and to minimize present and future burdens on the community as a whole which result from poor planning. Such developments shall be site designed as a complete unit, but may be actually developed by subunit in accordance with the overall site plan. The RS-P zone is intended to permit moderate density single-family development in attached or detached dwelling units.

(Ord. No. 76, § 14.01, 3-13-1984)

Sec. 58-602. - Basic development standards.

- (a) *Generally.* The requirements established for this RS-P zone apply to planned residential developments served by public sewer systems. Developments not served by public sewer systems shall meet the requirements of this section and Wis. Admin. Code chs. SPS 382 and 383, and any subsequent amendments thereto, whichever is more restrictive.
- (b) *Minimum area.* The minimum area to be designated as an RS-P planned residential development shall be five acres.
- (c) *Minimum width.* There is no minimum width, except that all RS-P planned residential developments shall abut on a public street.
- (d) *Maximum height.* The maximum height in the RS-P zone is 35 feet.
- (e) *Density.* Density in the RS-P zone shall not exceed six dwelling units per acre of net buildable area. The net buildable area shall be determined by subtracting the area occupied by streets, driveways, parking areas, navigable streams, wetlands, and the applicable front, side and rear yard and water setbacks from the gross acreage of the land parcel designated as a planned residential development.
- (f) *Lot requirements.* Each dwelling unit in the RS-P zone shall be located on a lot of record in a recorded subdivision plat. Lot areas for attached dwelling units shall be designated by broken lines on the plot plan. The minimum lot width shall be 20 feet.
- (g) *Yard and setback requirements.* Yard and setback requirements in the RS-P zone are as follows:
 - (1) Minimum front yard: All structures abutting a through street shall meet the setback requirements of section 58-826. All structures abutting on a private street or a street terminating in a cul-de-sac shall have a minimum setback of 15 feet.
 - (2) Minimum side and rear yard: Structures shall be set back a minimum of 25 feet from the external lot lines of the planned residential zone. There are no yard requirements for interior lots, except that no portion of any structure containing a cluster or grouping of single-family

attached dwelling units, or accessory structures thereto may be located within 25 feet of any other such structure, and no single-family detached dwelling unit or accessory structure thereto shall be located within 25 feet of any other such structure.

- (3) Minimum water setback: 75 feet.
 - (4) Minimum yard area: Each dwelling unit shall have one yard not less than 1,000 square feet in area that is reasonably secluded from the street and neighboring units and not used for any accessory building or parking.
- (h) *Design criteria.* A site plan containing the information listed in section 58-164 is required for the RS-P zone. Not more than eight dwelling units shall be contiguous or in one series or group. Attached dwelling units shall be designed to provide variety of front lines, rooflines, and architectural treatment to minimize the monotonous or lined-up appearance of such structures.
- (i) *Unified control.* All land included for an RS-P planned residential development shall be under the legal control of the applicant, whether that applicant be an individual, partnership, corporation or group of individuals, partnerships or corporations. The applicant shall state agreement to:
- (1) The provisions of this chapter and any conditions which may be attached to the site plan;
 - (2) Provide agreements, contracts, deed restrictions, and sureties acceptable to the county for completion of the development according to the approved plans, and maintenance of such areas, functions and facilities as area not to be provided, operated and maintained at public expense; and
 - (3) Bind their successors in title to any commitments made under this chapter.

All such agreements and evidence of unified control shall be examined by the corporation counsel, and no planned residential area shall be approved without certification by the corporation counsel that such agreements and evidence of unified control meet the requirements of this chapter.

- (j) *Open space.* A minimum of 20 percent of the developable area in the RS-P zone shall be dedicated as common open space. The developable area shall be determined by subtracting the area occupied by streets, driveways, parking areas, navigable streams and wetlands from the gross acreage of the land parcel designated as a planned residential development. Dedication of open space may be accomplished by conveyance in common to each of the owners of lots in the development, or to a corporation formed by them, or by dedication to and acceptance by the county, town or municipality. If the land is to be conveyed to the owners of lots in the development, a homeowners association or similar legally created body shall be created to maintain the open space land. Any restrictions places on platted land by covenant, grant of easement or any other manner which was required by a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

- (k) *Access road.* For purposes of providing safe and adequate access for emergency purposes, any new development in the RS-P zone involving more than two dwelling units shall be served by an access road that, at the minimum, meets the design standards identified in section 42-81 of this Code.

(Ord. No. 76, § 14.02, 3-13-1984; Ord. No. 269, § 19, 3-9-1999; Ord. No. 300, § 14.02(4), (9), 9-12-2000; Ord. No. 541, 3-20-2012)

Sec. 58-603. - Permitted uses.

Permitted uses in the RS-P zone are all those uses permitted in the RS-10 zone.

(Ord. No. 76, § 14.03, 3-13-1984)

Sec. 58-604. - Conditional uses.

Conditional uses in the RS-P zone are all those uses listed as conditional uses in the RS-10 zone.

(Ord. No. 76, § 14.04, 3-13-1984)

Secs. 58-605—58-630. - Reserved.

DIVISION 13. - RM-P RESIDENTIAL MULTIFAMILY PLANNED DEVELOPMENT ZONE

Sec. 58-631. - Purpose.

The purpose of the RM-P residential multifamily planned development zone is to provide the means whereby land may be planned and developed as a unit for residential uses under standards and conditions which promote a stable living environment. The RM-P zone is intended to permit flexibility and variety in development at increased densities, to encourage the preservation of natural features and open space, and to minimize present and future burdens on the community as a whole which result from poor planning.

(Ord. No. 76, § 15.01, 3-13-1984)

Sec. 58-632. - Basic development standards.

- (a) *Generally.* The requirements established for this RM-P zone apply to developments served by public sewer systems. Developments not served by public sewer systems shall meet the requirements of this section and have an approved private sewage system pursuant to Wis. Admin. Code chs. SPS 382 and 383, and subsequent amendments thereto.

- (b) *Minimum area.* The minimum area to be designated as an RM-P planned residential development shall be five acres.

- (c) *Minimum width.* There is no minimum width, except that all RM-P planned residential developments shall abut on a public street.
- (d) *Maximum height.* The maximum height in the RM-P zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. At no time shall the building height exceed 35 feet within the required shoreland setback.
- (e) *Density.* Density in the RM-P zone shall not exceed 20 dwelling units per acre of net buildable area. The net buildable area shall be determined by subtracting the area occupied by streets, driveways, parking areas, navigable streams, wetlands, and the applicable front, side and rear yard and water setbacks from the gross acreage of the land parcel designated as a planned residential development.
- (f) *Lot requirements.* There are no lot requirements in the RM-P zone.
- (g) *Yard and setback requirements.* Yard and setback requirements in the RM-P zone are as follows:
 - (1) Minimum front yard: All structures abutting a through street shall meet the setback requirements of section 58-826. All structures abutting a private street or a street terminating in a cul-de-sac shall have a minimum setback of 15 feet.
 - (2) Minimum side and rear yard: Structures shall be set back a minimum of two times the height of such structure from the external lot lines of the planned residential zone.
 - (3) Minimum water setback: 75 feet.
- (h) *Design criteria.* A site plan containing the information listed in section 58-164 is required in the RM-P zone.
- (i) *Unified control.* RM-P residential multifamily planned developments shall meet the requirements for unified control established under subsection 58-602(i).
- (j) *Open space.* RM-P residential multifamily planned developments shall meet the requirements for open space established under subsection 58-602(j).
- (k) *Access road.* For the purposes of providing safe and adequate access for emergency purposes, any new development in the RM-P zone involving more than two dwelling units shall be served by an access road that, at the minimum, meets the design standards identified in section 42-81 of this Code.

(Ord. No. 76, § 15.02, 3-13-1984; Ord. No. 269, § 20, 3-9-1999; Ord. No. 300, § 15.02(4), 9-12-2000; Ord. No. 541, 3-20-2012; Ord. No. 635, 3-19-2019)

Sec. 58-633. - Permitted uses.

Permitted uses in the RM-P zone are as follows:

- (1) Agricultural uses including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture.
- (2) New dwelling, multifamily.
- (3) New dwelling, single-family.
- (4) Park, playground or playfield.
- (5) Signs: Types 1, 3, 6.

(Ord. No. 76, § 15.03, 3-13-1984; Ord. No. 320, 5-8-2001; Ord. No. 512, 3-10-2009)

Sec. 58-634. - Conditional uses.

Conditional uses in the RM-P zone are all conditional uses listed in the R-M zone.

(Ord. No. 76, § 15.04, 3-13-1984)

Secs. 58-635—58-660. - Reserved.

DIVISION 14. - C-G GENERAL COMMERCIAL ZONE

Footnotes:

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Cross reference— *Businesses, ch. 10.*

Sec. 58-661. - Purpose.

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

(Ord. No. 76, § 16.01, 3-13-1984)

Sec. 58-662. - Lot size, height, yard and setback regulations.

(a) *Lot size.* Lot sizes in the C-G zone are as follows:

- (1) Minimum area: None.
- (2) Minimum width: 75 feet.

(b) *Maximum height.* Maximum height in the C-G zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75 percent of the height of the structure.

(c) *Yard and setback.* Yard and setback regulations in the C-G zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: None, except when adjoining O, R, A and M zones where the setback shall be according to the adjoining zone.
- (3) Minimum rear yard: None.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 16.02, 3-13-1984; Ord. No. 591, 3-15-2016; Ord. No. 651, 4-21-2020)

Sec. 58-663. - Permitted uses.

Permitted uses in the C-G zone are as follows:

- (1) Banks and similar services.
- (2) Bed and breakfast establishments.
- (3) Business and professional offices and studios.
- (4) Dental and medical clinics.
- (5) New dwelling, single-family, only as accessory to a principal use.
- (6) Funeral homes.
- (7) Garages for the storage of vehicles used in conjunction with a permitted use.
- (8) Laundromats.
- (9) Restaurant.
- (10) Retail stores and shops offering convenience goods and services, this includes gas stations and associated convenience stores provided no automotive repair or other similar services are provided.
- (11) Semi-public uses such as fire station, police station, administrative building or similar uses according to definition.
- (12) Warehouses.
- (13) Adult-oriented establishments, if established in accordance with the provisions contained in section 58-834 of this Code.

(Ord. No. 76, § 16.03, 3-13-1984; Ord. No. 159, § 19, 6-9-1992; Ord. No. 320, 5-8-2001; Ord. No. 343, 3-12-2002; Ord. No. 464, 11-14-2006; Ord. No. 512, 3-10-2009; Ord. No. 554, 3-19-2013; Ord. No. 635, 3-19-2019)

Sec. 58-664. - Conditional uses.

Conditional uses in the C-G zone are as follows:

- (1)

Amusement parks including baseball batting ranges, commercial skating rinks, go-cart tracks, golf driving ranges, miniature golf courses or similar establishments.

- (2) Auto, truck, and farm equipment service and repair operations.
- (3) Commercial entertainment facilities.
- (4) Commercial recycling operations.
- (5) Drive-in restaurant.
- (6) Farm equipment sales and service.
- (7) Hotels and motels.
- (8) New and used car sales.
- (9) Outdoor theaters.
- (10) Roominghouse or boardinghouse.
- (11) Taverns.
- (12) Transportation terminals.
- (13) Wholesaling establishments.

(Ord. No. 76, § 16.04, 3-13-1984; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 554, 3-19-2013; Ord. No. 576, 3-18-2014; Ord. No. 635, 3-19-2019)

Secs. 58-665—58-690. - Reserved.

DIVISION 15. - C-C COMMUNITY COMMERCIAL ZONE

Footnotes:

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Cross reference— *Businesses, ch. 10.*

Sec. 58-691. - Purpose.

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

(Ord. No. 76, § 17.01, 3-13-1984)

Sec. 58-692. - Lot size, height, yard and setback regulations.

- (a) *Lot size.* Lot size regulations in the C-C zone are as follows:
 - (1) Minimum area: none.
 - (2) Minimum width: 75 feet.

(b) *Maximum height.* The maximum height in the C-C zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75 percent of the height of the structure.

(c) *Yard and setback.* Yard and setback regulations in the C-C zone are as follows:

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

(Ord. No. 76, § 17.02, 3-13-1984; Ord. No. 591, 3-15-2016; Ord. No. 651, 4-21-2020)

Sec. 58-693. - Permitted uses.

Permitted uses in the C-C zone are as follows:

- (1) Banks and similar services.
- (2) Bed and breakfast establishments.
- (3) Business and professional offices and studios.
- (4) Dental and medical clinics.
- (5) Funeral homes.
- (6) Laundromats.
- (7) Semi-public uses such as fire station, police station, administrative building or similar uses according to definition.
- (8) Dwelling, single-family only as accessory to a principal use.
- (9) Retail stores and shops offering convenience goods and services.
- (10) Adult-oriented establishments, if established in accordance with the provisions contained in section 58-834 of this Code.

(Ord. No. 76, § 17.03, 3-13-1984; Ord. No. 159, § 19, 6-9-1992; Ord. No. 320, 5-8-2001; Ord. No. 343, 3-12-2002; Ord. No. 464, 11-14-2006; Ord. No. 512, 3-10-2009; Ord. No. 635, 3-19-2019)

Sec. 58-694. - Conditional uses.

Conditional uses in the C-C zone are as follows:

- (1) Auto service stations.
- (2)

Commercial entertainment facilities.

- (3) Hotels.
- (4) New and used car sales.
- (5) Roominghouse or boardinghouse.
- (6) Taverns.
- (7) Transportation terminals.
- (8) Warehouses.
- (9) Wholesaling establishments.

(Ord. No. 76, § 17.04, 3-13-1984; Ord. No. 343, 3-12-2002; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 576, 3-18-2014; Ord. No. 635, 3-19-2019)

Secs. 58-695—58-720. - Reserved.

DIVISION 16. - C-S SERVICE COMMERCIAL ZONE

Footnotes:

--- (10) ---

Cross reference— *Businesses, ch. 10.*

Sec. 58-721. - Purpose.

This C-S service commercial zone provides for commercial service type uses, uses specifically oriented towards the traveler, tourist or vacationer.

(Ord. No. 76, § 18.01, 3-13-1984)

Sec. 58-722. - Lot size, height, yard and setback regulations.

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

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

(Ord. No. 76, § 18.02, 3-13-1984; Ord. No. 591, 3-15-2016)

Sec. 58-723. - Permitted uses.

Permitted uses in the C-S zone are as follows:

- (1) Bed and breakfast establishments.
- (2) Boat sales and service.
- (3) Business and professional offices and studios.
- (4) Club or lodge.
- (5) Retail stores and shops offering convenience goods and services.
- (6) Swimming pool, public.

