

RESOLUTION 36 -13

Resolution to Approve Zoning Ordinance Amendment for the Town of St Croix Falls

TO THE HONORABLE BOARD OF SUPERVISORS OF THE COUNTY OF POLK WISCONSIN:

WHEREAS, the Town of St. Croix Falls administers their own Zoning Ordinance; and

WHEREAS, paragraph 3 of Wisconsin Statute Chapter 60.62 relating to town zoning authority, if exercising village powers, reads: "In counties having a county zoning ordinance, no zoning ordinance or amendment of a zoning ordinance may be adopted under this section unless approved by the county board;" and

WHEREAS the Town of St. Croix Falls adopted Zoning Ordinance No. 1 on August 5, 1965, amended in its entirety on May 12, 1994 and subsequent amendments including the amendment on March 20, 2001; January 16, 2008; February 18, 2009; May 20, 2009; October 21, 2009; March 17, 2010; April 21, 2010; August 18, 2010; March 16, 2011; April 20, 2011; October 19, 2011; November 16, 2011; and August 21, 2013; and

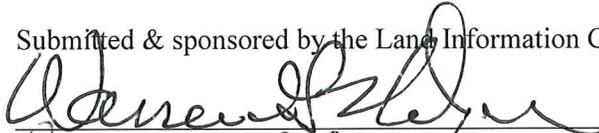
WHEREAS, the Town Board of the Town of St. Croix Falls has approved the attached amendments to their Town Zoning Ordinance on August 21, 2013; and

WHEREAS, the Polk County Board of Supervisors must also approve of the Ordinance Amendments.

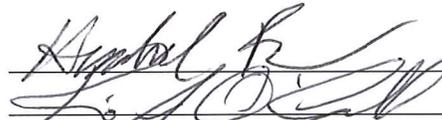
NOW, THEREFORE, BE IT RESOLVED, that the Polk County Board of Supervisors hereby approves the attached Zoning Ordinance Amendments for the Town of St. Croix Falls.

Funding Amount & Source: Not applicable
Finance Committee Recommendation: Not applicable
Effective Date: Upon Passage & Publication

Submitted & sponsored by the Land Information Committee:


James A. Edgell

Craig Monak


L. J. O'Connell

Review By County Administrator:

- Recommended
- Not Recommended
- Reviewed Only


Dana Frey, County Administrator

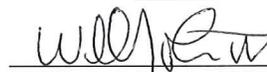
Review By Corporation Counsel:

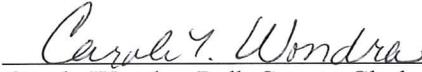
- Approved As to Form
- Recommended
- Not Recommended
- Reviewed Only


Jeffrey B. Fuge, Corporation Counsel

At its regular business meeting on ^{Oct. 15} ~~November 12~~, 2013, the Polk County Board of Supervisors adopted the above-entitled resolution, Resolution 36-13: Resolution to Approve Zoning Ordinance Amendments for the Town of St Croix Falls, by a simple majority vote of in favor and against. *by unanimous voice vote*

Dated this 22nd day of October, 2013 at Polk County Wisconsin.


William Johnson, IV, County Board Chairperson

Attest: 
Carole Wondra, Polk County Clerk

A complete copy of the Zoning Ordinance Amendment for the Town of St. Croix Falls can be seen at the St. Croix Falls Town Hall or viewed on line at: www.townofstcroixfalls.org

TOWN
Of
ST. CROIX FALLS
Polk County, Wisconsin

**AMENDING ZONING ORDINANCE No. 1 ENTITLED "TOWN ZONING ORDINANCE"
ORDINANCE 13-05**

Section 1: Purpose

The purpose of this ordinance is to amend Chapter I Administration and Enforcement, Section F Nonconforming Uses, 1 General Limitations by deleting c and d to comply with Act 170.

- ~~a. No structural alteration, addition or repair to any nonconforming structure over the life of the structure shall exceed 50% of its market value at the time of its becoming a nonconforming structure unless the structure is permanently changed to a conforming structure. The value of alterations, additions and repair work shall include the value of all labor and material, even if contributed or provided without cash outlay.~~
- ~~b. If any structure containing a nonconforming use is destroyed or damaged by any means to an extent of 50% or more of its market value, it shall not be reconstructed except in conformity with the provisions of this ordinance.~~

; and

To amend Chapter I Administration and Enforcement, Section I Special Exceptions, with the addition of 10 entitled Special Exceptions for Industrial Sand Mining.

10. Special Exceptions for Industrial Sand Mining

Section 1. Findings and Purpose.

(1) Findings. Industrial Sand mining operations, while a vital component of our state and local economy, can have both direct and indirect adverse impacts. Studies have documented that industrial sand mining operations can have adverse impacts on groundwater and surface water, and can generate harmful levels of dust and noise particularly if blasting and crushing operations are undertaken. Industrial sand mining sites can have negative impacts on the landscape and aesthetics if not properly screened, and can present safety concerns to members of the public if not properly secured. Truck traffic from such operations can also generate off-site impacts including safety concerns to children and other residents. While certain aspects of mining operations are subject to state or federal regulation, there is no comprehensive state or federal regulation of industrial sand mining operations. Many aspects of industrial sand mining operations are left unregulated with potential adverse impacts to the public health, safety and welfare of the residents of the Town.

(2) Purpose. The purpose of these provisions is to provide minimum standards for all industrial sand mining operations in the Town, in order to protect public health and safety, to preserve the scenic beauty of the Town's landscapes and environment, to protect the public from damage to both the quantity and quality of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of St. Croix Falls.

Section 2. Applicability and Scope.

(1) The provisions of this Section shall apply to all industrial sand mining operations and mine sites within the Town of St. Croix Falls except as set forth in sub. (2).

