POLK COUNTY , WISCONSIN

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Lisa Ross, County Clerk
100 Polk Plaza, Suite 110, Balsam Lake, WI 54810
Phone (715) 485-9226 | Email: county clerk@co.polk.wi.us

INFORMATION FOR PUBLIC AND MEDIA
REGARDING POLK COUNTY VIRTUAL MEETINGS
JULY 1, 2020

All County Board and Committee meetings are broadcast live via WebEx. Public can attend meetings in person in the West Conference Room of the Polk County Government Center or on-line through WebEx. Public comment can be made from the West Conference Room or through WebEx. Webex meeting information can be found:

1. On the attached meeting agenda
2. By selecting the respective committee meeting on our online Meetings Calendar at: https://www.co.polk.wi.us/meeting.

PUBLIC COMMENT

If you wish to make public comment through WebEx, no later than 24 hours in advance of the meeting e-mail the County Clerk at countyclerk@co.polk.wi.us. Provide your name, the meeting you plan to comment during and the agenda topic you plan to comment on. Public comment will be taken first from those in attendance in the West Conference Room and then remotely in the order of the request received.

Due to potential technical difficulties, please consider submitting written comments for consideration to: countyclerk@co.polk.wi.us or by mail to: **Polk County Government Center, 100 Polk County Plaza – Suite 110, Balsam Lake, WI 54810**. Written comments received less than 24 hours prior to meetings may not be received and reviewed by Supervisors before the meeting.

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AGENDA AND NOTICE OF MEETING

ENVIRONMENTAL SERVICES COMMITTEE

Government Center, 100 Polk County Plaza, Balsam Lake, WI 54810
**East Conference Room, 2nd Floor
Wednesday, Sept.9th, 2020 at 9:00 a.m.
A quorum of the County Board may be present

Webex Virtual Meeting Info:
Meeting Number (access code): **146 761 7721**
Password: **ESMeeting**
Join Online: https://polkwi.webex.com
Join by Phone: 1-408-418-9388

1. Call to Order – Chairperson Kim O'Connell
2. Approval of Agenda
3. Approval of minutes for Aug. 26, 2020
4. Public Comments – 3 minutes per person – not to exceed 30 minutes total
5. Disclosure of Committee Member Conflicts of Interest regarding matters noticed on this agenda
6. Receipt of Information on Matters Noticed from Supervisors not Seated as Committee Members
7. Tax Delinquent Properties (Emil Norby)
   a. Update Regarding Tax Delinquent Properties
   b. Fee schedule for Lime Quarry
8. Parks, Recreation and Trails, and Dams (Ben Elfelt)
   a. Update of PTAG
   b. Update on DNR review of Stower Trail
9. Forestry (Mark Gossman)
   a. Update on Cattail Bridge Project
10. Zoning (Jason Kjeseth) LWRD(Dane Christenson) **Public Hearing 10:00am**
    a. MATHY CONSTRUCTION COMPANY: Residential Agricultural 5 (RA-5) to Mining (M-1). Property affected is: 1404 132nd St, Part of Lot 7, CSM 7135, located in NE ¼ of the SE ¼, Sec 23/T34N/R17W, Town of Balsam Lake, parcel #006-00664-0700, 9.08 acres. A reclamation permit amendment has been submitted for reclamation permit #14. The purpose of the amendment is to expand the existing mine. The proposed end land use is passive recreation. Opportunity will be given to present testimony on reclamation-related matters for the submitted reclamation permit amendment and reclamation plan. The public may review the submitted reclamation plan and supporting materials at the Land & Water Resources Office, 100 Polk County Plaza, Suite 120, Balsam Lake 54810, or call (715) 485-8699 if you have any questions or comments.
    b. Resolution No. 26-20: Resolution to Grant a Zoning District Change & to Amend Zoning District Map for Town of Sterling
    c. Resolution No. 37-20: Resolution to Amend Polk County Comprehensive Land Use Ordinance related to Swine CAFO's in the Agricultural 20 Zoning District
    d. Update of Operational Based Ordinance related to Swine CAFO's.
    e. Consideration and recommendation for approval of land exchange related to parcel #024-00031-0000
11. Environmental Services Division update (Bob Kazmierski)
12. Committee Calendar and Identification of Subject Matters for Upcoming Meetings
13. Adjourn

Items on the agenda not necessarily presented in the order listed. This meeting is open to the public according to Wisconsin State Statute 19.83. Persons with disabilities wishing to attend and/or participate are asked to notify the County Clerk's office (715-485-9226) at least 24 hours in advance of the scheduled meeting time so all reasonable accommodations can be made. Requests are confidential.

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MINUTES

Environmental Services Committee

Government Center County Board Room
100 Polk County Plaza Balsam Lake, WI 54810
9:00 A.M. Wednesday, Aug 26th, 2020

Member Attendance

Attendee Name	Title	Status
Kim O'Connell	Chair	Present
Tracy LaBlanc	Supervisor	Present
Doug Route	Supervisor	Present
Brad Olson	Vice Chair	Present
Sharon Kelly	Supervisor	Present
Lyle Doolittle	FSA Representative	Present

Also present were: Malia Malone, Corporation Counsel; Vince Netherland, County Administrator; Jason Kjeseth, Zoning Administrator; Tim Anderson, County Planner; Ben Elfelt, Parks and Trails Coordinator; Mark Gossman, Forester; Bob Kazmierski, Environmental Services Division Director; members of the public; and member of the press.

Meeting called to order by Chair O'Connell at 9:00 a.m.

Approval of Agenda- Chair O'Connell called for a motion to approve the agenda. **Motion** (Kelly/Olson) to approve the agenda, carried by unanimous voice vote.

Approval of Minutes – Chair O'Connell called for a motion to approve the minutes of the Aug 12th, 2020 meeting. Supervisor Route asked for clarification on corporate council Conditional Use Ordinance to DATCP. **Motion** (Route/Kelly) to approve the minutes of the Aug. 12th, 2020 meeting with correction, carried by unanimous voice vote.

Public Comment –9 Public Comments were heard

Disclosure of Committee Member Conflicts of Interest regarding matters noticed on this agenda - None

Receipt of Information from Supervisors not seated as Committee Members on Matters Noticed – None

Tax Delinquent Properties (Emil Norby)

a. Fee schedule for Lime Quarry-postponed to a later date. Administrator Netherland indicated that there would be a slight increase.

Forestry (Mark Gossman)

a. Gossman is seeking to apply for a Sustainable Forestry Grant to purchase a GPS unit and deer fencing to monitor deer browse and oak regeneration. **Motion** (Route/Olson) to allow Gossman to apply for grant, carried by unanimous voice vote.

b. DNR Partnership meeting will be coming up in Sept, as the first step in the 2021 work plan.

Break: Chairman O'Connell called for recess at 10:00-10:10am.

Zoning and Land Information (Jason Kjeseth) 10:10 AM PUBLIC HEARING:

Applicant: Sara Rank; Residential Agricultural 5 (RA-5) to Recreational Business & Commercial (B-2). Property affected is: 2631 80th St County Rd O, part of the NE ¼ of the SE ¼ , Sec 22/T36N/R16W, Town of Bone Lake, parcel #012-00503-0000, 1 acre. Rank requests the zone change to allow for a camper to be placed for her father to reside in for the summers. Class 2 Public notice was posted, Township of Bone Lake granted her request, no objections were received, and Public Hearing closed at 10:20am. **Motion** (LaBlanc/Route) to approve, carried by a unanimous voice vote.

a. Recommendation to proceed using DATCP's suggestions for the Proposed Amended Polk County Comprehensive Land Use Ordinance related to Swine CAFO's in the Agricultural 20 Zoning District. Kjeseth informed the committee that the Executive Committee recommended that this item be placed on the September Regular County Board Meeting.
b. Discussion and consideration of draft Resolution regarding Operational Based Ordinance related to Swine CAFO's. The Operational Based Ordinance will on future Health and Human Services Committee agendas for review and recommendations.
c. Discussion of Resolution Extending Moratorium on Swine CAFO's with the original intent and to allow for further exploration of Operational based ordinance with Health and Human Services. **Motion** (LaBlanc/Route) to send the Resolution to the full board. Passed with a 4- 1 voice vote. Supervisor Olson voting against.

Environmental Services Division (Bob Kazmierski)

Kazmierski updated committee on Health & Human Hazard/Nuisance Ordinance initiative. On August 13th, the Executive Committee recommended that the draft ordinance be sent to HHS committee and a cross-divisional study group be created to rewrite and combine the two ordinances.

Committee Calendar and Identification of Subject Matters for Upcoming Meetings

ITEMS TO INCLUDE ON AGENDA: SEPT 9TH, 2020 9:00 A.M.

Tax delinquent properties: Fee schedule for Lime Quarry

Parks, Recreation, Trails and Dams: PTAG update, Stower Trail Master Plan update

Forestry: Cattail Trail Bridge Project Update

Zoning & Land Information: Public Hearing-Rezone-gravel pit expansion, CAFO Conditional Use and Operational Use permit updates, Sterling rezone request, Land exchange agreement in open session

Divisional Form of Government: update of staffing plan

Motion (LaBlanc/Olson) at 10:55am. to convene in closed session proceedings under WI §19.85 (1) (e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. Roll call vote: all ayes.

Members present for the closed session included: Committee members, Malia Malone, Ben Elfelt, Steve Geiger, Bob Kazmierski, and Carol Zygowicz. **Motion** (Kelly/LaBlanc) to reconvene in open session at 11:09 am. **Motion** (Kelly/Route) to approve a land exchange with property owner of parcel #024-00031-0000

Parks, Recreation and Trails, and Dams (Ben Elfelt)

a. Elfelt is seeking to apply for the County Conservation Aid Grant. **Motion** (Route/Kelly) for Elfelt to pursue the grant, carried by a unanimous voice vote.

Tour of Ahlgren and DD Kennedy Parks at 11:15 am returning at 12:30 pm

Adjournment

Chairman O'Connell called for a motion to adjourn. **Motion** (Kelly/Olson) to adjourn. Motion carried by unanimous voice vote. Chair O'Connell declared meeting adjourned at 12:37 pm.

Respectfully submitted,

Carol Zygowicz
LWRD Admin Asst.

Polk County Land Information Department

Zoning | Planning | Mapping | Surveyor

100 Polk County Plaza, Suite 130
Balsam Lake, WI 54810

Vince Netherland, County Administrator
Robert Kazmierski, Director of Environmental Services
Office: (715) 485-9279

TO: Officials, Applicant and Neighboring Property Owners
FROM: Zoning Department
RE: Public Hearing – Wednesday, September 9, 2020
DATE: August 26, 2020

The Polk County Environmental Services Committee will hold a public hearing on Wednesday, September 9, 2020 at 10:00am in the Government Center (County Board room), Balsam Lake, Wisconsin, to consider the following district changes and other agenda items:

- MATHY CONSTRUCTION COMPANY: Residential Agricultural 5 (RA-5) to Mining (M-1). Property affected is: 1404 132nd St, Part of Lot 7, CSM 7135, located in NE ¼ of the SE ¼, Sec 23/T34N/R17W, Town of Balsam Lake, parcel #006-00664-0700, 9.08 acres. A reclamation permit amendment has been submitted for reclamation permit #14. The purpose of the amendment is to expand the existing mine. The proposed end land use is passive recreation. Opportunity will be given to present testimony on reclamation-related matters for the submitted reclamation permit amendment and reclamation plan. The public may review the submitted reclamation plan and supporting materials at the Land & Water Resources Office, 100 Polk County Plaza, Suite 120, Balsam Lake 54810, or call (715) 485-8699 if you have any questions or comments.

Applicant or agent must appear at this hearing to answer any questions that may arise; otherwise, it may be tabled <u>or</u> a decision by the Committee may be made after reading your application and any other letters of support or opposition to your request.

All interested parties have a right to either support or oppose the request(s) by appearing in person at time of hearing or by writing a letter to the Zoning Office. If we do not receive a response, it will be regarded as a "no objection".

For any questions regarding this hearing you may call our office Monday through Friday, 8:30 am - 4:30 pm, at (715) 485-9111.

cc: DNR (Eau Claire/Balsam Lake)
Town Clerk (certified mail)
County Planner
County Board Supervisor
Corporation Counsel
Environmental Services Committee
Land & Water Resources Dept

Parks, Recreation and Trails, and Dams (Ben Elfelt)

a. Parks and Trails Advisory Group has received 14 applications to date. Interviews and assessments will be the next step for selecting participants.

Forestry (Mark Gossman)

a. The Cattail bridge repair cost estimate was $60,000. The DNR engineer requested more extensive repairs which would bring the cost to $100,000. Gossman is making an addendum to the grant application. There is also $20,000 in additional funding from the Snowmobile and ATV funds. After review of the bids received, EBY's Portable Fab and Weld and River City Construction were the two that are within the proposed budget.
b. Scarification Contract will be given to Future Forest, scheduled for fall, 2020. Trees were ordered in March from PRT, a company in Canada.
c. Discussion of the 15 Year Comprehensive Forestry Plan with plans to make a resolution and sending it to the County Board for approval at the Aug 12th meeting

Zoning (Jason Kjeseth)

a. Health and Human Services passed out a draft resolution regarding their findings to the Proposed Amended Polk County Comprehensive Land Use Ordinance related to Swine CAFO's in the Agricultural 20 Zoning District. Exploring other options such as an operational based ordinance was addressed.

PUBLIC HEARING-10:00 AM

a. JUSTIN & STACY NELSON: Agricultural 10 (A-1) to Small Business Commercial (B-3). Property affected is: 2406 Beede Lake Trail, Lot 1 CSM #4736, Sec 25/T35N/R19W, Town of Eureka, parcel #020-01284-0000, 1.34 acres. Nelson is requesting the change to expand his auto repair business to include a Hunting and Firearm Dealership. ATF licensing requires a letter from the County to proceed. Kjeseth reported that Eureka Township supports the request, a Class 2 notice was posted, DOT had no concerns, no other objections received. Public Hearing closed at 10:10a.m. **Motion** to accept rezone (Route/LaBlanc), carried by unanimous voice vote.