(Ord. No. 76, § 18.03, 3-13-1984; Ord. No. 159, § 19, 6-9-1992; Ord. No. 320, 5-8-2001; Ord. No. 635, 3-19-2019)

Sec. 58-724. - Conditional uses.

Conditional uses in the C-S zone are as follows:

- (1) Amusement parks including baseball batting ranges, commercial skating rink, go-cart track, golf driving range, golf pitch-and-putt course and similar establishments.
- (2) Auto, truck and farm equipment service and repair operations.
- (3) Boat liveries.
- (4) Commercial entertainment facilities.
- (5) Commercial recycling operation.
- (6) Hotels and motels.
- (7) Marinas.
- (8) Semi-public and public uses such as fire station, police station, administrative building or similar uses according to definition.
- (9) Taverns.
- (10) Dwelling, single-family, only as an accessory to a principal use.
- (11) Warehouses.

(Ord. No. 76, § 18.04, 3-13-1984; Ord. No. 343, 3-12-2002; Ord. No. 396, 3-9-2004; Ord. No. 512, 3-10-2009; Ord. No. 576, 3-18-2014; Ord. No. 635, 3-19-2019)

Secs. 58-725—58-750. - Reserved.

DIVISION 17. - M-G GENERAL MANUFACTURING ZONE

Footnotes:

--- (11) ---

Cross reference— *Businesses, ch. 10.*

Sec. 58-751. - Purpose.

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

(Ord. No. 76, § 19.01, 3-13-1984)

Sec. 58-752. - Lot size, height, yard and setback regulations.

(a) *Lot size.* Lot sizes in the M-G zone are as follows:

- (1) Minimum area: 20,000 square feet.
- (2) Minimum width: 150 feet.

(b) *Maximum height.* The maximum height in the M-G zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75 percent of the height of the structure.

(c) *Yard and setback.* Yard and setback requirements in the M-G zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 20 feet.
- (3) Minimum rear yard: 20 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 19.02, 3-13-1984; Ord. No. 591, 3-15-2016)

Sec. 58-753. - Permitted uses.

Permitted uses in the M-G zone are as follows:

- (1) Automotive heavy repair and upholstery.
- (2) Cleaning, pressing and dyeing establishments.
- (3) Commercial bakeries.
- (4) Commercial greenhouses.
- (5) Commercial recycling operations.
- (6) Distributors.
- (7) Farm machinery sales and/or service.
- (8) Food locker plants.
- (9) Laboratories.
- (10) Machine shops.
- (11) Manufacture and bottling of nonalcoholic beverages.
- (12) Manufacture, fabrication, processing, packaging and packing of:
 - a. Confections.
 - b. Cosmetics.
 - c. Electrical appliances.
 - d. Electronic devices.
 - e. Food, except cabbage, fish and fish products, meat and meat products.
 - f. Pea vining.
 - g. Jewelry.
 - h. Instruments.
 - i. Pharmaceuticals.
 - j. Tobacco.
 - k. Toiletries.
- (13) Manufacture, fabrication, packing, packaging, and assembly of products from:
 - a. Furs.
 - b. Glass.
 - c. Leather.
 - d. Metals.
 - e. Paper.
 - f. Plaster.
 - g. Plastics.

h. Textiles.

i. Tobacco.

j. Wood.

(14) Printing or publishing.

(15) Storage and sale of machinery and equipment.

(16) Trade and contractors' offices.

(17) Warehousing and wholesaling.

(18) Office, storage, power supply and other such uses normally incidental to the principal use.

(Ord. No. 76, § 19.03, 3-13-1984; Ord. No. 320, 5-8-2001; Ord. No. 635, 3-19-2019)

Sec. 58-754. - Conditional uses.

Conditional uses in the M-G zone are as follows:

(1) Airport.

(2) Animal hospitals.

(3) Commercial service facilities such as restaurants and fueling stations if oriented toward servicing the surrounding industrial uses.

(4) Incinerator, public.

(5) Public and semi-public buildings.

(6) Solid and hazardous waste disposal, processing, storage and transfer facilities.

(Ord. No. 76, § 19.04, 3-13-1984; Ord. No. 396, 3-9-2004; Ord. No. 635, 3-19-2019)

Secs. 58-755—58-780. - Reserved.

DIVISION 18. - M-I INTENSIVE MANUFACTURING ZONE

Footnotes:

--- (12) ---

Cross reference— *Businesses, ch. 10.*

Sec. 58-781. - Purpose.

This M-I intensive manufacturing zone is intended to provide for uses which by their nature can exhibit characteristics harmful, noxious, or detrimental to surrounding uses.

(Ord. No. 76, § 20.01, 3-13-1984)

Sec. 58-782. - Lot size, height, yard and setback regulations.

(a) *Lot size.* Lot size regulations in the M-I zone are as follows:

- (1) Minimum area: 20,000 square feet.
- (2) Minimum width: 150 feet.

(b) *Maximum height.* The maximum height in the M-I zone is 35 feet. One additional foot of height up to a maximum height of 60 feet may be permitted, provided that one additional foot of side or rear yard is added for each additional foot of height. Greater heights may be approved by the zoning committee. For permitted structures greater than 60 feet in height, the setback for side yard, rear yard, and roadway shall be 75 percent of the height of the structure.

(c) *Yard and setback.* Yard and setback regulations in the M-I zone are as follows:

- (1) Minimum front yard: See section 58-826 (highway setback).
- (2) Minimum side yard: 20 feet.
- (3) Minimum rear yard: 20 feet.
- (4) Minimum water setback: 75 feet.

(Ord. No. 76, § 20.02, 3-13-1984; Ord. No. 591, 3-15-2016)

Sec. 58-783. - Permitted uses.

Permitted uses in the M-I zone are as follows:

- (1) All those uses permitted in the M-G general manufacturing zone.
- (2) Freight yards and depots.
- (3) Breweries.
- (4) Inside storage.

(Ord. No. 76, § 20.03, 3-13-1984; Ord. No. 320, 5-8-2001; Ord. No. 635, 3-19-2019)

Sec. 58-784. - Conditional uses.

Conditional uses in the M-I zone are as follows:

- (1) The manufacturing and processing of:
 - Abrasives
 - Acetylene
 - Acid
 - Alkalies

Ammonia

Asbestos

Asphalt

Batteries

Bedding

Bleach

Bone

Cabbage

Candles

Carpeting

Celluloid

Cement

Cereals

Charcoal

Chemicals

Chlorine

Coal

Coffee

Coke

Cordage

Creosote

Dextrine

Disinfectant

Dye

Excelsior

Felt

Fish

Fuel

Furs

Gelatin

Glucose

Gypsum

Hair products

Ice

Ink

Lampblack

Lime

Lime products

Linoleum

Matches

Meat

Oil cloth

Paint

Paper

Peas

Perfume

Pesticides

Pickle

Plaster of Paris

Plastics

Poison

Polish

Potash

Pulp

Pyroxylin

Radium

Rope

Rubber

Sausage

Shoddy

Shoe and lampblackening

Size

Starch

Stove polish

Textiles

Varnish

(2) The manufacturing, processing and storage of:

Building materials

Dry ice

Explosives

Fat

Fertilizer

Flammables

Gasoline

Glue

Grains

Grease

Lard

Plastics

Radioactive materials

Shellac

Solid and hazardous waste disposal and transfer facilities

Soap

Turpentine

Vinegar

Yeast

- (3) Animal reduction
- (4) Bag cleaning
- (5) Bleacheries
- (6) Bone distillation
- (7) Canneries
- (8) Coal storage yards
- (9) Cold storage warehouses
- (10) Electric and steam generating plants
- (11) Electroplating
- (12) Enameling
- (13) Forges
- (14) Foundries
- (15) Incinerators
- (16) Lacquering
- (17) Lithographing
- (18) Manufacturing and bottling of alcoholic beverages
- (19) Oil storage depot
- (20) Refineries

- (21) Road test facilities
- (22) Salvage yards
- (23) Sanitary landfills
- (24) Sawmills
- (25) Slaughterhouses
- (26) Smelting
- (27) Stockyards
- (28) Textiles
- (29) Tanneries
- (30) Mining of metallic materials

(Ord. No. 76, § 20.04, 3-13-1984; Ord. No. 396, 3-9-2004; Ord. No. 554, 3-19-2013; Ord. No. 635, 3-19-2019)

Secs. 58-785—58-820. - Reserved.

ARTICLE V. - SUPPLEMENTAL REGULATIONS

DIVISION 1. - GENERALLY

Sec. 58-821. - Site restrictions.

- (a) No land shall be used or structure erected which requires a land use permit under this chapter where the land is held unsuitable for such use or structure by the zoning administrator by reason of flooding, concentrated runoff, fire hazard, inadequate drainage, adverse soil conditions or rock formations, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of the county. The zoning administrator, in applying the provisions of this section, shall, in writing, state the particular facts upon which he bases his conclusion that the land is not suitable.
- (b) The applicant, if he desires, may present evidence to the board of adjustment contesting such declared unsuitability pursuant to section 58-106.
- (c) Conservation practices such as, but not limited to, diversion terraces, sod waterways or subsurface drainage, shall be installed where required by the zoning administrator or zoning committee to prevent surface water runoff from construction sites, buildings, parking lots or other impervious surfaces from causing accelerated erosion or polluting navigable waters.
- (d)

All lots shall abut on a public street, and each lot shall have the minimum frontage established in section 42-86, except in the RS-P and the RM-P zones where the requirements established for those zones shall apply. All lots shall also have a minimum width at the street yard setback as prescribed for the particular zone in which the lot is located.

(e) Petroleum contaminated soil shall be restricted as follows:

- (1) No person shall deposit on lands located in the county soil which was removed from property located outside of the county which is contaminated by petroleum products. This restriction does not apply to landfills properly licensed for the disposal or remediation of petroleum contaminated soils.
- (2) Any person violating this subsection (e) shall immediately cease and remove any soil placed in violation of this subsection (e). Further, any person violating this subsection (e) shall be subject to the provisions of sections 58-41 and 58-42.
- (3) The zoning administrator shall enforce this subsection (e) and is authorized to pursue violations of this subsection (e). Any court enforcement is to be handled by the corporation counsel.
- (4) Any deposition of soils contaminated by petroleum products from sites within the county shall comply with all the applicable provisions of this subsection (e) and any other applicable regulations, including the state department of natural resources.

(Ord. No. 76, § 2.07, 3-13-1984; Ord. No. 227, § 1, 4-8-1997)

Sec. 58-822. - Fire prevention standards.

Any person constructing any cabin, home or other building within the unincorporated areas of the county shall comply with the following:

- (1) Driveways shall be cleared to a width of at least 18 feet with no tree branches or brush extending into the driveway to a height of 15 feet. For the purposes of this chapter, a driveway shall be considered any traveled way used to provide vehicular access from the property line to the premises.
- (2) Roads dedicated to public travel shall meet town road standards and the street standards established in section 42-81.
- (3) All electric power lines are to be buried within all newly developed subdivisions in unincorporated county.
- (4) Foundations and porches shall be enclosed in a manner which prevents accumulations of leaves or other combustible material.
- (5) Town or county fire numbers shall be placed on all lots within 12 months of the issuance of a building permit for a structure on such lot.

(Ord. No. 76, § 2.08, 3-13-1984; Ord. No. 421, 4-12-2005)

Sec. 58-823. - Area regulations.

- (a) *Lot reductions.* After adoption of the ordinance from which this section is derived, no lot area shall be so reduced that the dimensional and yard requirements required by this chapter cannot be met.
- (b) *Lot divisions.* No improved lot shall hereafter be divided into two or more lots after the adoption of the ordinance from which this section is derived, and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform with all applicable regulations of the zone in which the property is located.
- (c) *Substandard lots.*
 - (1) Substandard lots served by a public sanitary sewer. A substandard lot served by a public sanitary sewer may be used as a building site for a single-family dwelling upon issuance of a land use permit if it meets all of the following requirements:
 - a. Such use is permitted in the zone.
 - b. The lot was on record in the county register of deeds office prior to the effective date of the ordinance from which this section is derived.
 - c. The lot was never developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - d. All the dimensional requirements of this chapter (including side yard, water, and highway setback requirements) are complied when establishing a permitted use and associated structures.
 - (2) Substandard lots not served by public sanitary sewer. A substandard lot not served by a public sanitary sewer may be used as a building site upon issuance of a land use permit if it meets all of the requirements of subsections (c)(1)a—d of this section, and has room for a POWTS that is sized to serve the proposed use and associated structures.
 - (3) If a substandard lot is sold and the proposed use and associated structures cannot be located on the lot to meet the requirements of this and other county codes, the landowner has the right to apply for a variance to those requirements. However, the hardship presented may be considered a self created hardship, and the variance is not guaranteed approval.
 - (4) Planned unit developments. Planned unit developments shall conform to the zoning requirements of the respective RM, RS-P, or RM-P districts in which they lie, and the requirements of chapter 42, Subdivisions of the Waushara County Code.

(Ord. No. 76, § 2.11, 3-13-1984; Ord. No. 532, 3-8-2011; Ord. No. 535, § 1, 10-18-2011; Ord. No. 544, § 1, 4-17-2012; Ord. No. 554, 3-19-2013; Ord. No. 624, 3-20-2018)

Sec. 58-824. - Yard and open space regulations.

- (a) All yards and other open spaces allocated to a building (or group of buildings comprising one principal use) shall be located on the same lot as such building. The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot requirements for any other building.
- (b) Except as otherwise provided in this chapter, any side yard or rear yard abutting a zone boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths of such yards in the two districts which abut the zone boundary line.
- (c) The following shall not be considered to be obstructions when located in the required yards specified, subject to the requirements of section 58-231:
 - (1) *In any yards.* Marquees and awnings adjoining the principal building and overhanging roof eaves that do not exceed 24 inches from the exterior of the structure, chimneys, ornamental light standards, flagpoles, arbors, trellises, trees, shrubs, coin-operated telephones, satellite antenna dishes that are six feet or less in diameter, stairs no more than five feet in width, walkways and sidewalks no more than five feet in width, landings of 40 square feet or less (and less than five feet in width) when necessary for safety purposes, piers, wharves, bridges, retaining walls, permitted signs, open accessory off-street parking areas and open space uses customarily accessory to the principal use, and outdoor fuel-dispensing equipment.
 - (2) *Fences.* Fences are permitted on the property lines in all districts, but shall not be closer than two feet to any public right-of-way. In residential districts, fences shall not exceed a height of six feet. Security fences are permitted in all districts, except residential districts, but shall not exceed ten feet in height and shall be of an open type similar but not limited to woven wire or wrought iron fencing. In all districts within the visual clearance triangle, the provisions of subsections 58-826(e) or 58-827(d) shall prevail. Landowners are responsible for complying with any other applicable regulations including, but not limited to, Wis. Stats. chs. 90 and 844.