(2) This Section (I) (10) shall not apply to the following industrial sand mining operations:

- (a) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.*
- (b) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.*
- (c) Grading conducted for preparing a construction site (except a industrial sand Mining site) or restoring land following a flood or natural disaster.*

- (d) *Excavations for building construction purposes conducted on the building site.*
- (e) *Industrial sand mining at industrial sand mining sites where less than ten (10) acres of total affected acreage occurs over the life of the mine.*
- (f) *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.*

Section 3. Definitions. For purposes of this Section (I) (10), the following definitions shall be applicable:

- (1) *"Industrial Sand" means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable silica sand material. This includes, without limitation, sand which is often known to the general public as "frac sand".*
- (2) *"Industrial sand mining" means any or all of the following:*
 - (a) *Extraction from the earth of mineral aggregates or Industrial Sand for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.*
 - (b) *Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, drying, dewatering, or blending of the Industrial Sand obtained by extraction from the mining site or with materials transferred from off-site.*
 - (c) *Manufacturing processes aimed at producing Industrial Sand products for sale or use by the Operator.*
 - (d) *Stockpiling of Industrial Sand or finished products for sale or use off-site; and stockpiling of waste materials.*
 - (e) *Transport, transfer or transload of the extracted Industrial Sand, finished products or waste materials to or from the extraction site.*
 - (f) *Disposal of waste materials.*
 - (g) *Reclamation of the extraction site.*
- (3) *"Waste Material" means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site or some other site as part of a reclamation plan.*
- (4) *A "mine site" or "site" means land from which Industrial Sand will be extracted for sale or use by the Operator and/or any land on which is or will be located any structures, equipment, storage facilities, stockpiles, washing, drying, dewatering, transfer, transload or screening facilities, private roads, rail spurs or haulage ways associated with industrial sand mining operation; and all contiguous lands to the industrial sand mining operation under common ownership or control of the owner or Operator.*
- (5) *"Adjoining landowner" means any property within 1/2 mile of the proposed mine Site regardless of whether there is a residence or structure on the property.*
- (6) *"Landowner" means the person who has title to land in fee simple or who holds a land contract for the land.*
- (7) *"Town" means the Town of St. Croix Falls, in Polk County, Wisconsin.*
- (8) *"Town Board", means the Town Board of the Town of St. Croix Falls, in Polk County, Wisconsin.*
- (9) *"Operator" means any person who is engaged in, or who has applied for a permit to engage in industrial sand mining, whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.*

Section 4. Special Exception Permit.

Neither industrial sand mining, nor the operation of a mine site are permitted uses in any zoning district in the Town. However, they are special exception uses in certain zoning districts as more particularly set forth in this Zoning Ordinance.

(1) Permit Requirement. No person shall operate an industrial sand mine site within the scope of this Ordinance in the Town of St. Croix Falls without first obtaining a Special Exception Permit (in the districts in which such a permit is available) from the Town Board.

(2) Permit Term

(a) A Special Exception Permit for operation an industrial sand mine site shall be granted for a period of two (2) years commencing on the date the special exception permit is issued and ending on the second anniversary of the issuance of the permit.

(b) An Special Exception Permit may be renewed in the same manner as receiving an initial permit.

(3) Permit Amendment. If the Town has issued a Special Exception permit, the Operator may request an amendment to that permit during the permit term, using the same process as the original permit application.

(4) Permit Transfer. An Operator's permit may be transferred to a new Operator only with the prior written permission of the Town Board, which shall be granted if the new Operator agrees to the conditions in place with the current Operator and if the new Operator provides all financial assurances as may be required by the Town, county, or state. For clarity, if the current Operator enters into a Mining Agreement with the Town, pursuant to Section 10 of this Ordinance, the current permit may not be transferred unless and until the new Operator agrees with the Town in writing to assume all of the obligations under said Mining Agreement and to abide by the terms and conditions set forth in said Mining Agreement.

(5) Permit Revocation. An Operator's permit may be revoked under the procedures set forth in this Ordinance.

Section 5. Procedures For Applying For A Permit To Mine

(1) Application Form. The Application Form for a permit to mine in the Town of St. Croix Falls shall be available from the Town Zoning Administrator.

(2) Application Submittal. The applicant shall submit five (5) copies of the Application Form and all required documentation required under Section 6 to the Town Zoning Administrator accompanied by the payment of both the application fee and the base administrative fee established for the administration of this Ordinance in amounts set forth in the Town of St. Croix Falls schedule of fees. The fees shall be made payable to "Treasurer, Town of St. Croix Falls." The Application Form shall be signed by the Operator and by the landowner, provided the landowner is a person other than the Operator.

(3) Initial Review.

(a) Preliminary Review. The Zoning Administrator shall conduct an initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary, the application shall be scheduled for consideration as set forth in this Ordinance.

(b) Additional Information. The Zoning Administrator, Town Plan Commission or Town Board may request the applicant to submit additional information if the Town Board determines that application is incomplete. With the approval of the Town Board, the Zoning Administrator or Plan Commission may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Plan Commission, Town Board whether additional information is required for review of the application and to determine whether the application meets the standards of this Ordinance.

(c) Additional fees. If the Town Board determines that additional expertise is required, the Town Board shall authorize retaining the services of an engineering firm, attorney or other qualified person with appropriate expertise to advise the Town and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of the services of any such retained expert. The additional fee shall be paid before the additional review is undertaken.

(d) *Report.* Once the applicant has submitted any additional information and has paid the additional administrative fee in the amount charged, the retained expert shall report to the Zoning Administrator, Plan Commission and Town Board on whether the application meets the requirements of this Ordinance.

(4) *Decision by the Town Board.* Once the application is complete and any report by a retained expert has been completed, if feasible given publication and notice requirements, the Town Clerk shall place the application on the agenda for the next regular meeting of the Plan Commission and Town Board, respectively. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting.