PUBLIC HEARING-10:15a.m.

a. BRIAN & DENISE BOSAK: Residential Agricultural 5 (RA-5) to Small Business Commercial (B-3). Property affected is 2545 State Hwy 87, Lot 4 CSM 6351, Sec 26/T36N/R19W, Town of Sterling, parcel #046-00651-0100, 4.04 acres. Because of the Shoreline Ordinance the County must approve the rezone application. Class 2 Public notice was posted, Sterling Township has not yet weighed in on the application. Two neighbors brought up issues of a noise complaint, water quality and future use of property. Public Hearing closed at 10:55 a.m. **Motion** to approve (Kelly/Olson) with the conditions that Sterling Township approves at their next meeting and that the land would sunset back to Ag5 zoning district if it is sold or use is changed, carried by unanimous voice vote.

Zoning (Jason Kjeseth) continued:

a. Discussion of adding a baseline ground water test for new applicants with a 3rd party taking the sample and adjusting the setbacks for manure storage and animal and feed storage. Discussion over sending current CUP draft to Tim Jackson, DATCP advisory contact for review and guidance. **Motion** (Olson/Kelly) to send current CUP draft to DATCP for review. Olson, Kelly, O'Connell voting yea, Route, LaBlanc, Doolittle voting

ROLL CALL Board Members	Aye	Nay	Excu.
Olson			
Route			
Warndahl			
Nelson (Chairperson)			
LaBlanc			
Ruck			
Prichard			
Kelly			
O'Connell			
Middleton			
Luke (2nd Vice Chair)			
Duncanson			
Arcand			
Bonneprise (Vice Chair)			
Demulling			

BOARD ACTION

Vote Required: _____

Motion to Approve Adopted ☐

1st _____ Defeated ☐

2nd _____

Yes: _____ No: _____ Excu: _____

Reviewed by:

_____, Corp. Counsel

Reviewed by:

_____, Administrator

Reviewed by:

_____, Finance

FISCAL & LEGAL IMPACT:

Certification:

I, Lisa Ross, Clerk of Polk County, hereby certify that the above is a true and correct copy of a resolution that was adopted on the _____ day of _____, 2020 by the Polk County Board of Supervisors.

_____

Lisa Ross
County Clerk, Polk County

Committee _____

☐ Recommended
☐ Not Recommended
☐ Neutral

Resolution No. 37-20

Ordinance To Enact Amended Polk County Comprehensive Land Use Ordinance

TO THE POLK COUNTY BOARD OF SUPERVISORS:

WHEREAS, the Polk County Board of Supervisors enacted Ordinance No. 32-16 on August 16, 2016, entitled as Polk County Comprehensive Land Use Ordinance, regulating the unincorporated lands outside of the shoreland areas in towns with county zoning under Wisconsin Statute Section 59.69; and

WHEREAS, Ordinance No. 32-16 was a comprehensive rewrite and it created four (4) Agriculture zoning districts which are: Residential Agricultural 5, Agricultural 10, Agricultural 20, and Farmland Preservation; and

WHEREAS, Ordinance No. 32-16 was amended by Ordinance 07-19 on April 3, 2019; and

WHEREAS, the proposed amendments add "Swine Concentrated Animal Feeding Operations" to the list of conditional uses under the Agricultural 20 zoning district with several prerequisite conditions; and

WHEREAS, the Agricultural 20 zoning district is the appropriate zoning district for Swine CAFO's because these areas are less populated and other large scale agricultural businesses are allowed by conditional use permit in this district; and

WHEREAS, Polk County held 3 different stakeholder meetings on January 21, 2020 to gather public comments from agricultural producers, elected officials, and concerned citizens; and

WHEREAS, on June 16, 2020, the Polk County Zoning Administrator filed pursuant to Wisconsin Statute Section 59.69(5)(e) a petition sought to amend the Polk County Comprehensive Land Use Ordinance through the enactment of the proposed Amended Polk County Comprehensive Land Use Ordinance; and

WHEREAS, on July 8, 2020, the Polk County Environmental Services Committee, as the planning and zoning committee, opened and held a public hearing on the petition to amend the Polk County Comprehensive Land Use Ordinance; and

WHEREAS, after considering public input received in the public hearing and incorporating such public input, as appropriate, the Polk County Environmental Services Committee recommends the Polk County Board of Supervisors to enact as and for the county's comprehensive land use ordinance under Section 59.69, the attached proposed ordinance entitled "Amended Polk County Comprehensive Land Use Ordinance."

NOW, THEREFORE, pursuant to Wisconsin Statute Sections 59.69(5)(e), the Polk County Board of Supervisors ordains as follows:

1. The Amended Polk County Comprehensive Land Use Ordinance attached hereto and incorporated herein is enacted.

2. The Amended Polk County Comprehensive Land Use Ordinance shall supersede the related provisions of Ordinance No. 07-19 Polk County Comprehensive Land Use Ordinance.

3. Pursuant to Wisconsin Statute Sections 59.14(1) and 985.01(5), the County Clerk is directed to cause to be published the ordinance enacted herein.

4. Pursuant to Wisconsin Statute Section 59.69(5)(e), the Amended Polk County Comprehensive Land Use Ordinance shall be effective upon passage and publication.

SUBMITTED BY:

_____

Summary of CAFO Changes

CAFO provisions of Polk County Comprehensive Land Use Ordinance

Text=Proposed

Section 10.2-Article 2 Definitions

"ANIMAL LOT" means a feedlot, barnyard or other outdoor facility where livestock are concentrated for feeding or other purposes. "Animal lot" does not include a pasture or winter grazing area.

"ANIMAL UNIT" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11 and NR 243.05, that are at an animal feeding operation.

"SWINE CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)" means a swine feeding operation with 1000 animal units or more.

Section 10.4.6 AGRICULTURAL 20 DISTRICT (A-2)

C) CONDITIONAL USES

1) All Conditional Uses in A-1

2) Swine Concentrated Animal Feeding Operation provided they comply with the following criteria:

a. Shall have a Nutrient Management Plan that meets the 590 Nutrient Management Practice standard for all lands in total farming operation, and must ensure land base is sufficient to handle waste produced annually

b. Farm entrance shall be at least 100 feet from a nonfarm residential driveway

c. Operation shall comply with all other state, federal, and all other legal local regulations pertaining to livestock facilities.

d. Shall obtain approval from Town prior to hauling of any overweight loads during spring break up period. (road ban period)

e. Shall have no discharge from animal lots, high moisture feed storage, or waste storage areas into navigable waters or mapped wetlands

f. All waste storage structures, including manure storage, shall be at least 200 feet from the nearest property line.

g. All livestock on premise shall be counted towards total animal units.

JK 7/8/20

Summary of CAFO Changes

h. All buildings housing livestock and feed storage, with 1000 animal units or more, shall have a minimum setback of 200 feet from the nearest property line.

i. Shall provide 24 hour contact number for DNR and owner/operator in case of a spill.

j. Shall notify their Town Chairperson, County Land and Water Resources and Land Information Department, Polk County Public Health Department, and DNR within 24 hours of a spill. Upon receiving notification of a spill, the County shall publish a notice in the official County newspaper for one week and also provide the notice on the County website.

k. Shall provide a mortality management plan for any deceased animals onsite. (i.e.composting, rendering, incinerating)

l. Polk County Land Information Department, Land and Water Resources Department, and Town Chairperson shall receive a copy of all current DNR and DATCP permits, violations, and nutrient management plans yearly.

m. Applicant shall disclose any previous livestock facility violations. (owners or parent company)

n. Shall comply with Polk County Manure and Water Quality Management Ordinance.

o. Any suspected case of an environmental or human health hazard, shall be referred to the Polk County Health Department and the appropriate follow-up will occur based on public health statutory requirements.

p. Farm owner or operator must live within 5 miles of the farm

q. Professionally designed and drafted plans of the main facility shall be submitted with the conditional use permit application.

10.6.5 Environmental Services Committee

The Committee shall be responsible for hearing all conditional use permit applications submitted to the Land Information Department and the following shall apply to conditional use permits:

A) Powers and Duties

1) Conditional Use Permits- Hear requests for conditional uses as listed in this ordinance. The following shall apply to Conditional Use Permits:

a. Application for a Conditional Use Permit- Any use listed as a conditional use in this ordinance shall be permitted only after an application has been

submitted and an appropriate application fee paid to the Zoning Administrator and a conditional use permit has been granted by the Environmental Services Committee.

b. Standards Applicable to All Conditional Uses. The Environmental Services Committee shall evaluate the effect of the proposed use upon the following criteria, including but not limited to:

    1. The maintenance of safe and healthful conditions.
    2. Creation or increase of smoke, dust, noxious and toxic gases and odors, noise or vibrations from heavy equipment.
    3. The prevention and control of water pollution including sedimentation.
    4. Existing topographic and drainage features and vegetative cover on the site.
    5. The location of the site with respect to floodplains and floodways of rivers and streams.
    6. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
    7. The location of the site with respect to existing and future access roads.
    8. Heavy vehicular traffic and increased traffic
    9. The need of the proposed use
    10. Its compatibility with uses on adjacent land.
    11. The amount of septic waste to be generated and the adequacy of the proposed disposal system.
    12. Location of uses that:
        i. Within an area ,are not inherently a source of pollution, shall be preferred over uses that are or may be a pollution source; and
        ii. Within an area, tend to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

c. Conditions Attached to Conditional Use Permit - Upon consideration of the factors listed above, the Environmental Services Committee shall attach such conditions, in addition to those required elsewhere in this ordinance as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance and result in immediate revocation of the conditional use permit. Such conditions may include, without limitation of a specific enumeration: type of shore cover; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; bonding; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Environmental Services Committee may require the applicant to furnish, in addition to the information required for a

conditional use permit, the following information at the applicants expense:

1. A plan of the area showing contours, soil types, ordinary high water marks, ground water conditions, air quality testing/studies, bedrock, slope and vegetative cover.
2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
3. Plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
4. Specifications for areas of proposed filling, grading, lagooning or dredging.
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

d. Notice and Public Hearing - Before passing upon an application for a conditional use permit; the Environmental Services Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place, and matters to come before the Environmental Services Committee, shall be given as a Class 2 notice under Chapter 985, Wisconsin Statutes, and notice shall be provided to the appropriate district office of the Department of Natural Resources at least 10 days prior to the hearing as well as all property owners within 300 feet of the site under consideration. The Environmental Services Committee shall state in writing the grounds for refusing a conditional use permit.

e. Recording - When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the Department of Natural Resources within 10 days after application for the conditional use permit is granted or denied.

f. Revocation - Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the Zoning Department

g. Expiration –Conditional use permits for construction, alteration or removal of structures shall expire twelve months from their date of issuance if no building activity has begun within such time.

Proposed Amended

Polk County Comprehensive Land Use Ordinance

Ordinance No. _____
Polk County Comprehensive Land Use Ordinance
Enacted: _____; Published: _____
Effective Date: _____

<u>Text</u>= Proposed

DRAFT

Polk County Land Information Department
Polk County Government Center
100 Polk County Plaza, Suite 130
Balsam Lake, WI 54810
715-485-9111
715-485-9246 Fax
www.co.polk.wi.us/landinfo/zoning

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Appendix A: Record of Ordinance Provisions Affected by Changes, Repeals and Amendments

DRAFT

POLK COUNTY COMPREHENSIVE LAND USE ORDINANCE

10.1 ARTICLE 1: TITLE; AUTHORITY; AND INTRODUCTORY PROVISIONS

The County Board of Supervisors of the County of Polk, Wisconsin, does ordain as follows:

10.1.1 TITLE

This Ordinance shall be known as the "Polk County Comprehensive Land Use Ordinance", hereinafter referred to as "this Ordinance."

10.1.2 AUTHORITY AND SCOPE OF REGULATION

A) This Ordinance is adopted pursuant to the authority expressed in ss. 30. 12(3)(c), 30.13(2), 59.03, 59.69, 59.692, 59.694, 59.696, 87.30, 281.31 and Chapters 91, 236, 287, 289 and 823, Wis. Stats.

B) This Ordinance shall constitute a comprehensive revision, as described in s. 59.69(5)(d), Wis. Stats., of the following land use ordinances:

   1) Polk County Comprehensive Land Use Ordinance, Initially Enacted on April 21, 1971; and Amended on April 21, 1976; June 3, 1981; April 21, 1987; July 21, 1998; November 12, 2002; May 15, 2007; March 16, 2010, September 15, 2016, ~~and~~ June 19, 2018, and April 3, 2019.

10.1.3 CONTENTS

This Ordinance consists of two distinct but inseparable and integrated parts: written text and zoning maps. The written text and zoning maps taken together constitute this Ordinance and, therefore, shall at all times be considered as interrelated and inseparable parts of a whole. In addition, other maps and materials referenced in the text are used to support this Ordinance.

10.1.4 PURPOSE

The purpose of this Ordinance is to promote and protect public health, safety, and other aspects of the general welfare. Further purposes of this Ordinance are to:

A) Aid in the implementation of provisions of the county comprehensive plan.
B) Promote planned and orderly land use development.
C) Protect property values and the property tax base.

D) Fix reasonable dimensional requirements to which buildings, structures, and lots shall conform.
E) Prevent overcrowding of the land.
F) Advance uses of land in accordance with its character and suitability.
G) Provide property with access to adequate sunlight and clean air.
H) Aid in protection of groundwater and surface water.
I) Preserve water quality, shoreland and wetlands.
J) Protect the beauty of landscapes.
K) Conserve flora and fauna habitats.
L) Preserve and enhance the county's rural characteristics.
M) Protect vegetative shore cover.
N) Promote safety and efficiency in the county's road transportation system.
O) Define the duties and powers of certain county officers and administrative bodies relative to the application, administration and enforcement of this Ordinance.
P) Prescribe penalties in the form of civil forfeitures for violation of this Ordinance and to facilitate enforcement of the provisions of this ordinance by injunctive relief

10.1.5 COMPLIANCE AND APPLICABILITY.

A) No land or water shall hereafter be used and no structure or part thereof shall hereafter be used, located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without full compliance with the provisions of this Ordinance or applicable local, county or state regulatory provision.

B) State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The Wisconsin Department of Transportation is exempt from the requirements of this Ordinance when s. 30.12(4), Wis. Stats., applies.

C) The provisions of this Ordinance shall be administered and enforced pursuant to the procedural regulations of this Ordinance, s. 10.6.

10.1.6 JURISDICTION, FORCE AND EFFECTIVE DATE.

A) The jurisdiction of this Ordinance is the unincorporated areas of the Polk County. This Ordinance shall affect the unincorporated areas of Polk County, or applicable portions thereof, as provided in 10.1.6(B)(2).