(Ord. No. 76, § 2.12, 3-13-1984; Ord. No. 159, § 6, 6-9-1992; Ord. No. 289, § 1(2.12), 5-9-2000; Ord. No. 438, 3-14-2006; Ord. No. 532, 3-8-2011; Ord. No. 591, 3-15-2016; Ord. No. 661, 4-20-2021)

Sec. 58-825. - Height regulations and exceptions.

- (a) Heights of the following structures may exceed ordinance limits for the zone in which it is to be located: Cooling towers, stacks, lookout towers, silos, windmills, wind turbines, water towers, spires, radio, telephone, and television aerials, masts, antenna and mechanical appurtenances

and barns and other buildings designed for the storage of agricultural products, but in no case shall exceed a height of 500 feet above ground level.

- (b) Adjacent to airports, the maximum height of objects shall be determined in accordance with subsection 58-236(b).
- (c) Churches, schools, hospitals, sanitariums and other public and quasipublic buildings may be erected to a greater height not exceeding 60 feet, provided that the front, side and rear yards required in the district in which the building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the zone in which such building is to be located.
- (d) Heights of any structures or buildings within the required water setbacks shall conform to the provisions of subsection 58-903(t) of this Code.

(Ord. No. 76, § 2.13, 3-13-1984; Ord. No. 183, § 1(2.13), 3-8-1994; Ord. No. 421, 4-12-2005; Ord. No. 535, § 1, 10-18-2011; Ord. No. 544, § 1, 4-17-2012)

Sec. 58-826. - Setback.

- (a) *Generally.* Buildings shall be set back in accordance with the requirements of this section and shall meet the yard requirements of the respective zones.
- (b) *Highway setback.* All state and federal highways in the county are designated Class A highways. All county trunk highways not designated Class A are designated Class B. All other public roads in the county are designated Class C highways. Class A highway setback shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater. Class B highway setback shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way line, whichever is greater. Class C highway setback shall be 63 feet from the centerline of the highway or 30 feet from the right-of-way line, whichever is greater.
- (c) *Reduced building setback.* A setback less than that required by subsection (b) of this section may be permitted by the zoning administrator where there is at least one dwelling or an accessory building on either side of the applicant's lot, within 250 feet of the proposed site built to less than the required setback. The reduced setback afforded by a dwelling on either side of the applicant's lot may be applied to the construction of either a dwelling or an accessory building. In the case where there are accessory structures or only one dwelling on either side of the applicant's lot built to less than the required setback, the reduced setback that may be allowed shall only apply to a permitted accessory structure. In no case shall averaging allow a setback of less than 35 feet from the centerline of a county or town highway, nor less than 75 feet to the centerline of a state or federal (Class "A") highway. In all cases, the reduced setback for a dwelling shall take into account the footprint of the structure being proposed. When averaging is allowed, the zoning administrator may average portions of an existing dwelling that are not enclosed with either walls or roofs for similar proposed construction of portions of a dwelling that will not have walls or

roofs; conversely, the zoning administrator may allow averaging of portions of an existing dwelling that are enclosed with walls and roofs for proposed construction of a dwelling that will be similarly enclosed with walls and roofs.

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

(Ord. No. 76, § 2.14, 3-13-1984; Ord. No. 194, § 4, 4-11-1995; Ord. No. 289, § 1(2.14), 5-9-2000; Ord. No. 320, 5-8-2001; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 490, 2-12-2008; Ord. No. 532, 3-8-2011; Ord. No. 535, § 1, 10-18-2011; Ord. No. 541, 3-20-2012; Ord. No. 544, § 1, 4-17-2012; Ord. No. 554, 3-19-2013; Ord. No. 576, 3-18-2014; Ord. No. 591, 3-15-2016; Ord. No. 610, 4-18-2017)

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

- (a) Open fences are permitted within the required setbacks of subsections 58-826(b) and (d). For the purposes of enforcement, an open fence is considered as a fence that, from a perpendicular position, does not block more than one-third of the view.
- (b) Petroleum and gas transmission lines, telephone, telegraph and power transmission towers, poles and lines, water towers, pumping stations, well pump house covers, private on-site wastewater systems that comply with ch. SPS 383, and other utility structures that have no feasible alternative location outside of required setbacks, as long as those structures, employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.
- (c) Underground structures not capable of being used as foundations for future prohibited overground structures are permitted.
- (d) No trees or shrubbery shall be planted to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.
- (e) Access or frontage roads constructed by the public to plans approved by the county highway committee are permitted.
- (f) Permitted signs and signs placed by public authorities for the guidance or warning of traffic are permitted.

(Ord. No. 76, § 2.15, 3-13-1984; Ord. No. 535, § 1, 10-18-2011; Ord. No. 544, § 1, 4-17-2012; Ord. No. 610, 4-18-2017)

Sec. 58-828. - Access driveways.

- (a) *Access permits.* Permits are required for all new access points created after the effective date of the ordinance from which this section is derived.
 - (1) Permit applications for access to Class A highways shall be made with the state department of transportation, to Class B highways with the county highway department and to Class C highways with the county zoning office. No separate access permit is needed for Class C highways if a land use permit has been issued.
 - (2) The agency which issues the permit application shall conduct inspections of the point of access to determine compliance with the applicable provisions and shall maintain permanent records of data submitted, staff recommendations and permits issued.
 - (3) The authority to approve, conditionally approve or reject an application is delegated to the agency which issues the permit except if the proposed access does not conform to the access provisions of this chapter. Requests for nonconforming accesses shall be subject to review and approval by the board of adjustment prior to the issuing agency granting the permit.
 - (4) A copy of applications for conditional use permits, variance and zone changes related to access provisions shall be forwarded for review to the county highway department or the state department of transportation ten days prior to hearing on access to highways within their jurisdictions. Copies of decisions on these matters shall be submitted to these departments within ten days after they are granted or denied.
- (b) *Space standards.* Access driveways to highways from abutting properties shall comply with the following requirements:

Class of Highway	Minimum Distance of Highway Frontage Between Centerline of Access Driveways	Minimum Distance Access Driveways May Be Located to Centerline of an Intersecting Highway
<i>Class A Highways</i>		
Principal arterials	1,000 feet	1,000 feet
Minor arterials	500	500

Collectors	300	300
<i>All Class B Highways</i>	300	300
<i>Class C Highways</i>	75	150

* Class of highway is defined according to subsection 58-826(b) and further modified by the state department of transportation's highway factional classification system which is updated annually. A current map depicting highway classification shall be posted in the zoning office and highway department.

- (1) New access should comply as closely as possible to the spacing standards where strict application of these standards would deny access to lots in existence prior to the adoption of the ordinance from which this section is derived.
 - (2) Where the option exists:
 - a. A parcel shall be accessed from a private road rather than from a public highway.
 - b. Access shall be granted to a highway with a lower classification than one with a higher classification.
 - (3) Prior to the agency's approval of lots which are created by means of a land division, minor subdivision, or major subdivision and which have frontage on a public road which is less than two times the required driveway spacing, such lots shall be subject to additional assurances as deemed necessary by the agency that all proposed driveways will meet such required spacing. These assurances may include, but are not limited to, requiring permanent access restrictions be shown on the certified survey map or plat, or the actual installation of the driveways, prior to approval of such map or plat.
 - (4) Where the strict application of the minimum space standards in subsection (b) above would result in the proposed driveway being located in a hazardous or unsafe location, the permit issuing authority has the authority to allow the driveway closer than these minimum space distances if, in the permit issuing authority's opinion, it is in the best interest of public safety.
 - (5) The construction of new public roads shall conform to the minimum space standards in subsection (b) above and the construction standards of subsection (d) below.
- (c) *Number and width of driveways per land use.* The maximum number and width of access driveways per land use to highways and service roads shall be as follows:

Type of Access Driveway	Maximum Numbers of Access Driveways	Maximum/Minimum Width
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Commercial and industrial land uses	2	50/24 feet
Residential land uses	1	35/16 feet
Agricultural land uses on Class A and B highways	1 per parcel	50/24 feet
Agricultural land uses on Class C highways	No maximum number	50/24 feet

Conversion of an access point from one type of use to another shall be treated the same as opening a new access point and must meet the conditions of the regulations of this section.

- (d) *Design standards.* Driveways to state and federal highways must comply with subsections (b) and (c) above and the design provisions of the access permit issued by the state department of transportation. Driveways to all county and town highways must comply with subsections (b) and (c) above and the design provisions of the access permit issued by the county highway department or the township, provided that they meet the following minimum standards:
 - (1) Culverts, if needed, must be a minimum of 15 inches in diameter.
 - (2) Driveway height must not exceed the level of the outside edge of the road shoulder.
 - (3) End or retaining walls may be permitted on driveways, but only when they conform to the side slope requirements of subsection (d)(4) below.
 - (4) The side slopes of the driveway shall equal or be flatter than the side slope of the main highway, but should not be steeper than 2½ to one, unless otherwise designated on an individual basis.
 - (5) Concrete shall not be used for driveway surface material within the right-of-way of all state and county highways.
 - (6) The maximum grade within the right-of-way of any public road shall not exceed ten percent.
- (e) For the purpose of providing safe and adequate access for emergency purposes, any new access that will serve as a shared access for more than two parcels or dwellings, shall be served by an access road that meets the minimum standards as set forth in section 42-81 of the Waushara County Code.

(Ord. No. 76, § 2.16, 3-13-1984; Ord. No. 396, 3-9-2004; Ord. No. 470, 3-13-2007; Ord. No. 490, 2-12-2008; Ord. No. 532, 3-8-2011; Ord. No. 624, 3-20-2018)

Sec. 58-829. - Parking requirements.

- (a) *Generally.* Adequate parking facilities shall be provided for all uses which generate vehicular traffic.
- (b) *Access.* Adequate access to a public road or street shall be provided for all required parking spaces. Access driveways shall comply with section 58-828.
- (c) *Size.* All required parking spaces shall have a minimum area of 180 square feet and shall have a minimum width of ten feet and a minimum length of 18 feet.

(Ord. No. 76, § 22.03, 3-13-1984)

Sec. 58-830. - Number of parking spaces required.

The following table details various uses and the number of parking spaces each use requires:

	Uses	Number of Spaces Required
(1)	Dwellings/mobile homes:	2 for each dwelling unit
(2)	Hotels, motels, resorts:	1 for each guestroom or unit and one for every 3 employees
(3)	Hospitals, boardinghouses:	1 space for each 2 beds and 1 for each 3 employees
(4)	Sanitariums, nursing homes, rest homes:	1 space for each 5 beds and 1 for each 3 employees
(5)	Medical and dental offices:	6 spaces for each doctor
(6)	Churches, theaters, auditoriums, town halls, funeral parlors, community centers; vocational schools and other places of public assembly:	1 space for each 4 seats or 1 space for each 28 square feet of floor area if no permanent seats are provided
(7)	Elementary schools:	1 space for each 2 employees
(8)	High schools:	1 space for each 500 square feet of floor area

(9)	Restaurants, bars, places of entertainment, repair shops, retail and service stores:	1 space for each 150 square feet of floor area
(10)	Manufacturing and processing plants and warehouses:	1 space for each 3 employees
(11)	Banks, business, governmental and professional offices:	1 space for each 300 square feet of floor area
(12)	Bowling alleys:	5 spaces for each alley
(13)	Automotive services, drive-in retail establishments:	1 space for each 2 employees, plus customer parking

(Ord. No. 76, § 22.04, 3-13-1984)

Sec. 58-831. - Uses not listed.

When a particular use is not listed, the parking requirements for a similar use shall apply.

(Ord. No. 76, § 22.05, 3-13-1984)

Sec. 58-832. - Combinations of uses.

When two or more uses are combined, the total parking requirement shall be equal to the sum of the spaces required for each individual use.

(Ord. No. 76, § 22.06, 3-13-1984)

Sec. 58-833. - Off-street loading requirements.

All commercial and industrial buildings erected or relocated after the effective date of the ordinance from which this section is derived shall be provided with sufficient off-street loading space so that no public street, road or alley will be blocked by any such activities.

(Ord. No. 76, § 22.07, 3-13-1984)

Sec. 58-834. - Adult-oriented establishments.

(a) *Purpose.* It is the purpose of this Code to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of citizens of Waushara County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within Waushara County. The provisions of this Code have neither the purpose, nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent, nor effect of this Code to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent, nor effect of this Code to condone or legitimize the distribution of obscene material.

(b) *Findings:*

- (1) The board finds that adult-oriented establishments, as defined in this Code, require special zoning in order to protect and preserve the health, safety, and welfare of the county.
- (2) Based on its review of studies conducted in Phoenix, AZ; Garden Grove, CA; Los Angeles, CA; Whittier, CA; Indianapolis, IN; Minneapolis, MN; St. Paul MN; Cleveland, OH; Oklahoma City, OK; Amarillo, TX; Austin, TX; Beaumont, TX; Dallas, TX; Houston, TX; Newport News, VA; Bellevue, WA; New York, NY; Seattle, WA; and St. Croix County, WI; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Preventions, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Colman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), *East of the River Enterprises II v. City of Hudson*, 2000 Wisc. App. Lexis 734 (Ct. App. Aug.1, 2000); *Ben's Bar, Inc. v. Village of Somerset*, F.3d, 2003 WL 132541 (7th Cir. 2003), the Board finds that there is convincing evidence that the secondary effects of adult-oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential area, and decreased property values.
- (3) The board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
- (4) It is not the intent of the board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral code which addresses the secondary effects of adult-oriented establishments while providing an outlet for First Amendment protected activities.

- (5) In order to minimize and control the secondary effects of adult-oriented establishments upon the county, it is the intent of the board to prevent the concentration of adult-oriented establishments within a certain distance of each other and within certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult-oriented establishments.
- (6) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the board finds that a geographic separation of adult-oriented establishments from alcohol beverage licensed premises is warranted.
- (7) Based upon its review of the secondary effects of adult-oriented establishments, the board finds that a geographic location in near proximity to a state or federal trunk highway is warranted.