Section 6. Permit Application

All applicants for a industrial sand mining special exception permit shall submit a complete application form. Incomplete applications will be returned to the applicant and review of the application will be put on hold. Applicants shall submit all of the following information, including any information not specifically requested on the application form as attachments to the form:

(1) Ownership Information.

(a) *The name, address, phone number(s), and e-mail address of the Operator of the industrial sand mining operation.*

(b) *The name, address, phone number(s), and e-mail address of all owners or lessors of the land on which the mining operation will occur.*

(c) *The Operator shall designate a local contact person (either on site or with an office in Polk, Burnett, St. Croix or Barron County) who the Town can contact for information or with concerns. Said contact person shall be available by phone or in person during the hours the mine is in operation.*

(2) Site Information and Maps.

(a) *A certified survey map(s), survey or other reasonably accurate and complete map and parcel identification number(s) of the property on which the industrial sand mining operation will be located.*

(b) *An aerial photo of the proposed site at a scale of 1 inch equals 660 feet signed by both the Operator and the landowner.*

(c) *The location within the site of all existing buildings and other structures, equipment, stockpiles, storage and parking areas.*

(d) *A topographic map or maps of the mine site extending 3 and 1/2 miles beyond the site boundaries at contour intervals no wider than 10 feet showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within one mile of the site.*

(e) *A map on which the all residential, agricultural and municipal wells within one (1) mile of the boundaries of the site in all directions are marked and given a numerical identification of the location.*

(f) *The location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within one (1) mile of the site.*

(g) *A description of the distribution, depth and type of topsoil on the site as well as the geological composition and depth and width of the Industrial Sand deposit.*

(h) *For manufacturing, drying, transfer, transload or processing facilities within the Town, a map identifying the location of all other non-contiguous sites within the Town of St. Croix Falls and any other municipality, if any, that will contribute extracted material to the same manufacturing, drying, transfer, transload or processing facility to which the site for which the applicant seeks a permit.*

(3) Operation Plan

- (a) *Dates of the planned commencement and cessation of the operation.*
- (b) *Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.*
- (c) *Estimated volume of material to be extracted over the life of the mine and for the next calendar year (or if the mine site is solely a drying, processing, transload or transfer facility, the amount of product that will pass through the site over the life of the site and for the next calendar year).*
- (d) *Location of road access points. The proposed location within the site of all buildings and other structures, equipment, stockpiles, storage and parking areas.*
- (e) *Identification of all proposed off-site trucking routes, together with the frequency of traffic and the common schedule of travel to be used for transporting extracted materials or products to or from the site.*
- (f) *A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water including methods used for infiltration and control of run-off.*
- (g) *A listing of any hazardous materials, including fuel supplies that will be stored on site and a description of measures to be used for securing and storing these materials.*
- (h) *A listing of all chemicals and approximate quantities used in the manufacturing or processing operations or in controlling dust. Note: If the Operator desires to change or add chemicals, the Town Board must be notified in advance of any such change or addition.*

(4) *Information Demonstrating Compliance with Minimum Standards.*

(a) *The Operator shall provide the information necessary to demonstrate that the mining operation will comply with the minimum standards in Section 7.*

(b) *For mining operations commencing after the effective date of this Section of the Zoning Ordinance, the Operator shall also provide information establishing baseline conditions at the site before mining operations commence, including the groundwater elevation across the site, groundwater quality at the site for lead, arsenic and any other toxic metal that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made, and the base flow of surface water with one (1) mile of the site.*

(5) *Exceptions. The applicant can request an exception from the application requirements of this section if it can demonstrate that the information required can be provided by alternative means or is not necessary for an evaluation of the particular mining operation, and that the public health, safety and welfare will not be adversely affected thereby.*

Section 7. Minimum Standards of Operation

If a Special Exception Permit is granted, the Operator shall comply with all conditions set forth in such permit. In addition, the Operator shall comply with all of the following standard conditions:

- (1) *No blasting or "bumping" shall occur without special permission by Town Board, or the Operator shall have obtained a blasting permit from the Town pursuant to the Town's Blasting Ordinance if one has been enacted.*
- (2) *The Operator shall contact the Town Chairperson or Zoning Administrator as soon as possible and no later than within 2 hours, in the event of hazardous chemical or waste spills, leaks or contamination of any kind or in the event of a release of any chemical, dust or particles above levels permitted by applicable regulations.*
- (3) *The Operator shall undertake all measures necessary for the control of surface water runoff from industrial sand mining operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under NR 216 and NR 151 as applicable.*
- (4) *In the event that the mine site contains areas adjacent to the industrial sand mining operations that are being used for agricultural, commercial or residential purposes, the Operator shall undertake all measures necessary to control*

surface water runoff from those areas from entering mining operations or otherwise causing contamination of surface water and groundwater.