B) Effect. Upon enactment and publication by the County Board of Supervisors of the County of Polk, this Ordinance shall go into full force and effect as follows:

1) This Ordinance shall be effective on ~~April 3, 2019~~, subject to Wisconsin Statute Sections 59.69(5)(d) and 59.692(2)(a).

2) The Polk County Comprehensive Land Use Ordinance shall continue to remain in effect in a town until the date in (B)(1), above, or until this Ordinance is approved by respective town board, whichever period is shorter.

C) If a town board wishes to withdraw from county zoning prior to a comprehensive zoning ordinance rewrite, they may do so by filing a resolution with the County Clerk and Governing Committee at least one year prior to the effective date of the withdrawal. However, this withdrawal can only happen when a Comprehensive Plan for the town is developed or revised as required by state law and no more frequently than once every ten (10) years from the original resolution approving the county zoning ordinance and filed with the county clerk.

10.1.7 ABROGATION AND GREATER RESTRICTIONS.

A) The ordinance identified in s. 10.1.2(b) of this Ordinance, is hereby repealed consistent with s. 10.1.6(B)(2) of this Ordinance.

B) Except as this Ordinance may conflict with Ch. 91, Wis. Stats., Farmland Preservation, wherever this Ordinance imposes greater restrictions than other similar regulations, the provisions of this Ordinance shall govern.

C) Wherever the provisions of this Ordinance conflict with the provisions of Ch. 91, Wis. Stats., Farmland Preservation, the provisions of Ch. 91 shall prevail.

D) It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easement, covenant, deed restriction, or agreement. The provisions of any easement, covenant, deed restriction or like agreement are a matter of private property interest not within the scope of the regulations contained in this Ordinance. The County of Polk shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party.

E) It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.

10.1.8 INTERPRETATION AND APPLICATION.

The provisions of this Ordinance shall be construed to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Further, interpretation and application of the provisions of this Ordinance shall take into account the purposes of this Ordinance and any adverse effects that an interpretation may have upon such purposes.

10.1.9 SEVERABILITY.

If any section, paragraph, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

10.1.10 WARNING AND DISCLAIMER OF LIABILITY.

This Ordinance shall not create a liability on the part of, or a cause of action against, Polk County or any office or employee thereof for any damages that may result from reliance on this Ordinance.

10.1.11 VESTING OF RIGHTS.

No rights to any particular use vest in any property owner simply because the use is permitted by this Ordinance. Such use may be prohibited by future amendment to this Ordinance. However, the approval and issuance of a permit shall vest in the property owner the right to use the property in the manner specifically approved by the permit, unless and until the permit expires. No amendment to this Ordinance which prohibits a particular use shall be applicable to any property developed under a previously issued permit, except to the extent that such use is rendered nonconforming.

10.1.12 COMMENTARY, ILLUSTRATIONS, AND EXAMPLES.

Throughout this Ordinance, insertions of comments, illustrations and examples, prefaced as "Commentary:" are included. The same are intended to give information, provide illustration or and an example to explain certain provisions in this Ordinance. Commentary, illustrations and examples provided in the ordinance are not by themselves regulatory provisions and shall not be used thusly, unless such illustration is set forth and provided for as a regulation of this Ordinance.

10.1.13 HEADINGS.

Headings are used throughout this Ordinance to assist users of this Ordinance. If a heading should conflict with the text in interpreting this Ordinance, the text shall control. Similarly, statutes incorporated or referenced in this Ordinance have been corrected to reflect the renumberings. If a statutory reference conflicts with the text of otherwise applicable statute, the text of such statute shall apply, regardless of statutory number.

10.2 ARTICLE 2: DEFINITIONS

For the purpose of this ordinance certain words and terms are defined as follows. Words used in the present tense include the future; the singular number includes the plural number and words in the plural number include the singular number; the word "shall" is mandatory and not discretionary.

"ACCESSORY BUILDING" see "Building, Accessory"

"ACCESSORY STRUCTURE" see "Structure, Accessory"

"ANIMAL LOT" means a feedlot, barnyard or other outdoor facility where livestock are concentrated for feeding or other purposes. "Animal lot" does not include a pasture or winter grazing area.

"ANIMAL SHELTER" means a facility that is operated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, that is used to shelter at least 25 dogs and/or cats in a year, and that is operated by a humane society, animal welfare society, animal rescue group, or other nonprofit group.

"ANIMAL UNIT" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11 and NR 243.05, that are at an animal feeding operation.

"BASE FARM TRACT" means all land, whether one lot or 2 or more contiguous lots, that is in a farmland preservation zoning district and that is part of a single farm on <enter date here that is either the date that the Wisconsin Department of Agriculture certifies ordinance or an earlier date determined by the local government> regardless of any subsequent changes in the size of the farm

"**BED & BREAKFAST**" means any place of lodging that provides 8 or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 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.

"BUILDING" means a structure having a roof supported by columns or walls.

"BUILDING, ACCESSORY" means a subordinate building which is incidental to and customarily found in connection with the primary use of the property.

"BUILDING ENVELOPE" means the three dimensional space within which a structure is built.

"BUILDING FOOTPRINT" means the perimeter square footage of enclosed building space

"BUNKHOUSE" means a residential accessory structure or part of a residential accessory structure with or without plumbing which is used as temporary sleeping

quarters only; no cooking or food preparation facilities; and no greater than 400 sq. ft. of enclosed dwelling space.

"CAMPGROUND" means any lot or tract of land owned by a person, the state or a local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or by one to 3 camping units if the lot or tract of land is represented as a campground.

"CAMPING UNIT" means any portable device, no more than 400 square feet in area, used as a temporary dwelling, including but not limited to a camping trailer/travel trailer, motor home, park model, pick-up truck camping topper or tent

"CONDITIONAL USE" see "Use, Conditional"

"CONSERVATION DESIGN DEVELOPMENT" means a style of development that clusters houses onto smaller lot sizes in order to preserve some feature, function, aspect of the property that is being developed.

"CONTRACTOR'S STORAGE YARD" means the outdoor portion of a lot where construction or service contractor stores and maintains 4 or more pieces of equipment and other materials in an area greater than 250 sq feet customarily used by the construction or service contractor. This excludes vehicles which require a Class D drivers license to operate.

"DECK" (Patio) An unenclosed exterior structure that has no roof or sides

"DISTRICT" means lots or sections of Polk County, Wisconsin, for which the regulations for governing the use of land and buildings are uniform.

"DWELLING, SINGLE-FAMILY" means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others. This includes manufactured homes, but not mobile homes, camping units, travel trailers, and other temporary sleeping units.

"DWELLING, TWO-FAMILY" means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by two-families, to the exclusion of all others. In density-based zoning districts, it shall count as one dwelling unit.

"DWELLING, MULTIPLE-FAMILY" means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by more than two families, to the exclusion of all others. In density-based zoning districts, it shall count as one dwelling unit.

"ESSENTIAL SERVICES" means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts,

laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including those uses listed in the Polk County Telecommunications Towers, Antennas, and Related Facilities Ordinance.

"EXPANSION, HORIZONTAL" (Addition) means expansion of a principal structure outside of its existing building footprint.

"EXPANSION, VERTICAL" means expansion of a principal structure either up or down, within its existing building footprint and includes full replacement of roofs and basements/foundations.

"FAMILY" means the body of persons who live together in one dwelling unit as a single housekeeping entity.

"FARM ANIMALS" means dairy cattle, beef cattle, swine, sheep, horses, ducks, chickens, turkeys and animals or fowl of similar character and customarily maintained in a large parcel setting for food, recreational, breeding, zoological or similar purposes.

"FARM BUILDING" means a building or other structure used to house or feed farm animals, store farm animal feed, or to collect or store waste generated from farm animals.

"**FARMLAND PRESERVATION PLAN"** means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.

"**FARM RESIDENCE**" means any of the following structures that are located on a farm:

A. A single-family dwelling or two-family dwelling that is the only residential structure on the farm or is occupied by any of the following:

1. An owner or operator of the farm.
2. A parent or child of an owner or operator of the farm.
3. An individual who earns more than 50 percent of his or her gross income from the farm.

B. A migrant labor camp that is certified under State Statute 103.92.

"FENCE, PRIVACY" means a structure for enclosure or screening that is greater than 4 feet in height and greater than 50% opaque.

"FLOOD PLAIN" means the land which has been or may be hereafter covered by flood water during the regional flood. The flood plain includes the floodway and the flood fringe as those terms are defined in ch. NR 116.

"FRONTAGE" means all the property abutting on one side of a road or street between two intersecting roads or streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

"FRONT YARD" means a yard extending the full width of the lot between the front lot line and the nearest part of the principal building, excluding uncovered steps.

"HEIGHT" means the elevation from the lowest exposed grade of the structure to the highest peak of the roof, excluding window wells and stairways.

"HOME BUSINESS" means a gainful occupation operated out of a residence, when such occupation is:

A) Conducted solely by a member or members of the resident family
B) Entirely within the residence or accessory building and incidental to the residential use of the premises
C) No external alterations that would effect a substantial change in the residential character of the building
D) No more than 50 percent of only one floor of the dwelling shall be devoted to such offices
E) Not more than 2 persons not members of the resident family may be employed in any such office.

"**HOTEL/MOTEL**" means a place where sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all related rooms, buildings and areas.

"HUMAN HABITATION" means the act of occupying a structure as a sleeping place whether intermittently or as a principal residence.

"JUNKYARD"/"SALVAGE YARD"/"RECYCLING CENTER" means an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, disassembled or handled for commercial or noncommercial purposes including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard/salvage yard/recycling center includes, but is not limited to, an automobile wrecking or dismantling yard or an area where more than one unlicensed or inoperable motor vehicle is kept.

"KENNEL" means the use of land, with related buildings or structures, for the breeding, rearing or boarding of household pets 5 months of age or older.

"LANDSCAPING" means the removal or alteration of topsoil.

"LARGE OUTDOOR COMMERCIAL EVENT" means an event, regardless of whether it is singular or annual or multiple times per year in which payment is accepted, whether by a fee or by donation, in exchange for a public gathering with entertainment, including, but not limited to: music events, motor vehicle rallies, etc.

"LOT" means a parcel of land occupied or designed to provide space necessary for one principal building and its accessory buildings or uses, including the open spaces required by this ordinance and abutting on a public street or other officially approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the office of the Register of Deeds, or any part of a large parcel when such part complies with the requirements of this ordinance as to width and area for the district in which it is located. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.

"LOT, CORNER" means a lot located at the intersection of two streets, any two corners of which have an angle of 120 degrees or less, or if bounded by a curved street in which case the chord within the limits of the lot lines form an angle of 120 degrees or less.

"LOT LINES" means the lines bounding a lot as herein defined.

"LOT WIDTH" means for the purpose of this ordinance the width of a lot shall be the shortest distance between the sidelines at the setback line.

"MAINTENANCE AND REPAIR" means general activities which do not involve structural alterations or structural repairs to the structure. These activities may include: replacement of windows, doors, siding, roof decking/sheathing replacement, within the building envelope, and replacement of decking.

"MANUFACTURED HOME" means any structure, HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70), that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes the manufactured home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment therein, any additions, attachments, annexes, foundations and appurtenances.

"MANUFACTURED HOME PARK" (previously Mobile Home Park) means an area or premise on which is provided the required space for the accommodation of manufactured home, together with necessary accessory buildings, driveways, walks, screening and other required adjuncts.

"MOBILE HOME" means any structure, not HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70) or manufactured or assembled before June 15, 1976, that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment therein, any additions, attachments, annexes, foundations, and appurtenances.

"**MOTEL**" see "Hotel/Motel"

"NONCONFORMING STRUCTURE" see "Structure, Nonconforming"

"NONCONFORMING USE" see "Use, Nonconforming"

"NONFARM RESIDENCE" means a single-family or multi-family residence other than a farm residence.

"NON-METALLIC MINING ACTIVITIES" means the excavation, mining or removal of minerals, clay, ceramic or refractor minerals, quarrying of sand, gravel, crushed or broken stone, including the extraction and removal of top soil, but not

including sod farming. The term shall also include such mineral processing operations as aggregate or ready mix plants, hot mix asphalt plants, mining services, processing of top soil, washing, refining or processing of non-metallic mineral materials, when onsite or on a contiguous property.

"OUTLOT" means a lot remnant or parcel of land within a plat remaining after platting, which is intended for open space use, for which no development is intended other than that which is accessory to the open space use. An Outlot may not be developed for any use or structure that requires a private, onsite wastewater treatment system.

"PARENT LOT" means the lot and associated acreage of that lot that existed at the time of the adoption of this ordinance

"PARKING LOT" means a lot where automobiles are parked or stored temporarily, but not including the wrecking of automobiles or other vehicles or storage for the purpose of repair or wrecking.

"PATIO" See "deck"

"PERMITTED USE" see "Use, Permitted"

"PRIME FARMLAND" means any of the following:

A. An area with a class I or class II land capability classification as identified by Natural Resource Conservation Service (NRCS).
B. Any other land designated as "prime farmland" in the county's certified farmland preservation plan.

"RECONSTRUCTION" means activities that exceed maintenance and repair, structural repair, structural alteration, horizontal expansion or vertical expansion.

"ROAD" means a public or private thoroughfare which affords a primary means of access to abutting property, and includes streets and highways.

"ROADSIDE STAND" means a structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premise (or adjoining premise). There shall not be more than one such roadside stand in any single premise.

"SETBACK" means the minimum horizontal distance between lot lines, the platted center line of the road, from Right-Of-Way line, or the ordinary high water mark measured to the closest point of the structure.

"SETBACK LINES" means lines established adjacent to the highways, lakes or streams for the purpose of defining limits within which no building, structure or any part thereof shall be erected or permanently maintained except as shown herein. "Within a setback line" means between the setback line and the highway right-of-way, lake or stream.

"SHORELAND" means area landward of the ordinary high water mark within the following distances: 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.

"SIGN" means any device visible from a public place whose essential purpose and design is to convey either commercial or non-commercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Non-commercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

"SIGN, FREESTANDING" means a sign principally supported by one or more columns, poles, or braces placed in or upon the ground

"SIGN, OFF PREMISE" means a sign advertising a business that is not conducted on the property or located in the immediate vicinity of the business.