(c) *Location of adult-oriented establishments.*

- (1) The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult-oriented establishments, as defined by this Code, are entitled to certain protections. Therefore, an adult-oriented establishment shall be a permitted use in the C-G (general commercial and C-C (community commercial) zoning district and shall be a prohibited use in any other zoning district. The adult-oriented establishment may locate in the specified district only if an adult-oriented establishment license has been granted by a town or municipality requiring such license within the county which is subject to this Code, and all the requirements of this section and the applicable zoning district regulations are met.
- (2) Adult-oriented establishments shall be located at least 1,000 feet from:
 - a. Any residential zoning district line, playground lot line, public park lot line, or public or private recreation area;
 - b. Any structure used as a single-family dwelling, duplex, or multiple-family dwelling, church or other place of religious worship, public or private school, camp or campground, day nursery or kindergarten, library, museum or other public or semi-public building as defined in this Code;
 - c. Any other structure housing an adult-oriented establishment;
 - d. Any structure housing an establishment which holds an alcohol beverage license.
- (3) Adult-oriented establishments shall be located within 300 feet of a state or federal trunk highway right-of-way.
- (4) No residential quarters or living facilities shall be allowed on a premises with an adult-oriented establishment.
- (5)

Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the adult-oriented establishment to the residential district boundary lines, to the lot line of any lot used for park, playground, or any structure listed in subsections (c)(2)a—d. above.

- (6) The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- (7) For adult-oriented establishments located in conjunction with other buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the adult-oriented establishment.
- (8) For any adult-oriented establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the adult-oriented establishment (excluding emergency exits).
- (9) Subsequent location of any establishments listed in subsections (c)(2)a—d. above, within 1,000 feet of an existing adult-oriented establishment does not constitute a violation of this Code by the adult-oriented establishment.

(Ord. No. 464, 11-14-2006)

Secs. 58-835—58-860. - Reserved.

DIVISION 2. - SIGNS

Sec. 58-861. - Enactment.

All signs located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered after the effective date of the ordinance from which this division is derived shall be in conformity with the provisions of this division.

(Ord. No. 76, § 23.01, 3-13-1984)

Sec. 58-862. - Permit required.

A sign permit is required for any sign except as provided in section 58-864. Sign permits shall be issued by the zoning administrator. The fee for sign permits shall be on file at the zoning office pursuant to section 58-191.

(Ord. No. 76, § 23.02, 3-13-1984)

Sec. 58-863. - Permitted location.

Signs of the type permitted within the respective zones may be located according to the following schedule:

Zone	Type of Signs Permitted
O-N, O-F, O-P, O-SW	1, 2, 3, 5, 6
A-G-*, A-R	1, 2, 3, 5, 6
RS-10, RS-20, R-M, RS-P, RM-P	1, 2, 3, 6
C-C, C-S, C-G	1, 2, 3, 4, 5, 6
M-G, M-I	1, 2, 3, 4, 5, 6

(Ord. No. 219, § 2, 3-12-1996; Ord. No. 470, 3-13-2007)

Sec. 58-864. - Types; maximum size; number and location—Signs.

The following is a list of sign types, sizes, number permitted and locations:

- (1) *Type 1.* Official traffic control signs, and informational or directional notices erected by federal, state or local units of government. Official signs may be placed within the highway right-of-way. No permit is required.
- (2) *Type 2.* Signs advertising an on- or off- premises business or activity, area of interest, service available, home occupation, professional office, or a public or semi-public use. Such signs in the O-N, O-F, O-P, O-SW, A-G, A-R, RS-10, RS-20, R-M, RS-P and RM-P zoning districts shall not be more than 32 square feet per side. Such signs in the C-C, C-S, C-G, M-G, and M-I zoning districts shall not be more than 100 square feet per side, providing that the minimum height of the bottom of the sign is not less than eight feet from the adjoining ground surface and does not otherwise obstruct vision or pose a safety concern. Such signs may be placed at the highway right-of-way. One type 2 sign is allowed per parcel. Multiple type 2 signs may be allowed on the same parcel if a minimum spacing of 100 feet is maintained. No permit is

required for a single type 2 sign in the O-N, O-F, O-P, O-SW, A-G*, A-R, RS-10, RS-20, R-M, RS-P, and RM-P zones. A permit is required for a single type 2 sign in the C-C, C-S, C-G, M-G, and M-I zones, or for multiple type 2 signs in any zone.

- (3) *Type 3.* Signs advertising the sale, rent or lease of the property on which the sign is placed. Such signs shall not be more than 32 square feet per side. Such signs may be placed at the highway right-of-way. One type 3 sign is allowed per parcel. Multiple type 3 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained. No permit is required.
- (4) *Type 4.* Signs advertising a general brand or product, an area of interest, a business conducted, or a service available on- or off-premises. Such signs shall not be more than 100 square feet per side, and shall comply with the setback requirements established in subsections 58-826(b) and (e). A minimum spacing of 300 feet shall be maintained between type 4 signs. A permit is required.
- (5) *Type 5.* Signs on or attached to agricultural, commercial or industrial buildings advertising a business conducted or service available on the premises. No sign shall be higher than the maximum height permitted in the respective zone. One type 5 sign is allowed per parcel. Multiple type 5 signs are allowed on the same parcel if a minimum spacing of 100 feet is maintained. No permit is required.
- (6) *Type 6.* Signs indicating the direction to camps, campgrounds, recreation areas, resorts, residences or similar uses both on- and off-premises. Such signs shall not be more than 32 square feet per side. Where a common posting standard is provided, all such signs shall be attached to the standard directory. The resulting composite sign shall not exceed 100 square feet per side. Such signs may be placed at the highway right-of-way. One type 6 sign is allowed per parcel. Multiple type 6 signs are allowed on the same separate parcels if a minimum spacing of 100 feet is maintained. No permit is required.

(Ord. No. 219, § 3, 3-12-1996; Ord. No. 289, § 1(23.04), 5-9-2000; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 541, 3-20-2012; Ord. No. 554, 3-19-2013; Ord. No. 610, 4-18-2017)

Sec. 58-865. - Prohibited characteristics.

Prohibited characteristics of signs are as follows:

- (1) No sign, except official traffic control signs erected by governmental units, shall be so placed as to interfere with the visibility or effectiveness of any official traffic sign or signal, or placed within the vision clearance triangle as defined in subsection 58-826(e).
- (2) No sign shall resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices.
- (3) No sign shall contain, include or be illuminated by flashing lights.
- (4) No sign shall contain, include or be composed of any conspicuous animated or moving part.

- (5) No sign shall make use of any rock, tree, or other natural feature for support or for carrying any message, except that legal no hunting or trespassing signs or other private regulatory signs may be attached to a tree.
- (6) No sign shall exceed 100 square feet in gross area.
- (7) Signs located within 300 feet of navigable waters shall not exceed 16 square feet in area, nor shall they be erected to a height greater than 16 feet. Such signs shall be erected above the ordinary high-water mark and shall not be internally illuminated.
- (8) No inoperative vehicle, semitrailer or farm implement shall be used as a sign in any district.
- (9) For electronic message boards, a text message may scroll or appear to travel horizontally or vertically on the sign face at a constant speed, but no part of the message or display shall flash, blink, or use any other form of animation, nor shall the background for such message use any form of animation.
- (10) Static displays on signs shall be displayed for at least two seconds and the change or transition from one display or message to another shall occur as quickly as possible.
- (11) No sign shall be illuminated to a degree of brightness that constitutes a nuisance or public safety hazard. Between dusk and dawn, the brightness of electronic message centers sign shall be set at 50 percent of the sign's maximum brightness, and the county reserves the right to require the brightness of any sign to be adjusted if it is deemed to be a public nuisance or a distraction to motorists.

(Ord. No. 76, § 23.05, 3-13-1984; Ord. No. 183, § 1(23.05), 3-8-1994; Ord. No. 219, § 4, 3-12-1996; Ord. No. 438, 3-14-2006; Ord. No. 490, 2-12-2008; Ord. No. 576, 3-18-2014)

Secs. 58-866—58-900. - Reserved.

ARTICLE VI. - SHORELANDS

Sec. 58-901. - State review and amendments within shorelands.

A copy of the applications for conditional use permits, variances and amendments within the shorelands and floodplain shall be forwarded to the state department of natural resources at least ten days prior to hearings on proposed shoreland variances, conditional use permits, appeals for map or text interpretation and map or text amendments. Copies of decisions on these matters shall also be submitted to the state department of natural resources within ten days after they are granted or denied.

(Ord. No. 76, § 24.03, 3-13-1984)

Sec. 58-902. - Jurisdictional area.

- (a) *Application of provisions in unincorporated areas of county.* All provisions of this chapter shall apply to the shoreland of navigable waters, as navigable waters are defined in Wis. Stats. § 281.31, in the unincorporated areas of the county, which are:
- (1) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the county shall be presumed to be navigable if they are listed in the state department of natural resources publication "Surface Water Resources of Waushara County," or are shown on the United States Geological Survey Quadrangle Maps or other zoning base maps which have been incorporated by reference and made a part of this article.
 - (2) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or the landward side of the floodplain, whichever distance is greater. Rivers and streams in the county shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey Quadrangle Maps or other zoning base maps which have been incorporated by reference and made a part of this article. Flood hazard boundary maps, or flood insurance study maps (or soil maps or other existing county maps used to delineate floodplain areas), which have been adopted by the county, shall be used to determine the extent of the floodplain of navigable rivers or streams in the county.
- (b) *Determination of navigability and ordinary high-water mark.* The county zoning administrator shall make the initial determination whether or not a body of water is navigable under the laws of the state. The county zoning administrator shall also make the initial determination of the location of the ordinary high-water mark. When questions arise, the zoning administrator shall contact the appropriate district department of natural resources office for a determination of navigability or ordinary high-water mark. When such determination is made, the department of natural resources shall submit a copy of the findings to the county zoning administrator who shall maintain a file on such determinations in the county zoning office. The zoning administrator may also work with a professional land surveyor as outlined in Wis. Stats. § 59.692(1h).
- (c) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, towns, villages, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.2022(1) applies.

(Ord. No. 76, § 3.01, 3-13-1984; Ord. No. 610, 4-18-2017; Ord. No. 635, 3-19-2019)

Sec. 58-903. - General shoreland zoning provisions.

- (a) *Generally.* The zoning provisions of this chapter apply to the shoreland jurisdictional area as defined by subsections 58-902(a)(1) and (2). Additional restrictions may apply in the shoreland/wetland zone as provided in divisions 5 and 6, article IV of this chapter.
- (b) *Lot size regulations.* The following minimum lot sizes shall apply only if more restrictive than those established for the underlying zone:
- (1) A legally created lot within the shoreland area that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
 - a. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - b. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - c. The substandard lot or parcel is developed to comply with all other code requirements.
- (c) *Substandard lots.* Substandard lots shall meet the requirements of subsection (b)(3) above if in any unzoned town, and subsection 58-823(c) where general zoning standards apply.
- (d) *Water setback.* All buildings and structures, except those enumerated in this subsection (d), shall be set back at least 75 feet from the ordinary high-water mark of navigable waters, unless there is at least one principal structure on either side of the applicant's lot, within 250 feet of the proposed site built to less than the required setback. In such case, the setback shall be the average of the nearest principal structure on each side of the proposed site. If there is no principal structure on one side of the proposed building site that lies within 250 feet, then the required setback of 75 feet shall be used to compute the average setback on that side. In no case shall averaging allow a setback of less than 35 feet from the ordinary high-water mark.
- (1) All boathouses shall be set back a minimum of ten feet from the ordinary high-water mark or on steep slopes where a ten-foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is also two feet above the ordinary high-water mark may be used as the closest setback point.
 - (2) The exact replacement of attached open decks and patios within the water setback may be permitted if in compliance with subsection 58-235(b)(3).
 - (3) Sidewalks, stairs and walkways landward of the ordinary high-water mark are allowed within the required setback only when necessary to access the shoreline because of steep slopes, rocky or wet unstable soils, or other natural features, and only if the following conditions apply:
 - a. A maximum width of 60 inches (outside dimensions) is allowed. Maximum allowable width shall be measured perpendicular to the direction of travel.

- b. Attached benches, seats, tables, etc., are prohibited.
 - c. Canopies and/or roofs are prohibited.
 - d. Sidewalks, walkways and stairways may be constructed of any material, including but not limited to, concrete, paver block, stone, or timbers. Stairways, walkways and sidewalks established for the purposes of accessing the OHWM and boathouses, gazebos or other permitted buildings, or that are parallel with the water rather than perpendicular to the water shall be set back at least ten feet from the ordinary high-water mark.
 - e. Landings are allowed when required for safety purposes and shall not exceed 40 square feet. A maximum width of 60 inches (outside dimensions) is allowed. Maximum allowable width shall be measured perpendicular to the direction of travel.
 - f. Sidewalks, walkways and stairways constructed of an impervious surface, must meet standards in subsections 58-903(q) and (r).
 - g. A land Use permit is required for any portion of sidewalk, walkway or stairway that is within 75 feet of the OHWM.
- (4) Sidewalks, filled paths, stairs and walkways may be allowed within the 75-foot setback for access to the ordinary high-water mark and entrance to a permitted or existing nonconforming structure.
- (5) Any stairs, sidewalks or walkways landward of the ordinary high-water mark shall be constructed in such fashion and located so that the least amount of land disturbance and soil erosion shall occur, the least amount of vegetation removal is necessary and be no greater in length than the shortest distance necessary to gain direct access to the water or permitted or existing nonconforming structure. Such stairs, sidewalks, walkways or filled paths, shall terminate once it reaches the ordinary high-water mark or the entrance to the permitted or existing nonconforming structure. A pier may extend from the stairs or walkways beyond the ordinary high-water mark, provided that it meets the standards required by the state department of natural resources.
- (6) Open structures such as gazebos, decks, patios and screened houses in the shoreland setback area shall be as required by Wis. Stats. § 59.692(1v), and as described below:
- a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
 - b. The structure shall be located within the view corridor described in subsection 58-903(n).
 - c. The total floor area of all structures in the shoreland setback area on the property will not exceed 200 square feet. This calculation shall not include the area of any permitted or conforming boathouse, walkway or stairs.
 - d. The structure that is the subject of the request for a permit has no sides or has open or

screened sides.