- (5) The Operator shall provide a buffer area of a minimum of 50 feet along bordering property lines and public roadways.*
- (6) The Operator shall screen the mining operations from public view to the maximum extent practicable through the use of berms, additional setbacks or other measures. Prior to construction, the Town shall be consulted on the analysis and configuration of berm construction and placement.*
- (7) The Operator shall limit normal hours of operations to 12 hours a day Monday through Friday during daylight hours and not later than 6:00 pm to minimize off-site impacts to residents. The Operator may submit a plan for extended hours as part of its application or as part of a Mining Agreement, if it can demonstrate that additional hours are reasonably necessary for the mining operation and it would be consistent with public, health safety and welfare.*
- (8) The Operator shall limit night lighting on site, to that which is minimally necessary for security and, wherever possible, shall be shielded from illuminating off-site areas. Full cut-off shrouds shall be employed at the mine site. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky. Upon written complaint of light pollution made to the Town Board, the Town shall notify Operator, which shall take steps to mitigate the light pollution by redirecting the lighting and taking other reasonable steps to address the complaint.*
- (9) The Operator shall minimize backup alarm sounds as much as possible, and use "white noise" backup alarms to the extent permitted under federal and state regulations.*
- (10) No jake braking of trucks entering and leaving the mine site. Operator shall inform all truck drivers and any independent contractors that they must comply with the no jake braking rule and all other applicable traffic codes. If a trucker disregards this notice, Operator shall take steps to correct the action or stop using any such trucking company that refuses to comply.*
- (11) Noise at the boundary of the mine site shall not exceed 60 decibels.*
- (12) Mining operations shall have at least one monitoring well for every 10-acre sector of the mine site, and the Operator shall take quarterly samples for lead, arsenic and any other toxic metal that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.*
- (13) The Operator shall demonstrate that all other applicable federal, state and local permits and approvals required for the industrial sand mining operation have been or will be obtained prior to commencement of operation. During the operation of the mine site, the Operator shall comply with all local, state and federal laws, rules, regulations and ordinances.*
- (14) Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one (1) mile of the mine site. A significant reduction is a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis. See Section 9 of this Ordinance for further details.*
- (15) Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one (1) mile of the mine site, including but not limited to, a reduction of water in streams, lakes and tributaries to or below base flows established prior to the beginning of mining operation.*
- (16) Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural or municipal functions such as fire protection. Adverse effects include but are not limited to a reduction of water in streams, lakes and tributaries to or below base flows established prior to the beginning of mining operation.*
- (17) Operator shall repair any damage to, and remove sediment from any private property, or town roads, ditches and other drainage ways when Operator is found responsible by the Town for such sediment or damage caused by runoff from the mine site for any reason, including but not limited to heavy rains and/or snowmelt runoff.*
- (18) The Operator will work with the Town to develop a haul route which will set forth the Town roads that may be utilized by the Operator in hauling materials to or from the mine site (or otherwise by trucks traveling to or from the mine*

site). The haul route restrictions shall become a part of the conditions of a Special Exception Permit and the operator shall ensure that all truck traffic traveling to or from the mine site only utilizes the haul route. Prior to Operator utilizing the haul route, the Town will hire an independent third party to conduct a baseline study of the Town roads on the haul route ("Road Study"). If the Road Study determines that all or a portion of the haul route roads must be rebuilt or improved to accommodate the truck traffic generated by the mine site, Operator will pay to the Town the amount necessary to rebuild or improve such roads and the Town shall cause such roads to be rebuilt or improved using such funds. During and after the operation of the mine site, Operator shall be responsible, and shall pay to the Town an amount equal to the amount required to fix any damage to any Town roads attributable to the mine site or truck traffic traveling to or leaving the mine site.

(19) The Operator will comply, and cause its contractors and employees to comply, with the seasonal spring special weight restriction imposed upon Town roads for the approximate six (6) week period beginning in March.

Section 8. Financial Assurances.

(1) Financial assurance shall be provided to the Town as a condition of special exception permit approval in the amount necessary for the following:

(a) Road repair. An amount necessary for the repair and maintenance of Town roads used for truck traffic transporting materials to or from the site. Upon the agreement of the Town Board, the financial assurance may be in the form of a Road Maintenance Escrow Account.

(b) Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations within one (1) mile of the site or such other area shown to be impacted by the Operator's operations.

(2) The form of financial assurance made to the Town of St. Croix Falls shall be that form agreed to by the Town Board and may include performance bonds, escrow agreements, irrevocable letters of credit or other measures agreed upon by the Town Board.

(3) If at any time after a special exception permit is issued, the Town determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been utilized, the Town shall notify the Operator of the additional amount needed and the basis for the request. The Operator shall have 30 days to provide the increased amount.

(4) The Operator shall also provide to the Town proof that it has provided the financial assurance for reclamation required under Wisconsin law, if applicable.

Section 9. Damages to Private Water Supply.

(1) A property owner within one (1) mile of the mine site may seek remedies under subs (2)-(5) for any of the following damages to private water supply caused by the Operator or its employees or contractors:

(a) A preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property.

(b) A substantial adverse impact on the quantity or quality of water from a private well on the owner's property occurs, including but not limited to the inability of any such well to provide water on a continuous basis.

(c) A lowering of surface waters which serve as a source of water for personal, agricultural or municipal functions on the owner's property to levels below base flow levels for more than 5 days.

(2) Any property owner under sub (1) seeking a remedy under this Section shall simultaneously file a notice with the Town and the mine Operator of the occurrence of the event under sub (1) explaining the nature and extent of the problem.

(3) Within 24 hours of receipt of such notice under sub (2), the Town may use funds provided under Section 8 (if applicable) to provide an adequate interim water supply. If applicable, the Town shall also use funds under Section 8 to indemnify the Town for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the Town has approved the report or plan under sub (4).

(4) *Within 20 days of receipt of notice under sub (2), the mine Operator may provide to the property owner and to the Town a report that demonstrates that the impact to the property owner was not attributable to the mining operation, or to present a plan for a permanent alternative water supply to be paid by the Operator.*

(5) *The Town shall in consultation with the property owner review the report or plan and approve or deny such report or plan. If the Town determines that the Operator's report is incorrect or insufficient, the Town may continue to provide an interim water supply (if a fund for the same has been set up pursuant to Section 8) during any subsequent negotiations, mediation, or litigation. If the Town determines that the mine Operator was not the cause of damage to the private water supply, the Operator may elect to seek reimbursement by the property owner for the costs of supplying interim water during a period not exceeding one year.*

(6) *A property owner beyond one (1) mile of the mine site may apply to the Town for use of funds under Section 8, if applicable, to remedy damages to a private water supply identified in sub (1), provided that the property owner can demonstrate to the Town that the damage to the private water supply was caused by the mine. If the Town determines that the damage was caused by the mine, the property owner can utilize the remedies in subs (2) to (5).*

Section 10. Mining Agreement

Any of the provisions of this Section (D)(10), including the license term, may be modified by agreement between the Town and the Operator if the Town Board determines that the agreement provides protections for the public at least equal to those of this Ordinance.