"SIGN, ON PREMISE" means a sign at a business location advertising a business that is conducted on the property and that is located in the immediate vicinity of the business. "Immediate vicinity" means the sign is within the area bounded by the buildings, driveways and parking areas in which the activity is conducted or within 50 feet of that area. "Immediate vicinity" does not include any area across a street or road from the area where the business is conducted or any area developed for the purpose of erecting a sign.

"SIGN STRUCTURE" means any structure designed for the support of a sign.

"SIGN, TEMPORARY" means a sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, not permanently affixed to a building, or attached to a sign structure that is permanently embedded in the ground, are considered temporary signs.

"STORY" means the vertical distance between the surface of any floor and the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

"STRUCTURAL ALTERATION" means any change in the exterior supporting members, such as bearing walls, columns, beams or girders, footings and piles.

"STRUCTURE" unless otherwise indicated in this ordinance, means anything constructed or erected, temporary or permanent, intended for the protection, shelter, enclosure or support of persons or property at anytime of the year.

"STRUCTURE, ACCESSORY" means a detached, subordinate structure which is incidental to and customarily found in connection with the primary use of the property, including but not limited to, detached garages, sheds, barns, gazebos, fences, retaining walls, and pedestrian walkways and stairways to surface water.

"STRUCTURE, NONCONFORMING" means a dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was

enacted or amended, but that does not conform with one or more of the regulations in the current zoning ordinance.

"STRUCTURE, PRINCIPAL" (principal building) means a building that is utilized for the primary use of a lot, including any functional appurtenances, such as decks, patios and balconies, which are attached to, or immediately adjacent to, said building.

"SUBSTANTIAL EVIDENCE" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

"SWINE CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)" means a swine feeding operation with 1000 animal units or more.

"**TOURIST OR TRANSIENT**" means a person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

"**TOURIST ROOMING HOUSE**" means single family dwelling in which sleeping accommodations are offered for pay to a maximum of 2 tourists or transients per bedroom plus 2 at any one time on the property.

"TRAVEL TRAILER" means any vehicle, house car, camp car, or any portable or mobile vehicle either self-propelled or propelled by other means which is used or designed to be used for residential living or sleeping purposes as defined in Wisconsin Administrative Code HFS178.

"UNNECESSARY HARDSHIP" means for area variances, compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. An unnecessary hardship must be based on conditions unique to the property rather than considerations personal to the property owner when reviewing a variance application.

"USE, CONDITIONAL" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the county, but does not include a variance. Conditional uses, listed by ordinance, are subject to certain conditions specified in the ordinance and/or designated by the Environmental Services Committee.

"USE, NONCONFORMING" means a building, structure or use of land lawfully existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district or zone in which it is located.

"USE, PERMITTED" means a use permitted in a district whereby a building can be constructed, erected, altered or moved and is consistent with the general intent of the district.

"USE, VARIANCE" means an authorization by the board of adjustment under this subsection for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

"VARIANCE" (Area) means a modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the Board of Adjustment. A variance may only be granted in cases of unnecessary hardship and when the spirit of the ordinance is not violated.

"VISION CLEARANCE TRIANGLE" means an unoccupied triangular space at the intersection of highways or streets or railroads. Such vision clearance triangle shall be bounded by the intersecting highway, road or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from their intersection as specified in General Provisions Section 10.3.6 of this ordinance.

"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.

"YARD" means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

10.3 ARTICLE 3: GENERAL PROVISIONS

10.3.1 GENERAL PROVISIONS

A) The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulation established herein for the district in which such land or building is located.

B) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premise is located. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another building.

C) Every dwelling hereafter erected in Polk County shall provide not less than 400 square feet of floor area for a one-story building for each family dwelling therein, nor less than 700 square feet for a two-story building for each family dwelling therein.

D) Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or structure or part thereof on which construction has started or a particular use has been commenced, or for the construction of a building or structure or part thereof upon which a bona fide contract has been entered into before the effective date of this ordinance.

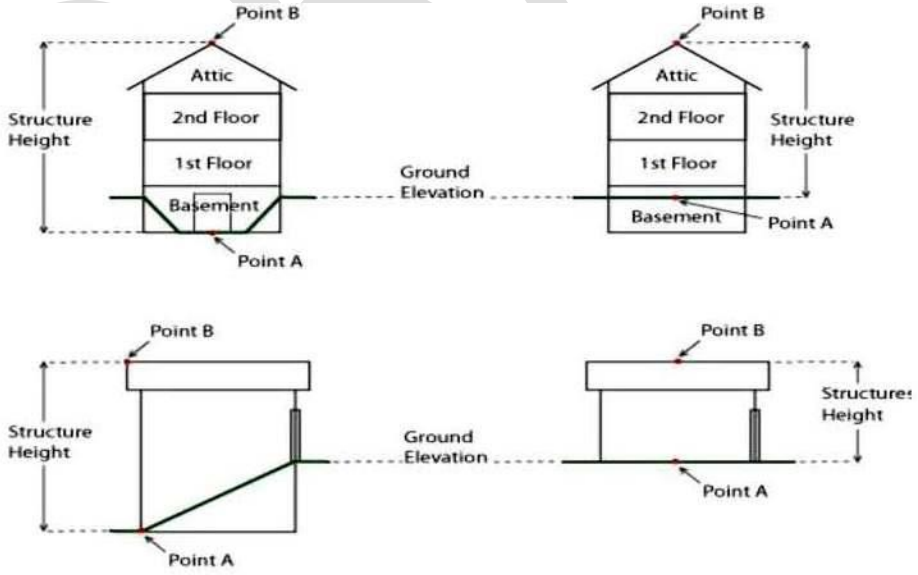
E) There shall be no more than 1 dwelling per lot, unless otherwise indicated in another part of this ordinance.

F) Structures including school bus stop shelters, deer stands, dog houses, tree houses and ice-fishing shacks with a footprint of less than 64 sq. feet shall not be deemed an accessory structure or use, do not require permits, and shall conform to the setbacks and cannot be used for storage.

G) Any use not specified herein shall be unpermitted and considered a violation of this ordinance.

H) The height of a structure is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (point "A" in Figure #1) to a line horizontal to the highest point of the a structure (point "B" in Figure #1), unless specified in another part of this ordinance.

Figure #1



10.3.2 NONCONFORMING USES AND NONCONFORMING STRUCTURES

A) If a nonconforming use of building, premise or lot of land is discontinued for a period of 12 months, any future use of the building, premise or lot of land shall conform to the regulations for the district in which it is located.

B) Legal uses and structures that pre-exist the adoption of this ordinance and do not conform to this ordinance shall be considered as a legal nonconforming uses.

C) Nonconforming uses shall not be expanded or extended beyond the scope of such use existing at the time of the adoption of this ordinance. In the case in which a landowner proposes to expand or extend a nonconforming use, the landowner must apply for and obtain a change to a zoning district such that the use conforms to current provision of the ordinance.

D) Expansion of the nonconforming principal structure cannot make it more non-conforming (cannot expand towards what is making the structure non-conforming).

E) Nonconforming principal structures are allowed to horizontally expand up to 50% of the original footprint of the structure over the life of the structure, unless otherwise indicated in this ordinance.

F) Nonconforming principal structures are allowed maintenance and repair, renovation, rebuilding, remodeling, and vertical expansion unless otherwise indicated in this ordinance.

G) Nonconforming accessory structures are ~~only~~ allowed maintenance and repair, renovation, rebuilding, remodeling, but no expansion, unless otherwise indicated in this ordinance.

H) Decks and patios that are attached or immediately adjacent to a nonconforming principal structure may be repaired or replaced, but not expanded vertically or horizontally.

I) Nonconforming structure may be restored to the size, location, and use, including enlargement only if necessary for the structure to comply with applicable state or federal requirements, that it had immediately before the damage or destruction occurred, without limits on the costs of the repair, reconstruction, renovation, or improvement if all of the following apply:

    1) The nonconforming structure was damaged or destroyed on or after
        a. March 2, 2006, s. 59.69(10m)
    2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

10.3.3 HEIGHT AND AREA EXCEPTIONS

The regulations contained herein relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:

A) Churches, schools and other public and quasi-public buildings may be erected to a height not exceeding 60 feet or 5 stories.

B) Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, micro-wave radio relay or broadcasting towers, masts or aerials, necessary mechanical appurtenances, farm buildings, and silos for asphalt and concrete mixing plants are hereby exempted from the height regulations of this ordinance and may be erected in accordance with other regulations or ordinances of Polk County, Wisconsin.

10.3.4 SUBSTANDARD LOTS

A) A legally created lot 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:

1) The substandard lot was never reconfigured or combined with another lot by plat, survey, or consolidation by the owner into one property tax parcel.
2) The substandard lot has never been developed with one or more of its structures placed partly upon an adjacent lot.
3) The substandard lot is developed to comply with all other ordinance requirements.
4) In the A-4 district the property must be rezoned or a CUP issued according to 91.46(2) prior to construction commencing.

10.3.5 SETBACKS

A) Road Setbacks
The setback distances at any point for the respective classes of highways shall be as follows in Table 1, unless otherwise indicated in this ordinance:

Table 1

Road – Minimum Setback (whichever is greater)	Private Road	Town Road	County Road	State/US Highway
From Platted Centerline	35 ft	63 ft	75 ft	110 ft
From Right-of-Way		30 ft	42 ft	50 ft

B) Setback Averaging

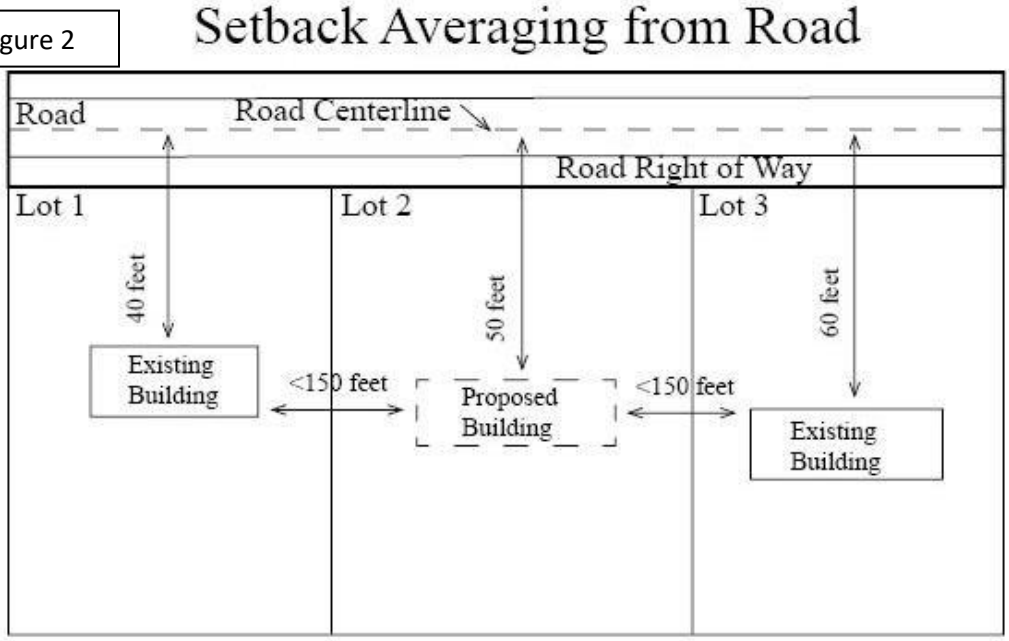
There is an exception to the setbacks outlined in Section "A" above (see Figure 2). In order to utilize an established building setback line which sets forth a reduced setback from what is listed in Section "A", the following must apply:

1) The reduced setback established building setback line must be in existence prior to the adoption of this ordinance
2) There must be two buildings, one on each side adjoining property
3) There must not be more than 150 feet between the proposed building and a building being used to establish the reduced setback
4) The setback for the proposed or moved building shall not be less than the average of the two buildings on the adjoining properties.

C) Setback Exemptions

1) All fences are exempt from side and rear yard setbacks.
2) A permit shall be issued for a reduced town road or private road setback once written Town approval (i.e. minutes, letter, resolution) is received if all other ordinance requirements are met.

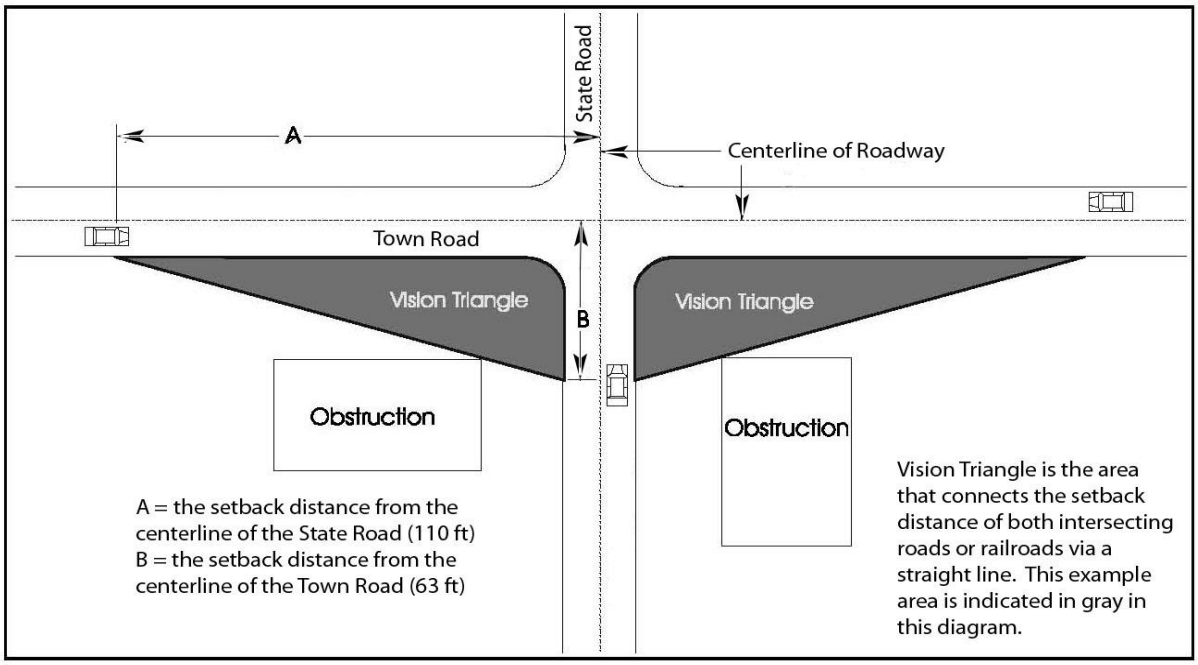
Figure 2



10.3.6 VISION CLEARANCE TRIANGLE

Structures, screening vegetation and signs are not allowed in the vision clearance triangle. Figure 3 is a diagram of the vision clearance triangle area as defined in this ordinance.

