

2016 Waukesha County General Zoning Code Update

Summary of Proposed Amendments

An advisory committee of local officials and development community representatives met four times in early 2016 to guide the preparation of updates to the County Shoreland & Floodland Protection Ordinance (SFPO) to incorporate revised State shoreland zoning requirements and modernize various zoning provisions. Because many parcels within the three towns subject to General County Zoning are split jurisdiction (part of property subject to the SFPO and part subject to the General Zoning Code), it was discussed at committee that the Zoning Code should be updated to ensure consistency in the requirements of both codes.

The proposed General Zoning Code amendments mirror the relevant proposed SFPO provisions that were prepared by County Planning & Zoning Staff upon the direction of the advisory committee. Four Town Planners participated formally in the SFPO advisory committee work, including Jeff Herrmann and Sandy Scherer, who, respectively, represent Oconomowoc and Ottawa. The committee's recommendations have also been shared with Jamie Rybarczyk, Town of Vernon Planner.

The committee endorsed amendments that would expand options for making improvements to nonconforming structures and supported replacing floor area ratio and open space requirements with a simplified building footprint scheme. The committee supported a number of miscellaneous amendments to the SFPO that are now also recommended for the Zoning Code. A summary of proposed amendments follows below. Note that any remaining references to shoreland issues (boathouses, shore setback, etc.) are proposed to be removed from the General Zoning Code as part of this update.

Proposed Zoning Code Amendments:

Accessory Building Without a Principal Structure

Allow an accessory building to remain or be constructed without a principal structure being present for a maximum of 2 years, provided that a deed restriction and financial guarantee is submitted for the cost of accessory building removal to ensure compliance.

AD-10 and RRD-5 District revisions

Remove prime agricultural soils preservation requirements from the AD-10 and RRD-5 zoning districts but continue to allow for either rural development patterns or clustered developments at 10-acre and 5-acre densities, respectively.

AO- Existing Agricultural Overlay District

Delete district, as it is not mapped in any of the three subject towns.

Applicant

Expand definition to allow utility companies to apply for permits when they demonstrate that they hold valid easements or have established prescriptive rights.

Breezeway

In order for a breezeway to be considered an attachment between structures, the following criteria must be met:

- Enclosed on all sides.
- Minimum 8 ft. in width.
- Maximum 20 ft. in length.

Drainage Provisions

- Add site protection standards for land altering activities and require compliance with the Waukesha County Stormwater Management Ordinance and Uniform Dwelling Code, if applicable.
- Require a 35 ft. setback from a non-navigable drainage channel or water course, rather than a 75 ft. setback.

Groundwater Separation

Clarify and cross-reference groundwater separation requirements of the Waukesha County Stormwater Ordinance (requires 1 ft. separation between the seasonal high groundwater elevation and basement floor).

Lot Area Regulations

- If a single legal lot of record exists and is split by a road, allow the acreage from both sides of the road to be used for calculating compliance with area regulations.
- If a property owner owns multiple lots of record that are located on opposite sides of the same road, the lots shall be considered separate lots and area regulations shall be administered based upon each individual lot- not the combined acreage of the lots.
- If a property owner owns multiple lots of record that are located on opposite sides of the same road, with the lots being directly opposite one another for at least one-half of road frontage of one of the lots, an accessory structure can be constructed without benefit of a principal residence being present on the same parcel subject to the following requirements:
 - A principal residence must be present on the opposite-side parcel.
 - A CSM that encompasses both parcels shall be recorded. The CSM shall state that the lots may not be sold separately unless the accessory building is removed in the future.
 - Maximum accessory building footprint calculations shall be solely based upon the acreage of the parcel upon which it will be built.

Maximum Accessory Building Footprint

Replace 3% accessory building footprint with the maximum footprint provided in the following table (exceptions apply for farm consolidation parcels in farmland preservation areas):

Lot Area	Maximum Footprint
<14,000 sq. ft.	600 sq. ft.
14,000 sq. ft. or greater	750 sq. ft. or 2% of lot area, whichever is greater

Maximum Building Footprint

- Provide a maximum building footprint of 17.5% or 1,100 sq. ft., whichever is greater, for all residential districts.
- Convert existing FAR % limits to footprint % for all other zoning districts (i.e. A-2 District 10% FAR becomes 10% footprint).

Maximum Height-Principal Structures

- 35' measured from the lowest exposure to highest peak on lots less than 65 ft. in width or if no roof pitch is proposed.

- 44' measured from the lowest exposure to highest peak / 32' measured from the lowest exposure to eave on lots at least 65 ft. in width.

Maximum Height-Accessory Structures

Replace 15' max. with 18' max., measured from the lowest exposure to highest peak.

*Height increase option will be limited to rural residential/agricultural districts.

Minimum Building Footprint

Provide provisions that allow Zoning Administrator to administratively approve a building footprint not to exceed 1,100 square feet when application of required offsets and setbacks does not provide an 1,100 s.f. footprint. The Zoning Administrator shall only administratively reduce road setback, floodplain setback and wetland setback in providing such an envelope.

Minimum Floor Area

- *Standardize minimum floor area requirements across all zoning districts to match the existing R-3 District requirements:*

Minimum 1st floor area= 850 square feet

Total floor area= 1,100 square feet

- *Reduce minimum multi-family dwelling unit size requirements as follows:*
 - 1 BR unit = 600 square feet
 - 2BR unit = 700 square feet
 - 3BR unit = 800 square feet
 - Additional 100 square feet for each additional bedroom
 - 2-family dwellings, 850 square feet per unit (1,700 square feet total)

Nonconforming Structures

Provide additional flexibility depending on the severity of nonconformity. See nonconforming structure summary sheet for more details.