; and

To amend Chapter II Definitions, Lot Width to read as follows:

For the purpose of this ordinance, the width of a lot shall be the shortest **average** distance between the side lot line and the setback line.

; and

To amend Chapter II Definitions, Quarrying to read as follows:

The removal of mineral aggregates, topsoil or other natural materials from the earth by excavating, stripping or any other mining process. **For the purposes of this ordinance quarrying does not include Industrial Sand Mining.**

; and

To amend Chapter III General Zoning, Section B General Provisions on Height and Area, 2 to read as follows:

2. Hereafter, every dwelling erected in the town shall provide not less than ~~one thousand one hundred twenty (1,120)~~ **eight hundred (800)** square feet and a minimum width of said home shall be ~~twenty-six (26)~~ **twenty-four (24)** feet. The square footage to be measured using the area of the first floor and all additional floors. The basement can be included if it has an entrance directly accessible to the outside, or least one (1) window that is not over four (4) feet above the basement floor.

; and

To amend Chapter III General Zoning, Section B General Provisions on Height and Area, with the addition of 5 to read as follows:

5. Lot sizes, permitted and special exception uses, and other regulations regarding open space developments are contained in Chapter IX of this Ordinance.

; and

To amend Chapter III General Zoning, Section C Districts, 2 Agricultural District, e Permitted Uses was amended to read as follows:

Permitted Uses. The Agricultural District shall include permitted uses as follows, except that a minimum lot size of five (5) acres is required for any permitted use involving the raising or maintaining of farm animals **other than chickens, ducks, or turkeys. Chickens (excluding roosters), ducks, and turkeys up to .25 total animal units are permitted on parcels less than five (5) acres.**

; and

To amend Chapter III General Zoning, Section C Districts, 3 Commercial District, i Town Commercial Design Guidelines to read as follows:

Town Commercial Design guidelines shall be applied to all new commercial development and commercial development involving a structural alteration, addition, or repair to a structure that exceeds fifty (50%) percent of the equalized assessed value of the structure over the lifetime of the structure and those that include a significant change of use, except when the change of use is in an existing structure. ***The Town Zoning Administrator shall have the ability to administer the Town Commercial Design Guidelines for permitted uses. In cases where the Town Commercial Guidelines are either impractical or not feasible to implement due to the proposed use, the applicant may ask for a waiver from the Town Board, after a recommendation from the Town Plan Commission. Potential cost is not a factor the Town will consider.***

; and

To amend Chapter III General Zoning, Section C Districts, 4 Industrial District, b Special Exceptions, 11 to read as follows:

Non-metallic mining (*other than Industrial Sand Mining*).

; and

To amend Chapter III General Zoning, Section C Districts, 4 Industrial District, b Special Exceptions, with the addition of 21 which reads as follows:

Industrial Sand Mining.

; and

To amend Chapter III General Zoning, Section C Districts, 5 Transition District, a Permitted Uses to read as follows:

Any permitted use in the Agricultural District, except that a minimum lot size of five (5) acres is required to raise or maintain far animals, and the maximum number of farm animals allowed are one (1) animal unit, per contiguous acre of grazing and feed production. ***Chickens (excluding roosters), ducks, and turkeys are permitted up to .25 total animal units on parcels less than five (5) acres.***

; and

To amend Chapter III General Zoning, Section C Districts, 5 Transition District, f Special Exceptions, 8 to read as follows:

Quarrying or gravel pits, (***not including Industrial Sand Mining***), when located not less than two hundred (200) feet from any abutting highway right-of-way, nor shall any operational facilities such as buildings, parking lots, storage yards or stock piles be located closer than fifty (50) feet from the setback line, provided that the owner of the premises and the operator shall file an agreement accompanied by a surety bond or other financial guarantee for the restoration, within one year after discontinuing operations, or the site to a condition of practical usefulness and physical attractiveness. Minimum requirements for restoration shall be the elimination of all water holes by filling and the grading and side sloping of any area disturbed by the quarrying operation to the minimum angle of repose of the slope material or a two to one (2:1) slope, whichever is lesser.

; and

To amend Chapter III General Zoning, Section C Districts, 5 Transition District, f Special Exceptions, with the addition of 17 which reads as follows:

Industrial Sand Mining.

; and

To amend Zoning Ordinance No. 1 with the addition of a new Chapter IX Open Space Development to read as follows:

1.1 Purpose and Scope

Open Space Development is designed to preserve open space and rural character while creating compact neighborhoods that have a strong visual and physical access to the open space. This method of development uses

the size and shape of the open space as the central organizing element, rearranging the density on each parcel so that less land is cleared, graded, and turned into driveways, streets, lawns, and houses.

Open Space Development is designed to meet the following purposes:

- 1) Preserving efficient use of the land while maintaining desirable natural features and agricultural land.*
- 2) Allow housing to be concentrated on sites that have low agricultural value and/or high housing appeal.*
- 3) Create neighborhoods with direct access to open space, distinct identities, and a sense of community.*
- 4) Encourage innovation and flexibility in residential development.*
- 5) Provide commonly owned open space areas for passive and/or active recreational use by this development, and where applicable the larger community.*
- 6) Provide for a diversity of lot sizes, housing choices, and building densities to accommodate more people.*
- 7) Preserve scenic views and elements of the Town's rural character by minimizing views from existing roads.*
- 8) Unique characteristics and features of the parcel for the proposed development are strongly considered when granting approval for the development.*
- 9) Economic conditions of the developer will not be a consideration in the merits of the development.*