Figure 3



10.3.7 ESSENTIAL SERVICES

Essential services are allowable uses in all zoning districts except the Farmland Preservation zoning district, in Section 10.4.7 of this ordinance.

10.3.8 CONSERVATION DESIGN DEVELOPMENT

The standards in this section and in the Polk County Land Division Ordinance shall replace the underlying zoning district's standards. Conservation Design Development is prohibited in the Farmland Preservation zoning district.

A) PERMITTED USES. Land within a Conservation Design Development (CDD) may be used for the following purposes:

1) Permitted uses in the residential portion, not the common open space portion, of the Conservation Design Development:
    a. All Permitted Uses in the underlying zoning district
2) Permitted uses in the Common Open Space portion of the Conservation Design Development shall include:
    a. All uses permitted in the Natural Resources District, except #7.
    b. Drainfields for common sewers with associated easements with the subdivision governing authority and maintenance agreements.
    c. Silent Sport activities, including but not limited to: hiking trails, biking trails, etc.

B) CONDITIONAL USES. The following uses, upon issuance of a Conditional Use Permit as provided in Section 10.6.4, and provided that the use shall not adversely impact the rural character of the development and shall be consistent

with the design objectives listed in the Polk County Subdivision Ordinance, may be allowed:

1) Conditional Uses in the residential portion, not the common open space portion of the Conservation Design Development.
    a. All Conditional Uses in the underlying zoning district
2) Conditional Uses in the Common Open Space portion of the Conservation Design Development.
    a. Conditional Uses allowed in the Natural Resources District.
    b. Equestrian boarding and riding facilities available only to development residents. A manure management plan approved by the Polk County Land and Water Resources Department is required.
    c. Swimming pools available only to development residents.
    d. Golf Courses
3) Conditional uses will be approved as part of the Conservation Design Development approval process.

C) DENSITY STANDARDS. The total number of dwelling units allowed in a Conservation Design Development is referred to as the Residential Gross Density.

1) Residential Base Density. The Residential Base Density, or the base number of allowable dwelling units, is determined by the zoning district in which the property resides. Existing dwellings that may or may not be part of a farmstead that will be retained shall be counted toward the base density.
2) Residential Gross Density. The Residential Gross Density, or the total number of dwelling units allowed in a Conservation Design Development, is the Residential Base Density plus 25 percent of the number of dwelling units prescribed by the Residential Base Density.

D) Companion standards for Conservation Design Development can be found in the Polk County Subdivision Ordinance

10.4 ARTICLE 4: ZONING DISTRICTS

LIST OF ZONING DISTRICTS

Residential (R-1)

Hamlet (H-1)

Residential-Agricultural 5 (RA-5)

Agriculture 10 (A-1)

Agriculture 20 (A-2)

Farmland Preservation (A-3)

Natural Resources (N-1)

General Business and Commercial (B-1)

Recreational Business and Commercial (B-2)

Small Business and Commercial (B-3)

Industrial (I-1)

Mining (M-1)

OTHER ZONING REGULATIONS

Shoreland Overlay

Floodplain Ordinance

Lower St. Croix Riverway Ordinance

Polk County Sanitary Ordinance

10.4.1 OFFICIAL ZONING MAP

The locations and boundaries of the primary zoning districts established by the Ordinance are set forth on zoning maps which are hereby incorporated by reference as though part of this Ordinance. It shall be the responsibility of the Zoning Administrator to maintain and update the zoning maps and any amendments thereto.

10.4.2 RESIDENTIAL (R-1)

A) PURPOSE AND INTENT

The purpose and intent of the Residential (R-1) District is to promote residential uses and other compatible uses associated with residential neighborhoods.

B) ALLOWED AND PERMITTED USES

2) Single family dwelling, Two family dwellings, including manufactured homes
3) Accessory structures, clearly incidental to the residential use of the property.
4) Gardening including nurseries for the propagation of plants only
5) Municipal parks and playgrounds including swimming pools, golf courses, tennis courts and picnic grounds, provided the parking requirements are met in Section 10.5.2 (Parking)
6) Home Business, provided the parking requirements are met in Section 10.5.2 (Parking)
7) Conservation Design Development (CDD) according to Section 10.3.8 and the Polk County Subdivision Ordinance.

CHANGES IN USE THAT REQUIRE A LAND USE PERMIT

8) Tourist Rooming House provided they meet the following conditions:
   A) No RVs, campers, tents or other means of overnight stay allowed.
   B) All sleeping accommodations must be within the dwelling unit.
   C) All parking must be contained on the property.

D) Applicant must obtain all proper licensing.
E) Applicant must have 24-hour contact number available to the public.
F) Property must remain free from citation and charges for nuisance, disorderly conduct or any other illegal activity, and in compliance with county ordinances, state and local laws.

9) Bed and Breakfast
   A) No RVs, campers, tents or other means of overnight stay allowed.
   B) All sleeping accommodations must be within the dwelling unit.
   C) All parking must be contained on the property.
   D) Applicant must obtain all proper licensing.
   E) Applicant must have 24-hour contact number available to the public.
   F) Property must remain free from citation and charges for nuisance, disorderly conduct or any other illegal activity, and in compliance with county ordinances, state and local laws.
10) A Bunkhouse with the conditions in Section 10.5.7 at a minimum

C) CONDITIONAL USES

1) Schools
2) Churches
3) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance equipment.

D) LOT, HEIGHT, YARD, & SETBACKS REQUIREMENTS

1) Minimum Lot Size: 1 Acre except in Conservation Development Design; lot dimensions in accordance with the Polk County Subdivision Ordinance
2) Maximum Building Height = 35ft
3) Side Yard Setback = 10 ft for principal structures; 5 ft for accessory structures
4) Rear Yard Setback = 25 ft for principal structures; 5 ft for accessory structures
5) Road setback regulations shall apply to all corner lots

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)

10.4.3 HAMLET DISTRICT (H-1)

A) PURPOSE AND INTENT

The goal of this district is to allow for land uses that mimic a rural, unincorporated village setting and allow for continuance of that settlement pattern. To allow for

smaller lots sizes in areas served by community sewer systems. In addition, this district will allow for mixed uses of residential and commercial as was typical of the historical development pattern of rural hamlets.

B) ALLOWED AND PERMITTED USES

1) All Allowed and Permitted Uses in R-1
2) Two-Family Dwelling and Multi-Family Dwelling, including a manufactured home
3) All uses in the B-3 District
4) Manufactured Home Park with conditions found in Section 10.5.5

CHANGES IN USE THAT REQUIRE A LAND USE PERMIT

5) Tourist Rooming Houses with conditions in R-1
6) Bed & Breakfasts with conditions in R-1
7) A Bunkhouse with the conditions in Section 10.5.7 at a minimum

C) CONDITIONAL USES

1) All Conditional Uses in R-1
2) Other similar and compatible use as determined by the Environmental Services Committee

D) LOT, HEIGHT, YARD, & SETBACKS REQUIREMENTS

1) Minimum lot size = 30,000 sq ft for Private Onsite Wastewater Treatment System (POWTS); 10,000 sq ft for public sewer; lot dimensions in accordance with the Polk County Subdivision Ordinance
2) Maximum Residential Use Principal Building Height = 35ft
3) Maximum Commercial Use Principal Building Height = 45ft or 3 stories
4) Maximum Accessory Building Height =35 ft for Commercial and Residential Uses
5) Side Yard Setback = 10 ft for principal structures; 5 ft for accessory structures
6) Rear Yard Setback = 25 ft for principal structures; 5 ft for accessory structures
7) Road setback = 5ft from ROW of road

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.

10.4.4 RESIDENTIAL-AGRICULTURAL DISTRICT 5 (RA-5)

A) PURPOSE AND INTENT

The R-A District 5 is meant to allow for limited residential development in areas that transition from incorporated areas to rural areas and farmland preservation areas. The

target density for this district is 1 residential dwelling per 5 acres of land or 8 dwellings per 40 acres.

B) ALLOWED AND PERMITTED USES

1) All Allowed and Permitted uses in the R-1 District
2) Two-Family Dwelling
3) Multi-Family Dwelling, when in compliance with density standards of this district
4) Agricultural Uses found in A-1, except fur farming
5) Conservation Design Development when done in accordance with density standards, Section 10.3.8 of this ordinance and the Polk County Subdivision Ordinance
6) Schools
7) Churches
8) Municipal Buildings
9) Manufactured Home Park with conditions found in Section 10.5.5

CHANGES IN USE THAT REQUIRE A LAND USE PERMIT

10)Tourist Rooming Houses with conditions in R-1
11)Bed & Breakfasts with conditions in R-1
12)A Bunkhouse with the conditions in Section 10.5.7 at a minimum
13)Cemeteries/Burial Sites
14)Contractor Storage Yard, when the design standards of Section 10.5.1 are applied

C) LOT SIZES

1) Traditional Development
   1 dwelling unit per 5-acres density standard

   Minimum Lot Size = 1 acre except in Conservation Development Design

2) Calculations determining the number of residential lots allowed per parent lot.

   In the Residential-Agricultural District (RA-5), a maximum of 8 lots will be allowed per 40 acres, which includes any original principal structure or dwelling, except for lots created using the Conservation Development Design provision. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this ordinance by 5. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Table 2 below indicates the number of residential lots that can be created based on the number of acres owned at the time of the adoption of this ordinance. Round up if any fractional amount is equal to ½ or greater. Example Calculations:

   - 32 acre lot = allowed 6 residential lots (32/5 = 6.4 which rounds down to 6)
   - 19 acres = 4 residential lots (19/5 = 3.8 which rounds up to 4)

Table 2

Calculation of Residential Parcels Allowed	
Size of Base Tract of Land	Total Number of Dwelling Lots Allowed
Less than 7.5 acres	1
7.5 to less than 12.5 acres	2
12.5 to less than 17.5 acres	3
17.5 to less than 22.5 acres	4
22.5 to less than 27.5 acres	5
27.5 to less than 32.5 acres	6
32.5 to less than 37.5	7
37.5 to less than 40 acres	8

D) HEIGHT, YARD, & SETBACKS REQUIREMENTS

1) Maximum Building Height = 35ft
2) Side Yard Setback = 10 ft for principal structures; 5 ft for accessory structures
3) Rear Yard Setback = 25 ft for principal structures; 5 ft for accessory structures
4) Road setback regulations shall apply to all corner lots

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)

10.4.5 AGRICULTURAL 10 DISTRICT (A-1)

A) PURPOSE AND INTENT

The Agricultural 10 District (A-1) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district will have a density of principal structures not to exceed 4 per 40 acres.

B) ALLOWED AND PERMITTED USES

1) Agricultural Uses, including any of the following:
   a. Crop or forage production
   b. Keeping livestock
   c. Beekeeping

d. Nursery, sod, or Christmas tree production
e. Floriculture
f. Aquaculture
g. Fur farming
h. Forest management
i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program
j. Accessory structure that is an integral part of, or is incidental to, an agricultural use
k. Roadside Stand
l. Personal Stable

2) A single-family and two-family dwelling, when in compliance with the density standards of this district
3) Accessory buildings incidental to the residential use of the property
4) Home Business
5) Conservation Design Development when done in accordance with density standards, Section 10.3.8 of this ordinance, and the Polk County Subdivision Ordinance
6) Schools
7) Churches
8) Undeveloped natural resource and open space areas.
9) One additional farm residence, which shall be sited so that it may be separated from the original farm parcel on which it is located in compliance with the Polk County Subdivision Ordinance.
10) Contractor Storage Yard

CHANGES IN USE THAT REQUIRE A LAND USE PERMIT

11) Tourist Rooming Houses with conditions in R-1
12) Bed & Breakfasts with conditions in R-1
13) Cemeteries/Burial Sites
14) A Bunkhouse with the conditions in Section 10.5.7 at a minimum

C) <u>CONDITIONAL USES</u>

1) Agriculturally-related businesses, such as, but not limited to:
   a. Feed Mills
   b. Commercial Stables
   c. Implement Dealers
   d. Agricultural Cooperatives
   e. Veterinarians
   f. Wineries
   g. Composting Sites
   h. Other similar and compatible agriculturally-related businesses

2) Kennels when at least 300 ft from property lines
3) Animal Shelters when at least 300ft from property lines
4) Junkyards/salvage yards
5) Airports/Airstrips
6) Large, Outdoor Commercial Events

D) LOT RESTRICTIONS

1) Target density standard for the Agricultural 10 District is 4 residential lots per 40 acres
2) Minimum lot size = 1 acre, except in Conservation Development Design
3) Calculations for determining the number of lots allowed per parent lot

   In the Agricultural District (A-1), a maximum of 4 non-farm dwellings will be allowed per 40 acres, which includes any original principal structure or dwelling, except for lots created using the Conservation Development Design provision. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this ordinance by 10. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to ½ or greater (See Table 3). Example Calculations:

   - 32 acre lot = allowed 3 residential lots (32/10 = 3.2 which rounds down to 3)
   - 16 acres = 2 residential lots (16/10 = 1.6 which rounds up to 2)

Table 3

Calculation of Residential Lots Allowed in A-10	
Size of Base Tract of Land	Total Number of Lots Allowed
Up to 15 acres	1
15 acres or greater, but less than 25 acres	2
25 acres or greater, but less than 35 acres	3

E) HEIGHT, YARD, & SETBACKS REQUIREMENTS

1) Maximum Building Height = 35ft
2) Farm buildings are exempt from these height restrictions
3) Side Yard Setback = 25 ft for all structures
4) Rear Yard Setback = 25 ft for all structures
5) Road setback regulations shall apply to all corner lots

F) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)

10.4.6 AGRICULTURAL 20 DISTRICT (A-2)

A) PURPOSE AND INTENT

The Agricultural 20 District (A-2) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district will have a density of principal structures not to exceed 2 per 40 acres.