- e. The side yard shall be the minimum required in the specific zoning district.
 - f. Height of any structure allowed under this section shall comply with any restriction of the general zoning code (if applicable) in addition to the height limits under shoreland zoning.
 - g. Prior to issuance of a zoning permit for such structure, a vegetative buffer zone shall be established that covers at least 70 percent of the half of the shoreland setback area that is nearest the water. The definition of a vegetative buffer zone is an area along, and parallel to, the ordinary high-water mark, one-half of the distance from the water's edge landward to the building setback line, that is either undisturbed or restored with native vegetation that provides natural features and functions for fish and wildlife habitat, water quality protection, and natural scenic beauty. For the purposes of administering the provisions of this subsection, the standards contained in "NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat", shall be used as a guide in determining if such natural features and functions are sufficient. In addition to such provisions, the vegetative buffer zone shall provide the following:
 - 1. The vegetative buffer zone shall preserve or establish a full range of water quality, habitat and natural shoreline beauty protection functions and shall specifically provide measures:
 - i. To screen from view from the water all other structures within 300 feet of the ordinary high-water mark to the extent feasible; and
 - ii. To detain or infiltrate all runoff prior to leaving the buffer area.
 - 2. All vegetative buffer zones shall provide a tree canopy, shrub layer and groundcover.
 - 3. The buffer area shall be a no disturbance area as described in subsection 59-903(n).
 - 4. Placement of the structure is not authorized until the vegetative buffer zone has been established for at least three months.
 - 5. Any permit issued under this section shall not be valid until notice of its conditions is recorded by affidavit with the county register of deeds.
- (7) All of the structures listed in subsections (d)(1) through (5) of this section located within 35 feet of the ordinary high-water mark shall be located within the view corridor described in subsection (n) of this section.
- (8) Repairs, modifications or replacement of any of the structures listed in subsections (d)(6)a. through g. of this section, which existed lawfully at the time of the adoption of this Code and are located within 35 feet of the ordinary high-water mark, but located outside of the view corridor shall conform to subsection (s) of this section.
- (9)

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

- (10) Utility transmission and distribution lines, pole, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. SPS 383, devices or systems used to capture and treat runoff from impervious surfaces, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or to otherwise control stormwater runoff from the structure.
 - (11) Public access to carry out any permitted activity of this Code, including but not limited to, wildlife habitat enhancement, or approved horticultural or silvicultural practices shall be permitted as necessary in accordance with subsection 58-903(n)(4).
 - (12) Existing structures that are exempt from the water setback as noted above, may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the construction does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Expansion beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements.
 - (13) Rip rap projects that are specifically designed and implemented for shoreline stabilization at the actual physical location of the ordinary high-water mark, per the ordinance definition, shall be allowed within the required water setback if it is demonstrated necessary to control erosion caused by wave or ice action. The location and conceptual design of said structure(s) shall be approved by the land conservation and zoning department.
- (e) *Building elevation.* All structures intended for human habitation or occupancy shall have the lowest inhabitable floor constructed not less than two feet above the ordinary high-water mark or the regional flood elevation, whichever elevation is higher.
- (f) *Boathouses.* A single boathouse may be allowed for each buildable lot of record; provided that, such boathouse shall not contain plumbing or be used for human habitation. In addition, the following standards apply:
- (1) All boathouses shall be no more than one story. The wall height of any boathouse shall be a minimum of six feet and a maximum of ten feet in height.
 - (2) No decks, patio doors, fireplaces, or other structures associated with human habitation shall be attached to or made part of a boathouse.
 - (3) All boathouses shall have pitched roofs ranging in pitch from a minimum of 4:12 (rise to run) to a maximum of 6:12 (rise to run).
 - (4) No boathouse shall exceed 180 square feet in area. Any overhang of a boathouse that exceeds 24 inches from the exterior wall shall be included in calculating this square footage requirement.

- (5) All boathouses shall be set back a minimum of ten feet from the ordinary high-water mark, or on steep slopes where a ten-foot lateral setback is more than two feet above the ordinary high-water mark, the point on the slope where it is two feet above the ordinary high-water mark may be used as the setback point. Any stairway, walkway or sidewalk that accesses a boathouse shall also be set back at least ten feet from the ordinary high-water mark.
 - (6) No boathouse shall have any wall, door or access opening be more than one-third transparent.
 - (7) No boathouse shall have interior walls, insulation or plumbing.
 - (8) Prior to the issuance of a land use permit for a boathouse, the landowner shall be required to execute a verified affidavit and restrictive covenant running with the land regarding the use of the accessory building for living purposes, meeting the standards described in section 58-231.
 - (9) Boathouses shall be contained entirely within the access and view corridor for a riparian parcel.
 - (10) The construction of any boathouse which extends wholly or in part beyond the ordinary high-water mark of any navigable waters is prohibited by this chapter.
 - (11) All boathouses shall comply with any other codes including all general zoning, and floodplain codes.
- (g) *Houseboats*. Houseboats stored above the ordinary high-water mark shall not be used for human habitation.
- (h) *Piers, docks, wharves, boat shelters and boat hoists*. Piers, docks, wharves, boat shelters and boat hoists extending below the ordinary high-water mark shall comply with Wis. Admin. Code ch. NR 326, and other applicable state or federal regulations.
- (i) *Obstructions of navigable waters*. No watercraft or float shall be anchored, moored, or attached to the shore in any manner that will obstruct or interfere with:
- (1) Ingress and egress to or from public boat launching sites, docks, parks, swimming beaches, or other public access points.
 - (2) The ingress or egress of adjacent riparian property owners to and from navigable waters.
 - (3) The free navigation of any river, canal, water channel or slip.
- (j) *Dumps and sanitary landfills*. Dumps, sanitary landfills, junkyards and salvage yards are prohibited within the shorelands.
- (k) *Burning of sawdust*. The depositing or burning of sawdust is prohibited within 300 feet of navigable waters. All areas used for the burning of sawdust shall be surrounded by an unobstructed plowed firebreak 16 feet wide.
- (l)

Dumping and disposal. The dumping or disposal of any fluid or viscous materials that are toxic, or in any manner would create a human health hazard including surface irrigation, lagooning or burial of sewage or other similar waste effluents or materials, is prohibited within 300 feet of navigable waters or within the floodplain or natural resource prevention zone. This provision does not include the spreading of fertilizer or the proper application of farm chemicals.

(m) *Livestock housing.* Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located, designed and constructed so as to prevent animal waste material from entering watercourses, waterways, or other navigable waters, and shall be located not less than 75 feet from navigable waters while barnyards or feedlots shall be at least 100 feet from any navigable water and shall be located to prevent the drainage of manure into any navigable water.

(n) *Removal of shore cover.*

- (1) The cutting or removal of woody perennial vegetation within the shorelands shall be carried out in a manner that will maintain or tend to improve water quality and preserve scenic beauty. Soil conservation and timber harvesting practices which are effective in controlling erosion and in preventing pollutants from entering navigable waters shall be used. These provisions shall not apply to the removal of shore cover for the sole purpose of improving trout habitat in designated Class I, II and III trout waters and/or navigable bodies of water as approved by land conservation/zoning and DNR as applicable. Vegetation may not be removed outside of the view corridor, except for the removal of exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation possessing an imminent safety hazard. Any removed vegetation shall be replaced by planting a comparable noninvasive species of vegetation in the same area.
- (2) Slash material shall be disposed of in accordance with Wis. Stats. §§ 26.12(6) and (7).
- (3) The cutting or removal of woody perennial vegetation within 35 feet of the ordinary high-water mark shall be prohibited, except as follows:
 - a. View corridor. The establishment of a view corridor is exempted from the provisions of removal of shore cover, providing that the combined width of all access and viewing corridors on all riparian lots or parcels under the same ownership does not exceed 35 percent of the shoreline frontage, as measured at the ordinary high-water mark. No filling, grading, lagooning, dredging, ditching or excavating is allowed within 35 feet of the ordinary high-water mark, except within this view corridor, and in accordance with subsection 58-903(p) herein. In the case of a property that does not have a clearly defined view corridor, one may be established and identified based primarily on existing vegetation, but may also be based on the location of any existing structures within 35 feet of the ordinary high-water mark. All future structures and disturbances within 35 feet of the ordinary high-water mark shall be limited to that corridor.

- b. Timber harvest is exempted from the provisions of this subsection (n)(3) if:
 - 1. Such activity complies with Wisconsin's Forestry Best Management Practices for Water Quality, described in the field manual, published by the state department of natural resources (DNR);
 - 2. The lands on which such activity takes place are enrolled in a forest management plan approved by the DNR; and
 - 3. Such lands are located in a district which allows commercial timber harvest as a permitted use.
 - c. Agricultural cultivation is exempted from the provisions of this subsection (n) if:
 - 1. Such activity complies with best management practices for agriculture described in the field manual, published by the state department of agriculture;
 - 2. The lands on which such activity takes place are enrolled in a farm plan approved by the county land conservation and zoning department; and
 - 3. Such lands are located in a district which allows commercial agriculture as a permitted use.
- (4) Any paths or roads permitted within the shoreland area shall be constructed to be effective in controlling erosion, and shall comply with the filling, grading, lagooning, dredging, ditching and excavating sections of this article. Any path, road or access constructed shall be constructed in such a fashion and located so that the least amount of vegetation removal is necessary, and be no greater in length than the shortest distance necessary to gain direct access to the water. Such path, road or access shall terminate once it reaches the ordinary high-water mark. A pier may extend from the path, road or access beyond the ordinary high-water mark; provided that, it meets the standards required by the state department of natural resources.
- (5) If any of the standards of this section are violated, the county shall seek, in addition to other penalties provided by this article, restoration of all the natural functions of the shoreline vegetation protection area in accordance with the standards contained in "NRCS Standard 643 A and Wisconsin Biology Technical Note #1 - Shoreland Habitat", and this Code as it pertains to the maximum access and viewing corridor width; or at a minimum restoration of the shoreline vegetation to the level that existed prior to the violation, in compliance with a plan prepared by a qualified professional and approved by the land conservation and zoning department. In reviewing the plan the land conservation and zoning department shall determine if such plan adequately screens uses from the water, maintains a stable bank, retards the flow of pollutants and protects aesthetic values. As part of restoration that may be required under this section because of a violation of these standards, or that may be required in other parts of this Code, or as a result of a condition of a decision of the planning and

zoning committee, board of adjustments or the zoning administrator, a verified affidavit and restrictive covenant running with the land regarding this vegetation protection area shall be executed. Such affidavit and restrictive covenant running with the land shall be recorded in the register of deeds office for the county and shall be considered a restrictive covenant running with the land and shall inure to the benefit of the county, all abutting and contiguous properties to that of the subject property, as well as the residents of the county.

- (6) A land use permit is required for any cutting, removal or replacement of shoreline vegetation outside of the access and viewing corridor that is not specifically listed as an exemption in subsections (n)(1) through (5) as noted above.
- (o) *Storage.* In addition to the other provisions of this code, storage within the shoreland area shall meet the following requirements unless otherwise specified:
- (1) *Accessory use.* All storage facilities shall be permitted only as an accessory use.
 - (2) *Bulk materials.* Bulk materials, such as coal, sand, gravel, limestone or similar materials subject to erosion, shall be enclosed on three sides by a retaining wall in such manner to prevent erosion, and it shall be drained away from navigable water and shall meet all required OHWM setbacks.
 - (3) *Indoor storage.* Petroleum products, chemicals and chemical compounds packaged in paper, cardboard, glass or metal which do not require outdoor storage, and plaster, lime and cement or similar products packaged in paper or cardboard containers shall be stored in an enclosed building when located within 300 feet of navigable waters.
 - (4) *Outdoor storage.* Petroleum products, chemicals, chemical compounds and inflammables packaged in any type of container or delivered in bulk which may not be stored indoors by reason of fire codes, insurance or bulk, when stored above the ground must have protective measures installed to prevent any spillage or leakage of the materials from entering any body of water or watercourse; or must be stored in an underground tank.
- (p) *Filling, grading, lagooning, dredging, ditching and excavating.*
- (1) *General standards.* All filling, grading, lagooning, dredging, ditching and excavating within the required water setback, except for riprap and other waterline protection measures approved by the state department of natural resources and U.S. Army Corps of Engineers (regardless of size) shall be reclaimed by revegetation. Earth disturbances within the required water setback shall not be allowed where the resulting slope would be too steep to be stabilized with vegetation. Earth disturbances within 35 feet of the ordinary high-water mark shall also conform to subsection 58-903(n), and shall be permitted only in association with a permitted structure, use or exemption listed herein. In calculating the square feet in area of any filling, grading, lagooning, dredging, ditching or excavating, areas that have been stabilized by adequate vegetation to the extent that the area is not subject to erosion and impervious

areas that have adequate stormwater management practices installed shall not be included in these calculations. If a question arises, the land conservation and zoning department shall determine the adequacy of such vegetation or stormwater management practices. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under subsections (p)(2) or (p)(3) is permitted in the shorelands, provided that:

- a. It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
 - b. Filling, grading, lagooning, dredging, ditching or excavating in the O-SW shoreland/wetland zone meets the requirements of section 58-393.
 - c. A state or federal permit has been obtained for any filling, grading, lagooning, dredging, ditching or excavating for which a state or federal permit is required and such activities are in full compliance with the terms of this article.
 - d. Such filling, grading, lagooning, dredging, ditching or excavating is less than 2,000 square feet in area.
 - e. Such filling and grading done within the O-SW zone is done in accordance with the applicable sections of that zone.
- (2) *Land use permit required.* A land use permit is required for filling, grading, lagooning, dredging, ditching and excavating in the shoreland where such activity involves any filling or grading of any area which is within 300 feet of the ordinary high-water mark of a navigable water has both of the following:
- a. Surface drainage towards the navigable body of water; and
 - b. Involves a total area of between 2,000 and 10,000 square feet.
- (3) *Conditional use permit required.* A conditional use permit is required for filling, grading, lagooning, dredging, ditching and excavating in the shoreland where such activity involves any filling or grading of any area which is within 300 feet of the ordinary high-water mark and has both of the following:
- a. Surface drainage towards the navigable body of water; and
 - b. Involves a total area of greater than 10,000 square feet.
 - c. If the application for a conditional use permit includes area within the shorelands or floodplain, the department of natural resources shall be notified at least ten days prior to the date of such hearing.
 - d. The standards set forth in Wis. Stats. chs. 281 and 283, particularly as they relate to the avoidance or control of pollution, shall apply.
 - e.

A copy of all decisions granting or denying applications for conditional use permits for property located in a floodplain or shoreland area shall be transmitted to the state department of natural resources within ten days after a conditional use permit decision has been made.

- (4) *Permit conditions.* Upon receipt of permit application under subsections (p)(2) or (p)(3) of this section, the zoning administrator shall submit such application to the county land conservation and zoning department technical staff for review and recommendations. Based upon the recommendations of the land conservation and zoning department technical staff and other relevant information, the zoning administrator or planning and zoning committee may attach such conditions to the permit as it deems necessary to protect water quality and preserve floodplain storage capacity.
- (5) The provisions regarding filling, grading, tree cutting and work in respect to waterways shall not apply to the construction and repair of public roads; public or private utilities; flood control structures; or conservation practices such as terracing; installation of diversions, grass waterways, subsurface drainage, non-navigable drainage ditches; stream stabilization by riprapping or vegetative cover, ponds used for agriculture purposes, the removal of vegetation for the sole purpose of trout habitat improvement; or to nonfloating docks accessory to private dwellings.
- (q) *Impervious surfaces.* Impervious surface standards are established to protect water quality and fish and wildlife habitat and protect against pollution of navigable waters. These impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high-water mark of any navigable waterway, and shall require all of the following:
 - (1) *"Calculation of percentage of impervious surface."* Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total area of the lot or parcel and multiplied by 100. All impervious surfaces on the lot or parcel, that are deemed to be a public road as defined by Wis. Stats. § 340.01(58) or sidewalk as defined by Wis. Stats. § 340.01(58) shall be excluded from these calculations. All calculations shall be done by the landowner or their representative on forms furnished by the land conservation and zoning department, and shall be submitted to the land conservation and zoning department along with a copy of a survey or plat which clearly shows the total square footage of the parcel. If such a survey or plat cannot be furnished, or if all of the property irons on said survey or plat are not found, then it is the landowner's responsibility to have a survey done which clearly shows the total square footage of the parcel and all of the property irons clearly shown, and provide a copy of the survey to the land conservation and zoning department.