1.2 Definitions

- 1) Community Garden: Land which is cultivated by the residents of the development for the production of trees, vegetables, fruits, flowers, herbs and grasses for either the use of the residents or to be sold.*
- 2) Conservation Easement: An interest in real property created in a manner that imposes limitations or affirmative obligations in regard to the use of the property including the retention, protection, and maintenance of natural resources, open space, and agriculture.*
- 3) Cultural Resource: The historic characteristics of the land, including buildings and landscapes, which provide information regarding the Town of St. Croix Falls and its people*
- 4) Homeowners Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating and maintaining the common open space and facilities.*
- 5) Open Space: Land used for agriculture, natural habitat pedestrian corridors and/or recreational purposes, that is undivided and permanently protected from future development.*
- 6) Open Space Development: A grouping of residential structures on smaller lots than the general zoning districts, leaving some land dedicated as open space.*
- 7) Perimeter Road: A road lying outside of and abutting the development parcel.*
- 8) Plant Community: A grouping of plants with common environmental requirements living within the landscape, i.e., wetlands, grasslands, boreal forests.*
- 9) Protective or Restrictive Covenant: A contract entered into between private parties that constitutes a restriction of the use of a particular parcel of property.*
- 10) Resource Inventory: A survey of the land's features including its natural resources, cultural resources, scenic views and viewsheds, and physical characteristics.*

1.3. Application

The Major Subdivision application must contain a resource inventory, yield plan, concept subdivision plan phasing plan and general location map.

- 1) A Major Subdivision application is required for an Open Space Development.*
- 2) Open Space Developments are only allowed in the Residential District.*
- 3) In addition to the criteria stated in the Town Subdivision Ordinance, the Planning Commission shall consider the following:*

(A) The open space development is designed to preserve open space and the Town's rural character while creating compact residential neighborhoods.

(B) The open space development is designed in accordance with the standards of this Ordinance.

(C) The open space development supports the goals and policies of the Town's Comprehensive Plan.

- 4) In addition to the Major Subdivision submission requirements the following items shall be submitted:*

(A) Resource Inventory

The plan for an Open Space Development shall include a resource inventory, to include the following, mapped at a scale of no less than one inch: 100 feet.

1. Topographic contours at 2-foot intervals, showing rock outcrops and slopes of more than 15 percent.

2. Soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock, and suitability for wastewater disposal systems.

3. Hydrologic characteristics, including surface water bodies, floodplains, wetlands,

natural swales and drainage ways.

- 4. Vegetation of the site, according to general cover type (pasture, woodland, etc.), defining boundaries of woodland areas and stand-alone trees with a caliper of more than 18 inches. Vegetative types shall be classified as generally deciduous, coniferous or mixed and described by plant community, relative age and condition.*
- 5. Current land use and land cover (cultivated areas, paved areas, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.*
- 6. Visual resources, showing views onto the tract from surrounding roads and public areas, as well as views within the tract.*
- 7. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archeological features.*
- 8. Context: general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.*

(B) Yield Plan

The applicant shall submit a "yield plan," showing the maximum number of dwelling units that would be permitted given the minimum lot size and lot widths for conventional subdivisions and other requirements of the Zoning Ordinance and Subdivision Regulations. The yield plan need not be engineered; however, it shall be drawn to scale and it shall identify all the major physical features on the parcel. The minimum lot areas and width for the purposes of calculating a yield plan for each zoning district are in Chapter 3 of this ordinance.

(C) Concept Subdivision Plan

One or more open space design plans meeting the intent of this Chapter and including at least the following information:

- 1. Open space areas indicating which areas are to be protected.*
- 2. Boundaries of areas to be developed and proposed general street and lot layout.*
- 3. Number and type of housing units proposed.*
- 4. Areas proposed for stormwater management and on- or off-site sewage treatment.*
- 5. Said plans shall be drawn at a scale of 1 inch = 200 feet.*

(D) Phasing Plan

Open Space Development may be phased in accordance with a unified development plan for the entire tract meeting the following requirements:

- 1. A phasing plan identifying the sequence of development showing approximate areas, serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements, and common facilities for each.*
- 2. The phasing plan shall be made a part of the Major Subdivision and is effective for five (5) years from the date of preliminary plat approval. If final plat approval is not received within five (5) years, the plan shall become null and void.*
- 3. Any common facilities, including golf courses, shall be constructed prior to the sale of any lots and shall be clearly marked on a site map which shall be an attachment to all sales agreements for individual lots.*
- 4. As part of the development agreement, a financial guarantee to ensure completion of common facilities, trails and landscaping shall be provided.*

(E) General Location Map

1.4. Uses

The following uses are permitted within Open Space Developments. The following uses must meet the standards and criteria specified for those uses, as set forth in and regulated by this Ordinance.

1) Residential.

The following uses are allowed uses in the residential portion of the open space development.

(A) Single-family Detached

- (B) Multi-family Residential*
- (C) Bed and Breakfast*
- (D) Accessory Apartment*
- (E) Community residence*

2) Open Space.

The following uses are allowed uses in the designated open space:

- (A) Conservation (i.e., woodland, meadow, prairie)*
- (B) Agricultural, except feedlots*
- (C) Equestrian*
- (D) Recreational uses and associated parking intended mainly to serve residents of the development.*
 - 1. non-motorized trails (walking, skiing, cycling, horseback riding)*
 - 2. picnic areas*
 - 3. community gardens*
 - 4. composting (for waste generated by residents of the development)*
 - 5. turf areas for informal play*
 - 6. common areas such as greens or squares*
 - 7. ball fields*
 - 8. playgrounds*
 - 9. courts (tennis, basketball, etc.)*
 - 10. swimming pools or beaches*
 - 11. common buildings*
- (E) Stormwater Management Facilities*
- (F) Sewage Disposal Systems*
- (G) Essential Services Utility Substation*

3) The following uses are allowed in the designated open space with an additional Special Exception:

- (A) Golf Course*
- (B) Motorized Trails*
- (C) Recreational uses available to the public including:*
 - 1. ball fields*
 - 2. playgrounds*
 - 3. courts (tennis, basketball, etc)*
 - 4. swimming pools or beaches*