B) ALLOWED AND PERMITTED USES

1) All Allowed and Permitted Uses in the A-1 District

C) CONDITIONAL USES

1) All Conditional Uses in A-1

2) Swine Concentrated Animal Feeding Operation provided they comply with the following criteria:

a. Shall have a Nutrient Management Plan that meets the 590 Nutrient Management Practice standard for all lands in total farming operation, and must ensure land base is sufficient to handle waste produced annually

b. Farm entrance shall be at least 100 feet from a nonfarm residential driveway

c. Operation shall comply with all other state, federal, and all other legal local regulations pertaining to livestock facilities.

d. Shall obtain approval from Town prior to hauling of any overweight loads during spring break up period. (road ban period)

e. Shall have no discharge from animal lots, high moisture feed storage, or waste storage areas into navigable waters or mapped wetlands

f. All waste storage structures, including manure storage, shall be at least 200 feet from the nearest property line.

g. All livestock on premise shall be counted towards total animal units.

h. All buildings housing livestock and feed storage, with 1000 animal units or more, shall have a minimum setback of 200 feet from the nearest property line.

i. Shall provide 24 hour contact number for DNR and owner/operator in case of a spill.

j. Shall notify their Town Chairperson, County Land and Water Resources and Land Information Department, Polk County Public Health Department, and DNR within 24 hours of a spill. Upon receiving notification of a spill, the County shall publish a notice in the official County newspaper for one week and also provide the notice on the County website.

k. Shall provide a mortality management plan for any deceased animals onsite. (i.e.composting, rendering, incinerating)

l. Polk County Land Information Department, Land and Water Resources Department, and Town Chairperson shall receive a copy of all current DNR and DATCP permits, violations, and nutrient management plans yearly.

m. Applicant shall disclose any previous livestock facility violations. (owners or parent company)

n. Shall comply with Polk County Manure and Water Quality Management Ordinance.

o. Any suspected case of an environmental or human health hazard, shall be referred to the Polk County Health Department and the appropriate follow-up will occur based on public health statutory requirements.

p. Farm owner or operator must live within 5 miles of the farm

q. Professionally designed and drafted plans of the main facility shall be submitted with the conditional use permit application.

D) LOT RESTRICTIONS

1) Density standard for the Agricultural 20 District is a maximum of 2 lots/principal structures per 40 acres
2) Minimum lot size = 1 acre except in Conservation Development Design
3) Calculations for determining the number of lots allowed per parent lot.
In the Agricultural District (A-2), a maximum of 2 lots/principal structures will be allowed per 40 acres, which includes any original principal structure or dwelling, except for lots created using the Conservation Development Design provision. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this ordinance by 20. This is the total number of new residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to ½ or greater (see Table 4). Example Calculations:

- 32 acre lot = allowed 2 residential lots (32/20 = 1.6 which rounds up to 2)

Table 4

Calculation of Residential Lots Allowed in A-20	
Size of Base Tract (initial lot at time or ordinance adoption) of Land	Number of Dwelling Lots Allowed
Less than 30 acres	1
30 acres or greater	2

E) HEIGHT, YARD, & SETBACKS REQUIREMENTS

1) Maximum Building Height = 35ft
2) Farm buildings are exempt from these height restrictions
3) Side Yard Setback = 25 ft for all structures
4) Rear Yard Setback = 25 ft for all structures
5) Road setback regulations shall apply to all corner lots

F) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)

10.4.7 FARMLAND PRESERVATION DISTRICT (A-3)

A) PURPOSE

The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.

B) ALLOWED AND PERMITTED USES

1) Agricultural Uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:
   a. Crop or forage production
   b. Keeping livestock
   c. Beekeeping
   d. Nursery, sod, or Christmas tree production
   e. Floriculture
   f. Aquaculture
   g. Fur farming
   h. Forest management

i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program
j. Any other use that the Wisconsin Department of Agriculture, by rule, identifies as an agricultural use

2) A farm residence including a manufactured home
3) Accessory buildings incidental to the residential use of the property
4) Accessory structure that is an integral part of, or is incidental to, an agricultural use
5) Home Business that meet 91.01(1)
6) Undeveloped natural resource and open space areas.
7) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.
8) Other uses identified by Wisconsin Department of Agriculture rule.

CHANGES IN USE THAT REQUIRE A LAND USE PERMIT

9) Tourist Rooming Houses with conditions in R-1
10) Bed & Breakfasts with conditions in R-1
11) A Bunkhouse with the conditions in Section 10.5.7 at a minimum
12) Contractor Storage Yard with conditions in RA-5

C) <u>CONDITIONAL USES</u>

1) Agriculturally-related businesses, such as:
   a. Feed Mills
   b. Commercial Stables
   c. Implement Dealers
   d. Agricultural Cooperatives
   e. Veterinarians
   f. Wineries
   g. Composting Sites

2) Creation of a nonfarm residence or conversion of a farm residence to a nonfarm residence through a change in occupancy, subject to the following requirements.

   a. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1:20 after the residence is constructed or converted to a nonfarm residence.

   b. There will not be more than four dwelling units in nonfarm residences, nor more than five dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.

c. The location and size of the proposed nonfarm residential lot, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential lot, will not do any of the following:

   1. Convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential lot or a nonfarm residence.

   2. Significantly impair or limit the current or future agricultural use of other protected farmland.

3) Creation of a nonfarm residential cluster that covers more than one nonfarm residence if all of the following apply:

   a. The lots on which the nonfarm residences would be located are contiguous.
   b. Each nonfarm residence constructed in the nonfarm residential cluster must satisfy the requirements of Conditional Use #2 above

4) Governmental, institutional, religious, nonprofit community uses, transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:

   a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
   b. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
   c. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
   d. The use does not substantially impair or limit the current or future agricultural use of surrounding lots of land that are zoned for or legally restricted to agricultural use.
   e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

D) <u>LOT REQUIREMENTS</u>

1) Density standard for the Farmland Preservation District is as described under Conditional Uses #2 and #3.

E) <u>HEIGHT, YARD, & SETBACKS REQUIREMENTS</u>

1) Maximum Building Height = 35ft
2) Farm buildings are exempt from these height restrictions
3) Side Yard Setback = 25 ft for all structures
4) Rear Yard Setback = 25 ft for all structures

5) Road setback regulations shall apply to all corner lots

F) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)

G) REZONING LAND OUT OF A FARMLAND PRESERVATION ZONING DISTRICT.

1) Except as provided in sub. (2) below, Polk County may not rezone land out of the farmland preservation zoning district unless the Polk County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

   a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.

   b. The rezoning is consistent with any applicable comprehensive plan.

   c. The rezoning is substantially consistent with the Polk County Farmland Preservation Plan, which is in effect at the time of the rezoning.

   d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

2) Subsection (1) does not apply to any of the following:

   a. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.

   b. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

3) By March 1 of each year Polk County shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection a report of the number of acres that Polk County has rezoned out of the farmland preservation zoning district under sub. (1) During the previous year and a map that clearly shows the location of those acres.

10.4.8 NATURAL RESOURCES DISTRICT (N-1)

A) ALLOWED AND PERMITTED USES

To protect and preserve the natural character of certain lands for their values to wildlife, water conservation, flood control, forestry and other public purposes in the Natural Resources District, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this ordinance except for one or more of the following uses:

1) Grazing
2) The harvesting of wild crops such as wild hay, ferns, moss, berries, fruit trees and seeds
3) Hunting, fishing, trapping
4) Nonresidential buildings and structures used solely in conjunction with the raising of wildlife and fish and the practice of forestry, including buildings and structures used by public or semi-public agencies or groups for research in or the rehabilitation of natural resources
5) Sustainable logging, pulping and other forest crop harvesting
6) Public or private parks
7) Temporary residential uses by permit such as hunting cabins or travel trailers with conditions listed in Section 10.5.6

B) CONDITIONAL USES

1) Licensed game farms

C) LOT, HEIGHT & YARD REQUIREMENTS

1) Minimum Lot Size = 1 acre
2) Maximum Building Height = 35 feet
3) Side Yard setback = 25 ft
4) Rear Yard setback = 25 ft

D) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.

10.4.9 GENERAL BUSINESS/COMMERCIAL (B-1)

A) PURPOSE AND INTENT

To provide a district for business and commercial enterprises that limits incompatible land uses.

B) ALLOWED AND PERMITTED USES

In the General Commercial District no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following uses:

Commercial buildings and uses including, but not limited to:

1) Appliances Sales and Service
2) Antique stores

3) Art Galleries
4) Auto Sales and Service
5) Banks, Credit Unions or other financial institutions
6) Barber Shop, Beauty Shop
7) Bars/taverns
8) Bowling Alleys
9) Business & Professional offices or clinics
10) Car Washes
11) Clothing stores
12) Community Center
13) Coffee Shop
14) Convenience stores
15) Day Care Center
16) Drug Store or Pharmacy
17) Essential Services
18) Farm implement - repair & sales
19) Feed Mill
20) Florist
21) Firework Stands
22) Fruit and Vegetable Market, Grocery, Meat and Fish Market or other food products store
23) Funeral Homes
24) Furniture, Office Equipment stores
25) Gas stations
26) Gyms and exercise facilities
27) Hardware and Paint Store
28) Indoor Storage Facilities
29) Internet Cafe
30) Jewelry Store
31) Landscaping Sales
32) Laundromat
33) Liquor Store
34) Lumber Yard
35) Manufacture or storage in connection with any of the above uses, when clearly incidental to the conduct of the retail business on the premises.
36) Marine Sales and service
37) Motels/Hotels
38) Museums
39) Music and musical instrument sales and service
40) Pet shop
41) Radio, Televisions, and other electronics sales & service
42) Real Estate Offices
43) Restaurant, Drive-In Food Service, Supper Club, and Catering
44) Sporting Goods and Accessories
45) Small engine repair
46) Truck Stop
47) Theater
48) Veterinarians
49) Video Sales and Rental
50) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above uses.

C) <u>CONDITIONAL USES</u>

1) Airport
2) Hospital
3) Breweries, Brew-Pubs, Wineries
4) Outdoor Storage facilities
5) Other similar and compatible use as determined by the Environmental Services Committee

D) <u>LOT, HEIGHT, YARD REQUIREMENTS, & SETBACKS</u>

1) Minimum Lot Size: 1 Acre w/ Private Onsite Wastewater Treatment System, ½ acre with public sewer
2) Maximum Structures Lot Coverage = 40%
3) Minimum Landscaped Area = 10%
4) Maximum Commercial Building Height: 3 stories or 45ft
5) Maximum Residential Use Structure Height = 2 stories and 35ft
6) Commercial Principal Building Rear/Side Minimum Setbacks: 10ft
7) Accessory Structures Rear/Side Yard Minimum Setback = 5 ft
8) Residential Principal Structure Side Yard Setback = 10 ft
9) Residential Principal Structure Rear Yard Setback = 25 ft

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.

10.4.10 RECREATIONAL BUSINESS AND COMMERCIAL (B-2)

A) PURPOSE AND INTENT

To allow for recreationally-based businesses to exist in appropriate locations in the county.

B) ALLOWED AND PERMITTED USES

In the Recreational Business and Commercial District no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following uses:

1) Sporting Goods
2) Recreational Sales and Service
3) Restaurants and Taverns
4) Resorts
5) Marinas, including sales and service
6) Bait Shops
7) Miniature Golf
8) Recreational Camps
9) Campgrounds with conditions in Section 10.5.8
10) Manufactured Home Park with conditions in Section 10.5.5
11) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above uses.

C) CONDITIONAL USES

1) Ski Resorts
2) Paint Ball
3) Go-Cart Tracks
4) Archery Range
5) Gun Range
6) Sportsmen's Clubs
7) Stock Car, ATV, and Dirt Bike raceways and courses
8) Other similar and compatible use as determined by the Environmental Services Committee

D) LOT, HEIGHT, YARD REQUIREMENTS, & SETBACKS

1) Minimum Lot Size: 1 Acre
2) Maximum Building Lot Coverage: 40%
3) Minimum Landscaped Area: 10%
4) Maximum Building Height: 2 stories and 35ft
5) Principal Building Rear/Side Minimum Setbacks: 25ft

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.
3) Provisions of Section 10.5.1 (Design Standards) apply

10.4.11 SMALL BUSINESS/COMMERCIAL DISTRICT (B-3)

A) PURPOSE AND INTENT

To allow for commercial development while allowing for more control over building size, location and aesthetics.

B) ALLOWED AND PERMITTED USES

In the Small Business/Commercial District no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following uses:

1) All Uses Allowed and Permitted in B-1 with a building footprint up to 20,000 sq ft

C) CONDITIONAL USES

1) All Conditional Uses in the B-1 district

2) Commercial buildings and uses with a building footprint over 20,000 sq ft

D) LOT, HEIGHT, YARD REQUIREMENTS, & SETBACKS

1) Minimum Lot Size: 1 Acre
2) Maximum Building Lot Coverage: 40%
3) Minimum Landscaped Area: 10%
4) Maximum Building Height: 2 stories and 35ft
5) Principal Building Rear/Side Minimum Setbacks: 25ft

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.
3) Provisions of Section 10.5.1 (Design Standards) apply

10.4.12 INDUSTRIAL (I-1)

A) PURPOSE

To provide locations within the county for industrial uses to occur and prevent land use conflicts with inappropriate uses.

B) ALLOWED AND PERMITTED USES

1) Light and general manufacturing including, but not limited to:
   a. Metal, glass, plastic and wood assembly, fabrication and manufacturing
   b. Electronics assembly, fabrication and manufacturing
   c. Clothing
   d. Bottling facilities
2) General warehousing and storage directly connected with the permitted uses under this section and provided they are not a nuisance
3) There may be one single-family dwelling unit and an associated residential accessory building on the premises, either attached or detached in connection with any of the above uses.