Impervious surfaces that are documented as meeting either of the following subsections (q) (1)a. and b. below, shall be excluded from the impervious calculations under this section:

- a. The impervious surface is treated by devices such as stormwater retention ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems approved by the land conservation and zoning department, and that have a verified maintenance agreement recorded with the deed to the property.
- b. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil, and this discharge is determined to be adequate and does not require maintenance as determined by the land conservation and zoning department. A permanent easement shall be recorded with the deed to the property to secure the area for infiltration of the runoff for the life of the impervious surface.

- (2) *"Impervious surface standard."* Up to 15 percent impervious surface is allowed on that portion of the lot or parcel that is within 300 feet of the ordinary high-water mark.
- (3) *"Maximum impervious surface."* Greater than 15 percent impervious surface, but less than 30 percent impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark is allowed; providing that, a land use or conditional use permit is issued that requires a mitigation plan meeting the requirements of subsection (r) of this section.
- (4) *"Existing impervious surfaces."* For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the standards in subsections (q)(2) and (3) above, the property owner may do any of the following:
 - a. Maintenance and repair of all impervious surfaces;
 - b. Replacement of existing impervious surfaces with similar surfaces within the existing building envelope, providing all other provisions and setbacks of this Code are complied with;
 - c. Relocation or modification of existing impervious surfaces with similar or different impervious surfaces; provided that, the relocation or modification does not result in an increase in the percentage of impervious surface that existed on January 1, 2012, and the construction meets the applicable setback requirements in NR 115.05(1)(b), Wisconsin Administrative Code and all the provisions of chapter 58, Waushara County Zoning Code.

(r) *Mitigation plans.* Mitigation plans shall include all of the following:

- (1) Mitigation plans shall be approved by the county and implemented by the property owner within the life of the land use permit.
- (2)

Mitigation plans shall include enforceable obligations of the property owner to establish and/or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

- (3) The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted.
- (4) The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the register of deeds.
- (5) For purposes of administration, and in order to meet the requirements of subsections (r)(2) and (3) above:
 - a. Mitigation plans for sites that have greater than 15 percent impervious surface, but less than 30 percent impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark shall meet the requirements specified in appendix "A" of this Code, which is on file with the county zoning office.

(s) *Nonconforming structures.*

- (1) The following general provisions shall apply to all nonconforming structures within the shoreland area that do not meet the required water setback:
 - a. *"Continued use."* Any nonconforming structure which existed lawfully at the time of the adoption of the ordinance from which this chapter is derived or amendment thereto may be continued although such structure does not conform with the provisions of this chapter.
 - b. *"Maintenance, repair, replacement and vertical expansion."* An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet in height as defined in this chapter. Expansion of the footprint may be allowed if the expansion is necessary to comply with state or federal requirements. All other requirements of this chapter must be complied with, and the use shall not be allowed to change with the expansion.
- (2) In addition to the general provisions listed in subsection (1) above, the following provisions shall also apply to all nonconforming structures within the shoreland area that do not meet required water setbacks:
 - a. *"Maintenance, repair or replacement of nonconforming principal structure."* An existing principal structure that was lawfully placed when constructed but that is less than the required water setback may be maintained, repaired or replaced within its existing

building footprint. Expansion of the footprint may be allowed if necessary to comply with applicable state or federal requirements.

- b. *"Expansion of nonconforming principal structure within the setback."* An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setbacks may be expanded laterally, provided that all of the following requirements are met:
1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 2. The existing principal structure is at least 35 feet from the ordinary high-water mark.
 3. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing structure. Proper verification of the size, location, height, use and dimensions of the nonconforming principal structure shall be made by department staff prior to commencement of the maintenance, repair or replacement, and those verified dimensions strictly adhered to as required by this Code.
 4. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner within the life of the land use permit. The mitigation plan shall include enforceable obligations of the property owner to establish and/or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the register of deeds. For purposes of administration, and in order to meet the above requirements the mitigation plan shall meet the requirements specified in appendix "A" of this Code, which is on file with the county zoning office.
 5. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.
- c. *"Expansion of nonconforming principal structures where all new construction will meet required setbacks, including the water setback."* An existing principal structure that was lawfully placed when constructed, and that does not comply with the required water setback, may be expanded horizontally, landward or vertically, provided that the expanded area meets all required setbacks, and provided that all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 2. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.
- d. *"Relocation of nonconforming principal structure."* An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setback may be relocated on the property provided all of the following requirements are met:
1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 2. The existing principal structure is at least 35 feet from the ordinary high-water mark.
 3. No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure. Proper verification of the size, location, height, use and dimensions of the nonconforming principal structure shall be made by department staff prior to commencement of the replacement, and those verified dimensions shall be strictly adhered to as required by this Code.
 4. The relocated structure is limited to its existing building footprint and no increase in impervious surfaces is permitted, unless the increase in impervious surface complies with the provisions of subsection 58-903(q).
 5. The county determines that no other location is available on the property to construct a principal structure that can be contained within the existing building envelope and that will result in compliance with the required water setback.
 6. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner within the life of the land use permit. The mitigation plans shall include enforceable obligations of the property owner to establish and/or maintain measures that the county determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the register of deeds. For purposes of administration, and in order to meet the above requirements the mitigation plan shall meet the requirements specified in appendix "A" of this Code, which is on file with the county zoning office.

7.

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

- e. *"Replacement and/or vertical expansion of nonconforming principal structure within the setback."* An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setback may be replaced and/or expanded vertically, provided that all of the following requirements are met:
1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 2. No portion of the replaced and/or vertically expanded structure may be located any closer to the ordinary high-water mark than the closest point of the existing principal structure, and proper verification of the size, location, use and dimensions of the nonconforming principal structure is made by department staff prior to commencement of the vertical expansion, and those verified dimensions are strictly adhered to.
 3. Replacement and/or vertical expansion is limited to the existing building footprint with no increase in impervious surfaces, and to the height limitations in subsection 58-903(t).
 4. All other provisions of applicable Waushara County Codes, including but not limited to, floodplain, sanitary, shoreland and zoning codes, shall be met.
- f. *"Boathouses."* The maintenance and repair of nonconforming boathouses which extend beyond the ordinary high-water mark of any navigable waters shall be required to comply with Wis. Stats. § 30.121. If an existing boathouse has a flat roof, the flat roof may be used as a deck provided the roof area has no side walls or roof. A railing that meets DSPS standards may be installed for safety purposes.
- g. Any structural alteration or repair to any nonconforming use or structure located within the floodplain shall comply with chapter 18 of this Code.
- h. An existing accessory building or structure that was lawfully placed when constructed but that does not comply with the required water setbacks of this Code may be maintained and repaired within its existing building envelope.
- i. Vertical expansion of structures granted a shoreland variance prior to July 13, 2015, shall be allowed to expand vertically provided all other provisions of this Code are complied with.
- (t) *Height limitations.* No construction is permitted which results in any structure or building taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.

(Ord. No. 76, § 3.02, 3-13-1984; Ord. No. 159, §§ 9—12, 6-9-1992; Ord. No. 183, § 1(3.02), 3-8-1994; Ord. No. 269, § 1(15, 16), 3-9-1999; Ord. No. 320, 5-8-2001; Ord. No. 396, 3-9-2004; Ord. No. 421, 4-12-2005; Ord. No. 438, 3-14-2006; Ord. No. 490, 2-12-2008; Ord. No. 532, 3-8-2011; Ord. No. 535, § 1, 10-18-2011; Ord. No. 541, 3-20-2012; Ord. No. 544, § 1, 4-17-2012; Ord. No. 583, 3-17-2015; Ord. No. 591, 3-15-2016; Ord. No. 610, 4-18-2017; Ord. No. 624, 3-20-2018; Ord. No. 635, 3-19-2019; Ord. No. 661, 4-20-2021)

Secs. 58-904—58-930. - Reserved.

ARTICLE VII. - NONMETALLIC MINING RECLAMATION

DIVISION 1. - GENERALLY

Sec. 58-931. - Purpose of article.

The purpose of this article is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the county after the effective date of the ordinance from which this article is derived, in compliance with Wis. Admin. Code ch. NR 135, and subchapter I of Wis. Stats. ch. 295 (Wis. Stats. § 295.11 et seq.).

(Ord. No. 317, § 1.02, 5-8-2001)

Sec. 58-932. - Statutory authority.

This article is adopted under authority of Wis. Stats. § 295.13(1), Wis. Admin. Code § NR 135.32, and Wis. Stats. § 59.51.

(Ord. No. 317, § 1.03, 5-8-2001)

Sec. 58-933. - Restrictions adopted under other authority.

The purpose of this article is to adopt and implement the uniform state-wide standards for nonmetallic mining reclamation required by Wis. Stats. § 295.12(1)(a) and contained in Wis. Admin. Code ch. NR 135. It is not intended that this article repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other law.

(Ord. No. 317, § 1.04, 5-8-2001)

Sec. 58-934. - Interpretation.

In their interpretation and application, the provisions of this article shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by statute outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Wis. Stats. ch. 295 (Wis. Stats. § 295.11 et seq.) and Wis. Admin. Code ch. NR 135. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by statute, or by a standard in Wis. Admin. Code ch. NR 135, and where the provision is unclear, the provision shall be interpreted to be consistent with statute and the provisions of Wis. Admin. Code ch. NR 135.

(Ord. No. 317, § 1.05, 5-8-2001)

Sec. 58-935. - Definitions.

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

Alternative requirements means an alternative to the reclamation standards of this article provided through a written authorization granted by the county pursuant to section 58-963(g).

Applicable reclamation ordinance means a nonmetallic mining reclamation ordinance, including this article, that applies to a particular nonmetallic mining site and complies with the requirements of Wis. Admin. Code ch. NR 135 and subchapter I of Wis. Stats. ch. 295 (Wis. Stats. § 295.11 et seq.).

Borrow site means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.

Contemporaneous reclamation means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

Department means the state department of natural resources.

Environmental pollution means the same as described in Wis. Stats. § 295.11(2).

Financial assurance means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in section 58-963(c) and is sufficient to pay for reclamation activities required by this article.

Highwall means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.

Landowner means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.

Licensed professional geologist means a person who is licensed as a professional geologist pursuant to Wis. Stats. ch. 470.

Municipality means any city, town or village.

Nonmetallic mineral means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, feldspar, peat, talc and topsoil.

Nonmetallic mining and *mining* mean all of the following:

- (1) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes the use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
- (2) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to, stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

Nonmetallic mining reclamation and *reclamation* mean the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this article, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, and, if practicable, the restoration of plant, fish and wildlife habitat.

Nonmetallic mining refuse means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable byproducts resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

Nonmetallic mining site and *site* mean all contiguous areas of present or proposed mining described in subsection (1) of this definition, subject to the qualifications in subsection (2) of this definition.

- (1) Nonmetallic mining site means the following:
 - a. The location where nonmetallic mining is proposed or conducted.
 - b. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.
 - c. Areas where nonmetallic mining refuse is deposited.
 - d. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
 - e. Areas where grading or regrading is necessary.
 - f. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.
- (2) A nonmetallic mining site does not include any of the following areas:
 - a. Those portions of sites listed in subsection (1) of this definition not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.
 - b. Separate, previously mined areas that are not used for nonmetallic mining after August 1, 2001, and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.
 - c. Areas previously mined but used after August 1, 2001, for nonmining activity such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

Operator means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

Person means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

Registered professional engineer means a person who is registered as a professional engineer pursuant to Wis. Stats. §§ 443.04 and 443.09.

Regulatory authority means the county.

Replacement of topsoil means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining activity for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this article.

Solid waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Wis. Stats. ch. 283, or source material, special nuclear material or byproduct material, as defined in Wis. Stats. § 254.31(1).

Topsoil means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

Topsoil substitute material means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

Unreclaimed acres means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001, and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under section 58-970(c). Unreclaimed acres does not include:

- (1) Those areas where reclamation has been completed and certified as reclaimed under section 58-970(c).
- (2) Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
- (3) Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this article but are not yet affected by nonmetallic mining.
- (4) Areas previously mined but used after August 1, 2001, for a nonmining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
- (5) For purposes of fees under section 58-973, those areas within a nonmetallic mining site which the regulatory authority has determined to have been successfully reclaimed on an interim basis in accordance with section 58-970.
- (6) Those areas defined as not included in a nonmetallic mining site under subsection (2) of the definition of the term "nonmetallic mining site."

(Ord. No. 317, § 1.10, 5-8-2001; Ord. No. 343, 3-12-2002; Ord. No. 470, 3-13-2007)

Cross reference— Definitions generally, § 1-2.

Sec. 58-936. - Applicability of article provisions.

- (a) *Overall applicability.* The requirements of this article apply to all operators of nonmetallic mining sites within the county except as exempted in subsection (b) of this section and for nonmetallic mining sites located in a city, village, or town within the county that has adopted an article pursuant to Wis. Stats. § 295.14, and Wis. Admin. Code § NR 135.32(2). This article does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased before August 1, 2001. This article applies to nonmetallic mining conducted by or on behalf of the county, municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in subsection 58-963(c)(15).
- (b) *Exemptions.* This article does not apply to the following activities:
- (1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the state department of natural resources under Wis. Stats. §§ 30.19, 30.195 or 30.20, and complies with Wis. Admin. Code ch. NR 340.
 - (2) Excavations subject to the permit and reclamation requirements of Wis. Stats. §§ 30.30 or 30.31.
 - (3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
 - (4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
 - (5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
 - (6) Excavations for building construction purposes conducted on the building site.
 - (7) Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.
 - (8) Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stats. ch. 293.
 - (9) Any activities required to prepare, operate or close a solid waste disposal facility under Wis. Stats. ch. 289, or a hazardous waste disposal facility under Wis. Stats. ch. 291, that are conducted on the property where the facility is located. However, an applicable nonmetallic mining reclamation ordinance and the standards established in this article apply to activities related to solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(10)

Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the state department of transportation concerning the restoration of the nonmetallic mining site.