Offset

Include all structures, not just buildings, as being subject to the offset provisions.

- Reduce deck/patio side offset requirements to 50% of distance of specified offset, but no closer than 5 ft. Stairs and walkways may be permitted 5 ft. from a lot line.

Offset Reduction

Proposed offset reductions for sub-standard lots (lots less than 120' wide (unsewered), or 84' (sewered):

Lot Width (ft.)	Required Offset (ft.)
35 ft. or less	5'
> 35 ft. – 50 ft.	7'
>50 ft. to < 84 ft.	10'
84 ft. to < 120 ft.	14'

*Within agricultural, commercial, or industrial districts, if lot does not comply with the district lot width standards, the offset requirements specified in the above table apply, unless the district offset is less restrictive.

Road Setback

- Amend the setback requirement to 50 ft. or 35 ft. if the setback is measured from a local road and served by sewer or platted as part of a subdivision after Oct. 1, 2016.
- Amend the averaging provisions so that the existing structures used in the calculation must be on adjacent lots within 250 ft. instead of 200 ft. (same as shore) and are located on the same side of the road as the proposed structure.

Substandard Lots

- Remove existing code provision that prohibits sale of adjacent substandard parcels of record that are owned in common.
- Insert requirements that prohibit adjacent lots substandard to NR 115 lot size rules from being used as separate building sites if one or more buildings has ever extended across parcel lines. In addition, such a substandard lot cannot be built upon if the lot was ever formally combined by deed with a single legal description, subdivision plat, certified survey map or plat of survey (with preparation of new deed).

NR115 required minimum lot size and width:

- 20,000 sq. ft. lot size and 100 ft. width, unsewered.
- 10,000 sq. ft. lot size and 65 ft. width, sewerred.

Wetland and Floodplain Setback

- Reduce floodplain setback to 35' if the natural grade adjacent to a proposed structure is at least 3 ft. above the floodplain elevation (existing reduction = 40' for additions to principal structures only).
- Remove the existing setback relief from wetlands and instead allow relief via amended nonconforming structure provisions.
- Provide for maximum 200 sq. ft. sheds to be located a minimum of 35' from wetlands and floodplains provided no other conforming location exists and there are no other accessory structures present.
- Existing setback averaging remains in place.

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Proposed Nonconforming Structure Flexibility Summary Sheet

“Tiered System”

Structures nonconforming to wetland and floodplain setback

Note: Structures that are permitted by right through wetland and floodplain setback averaging are not subject to the following provisions.

- Within 35 ft.
 - Limit structures to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.
- 35 ft. and greater. In addition to the above:
 - Allow vertical expansions that meet the height requirements.
 - Allow horizontal expansions (principal structures only) that do not exceed 200 sq. ft. in area over the life of the structure.
 - Allow the replacement or relocation of a structure of equal or less size if no other conforming location is available as determined by the Zoning Administrator and provided the structure is no closer to the wetland or floodplain than the existing structure.

Structures nonconforming to road setback

Structures that are permitted by right through road setback averaging are not subject to the following provisions.

- Within 20 ft.
 - Limit structures to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.
- 20 to < 35 ft. In addition to the above:
 - Allow vertical expansions that meet the height requirements
 - Allow horizontal expansions (principal structures only) that do not exceed 200 sq. ft. in area over the life of the structure provided the expansion is no closer to the road than the existing structure.
 - Allow the replacement or relocation of a structure of equal or less size if no other conforming location is available as determined by the Zoning Administrator and provided the structure is no closer to the road than the existing structure
- 35 ft. and greater. In addition to the above:
 - Allow unlimited horizontal expansions (principal structures only) provided the expansion is no closer to the road than the existing structure.

Structures nonconforming to offset

Structures that are permitted by right through offset flexibility options are not subject to the following provisions.

- *Within 5 ft.*
 - Limit structures to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.

- *5-10 ft. In addition to the above:*
 - Expansions require a special exception provided the expansion is no closer to the offset than the existing structure and provided the area of the expansion does not exceed 50% of the footprint of the existing structure, cumulatively over the lifetime of the structure from the date this ordinance is effective.

- *Greater than 10 ft. In addition to the 50% provision:*
 - Expansions are permitted by right provided the expansion is no closer to the offset than the existing structure and provided the area of the expansion does not exceed 50% of the footprint of the existing structure, cumulatively over the lifetime of the structure from the date this ordinance is effective.
 - Expansions that exceed 50% of the footprint of the existing structure require a special exception provided the area of the expansion is no closer to the offset than the existing structure.

Structures nonconforming to footprint standards

- Limit structures that exceed the footprint standards to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.
- No horizontal expansions are permitted.
- Vertical expansions are limited to the area of allowable footprint for the structure, i.e. if the structure currently has a 3,000 sq. ft. footprint and 2,000 sq. ft. is allowed, the proposed 2nd story shall not exceed 2,000 sq. ft.
- Existing structures that do not comply with the minimum floor area requirements shall not be reduced in size.

Flexibility provided for structures that cannot meet the above standards: Minimum Building Footprint

- The Zoning Administrator shall be provided with the ability to administratively approve a building footprint not to exceed 1,100 sq. ft. when offsets and setbacks cannot otherwise provide a 1,100 sq. ft. building footprint. The Zoning Administrator is limited to providing road setback and floodplain and wetland setback relief only. The footprint shall not extend into the established road right-of-way or within the floodplain or wetland.

Structures nonconforming to height

- Any vertical expansion must comply with the height regulations.
- Limit structures that exceed the height standards to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.

Principal and accessory structures - nonconforming uses

- 50% value provision still applies to structures that contain nonconforming uses.