1.5. Ownership and Management of Open Space

The designated open space and common facilities may be owned and managed by one or a combination of the following:

- 1) Homeowners' Association*
- 2) Non-profit Organization*
- 3) The County or another governmental body empowered to hold interest in real property.*
- 4) An individual who will use the land for open space purposes as provided by the permanent conservation restrictions.*

1.6. Open Space

- 1) The minimum open space required is sixty (60) percent and shall be subject to a permanent conservation easement and used for the purposes as defined by this Ordinance. The conservation easement shall be dedicated to the Town, an acceptable land trustee or other similar organization as approved by the Town.*
- 2) The uses within the open space shall be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received.*
- 3) A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the Zoning Administrator.*

1.7. Homeowners' Associations

A Homeowners' Association shall be established if the open space is owned by a homeowner's association. Membership in the Association is mandatory for all purchasers of homes in the development and their successors.

A Homeowners' Association Agreement, guaranteeing continuing maintenance, shall be submitted to the Town as part of the data required for the Major Subdivision. Association documents or the declaration of covenants, conditions and restrictions shall contain the following information:

- 1) the legal description of the common lands or facilities;*
- 2) the restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions;*
- 3) a mechanism for resolving disputes among the owners or association members;*
- 4) a mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.*
- 5) the conditions and timing of the transfer of ownership and control of land or facilities to the Association or to common ownership;*
- 6) any other matter the developer deems appropriate.*
- 7) the management of collector sewage treatment systems.*

1.8. Density Standards

1) Minimum Development Size

To be eligible for Open Space Development, the development must contain the following minimum acreage for the zoning district in which the parcel is located:

(A) Residential (R-1) 20 Acres

(B) Residential (R-2) 20 Acres

(2) The number of density units for the parcel shall be determined in accordance with Section 1.8 (4) (B).

(3) Base Density

(A) The number of density units determined in (1) above may be increased by using the percentage for the zoning district in which the parcel is located:

1. R-1.....25%

2. R-2.....15%

(B) Apply any bonus density, as specified in Section 1.9(4).

(4) Density Points

The base density may be increased if the development complies with one or more of the following standards. Each standard provides a density increase of 5% over the base density. The maximum bonus permitted is 10%.

(A) Providing affordable housing, to include a minimum of 25 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development.

(B) Reusing historical buildings and structures, including those sites inventoried by the Polk County Historical Society and the State Historic Preservation Office. The Secretary of Interior's Standards for Rehabilitation shall apply.

1.9. Performance Standards

1) General Considerations

(A) For single-family attached and multi-family structures, the maximum number of units per freestanding building is six.

(B) The residential lot shall be large enough to accommodate a house and two-car garage.

(C) All structures shall be setback a minimum of 75 feet from unclassified waterbodies.

(D) Multi-family structures shall be setback a minimum of 50 feet from the lot line of a lot designated for single family detached dwelling units.

(E) A maximum of 20% of the residential dwelling units may be multi-family residential.

2) Residential Lot Requirements.

(A) Minimum Lot Size

1. R-1.....1 acre

2. R-2.....15,000 square feet

(B) Principal Building Setbacks

1. Front lot line..... 30 feet

2. Side lot line 15 feet

3. Rear lot line..... 30 feet

(C) Accessory Building Setbacks

1. Side lot line 15 feet

2. Rear lot line..... 10 feet

(D) Maximum Lot Coverage 35%

(E) Maximum Building Height 35 feet

(F) All lots shall take access from interior local streets developed as part of the open space development.

(G) Fifty percent of the lots within a neighborhood shall abut open space on at least one side. A local street may separate lots from the open space.

(H) Lots shall be oriented around a central focal point. This may be one or more of the following: (The "focal point" ensures that the central feature of the development is always either a natural feature or "designed" open space such as a green or parkway.)

1. A central green or square.
2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural feature.
3. A street designed with boulevards planted with shade trees and with a central "parkway" or median, at least 25 feet wide.

3) Neighborhood Siting Standards

(A) Neighborhoods shall be located to minimize their impacts on the natural, scenic and cultural resources of the site.

(B) Neighborhoods shall avoid encroaching on rare plant communities or endangered species.

(C) Fragmentation of open space shall be minimized.

(D) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels.

(E) Neighborhoods should be sited to achieve the following goals, to the extent practicable. In cases where impact on one or more of the following resource areas is unavoidable, the impact should be minimized through use of landscaping, topography, or other features.

1. Avoid prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices;
2. Minimize disturbance to woodlands, hedgerows, mature trees or other significant vegetation;
3. Protect scenic views of open land from adjacent roads.
4. Protect existing historic buildings or incorporate them through adaptive reuse

(F) The maximum number of residential lots permitted in a neighborhood is 50.

(G) More than one (1) neighborhood may be developed if separated by a clear boundary comprised of a combination of two or more of the following elements: street pattern, marked topographical changes, drainage ways, ponds, wetlands, streams, greenways and woodlands.

(H) Neighborhoods shall be separated from adjacent residential property by a clear boundary, comprised of two or more of the following elements: street pattern, marked topographical changes, landscape screening, drainage ways, ponds, wetlands, streams, greenways, and woodlands.

4) Open Space Design

An example of a 100 acre tract in a Residential (R-1) zone, open space requirements are as follows:

Maximum residential lots and streets.....40 acres

Minimum total open space.....60 acres

Minimum open space accessible to and owned by residents....15 acres

Minimum accessible open space suitable for recreation...3.75 acres

(A) Open space shall be designated as part of the development. The minimum required open space is based on a percentage of the gross acreage:

1. Residential50%

(B) The required open space shall be undivided and restricted from further development, as specified in Section 1.6.

(C) The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:

1. Parking areas for access to and use of the open space.
2. Buildings or structures if they are accessory to the use of the open space.