- a. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the state department of transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with the requirements of this article. The duration of the exemption shall be specific to the length of the state department of transportation contract for construction of a specific transportation project.
- b. If a nonmetallic mining site covered under subsection (b)(10)a of this section is used to concurrently supply materials for projects unrelated to the state department of transportation project, the exemption in this subsection (b) still applies, provided that the site is fully reclaimed under state department of transportation contract and supervision.

(c) *Dredging.* Dredging shall be permitted for navigational purposes, to construct or maintain farm drainage ditches, for the remediation of environmental contamination, and the disposal of spoils from these activities.

(Ord. No. 317, § 1.07(1), (2), (14), 5-8-2001; Ord. No. 470, 3-13-2007)

Secs. 58-937—58-960. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Footnotes:

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Cross reference— *Administration, ch. 2.*

Sec. 58-961. - Penalties for violation of article.

Any person who fails to comply with the provision of this article or any order of the administrator, zoning committee, board of adjustment or county board issued in accordance with this article or resists enforcement shall, upon conviction, forfeit not less than \$25.00 nor more than \$1,000.00 per offense, and the costs or prosecution for each violation and in default of such payment shall be imprisoned in the county jail for a period not to exceed six months. Each day a violation exists or continues shall constitute a separate offense.

(Ord. No. 317, § 5.03, 5-8-2001)

Sec. 58-962. - Enforcement.

- (a) *Right of entry and inspection.* For the purpose of ascertaining compliance with the provisions of this article, any authorized officer, agent, employee or representative of the county or the department, upon presentation of appropriate credentials, may inspect any nonmetallic mining site subject to this article. No person may refuse entry or access to a nonmetallic site to such officer, agent, employee or representative.
- (b) *Orders and citations.*
- (1) *Orders.* The administrator or duly authorized representative may do any of the following to enforce the provisions of this article:
- a. Issue an order requiring the operator of a nonmetallic mining site, subject to this article, to comply with the provisions of or cease violations of the requirements of this article.
 - b. Issue an order suspending or revoking a nonmetallic mining reclamation permit.
 - c. Issue an order directing the operator of a nonmetallic mining site to cease an activity regulated under this article until the necessary plan approval is obtained; or
 - d. Submit an order to abate violations of this article to the district attorney, corporation counsel, municipal attorney or attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or attorney general may enforce these orders.
- (2) *Review of orders.* A person holding a reclamation permit, who is subject to an order pursuant to subsection (b)(1) of this section shall have the right to have the order reviewed by the county board of adjustment pursuant to the procedures set forth in division 4, article II of this chapter.

(Ord. No. 317, § 5.02, 5-8-2001)

Sec. 58-963. - Permitting.

- (a) *Permit required.* No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to this article unless the activity is specifically exempted in section(s) 58-935 and 58-936.
- (1) *Required submittal.* All operators of nonmetallic mining sites shall apply for a reclamation permit from the county. All applications for reclamation permits under this section shall be accompanied by the following information:
- a. A brief description of the general location and nature of the nonmetallic mine.
 - b. Legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
 - c. The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.

- d. The name, address and telephone number of the person or organization who is the operator.
 - e. A certification by the operator of his intent to comply with the statewide nonmetallic mining reclamation standards established by division 3 of this article.
- (2) *Reclamation permit application contents.* The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the county zoning office prior to beginning operations.
- a. The information required by subsection (a)(1) of this section.
 - b. The plan review and annual fees required by sections 58-972 and 58-973.
 - c. A reclamation plan conforming to subsection (b) of this section.
 - d. A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by subsection (c) of this section upon granting of the reclamation permit and before mining begins.
 - e. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this article.
- (b) *Reclamation plan requirements.* All operators of nonmetallic mining sites subject to this article shall prepare and submit a reclamation plan that meets the following requirements:
- (1) *Plan required.* An operator who conducts or plans to conduct nonmetallic mining shall submit to the county a reclamation plan that meets the requirements of this section and complies with the standards of division 3 of this article.
 - (2) *Site information.* The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site including, but not limited to:
 - a. Maps of the nonmetallic mining site including the general location, property boundaries, the extent of the area to be mined, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the approximate elevation of groundwater, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.
 - b. Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using county soil surveys or other available information including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.

- c. Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine site.
- d. Existing topography as shown on contour maps of the site at four-foot contour intervals.
- e. Location of manmade features on or near the site.
- f. For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

(3) *Post-mining land use.*

- a. The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.
- b. Land used for nonmetallic mining in areas zoned under an exclusive agricultural use ordinance pursuant to Wis. Stats. § 91.75 shall be restored to agricultural use.

(4) *Reclamation measures.* The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

- a. A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and if necessary a site-specific engineering analysis performed by a registered professional engineer as provided by subsections 58-1006(a) or (b).
- b. The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.
- c. A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.
- d. A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
- e. The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
- f. A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope

stabilization.

- g. Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent of vegetative cover, productivity, plant density, diversity or other applicable measures.
 - h. A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface water and groundwater.
 - i. A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to subsections 58-970(b) and (e) and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in division 3 of this article and timing of interim and final reclamation.
 - j. A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.
- (5) *Criteria for ensuring successful reclamation.* The reclamation plan shall contain criteria for ensuring successful reclamation in accordance with section 58-1009.
- (6) *Certification of reclamation plan.*
- a. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. If the operator does not own the land the landowner, or lessor, if different from the operator, shall also provide signed certification that he concurs with the reclamation plan and will allow its implementation.
- (7) *Existing plans and approvals.* To avoid duplication of effort, the reclamation plan required by this subsection (b) may, by reference, incorporate existing plans or materials that meet the requirements of this article.
- (8) *Approval of reclamation plan.* The county shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with subsection (e)(3)d herein for mines that apply for a reclamation permit in conformance with subsection (a)(3) herein. Conditional approvals of reclamation plans shall be made according to subsection (e) (7) and denials of reclamation plans shall be made pursuant to subsection (f) of this section. The operator shall keep a copy of the reclamation plan approved under this subsection at the mine site, or if not practicable, at the operators nearest place of business.
- (c) *Financial assurance.* All operators of nonmetallic mining sites in the county shall prepare and submit a proof of financial assurance that meets the following requirements:

- (1) *Notification.* The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under subsection (c)(3) of this section.
- (2) *Filing.* Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with the county. The financial assurance shall provide that the operator shall faithfully perform all requirements in this article and the reclamation plan. Financial assurance shall be payable exclusively to the county. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the county only if it currently has primary regulatory responsibility.
- (3) *Amount and duration of financial assurance.* The amount of financial assurance shall equal as closely as possible the cost to the county of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the county to ensure it equals outstanding reclamation costs. Any financial assurance filed with the county shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. The period of the financial assurance is dictated by the period of time required to establish the post-mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.
- (4) *Form and management.* Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to the county and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to, cash, certificate of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts or government securities. Any interest earned on the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of the county, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining sites occur or a combination of financial assurance methods.
- (5) *Multiple projects.* Any operator who obtains a permit from the county for two or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by the county.

- (6) *Multiple jurisdictions.* In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the operator to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.
- (7) *Certification of completion and release.*
- a. The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he determines that reclamation of any portion of the mining site or the entire site is complete. The county shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. The county may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete, the county shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.
 - b. The county shall make a determination of whether or not the certification in subsection (c) (7)a of this section can be made within 60 days that the request is received.
 - c. The county may make a determination under this subsection that:
 1. Reclamation is not yet complete.
 2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors.
 3. Reclamation is complete in a part of the mine.
 4. Reclamation is fully complete.
- (8) *Forfeiture.* The financial assurance shall be forfeited if any of the following occur:
- a. A permit is revoked under section 58-965 and the appeals process has been completed.
 - b. An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.
- (9) *Cancellation.* The financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90-day notice to the county, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the county a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

- (10) *Changing methods of financial assurance.* The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to subsection (c)(12) of this section. The operator shall give the county at least 60 days' notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the county.
- (11) *Bankruptcy notification.* The operator of a nonmetallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under the bankruptcy code, 11 USC et seq., naming the operator as debtor, within ten days of commencement of the proceeding.
- (12) *Adjustment of financial assurance.* The financial assurance may be adjusted when required by the county. The county may notify the operator in writing that adjustment is necessary and the reasons for it. The county may adjust the financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.
- (13) *Private nonmetallic mines.* The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with subsection (a)(3) herein shall submit the proof of financial assurance required by subsection (c), as specified in the reclamation permit issued to it under this article.
- (14) *Public nonmetallic mining.* The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the state, state agency, board, commission or department, or a municipality.
- (d) *Public notice and right of hearing.*
- (1) *Reclamation plan hearing.* In addition to complying with all the applicable sections of this chapter governing the establishment of nonmetallic mine operations, where applicable, the county zoning office shall, provide public notice and the opportunity for a public hearing as set forth as follows:
- a. *Public notice.*
1. When the county zoning office receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 45 days after receipt of a complete application that satisfies subsection (a)(3).
 2. The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to Wis. Stats. § 985.07(2), in the official newspaper of the county. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.

3. Copies of the notice shall be forwarded by the county zoning office to the East Central Wisconsin Regional Planning Commission, the county land conservation department, the clerks of applicable municipalities and the department.
- b. *Hearing.* The county planning and zoning committee shall provide for an opportunity for a public hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:
1. If it conducts a zoning related hearing on the nonmetallic mine site, the county planning and zoning committee shall provide the opportunity at that hearing to present testimony on reclamation related matters. That opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. The county planning and zoning committee shall consider the reclamation related testimony furnished or provided in the zoning related hearing in deciding on a permit application pursuant to this article.
 2. If there is no opportunity for a zoning related hearing on a nonmetallic mine site as described in subsection 1. above, opportunity for a public hearing will be provided as follows: Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. The county shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under section subsection (d)(1)a. above. The public hearing shall be held no later than 60 days after being requested in writing. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. The fees for conducting such public hearing shall be the same as those required for a conditional use permit, as set forth in division 7, article II of this chapter. The subject matter and testimony at this public hearing shall be limited to reclamation of the nonmetallic mine.
- (3) *Local transportation related mines.* No public notice or public hearing is required for a nonmetallic mining reclamation permit issued to a local transportation related mine pursuant to subsection (e)(5) herein.
- (e) *Issuance of permit.*
- (1) *Permit required.* No person may engage in nonmetallic mining or nonmetallic mining reclamation without a reclamation permit issued pursuant to this article, except for nonmetallic mining sites that are exempt from this article under section 58-936 or 53-935, Nonmetallic mining site definition (2).
 - (2)

Permit issuance. Applications for reclamation permits for nonmetallic mining sites that satisfy subsection (a) (3) shall be issued a reclamation permit or otherwise acted on as provided in the following:

- a. Unless denied pursuant to subsection (f) of this section, the county shall approve in writing a request that satisfies the requirements of subsection (a)(3) to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.
- b. The county may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of subsection (b) of this section. The regulatory authority may issue a reclamation permit subject to conditions in subsection (e) (7), if appropriate. The permit decision shall be made no sooner than 30 days and not later than 90 days following receipt of the complete reclamation permit application and reclamation plan pursuant to this article, unless a public hearing is held pursuant to subsection (d) of this section. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to subsection (e)(7), if appropriate, or shall deny the permit as provided in subsection (f), no later than 60 days after completing the public hearing.
- c. Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of subsection (b) herein and provision by the applicant of financial assurance required under subsection (c) and payable to the county prior to beginning mining.

(3) *Automatic permit for local transportation related mines.*

- a. The county shall automatically issue an expedited permit under this subsection to any borrow site that:
 1. Will be opened and reclaimed under contract with a municipality within a period not to exceed 36 months;
 2. Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;
 3. Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the state department of transportation concerning the restoration of nonmetallic mining sites;
 4. Is not a commercial source;
 5. Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any; and
 6. Is not otherwise exempt from the requirements of this article under section 58-936(b).
- b. In this subsection, the term "municipality" has the meaning defined in Wis. Stats. §

299.01(8).

- c. Automatic permits shall be issued under this subsection in accordance with the following provisions:
1. The applicant shall notify the county of the terms and conditions of the contract with respect to reclamation of the proposed site.
 2. The applicant shall provide evidence to the county to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
 3. The county shall accept the contractual provisions incorporating requirements of the state department of transportation in lieu of a reclamation plan under subsection (b) of this section.
 4. The county shall accept the contractual provisions in lieu of the financial assurance requirements in subsection (c) of this section.
 5. The public notice and hearing provisions of subsection (d) of this section do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.
 6. Mines permitted under this subsection shall be exempt from the annual fees collected by the county as provided in section 58-973, except that the department's share of the annual fee shall not be waived. In addition, mines permitted under this subsection shall not be subject to the plan review fee provided in section 58-972.
 7. The county shall issue the automatic permit within seven working days of the receipt of the complete application.
 8. If the borrow site is used concurrently to supply materials for other than the local transportation project, the automatic permitting in this subsection still applies, provided that the site will be reclaimed under a contractual obligation with the municipality in accordance with the state department of transportation requirements.
 9. Notwithstanding section 58-966, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.
- (4) *Expedited review.* Any operator of a nonmetallic mining site may request expedited review of a reclamation permit under subsection (e)(6)a. or b. herein as follows:
- a. The operator may submit a request for expedited permit review with payment of the expedited review fee specified in subsection 58-972(b). This request shall state the need for such expedited review and the date by which such expedited review is requested.
 - b. The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review

and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.

- c. Following receipt of a request under this subsection, the county shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under subsection (e)(6)a. shall be returned.
- d. Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to subsection (d) of this section. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

(5) *Permit conditions.*

- a. The county may issue a reclamation permit or approve a reclamation plan subject to general or site specific conditions if needed to ensure compliance with the nonmetallic mining reclamation requirements of this article.
- b. One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to subsection (c) of this section prior to beginning mining.

(f) *Permit denial.* An application for a nonmetallic mining reclamation permit shall be denied as set forth in the following:

- (1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the timeframe for permit issuance specified in subsection (e) of this section, if the county finds any of the following:
 - a. The applicant has, after being given an opportunity to make corrections, failed to provide to the county an adequate permit application, reclamation plan, financial assurance or any other submittal required by Wis. Admin. Code ch. NR 135 or this article.
 - b. The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this article, Wis. Admin. Code ch. NR 135, or subchapter I of Wis. Stats. ch. 295 (Wis. Stats. § 295.11 et seq.).
 - c. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in the state within ten years of the permit application or modification request being considered, shown a pattern of serious violations of this article or of federal, state or local environmental laws related to nonmetallic mining reclamation. The following may be considered in making this determination of a pattern of serious violations:
 - 1. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.
 - 2. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to

this article, other reclamation ordinances or Wis. Admin. Code ch. NR 135.