C) CONDITIONAL USES

1) Acid, ammonia, bleach, chlorine or soap manufacture
2) Ammunition or explosives manufacture or storage
3) Asphalt, coal, coal tar or coke manufacture; asphalt and hot mix asphalt plants
4) Cement or lime manufacture; cement or concrete mixing plants
5) Bone distillations, fat rendering or any other form of dead animal reduction

6) Fertilizer manufacture
7) Forge plant
8) Gelatin or glue manufacture
9) Inflammable gasses or liquids, refining or manufacture of; overground tank farms
10) Utility-scale energy generation including but not limited to: solar farms/fields, large wind generators, and power plants.
11) Salvage and Recycling Facilities
12) Solid waste disposal operations, sanitary landfill sites
13) Slaughterhouse, stockyard
14) Smelting or foundry operations
15) Any similar or compatible industrial enterprise subject to the approval of the Environmental Services Committee

D) LOT SIZES, DIMENSIONS, AND SETBACKS

1) Minimum Lot Size = 1 acre
2) Maximum Industrial Use Building Height = 50 feet
3) Maximum Residential Use Building Height = 35 feet
4) Side Yard Setbacks for Residential Uses = R-1 side yard setbacks apply
5) Side Yard Setbacks for lots adjacent to residentially zoned lots = 25 ft
6) Side Yard Setbacks for Industrial Uses = 0 ft; except:
   a. If buildings on abutting lots are not constructed with a common wall or with walls contiguous to one another, then a side yard of not less than 10 feet shall be provided.
7) Rear Yard Setback = 25 feet; except:
   A) No rear yard setback shall be required when abutting a railroad R.O.W.
   B) Any such rear yard which abuts a boundary of a Residential Zoning District shall be not less than 50 feet in depth; provided that no stock pile, waste or salvage pile, equipment storage yard or other accumulation of material or equipment in the open shall be stored or placed in such rear yard.

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.
3) Provisions of Section 10.5.1 (Design Standards) apply

10.4.13 MINING DISTRICT (M-1)

A) PURPOSE

To allow for mining activities to take place in Polk County in appropriate areas that reduce incompatible land uses and land use conflicts

B) <u>ALLOWED AND PERMITTED USES</u>

1) All Allowed and Permitted Uses in the Section 10.4.5 (A-1 District)
2) Pre-existing non-metallic mining activities. Preexisting non-metallic mining activities are those operations involving the excavation, removal and/or processing of materials which operations are classified as unreclaimed acres by Polk County's Non-Metallic Mining Reclamation Ordinance or had expansions of the mine outlined in the original plans that were submitted for the mine.
3) Limited, short-term non-metallic mining activities. Limited short-term non-metallic mining activities are those operations which:
   a. Do not satisfy the definitions and standards for preexisting non-metallic mining activities, and;
   b. Will be commenced and completed within a one year period from the date of the permit, and;
   c. Will be limited to not more than one acre in area open at one time. *Note: If the original mine was approved with conditions attached, those conditions continue to be in effect even if the mine is placed in this district*

C) <u>CONDITIONAL USES</u>

1) Non-metallic mining activities that do not meet the definition outlined in 10.4.13(B)(2) and 10.4.13(B)(3) above.
2) Applications for conditional use permits to conduct mining and/or processing activities shall include all information required by the county approved application form.
   a. Reapplication to the Environmental Services Committee for renewal shall be required with alterations to operational plans or noncompliance with the standards of the district.
   b. Requests for additional information prior to a decision being made on the conditional use permit may be made by the Environmental Services Committee. Upon determination by the Board that additional information is required, on behalf of the Board, the Board may employ independent technical experts to review materials submitted by the applicant.

D) <u>LOTS SIZES, DIMENSIONS AND SETBACKS</u>

1) Minimum Lot Size = 5 acres
2) Minimum Right of Way Setback = 200 ft
3) Minimum Property Line Setback = 100 ft

a. Overburden, berms, and topsoil piles are allowed to be within the setback area, however at no time shall stockpiles of the targeted material, active extraction activities or processing equipment be within the setback area.

4) Setback and Height restrictions for A-1 District uses: see height regulations in Section 10.4.5 (A-1 District)
5) Maximum Height for Mining related Structures = 50 ft

E) OTHER REQUIREMENTS

1) Road setbacks shall be governed pursuant to the provisions of Section 10.3.5 (Setbacks)
2) Off-Street Parking shall be regulated by Section 10.5.2 of this ordinance.
3) Provisions of Section 10.5.1 (Design Standards) apply

10.5 ARTICLE 5: ADDITIONAL REGULATIONS

10.5.1 DESIGN STANDARDS

The intent of the design standards in this section includes, but is not limited to: providing aesthetic controls on development, minimize conflicts between uses, minimize effects of outdoor lighting, while maintaining functional use, safety and security of properties.

A) LIGHTING STANDARDS

Applicability: Lighting Standards shall be required in the following zoning districts: B-2, B-3, Industrial, and Mining. Design Standards may also be required as part of a conditional use permit, site plan, or other County approval of a development.

1) All lighting must be fully shielded in a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted.
2) Lighting must be directed away from adjacent properties to prevent light from trespassing or spilling on to those properties.
3) There shall be no flashing, revolving or intermittent lighting, which could be considered a nuisance or distraction to vehicular traffic.
4) There shall be no search lights, laser source lights, or any similar high-intensity light, except in emergencies by police and fire personnel or at their direction.
5) Outdoor athletic fields, courts, tracks, ski resorts, and airports are exempt from these lighting requirements, but may have restrictions on hours of operation.

6) Temporary lighting, which does not conform to the provisions of this section, may be allowed for a total period of no longer than 30 days within a year without a permit.

B) VEGETATION AND SCREENING STANDARDS

Applicability: Vegetation and Screening Standards shall be required in the following zoning districts: B-2, B-3, Industrial, and Mining. Design Standards may also be required as part of a conditional use permit, site plan, or other County approval of a development.

The following areas or features may be required to be effectively screened by fencing, landscaping, or berms from view from public roadways, and adjacent residentially zoned properties:

1) Exterior structures related to heating systems, cooling or air conditioning systems;
2) Refuse, garbage, dumpsters and recyclable material collection points;
3) Outdoor storage areas;
4) Loading docks;
5) Any other site area or facility as required for the specific land use by the County approval authority, if reasonably related to the protection of neighboring properties or the public from distracting, unappealing, or offensive views of on-site activities.

OPTIONS FOR SCREENING:
The following are options for providing required screening where applicable:

1) Rows of trees: Trees and other screening shrubs shall be planted in such a manner and of such spacing that the vegetation covers up to 6 feet tall with 75% opacity upon installation. No species on the State of Wisconsin's invasive species list may be used. The lot owner shall maintain such planting and any dead trees/shrubs that are part of the approved screening plan shall be replaced within one year. Alternate species or planting plan may be substituted if prior approval is received from the Zoning Administrator.
2) Existing vegetation: The maintenance of existing native vegetation that, from off the property during full foliage conditions, provides the appearance of a solid wall of vegetation. The final determination as to acceptability of the existing vegetative screen shall be by the Zoning Administrator.
3) Fencing: The construction of a minimum 6-foot high solid fence with at least 90% opacity. The finished fence side of the fence must be facing outward.
4) Earthen berm: The construction of an earthen berm to the minimum height of 6 feet which is to be seeded and/or landscaped with shrubs or trees and maintained by the owner.

5) Distance Requirements: Purposely planted trees or shrubs, as measured from its center, shall be a minimum of 5 feet off a driveway or public street right-of-way or easement.
6) Vision Clearance Triangle: All screening and landscaping must be kept out of the vision clearance triangle

C) LANDSCAPING STANDARDS (GENERAL YARD LANDSCAPING).

Applicability: The requirements of this subsection shall apply to new commercial land development projects and all additions, expansions, or site modifications to such uses to the extent practical in the B-2 and B-3 districts where required.

1) Existing Vegetation:
To the greatest extent possible, each development shall retain existing trees outside of proposed building and parking areas.
2) Landscaping Coverage:
The lot shall be landscaped with an effective combination of living trees, groundcover, and shrubbery as indicated by a percentage in the districts above. Landscaping shall be emphasized in street yards, adjacent to residentially zoned lots, within and adjacent to parking lots, and near principal building foundations. Landscaped area can be utilized as part of the stormwater management area of the site.
3) Distance Requirements:
Purposely planted trees or shrubs, as measured from its center, shall be a minimum of 5 feet of a driveway or public street right-of-way or easement.
4) Vision Clearance Triangle:
All screening and landscaping must be kept out of the vision clearance triangle
5) Installation and Maintenance:
All proposed and approved landscaping shall be installed according to accepted planting procedures with quality plant materials. The lot owner shall maintain such plantings and all dead plantings shall be replaced.

10.5.2 PARKING

A) OFF-STREET PARKING REQUIREMENTS

1) One off-street parking space shall be 220 square feet of area, exclusive of adequate ingress and egress driveways to connect with a public thoroughfare. A single stall in any garage may replace any single required parking space.
2) No parking spaces required under this ordinance may be used for any other purpose; provided, however, that open spaces required by this ordinance for setback and side yards may be used for such parking spaces or approaches

thereto except that on corner lots there shall be no parking in the vision clearance triangle.

3) All parking spaces shall be graded and drained so as to prevent the accumulation of surface water.
4) All parking spaces in the Commercial or Industrial Districts and residential parking lots in the Residential and Agricultural District containing 3 or more parking spaces shall be provided with a dust-free surface.
5) Parking lots containing 5 or more parking spaces which are located in the Residential District or adjacent to residential lots, shall be screened along with the side or sides of such lots which abut the lot lines of residential lots by a solid wall, fence, evergreen planting or equivalent plantings or equally effective means built or maintained at a minimum height of 4 feet. If parking lots so located are lighted, the lights shall be so shielded as to prevent undesirable glare or illumination of adjoining residential property.

B) PARKING SPACES REQUIRED

1) Multiple family dwelling shall provide one off-street parking space for each family for which the accommodations are provided in the building plus one.
2) Except as detailed elsewhere in this section, retail or local business places, professional offices and home businesses shall provide at least one off-street parking space for each 300 square feet of sales floor area.
3) Theaters, churches, auditoriums, lodges or fraternity halls and similar places of public assemblage shall provide at least one parking space for each 7 seats.
4) Motels, hotels, and dormitories shall provide at least one parking space for each guest room.
5) Restaurants, taverns and similar places for eating and refreshments shall provide at least one parking space for each 50 square feet of floor space devoted to the use of patrons.
6) Funeral homes and mortuaries shall provide at least one parking space for each 50 square feet of floor space devoted to parlors.
7) Bowling alleys shall provide at least 5 parking spaces for each alley.
8) Garages and service stations shall provide adequate off-street parking space to prevent the parking of vehicles waiting to be serviced or repaired on the public street or highway.
9) Industrial uses shall provide at least one parking space for each employee on the premises at any one time, plus at least one additional space for each vehicle operated in connection with such use for which parking on the premises is required.

10.5.3 SIGNS

A) GENERAL PROVISIONS

1) Any sign hereafter erected shall conform to the provisions of this ordinance and the provisions of any other ordinance or regulation of the county.
2) No sign other than an official traffic sign or similar sign shall be erected within the right-of-way lines of any street, road, highway, or public way unless specifically authorized by other ordinances or regulations of the county or by specific authorization of the zoning administrator.
3) Signs projecting over public walkways may do so subject to a minimum clearance height of ten (10) feet from grade level to the bottom of the sign.
4) Notwithstanding the provisions of Section 10.5.3(D), no sign or structure shall be erected at the intersection of any road in such a manner as to obstruct the free and clear vision of a driver of any motor vehicle, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.
5) If a commercially or industrially zoned premises contains more than one property usage, the sign area(s) for each unique usage will be computed separately.
6) Every sign permitted by this ordinance must be kept in good condition and repair. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the Zoning Administrator, or if any sign shall be unlawfully installed, or erected, in violation of any of the provisions of this ordinance or State Laws, the owner thereof and/or the person or firm using the sign shall, upon written notice of the Zoning Administrator forthwith in the case of immediate danger and in any case within not more than ten (10) days, remove or repair said sign. If the order is not complied with, the Zoning Administrator may remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
7) Any sign legally existing at the time of passage of this ordinance that does not conform to the provisions of this ordinance, shall be considered a protected non-conforming use and may continue in such status until such time as it is either abandoned or removed by its owner. Maintenance of the sign for purposes of changing the sign message shall not be considered an alteration requiring conformance with the ordinance.
8) A double faced sign shall only be allowed with the two faces displayed back to back or with an interior angle of no greater than 30 degrees. Such sign will be considered one sign structure. Each face of a double faced sign shall be considered a separate sign for purposes of display area size restrictions.
9) Temporary signs, unless otherwise regulated by specific provisions of this ordinance related to size, use, and district in which placed, shall be subject to the following regulations:
    a. No temporary sign shall be permitted to be displayed for a period in excess of ninety (90) days in any one period of three hundred sixty-five

(365) days, unless a longer span of display time is approved by the Zoning Administrator.

b. The size and spacing of any temporary sign shall conform to requirements of Sections 10.5.3(D)(1) and 10.5.3(D)(2)

c. Subdivision development signs: The Zoning Administrator may issue a special permit for a temporary sign in any district in connection with the marketing of lots or structures within a subdivision provided the sign is located entirely on the property being developed, and must apply to all applicable building setback requirements specified in this Ordinance. The signs must not exceed 96 square feet. One sign is allowed for each major road adjacent to the subdivision. Such permits may be issued for a period of one year and may be reviewed for additional periods of up to one year upon written application at least thirty (30) days prior to its expiration.

10) All signs are prohibited from all zoning districts in Polk County unless specifically authorized to be located in the district in accordance with the provisions of this ordinance.

B) <u>SIGN PLACEMENT</u>

1) On premise signs are allowed in any district subject to space and size requirements as provided for in Section 10.5.3(D)(2) of this Ordinance.
2) Off premise signs are only allowed in Commercial and Industrial Districts and subject to space and size requirements as provided for in Section 10.5.3(D)(1) of this Ordinance.
3) Other Districts:
   a. Natural Resources District and Farmland Preservation District- Signs are allowed by Conditional Use Permits only and must conform to setbacks and all other standards.
4) Signs not requiring a permit as described in Section 10.5.3(E)(4) are permitted in any district.