(D) Road rights-of-way may not be located within the required open space area, and shall not be counted towards the required minimum open space. (The intent of these requirements is to ensure that residents can actively use or enjoy a reasonable proportion of the open space.)

(E) No more than 50 percent of the required open space may consist of unclassified water bodies, ponds, areas within the 100 year floodplain (or high water mark as documented by County or Town records), wetlands, or slopes of greater than 25 percent.

(F) At least 25 percent of the open space shall be accessible to the residents of the development and shall be owned in common by all residents of the development.

1. At least 25% of the "accessible" open space, shall be suitable for recreational uses such as trails, play fields, or community gardens.
2. A pathway system connecting all parts of those open space areas accessible to

neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.

3. That portion of the open space designated for the location of sewage treatment facilities shall not be included as part of this accessible open space.

5) **Street Standards** (Roads shall be designed to minimize the visual size and scale of the development and help discourage excessive speeds. Street widths and alignments should be carefully scaled to neighborhood size.) Neighborhood streets may take the form of a two-way street, a pair of one-way streets on either side of a landscaped median, or a one-way loop street around a small neighborhood green. Streets shall be developed according to the Town of St. Croix Falls Street Requirements that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation. Following is a general description of those requirements:

(A) The applicant must demonstrate that access to the development has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.

(B) Streets shall have the following design standards:

1. **Right-of-way widths.** The right-of-way width for each road shall be wide enough to provide for all public services, including roadway drainage, trails and walkways, utilities and snow storage. The minimum right-of-way shall be provided in accordance with the following:

Travel Lanes	ADT Less than 250	ADT over 250
One-way roadway	30'	30'
Two-way roadway	60'	60'

2. **Roadway widths for local roads shall be determined by the expected average daily traffic (ADT) and shall be within the following ranges:**

Travel Lanes	ADT (less than 100)	ADT (100-250)	ADT (over 250)
Two-way roadway	20'-24'	20'-24'	22'-24'
One-Way roadway	11'-13'	11'-13'	11'-13'
(urban sections*)	13'	13'	13'
Shoulder Width	4'	4'	4'

3. **Additional Standards:**

(A) **Design Speed:** Minimum 20 miles per hour

(B) **Vertical Curves:** Minimum 50 feet (when grade difference less than 1%, no curve is needed)

(C) **Horizontal Curves:** Minimum radius of 125 feet

(D) **Road Grades:** Maximum grade 8%

(E) **Super-elevation:** Maximum $e = 0.04$ feet/feet

(F) **Pavement Strength:** 7 ton minimum

(G) **Clear Zones:**

Rural sections: 10 feet from edge of travel lane

Urban sections: 2 feet from face of curb

(H) **Bridges:** Width shall be traveled way plus 2 feet each side; Design Loading for Structural Capacity HS-20; Sidewalk necessary to maintain pedestrian crossing. (Utilities will be placed underground; either parallel to the sidewalk or under the street.)

(I) **Cul-de-sacs:** Minimum 30 foot radius

4. **Shade trees shall be planted on both sides of the street or placed in clusters based on the standard of five (5) trees for each dwelling unit, these are the minimum substantial plantings, in addition to other understory trees, shrubs, flowers and ground cover deemed appropriate for a complete quality landscape treatment of the site. The planting location of the required trees is flexible in order to accommodate various landscape designs. The required number of trees may be reduced by the Town Board if the Landscape Plan reflects the natural landscape..**

5. **Street connections to adjacent parcels shall be provided in logical locations to avoid creating landlocked parcels and provide for connecting street patterns.**

6. **Streets that serve as collectors, interconnecting subdivisions and other major traffic generators, shall be designed according to the Town's standards for collector roads.**

7. **Where streets will connect with streets having differing standards, the street dimensions shall be the same as those of the connecting street. All street widenings shall occur at the nearest intersection.**

County Regulations for septic systems will include standards for common systems: groundwater monitoring, pretreatment, system management, etc.

Alternatives may include:

- (A) Individual septic systems with drainfields located on the individual lot or in adjacent open space areas;
- (B) Individual septic tanks with communal drainfields on individual lots or in open space areas.
- (C) Drainfields may be located partially or completely within open space areas provided that:
- (D) Ground cover of regularly mowed turf or meadows is maintained;
- (E) No agricultural activities are permitted within 50 feet of the drainfield area;
- (F) No trails or other recreational facilities are located in drainfield areas.
- (G) Alternative wastewater treatment and disposal systems that meet all DNR permit requirements.

(6) Sewage and Water Facilities

The use of shared or community wells is encouraged. All Open Space Developments shall be provided with adequate sewage treatment facilities meeting the standards of Polk County's Individual Sewage Treatment Standards Regulations and the permit requirements of the Wisconsin DNR.

(7) Golf Courses

- (A) Golf courses may be located in the open space.
- (B) The golf course shall be regulated by a development agreement that restricts any further development or subdivision of land and requires the land to be retained as open space use if a golf course is no longer used as a golf course.
- (C) The golf course shall be constructed prior to the sale of any residential lots.
- (D) A financial guarantee ensuring completion of the golf course in accordance with the approved plans and permits shall be submitted to the Zoning Administrator.

; and

To amend Zoning Ordinance No. 1, by moving the Effectiveness chapter to Chapter X.

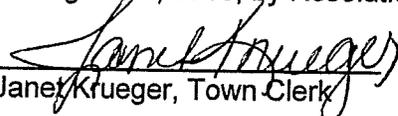
Section 2: Effective Date

This ordinance shall take effect from and after its passage and legal publication.

Adopted on August 21, 2013, by Resolution 13-38


Steven J. Palmer, Town Chair

Attested: Janet Krueger, Town Clerk



Posted on August 26, 2013, at the following locations:
Wayne's Café
Lampert's
Town Hall