3. Forfeitures of financial assurance.

4. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(2) A decision to deny an application to issue a reclamation permit may be reviewed under subsection (k) of this section.

(g) *Alternative requirements.*

(1) *Scope of alternative requirements approvable.* An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standards established in division 3 of this article. The county may approve an alternative requirement to the reclamation standards established in this article if the operator demonstrates and the county finds that all of the following criteria are met:

- a. The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.
- b. Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.
- c. Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and longterm site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

(2) *Procedures.*

- a. In addition to the provisions required pursuant to subsection (d) of this section regarding public notice and right of hearing for traditional reclamation permits, an operator of a nonmetallic mining site requesting an alternate requirement in subsection (g)(1) of this section shall demonstrate all the criteria in subsection (g)(1) of this section. This shall be submitted in writing to the county planning and zoning committee.
- b. A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

(3) *Transmittal of decision on request for alternative requirement.* The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

(4) *Notice to department.* The county shall provide notice to the department as set forth in this subsection. Written notice shall be given to the department at least ten days prior to any public hearing held under subsection (g)(2) of this section on a request for an alternate requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the department within ten days of issuance.

(h) *Permit duration.*

- (1) A nonmetallic mining reclamation permit issued under this article shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to section 58-962(b).
 - (2) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to subsection (i) of this section.
- (i) *Permit transfer.* A nonmetallic mining reclamation permit issued under this article shall be transferred to a new owner or operator upon satisfaction of the following conditions:
- (1) Proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.
 - (2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the county, and the county makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.
- (j) *Previously permitted sites.* For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Wis. Admin. Code ch. NR 135 that becomes subject to reclamation permitting authority of the county, the terms and conditions of the previously issued municipal reclamation permit shall remain in force until modified by the county pursuant to section 58-964.
- (k) *Review.* Any permitting decision or action made by the administrator or the county planning and zoning committee under this article may be reviewed by the county board of adjustment through the appeal procedures as described in division 4, article II of this chapter.

(Ord. No. 317, §§ 3.01—3.11, 5-8-2001; Ord. No. 470, 3-13-2007)

Sec. 58-964. - Permit modification.

- (a) *By the county.* A nonmetallic mining reclamation permit issued under this article may be modified by the county if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Wis. Admin. Code ch. NR 135, or this article. Such modification shall be by an order modifying the permit in accordance with section 58-962(b). This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Wis. Admin. Code ch. NR 135 or this article.
- (b)

At the operator's option. If the operator of any nonmetallic mine that holds a reclamation permit issued under this article desires to modify such permit or reclamation plan approved under this article, such modification may be made by submitting a written application for such modification to the county zoning office. The application for permit or plan modification shall be acted on using the standards and procedures of this article.

- (c) *Required by the operator.* The operator of any nonmetallic mine that holds a reclamation permit issued under this article shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this article. Such application for permit modification shall be acted on using the standards and procedures of this article.
- (d) *Review.* All actions by the county on permit modifications requested or initiated under this section are subject to review under section 58-963(k).

(Ord. No. 317, §§ 4.01—4.04, 5-8-2001)

Sec. 58-965. - Permit suspension and revocation.

- (a) *Grounds.* The regulatory authority may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this article if it finds the operator has done any of the following:
 - (1) Failed to submit a satisfactory reclamation plan within the timeframes specified in this article.
 - (2) Failed to submit or maintain financial assurance as required by this article.
 - (3) Failed on a repetitive and significant basis to follow the approved reclamation plan.
- (b) *Procedures.* If the regulatory authority finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in subsection (a) of this section, it may issue a special order suspending or revoking such permit as set forth in section 58-962(b).
- (c) *Consequences.*
 - (1) If the regulatory authority makes any of the findings in subsection (a) of this section, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and environment as ordered by the regulatory authority pursuant to section 58-962(b).
 - (2) If the regulatory authority makes any of the findings in subsection (a) of this section, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this article to the regulatory authority. The regulatory authority may use forfeited financial assurance to reclaim the site to the extent needed to comply with this article.

(Ord. No. 317, § 4.05, 5-8-2001)

Sec. 58-966. - Annual operator reporting.

Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites on forms furnished by the county.

- (1) *Content.* The annual report required by this section shall include all of the following:
 - a. The name and mailing address of the operator.
 - b. The location of the nonmetallic mining site, including the legal description, tax key number or parcel identification number, if available.
 - c. The identification number of the applicable nonmetallic mining permit, if assigned by the county.
 - d. The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
 - e. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
 - f. A plan, map or diagram accurately showing the acreage described in subsection (1)d and e of this section.
 - g. The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Wis. Admin. Code ch. NR 135."
- (2) *Deadline.* The annual report shall cover activities on unreclaimed acreage for the previous calendar year and be submitted by January 31.
- (3) *When reporting may end.* Annual reports shall be submitted by an operator for all active and intermittent mining sites to the county for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to section 58-970(c) or at the time of release of financial assurance pursuant to section 58-963(c)(7).

(Ord. No. 317, § 4.06, 5-8-2001; Ord. No. 470, 3-13-2007)

Sec. 58-967. - Inspection in lieu of report.

The county may, at its discretion, obtain the information required in section 58-966 for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this section. If the county obtains and documents the required information, the annual report need not be submitted by the operator. If the county determines that the operator need not submit an annual report pursuant to this section, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, the county shall require the operator to submit the certification required in section 58-966(1)g.

(Ord. No. 317, § 4.07, 5-8-2001)

Sec. 58-968. - Retention of annual reports.

Annual reports submitted under section 58-966 or inspection records that replace them under section 58-967 shall be retained by the county at the zoning office for at least ten years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the department upon written request or during its inspection or audit activities carried out pursuant to Wis. Admin. Code ch. NR 135.

(Ord. No. 317, § 4.08, 5-8-2001)

Sec. 58-969. - Regulatory reporting and documentation.

- (a) *Reporting.* The county shall send an annual report to the department by March 31 of each calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:
- (1) The total number of nonmetallic mining reclamation permits in effect.
 - (2) The number of new permits issued within the jurisdiction of the county.
 - (3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
 - (4) The number of acres being mined.
 - (5) The number of acres that have been reclaimed and have had financial assurance released pursuant to section 58-963(c)(7).
 - (6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this article pursuant to section 58-970(a) and (b).
 - (7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.
- (b) *Documentation.* The county shall, to the best of its ability, maintain the information set forth in this subsection (b), and make it available to the department for that agency's audit of the county's reclamation program pursuant to Wis. Admin. Code ch. NR 135:
- (1) Documentation of compliance with Wis. Admin. Code ch. NR 135 and this article.
 - (2) The procedures employed by the county regarding reclamation plan review, and the issuance and modification of permits.
 - (3) The methods for review of annual reports received from operators.
 - (4) The method and effectiveness of fee collection.
 - (5)

Procedures to accurately forward the department's portion of collected fees in a timely fashion.

- (6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
- (7) Responses to citizen complaints.
- (8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
- (9) The maintenance and availability of records.
- (10) The number and type of approvals for alternative requirements issued pursuant to section 58-963(g).
- (11) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to section 58-963(c)(7).
- (12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the county to implement its nonmetallic mining reclamation program under this article.
- (13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
- (14) Any other performance criterion necessary to ascertain compliance with Wis. Admin. Code ch. NR 135.

(Ord. No. 317, § 4.11, 5-8-2001)

Sec. 58-970. - Completed reclamation; reporting, certification and effect.

- (a) *Reporting.* The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135 to the county zoning office.
- (b) *Reporting of interim reclamation.* The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135. Reporting of interim reclamation shall be done according to the procedures in subsection (a) of this section.
- (c) *Certification of completed reclamation.* The county shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with subsection 58-963(c)(7). If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with subsection 58-963(b), the county shall issue the mine operator a written certificate of completion.

(d)

Effect of completed reclamation. If reclamation is certified by the county as complete under subsection (c) of this section for part or all of a nonmetallic mining site, then:

- (1) No fee shall be assessed under section 58-973 for the area so certified.
 - (2) The financial assurance required by subsection 58-963(c) shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.
- (e) *Effect of inaction following report of completed reclamation.* If no written response as required by subsection (d) of this section for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the county for it under section 58-973 shall be refunded.

(Ord. No. 317, § 4.12, 5-8-2001; Ord. No. 470, 3-13-2007)

Sec. 58-971. - Permit termination.

When all final reclamation required by a reclamation plan conforming to subsection 58-963(b) and required by this article is certified as complete pursuant to subsections 58-963(c)(7) and 58-970(d), the county shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

(Ord. No. 317, § 4.13, 5-8-2001)

Sec. 58-972. - Plan review fees.

- (a) *Amount and applicability.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under subsection 58-963(a)(3) shall submit a nonrefundable plan review fee, on file in the zoning office, to the county zoning office. No plan review fee may be assessed under this section for any local transportation related mining receiving an automatic permit under subsection 58-963(e)(5). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to the provisions of this division.
- (b) *Expedited plan review fee.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under subsection 58-963(a)(3) may obtain expedited reclamation plan review by paying a fee double the amount described in subsection (a) of this section.
- (c) *Relation to annual fee.* Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under section 58-973.

(Ord. No. 317, § 4.09, 5-8-2001; Ord. No. 470, 3-13-2007)

Sec. 58-973. - Annual fees.

(a) *Areas subject to fees, procedures, deadline and amount.*

- (1) Operators of all nonmetallic mining sites subject to reclamation permits issued under this article shall pay annual fees to the county zoning office.
- (2) Fees assessed under this section shall be calculated based on the unreclaimed acres of a nonmetallic mining site.
- (3) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under section 58-970. Fees shall be paid no later than January 31 for the previous year. Fees that are received in the land conservation and zoning office after February 1 of each calendar year shall be charged double the annual fee as a late penalty. Whenever the applicable fees are not paid by March 31st of the calendar year, the original application shall be referred to the planning and zoning committee for consideration of further action, up to and including, revocation of the conditional use permit and/or reclamation plan, and immediate closure of the operation. Any and all bonds shall be forfeited at if the permit and reclamation plan are rescinded to restore the site to reclamation plan specifications.
- (4) Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.
- (5) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by the county pending certification of complete reclamation pursuant to subsection 58-963(c)(7). Upon such certification the county shall refund that portion of the annual fee that applies to the reclaimed areas. If the county fails to make a determination under subsection 58-963(c)(7) within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(b) *Department's share of fee.*

- (1) Fees paid under this section shall be in accordance with Wis. Admin. Code § NR 135.39(3) and are on file at the zoning office.
- (2) The county shall forward fees collected under this subsection to the department by March 31 of the year for which they were collected.

(c) *Fee collected by the county.* Fees under this section shall include an annual fee due to the county which shall be on file at the zoning office and paid to the county zoning office.

(Ord. No. 317, § 4.10, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 554, 3-19-2013)

Secs. 58-974—58-1000. - Reserved.

DIVISION 3. - STANDARDS

Sec. 58-1001. - Conformance with division provisions.

All nonmetallic mining sites subject to this article shall be reclaimed in conformance with the standards contained in this division.

(Ord. No. 317, § 2.00, 5-8-2001)

Sec. 58-1002. - General standards.

The general standards for reclamation of nonmetallic mining sites are as follows:

- (1) *Refuse and other solid wastes.* Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the department adopted pursuant to Wis. Stats. chs. 289 and 291.
- (2) *Area disturbed and contemporaneous reclamation.* Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.
- (3) *Public health, safety and welfare.* All nonmetallic mining sites shall be reclaimed in a manner to comply with federal, state and local regulations governing public health, safety and welfare.
- (4) *Habitat restoration.* When the land use required by the reclamation plan approved pursuant to this article requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.
- (5) *Compliance with environmental regulations.* Reclamation of nonmetallic mining sites shall comply with all other applicable federal, state and local laws including those related to environmental protection, zoning, and land use control.

(Ord. No. 317, § 2.01, 5-8-2001)

Sec. 58-1003. - Surface water and wetlands protection.

Nonmetallic mining reclamation shall be conducted and completed in a manner that ensures compliance with the department's water quality standards for surface waters and wetlands contained in Wis. Admin. Code chs. NR 102 to 105. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all

necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this article. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(Ord. No. 317, § 2.02, 5-8-2001)

Sec. 58-1004. - Groundwater protection.

- (a) *Groundwater quantity.* A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.
- (b) *Groundwater quality.* Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Wis. Admin. Code ch. NR 140 to be exceeded to a point of standards application defined in that chapter.

(Ord. No. 317, § 2.03, 5-8-2001)

Sec. 58-1005. - Topsoil management.

- (a) *Removal.* Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this article in order to achieve reclamation to the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed as required by the reclamation plan, prior to any mining activity associated with any specific phase of the mining operation.
- (b) *Volume.* The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this article.
- (c) *Storage.* Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this article, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(Ord. No. 317, § 2.04, 5-8-2001; Ord. No. 470, 3-13-2007)

Sec. 58-1006. - Final grading and slopes.

- (a) All areas affected by mining shall be addressed in the reclamation plan approved pursuant to this article to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.
- (b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under subsections 58-963(g)(1) through (4); steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.
- (c) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the waterbody to allow for a safe exit.

(Ord. No. 317, §§ 2.04(2), 2.05, 5-8-2001; Ord. No. 470, 3-13-2007; Ord. No. 610, 4-18-2017)

Sec. 58-1007. - Topsoil redistribution for reclamation.

Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this article in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(Ord. No. 317, § 2.06, 5-8-2001)

Sec. 58-1008. - Revegetation and site stabilization.

Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this article, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by vegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(Ord. No. 317, § 2.07, 5-8-2001)

Sec. 58-1009. - Assessing completion of successful reclamation.

- (a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this article. Criteria to evaluate reclamation success shall be quantifiable.
- (b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:
 - (1) On-site inspections by the regulatory authority or its agent;
 - (2) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
 - (3) A combination of inspections and reports.>
- (c) In those cases where the post-mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
- (d) Revegetation success may be determined by:
 - (1) Comparison to an appropriate reference area;
 - (2) Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 - (3) Comparison to an approved alternate technical standard.
- (e) Revegetation using a variety of plants indigenous to the area is favored.

(Ord. No. 317, § 2.08, 5-8-2001)

Sec. 58-1010. - Intermittent mining.

Intermittent mining may be conducted, provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to section 58-963(c) is maintained

covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(Ord. No. 317, § 2.09, 5-8-2001)

Sec. 58-1011. - Maintenance.

During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, to comply with the standards of this article, or to meet the goals specified in the reclamation plan approved pursuant to this article.

(Ord. No. 317, § 2.10, 5-8-2001)