C) <u>PROHIBITED SIGNS</u>

1) Lighting shall be sufficiently shielded to prevent stray light from becoming a nuisance to neighboring property, or to the enjoyment of a body of water.
2) No sign shall contain, include, nor be composed of any conspicuous animated or moving parts.
3) No sign shall be painted upon or attached to trucks or other vehicles, or parts thereof, and parked on a lot for purposes of visual display. Vehicles operating in the normal course of business (other than used solely for the display of signs) are exempt from this provision.
4) Electronic, internally illuminated signs greater than 40 square feet

D) SIGN DIMENSIONS AND SPACING

1) Off Premise Signs (Table 7):

Table 7

Class of Highway	Spacing Between Sign Structures on Same Side of Road	Spacing from Public Road Intersection*	Area/Size of Signs (per direction)	Height Limit
Town Road	1000 feet	300 feet*	64 square feet	30 feet
County Road	1000 feet	300 feet*	96 square feet	30 feet
State and US Highway	1000 feet	300 feet*	240 square feet	30 feet
Interstate Highway	1000 feet	300 feet*	As State permit	30 feet

*As measured from intersection of road rights-of-way

2) On Premise Signs (Table 8):

Table 8

Zoning District	Total Number of Signs	Maximum Sign Area	Height Limit
R-1 Residential RA-5	1	32 square feet	10 ft
All Commercial Industrial Hamlet A-1 and A-2	1 Freestanding Sign Plus No limit on other signs	Maximum 96 square feet with a total of 288 sq ft	35 feet
Natural Resources Farmland Preservation	By Conditional Use Permit	96 square feet	30 feet

E) SIGN PERMITS

1) A permit must be obtained from the Zoning Administrator for the erection of all signs or sign structures, except for those noted in Section 10.5.3(E)(4)
2) Before any permit is granted for the erection of a sign or sign structure requiring such permit, plans and specification shall be filed with the Zoning Administrator showing the dimensions and materials to be used. The permit application shall be accompanied by the written consent of the owner or lessee of the premises on which the sign is to be erected.
3) No sign or sign structure shall be enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required has been

secured. The changing of copy, display and/or graphic matter, or the content of any sign shall not be deemed an alteration.

4) Signs not requiring a permit:
    a. Vehicular signs on trucks, trailers buses or other vehicles while operating in the normal course of business, which is not in the display of signs.
    b. Interior window signs in commercial or industrial districts which are visible from a public right of way.
    c. On premise temporary advertising banners provided the banners do not exceed 32 square feet and displayed for no more than 30 consecutive days.
    d. Any size sign that meets the criteria for a temporary sign in Section 10.5.3(A)(9).
    e. A single faced sign equal to or less than 16 square feet in size.

10.5.4 MANUFACTURED HOMES AND MOBILE HOMES

The following conditions shall apply for all manufactured homes:

A) The area beneath a manufactured or mobile home must be completely enclosed with a skirting material of a quality and strength which assures the durability of said skirting material and which does not distract from the general aesthetic quality of the manufactured or mobile home and the surrounding area.

B) All manufactured and mobile homes which are abandoned, burned or otherwise destroyed or substantially damaged must be removed from the lot or site on which they are located within one year after abandonment, burning, destruction or substantial damage occurred.

C) Cannot be used for storage

10.5.5 MANUFACTURED HOME PARKS

The following conditions shall apply for all manufactured home parks:

A) The minimum lot size for manufactured home parks shall be 5 acres
B) The maximum number of manufactured homes shall be 8 per acre
C) The minimum dimensions of a manufactured home site shall be 50 feet wide by 100 feet long
D) In addition to the setback requirements set forth in the General Provisions section (Section 10.3) of this ordinance, there shall be a minimum setback of 40 feet from all other lot lines
E) Each manufactured home site shall be separated from any other manufactured home site by a yard of at least 15 feet.

F) All drives, parking areas and walkways shall be hard surfaced or graveled, maintained in good condition, have natural drainage, and the driveways shall be lighted at night.
G) There shall be two hard-surfaced automobile parking spaces provided for each manufactured home site
H) Screening requirement of Section 10.5.1 apply

10.5.6 TRAVEL TRAILERS

Travel Trailers are considered Camping Units for the purposes of this ordinance.

A) STORAGE OF TRAVEL TRAILERS:

1) The subject lot must have a dwelling or principal structure in order to store one travel trailer on that property;

B) NON-STORAGE USE OF TRAVEL TRAILERS:

1) The zoning district must allow a single family residence on that lot as an allowable use;
2) The subject lot has no existing principal structure;
3) A travel trailer is allowed to be used on a lot 14 out of every 60 days without a permit, unless 4 or 5 below apply.
4) An annual, seasonal permit may be obtained from the zoning office which would allow for the utilization of the travel trailer on the subject property from May 15th through December 1st_annually. In order to obtain the above seasonal permit, the following requirements apply:
    a. A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the Polk County Private Onsite Wastewater (POWTS) Ordinance.
    b. Must meet all setbacks on property for an accessory structure
    c. Must be removed once season is over;
5) A travel trailer may be placed on a property for more than 14 days in any sixty consecutive days if a land use permit is obtained and all the following criteria are met:
    a. The property owner has at least 25 acres in one parcel or parcels adjacent to each other with common ownership
    b. The travel trailer will not be used as a permanent residence
    c. The setbacks required for an accessory building are met
    d. A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the Polk County Private Onsite Wastewater (POWTS) Ordinance.

C) A temporary permit may be issued if the property owner has installed a state approved septic system and well and the Zoning Administrator has issued a

permit to begin constructing a dwelling within one year. Must meet all setbacks on property for an accessory structure.

10.5.7 BUNKHOUSES

A single (one per lot) bunkhouse will be permitted only in districts which permit it by land use permit and the following conditions apply:

A) The bunkhouse shall not exceed 50% of the square footage of the accessory structure with a maximum of 400 square-foot floor area. The 50% square footage limitations will not apply when loft or attic truss type area is being used; however, the area shall not exceed 400 square feet. Stand-alone bunkhouses cannot exceed 400 sq ft of floor area in total.
B) All of the setback requirements for an accessory structure are met.
C) Leasing, rental or use as a residence is strictly prohibited.
D) Sanitary systems must be sized for the total number of bedrooms on the lot after the bunkhouse is built. No affidavits allowed for undersized systems
E) Holding tanks are only allowed for the purposes of these regulations if absolutely no other system will work on the property (i.e. a mound system or conventional system). A soil test is required to prove the necessity of a holding tank.
F) A separate sanitary system for a bunkhouse is prohibited
G) The bunkhouse shall be built to Uniform Dwelling Code compliance. A copy of the completed and passed final inspection of the bunkhouse by the Town's Building Inspector is due to the zoning office within 2 years of obtaining the land use permit, as proof that this condition has been satisfied.
H) Plumbing, if installed, conforms to the Polk County Sanitary Code.
I) Height of the structure is limited to ~~25~~ 35 feet
J) Maximum of 1 bathroom allowed per bunkhouse
K) Cannot be split from original property
L) Cooking facilities are prohibited
M) Cannot be built on an outlot
N) Cannot be the first building on a lot
O) An affidavit is recorded in the Register of Deeds outlining use restrictions.
P) Boathouses cannot become bunkhouses
Q) Only allowed in zoning districts where single-family residential uses are allowed
R) Must meet minimum lot size requirements at time of lot creation
S) Bunkhouses created on riparian lots shall be required to install and maintain mitigation as described in the Polk County Shoreland Protection Zoning Ordinance. For the purposes of this ordinance, changing the use of a structure to a bunkhouse counts as the same additional square footage of impervious surface (in shoreland areas) as a vertical expansion.
T) Use of accessory structures in a manner consistent with the definition of bunkhouse prior to enactment of this ordinance is prohibited by this ordinance

and such use is not a nonconforming use as defined in Wisconsin Statute section 59.69(10)(ab) and (am) and Section 10.3.2 of this ordinance. Accordingly, any and all accessory structures that are to be used as bunkhouses must comply with the above conditions regardless of prior existing use.

10.5.8 CAMPGROUNDS

A) The minimum size of the campground shall be 5 acres.
B) The maximum number of sites shall be 20 per acre.
C) Minimum dimensions of a site shall be 25 feet by 40 feet.
D) Each site is separated from other camping units by a yard not less than 10 feet wide.
E) There shall be 1½ automobile parking spaces for each site.
F) There shall be a minimum setback of 40 feet from all other exterior lot lines.
G) Applicant must obtain all proper licensing.
H) The screening standards of Section 10.5.1 of this ordinance must be met.

10.6 ARTICLE 6: ADMINISTRATIVE PROCEDURAL REGULATIONS

10.6.1 ZONING ADMINISTRATOR

The Zoning Department staff shall have the following duties and powers

A) Advise applicants on the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
B) Issue permits and inspect properties for compliance with this ordinance.
C) Keep records of all permits issued, inspections made, work approved and other official actions.
D) Must have permission to access any premises between 8:00 a.m. and 6.00 p.m. for the purpose of performing duties set forth in this ordinance.
E) Submit copies of variances, Conditional Uses and decisions on appeals for map or text interpretation and map or text amendments within 10 days after they are granted or denied to the Department of Natural Resources.
F) Report all violations of this ordinance to the Department Head and the Governing Committee.

10.6.2 LAND USE PERMITS

The following applies to the issuance and revocation of permits:

A) WHEN REQUIRED

Except where another section of this ordinance specifically exempts certain types of activities, development from this requirement, a land use permit shall be obtained from the Zoning Administrator before any said activity or development,

reconstruction, structural alteration, structural repair, is initiated, including, but not limited to, building or structure, or any change to a structure.

B) APPLICATION

An application for a land use permit shall be made to the Zoning Administrator upon forms furnished by the County and shall include, for the purpose of proper enforcement of these regulations, the following data:

1) Name and address of applicant and property owner.
2) Legal description of the property and type of proposed use.
3) A sketch of the dimensions of the lot and location of existing buildings and distance of proposed buildings from the lot lines, centerline of abutting highways and the ordinary high water mark at the day of the sketch.
4) Whether or not a private water or septic system is to be installed.

C) EXPIRATION

Land Use Permits for land use changes shall expire twelve months from their date of issuance where no action has been taken to accomplish such changes or two (2) years after issuance.

10.6.3 REVOCATION

Where the conditions of a land use permit, Conditional Use Permit or a variance is violated, the same are deemed revoked.

10.6.4 BOARD OF ADJUSTMENT

The County Administrator shall appoint a Board of Adjustment under Chapter 59.69, Wisconsin Statutes, consisting of 5 members, with no less than 1 of the members being a riparian landowner**,** and the County Board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by Section 59.69(3), Wisconsin Statutes.

A) POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties:

1) Shall adopt rules as it deems necessary and may exercise all of the powers conferred on such boards by Section 59.69 Wisconsin Statutes. Supplemental information is available in the Polk County Board of Adjustment Procedural Ordinance.
2) ADMINISTRATIVE APPEALS

Hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

a. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the Zoning Administrator or other administrative officer.
b. Appeals shall be taken within a feasible time, as provided by the rules of the Board of Adjustment.

3) VARIANCES

Authorize upon application, in specific cases, such variances from the terms of the ordinance as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of the ordinance will result in unnecessarily burdensome.

a. In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property, which is prohibited in that zoning district by this ordinance.
b. Variances do not expire but remain with the property.

B) APPLICATION/REVIEW PROCESS/PROCEDURE

1) NOTICE OF PUBLIC HEARING. Before acting upon an application the Board of Adjustment shall hold a public hearing within a reasonable time. Notice of such public hearing, specifying the time, place, and matters to come before the Board of Adjustment, shall be given as a Class 2 notice under Chapter 985, Wisconsin Statutes, and notice shall be mailed to the appropriate district office of the Department of Natural Resources, when applicable, at least 10 days prior to the hearing as well as all property owners within 300 feet of the site under consideration**.**
2) RECORDING. An appropriate record shall be made of any decision made by the Board of Adjustment
   a. A decision regarding the application appeal shall be made as soon as practical and a copy shall be submitted to the Department of Natural Resources when applicable within 10 days after the decision is issued.
   b. The Board of Adjustment shall state in writing the grounds for their decision and shall stat the specific facts which are the basis of the Board determination.
   c. All decisions may be reviewed by a court of competent jurisdiction.

10.6.5 Environmental Services Committee

The Committee shall be responsible for hearing all conditional use permit applications submitted to the Land Information Department and the following shall apply to conditional use permits:

A) Powers and Duties

1) Conditional Use Permits- Hear requests for conditional uses as listed in this ordinance. The following shall apply to Conditional Use Permits:
   a. Application for a Conditional Use Permit- Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted and an appropriate application fee paid to the Zoning Administrator and a conditional use permit has been granted by the Environmental Services Committee.
   b. Standards Applicable to All Conditional Uses. The Environmental Services Committee shall evaluate the effect of the proposed use upon the following criteria, including but not limited to:

      1. The maintenance of safe and healthful conditions.
      2. Creation or increase of smoke, dust, noxious and toxic gases and odors, noise or vibrations from heavy equipment.
      3. The prevention and control of water pollution including sedimentation.
      4. Existing topographic and drainage features and vegetative cover on the site.
      5. The location of the site with respect to floodplains and floodways of rivers and streams.
      6. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
      7. The location of the site with respect to existing and future access roads.
      8. Heavy vehicular traffic and increased traffic
      9. The need of the proposed use
      10. Its compatibility with uses on adjacent land.
      11. The amount of septic waste to be generated and the adequacy of the proposed disposal system.
      12. Location of uses that:
          i. Within an area ,are not inherently a source of pollution, shall be preferred over uses that are or may be a pollution source; and
          ii. Within an area, tend to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
   c. Conditions Attached to Conditional Use Permit - Upon consideration of the factors listed above, the Environmental Services Committee shall attach such conditions, in addition to those required elsewhere in this ordinance as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this

ordinance and result in immediate revocation of the conditional use permit. Such conditions may include, without limitation of a specific enumeration: type of shore cover; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; bonding; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Environmental Services Committee may require the applicant to furnish, in addition to the information required for a conditional use permit, the following information at the applicants expense:

1. A plan of the area showing contours, soil types, ordinary high water marks, ground water conditions, air quality testing/studies, bedrock, slope and vegetative cover.
2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
3. Plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
4. Specifications for areas of proposed filling, grading, lagooning or dredging.
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

d. Notice and Public Hearing - Before passing upon an application for a conditional use permit; the Environmental Services Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place, and matters to come before the Environmental Services Committee, shall be given as a Class 2 notice under Chapter 985, Wisconsin Statutes, and notice shall be provided to the appropriate district office of the Department of Natural Resources at least 10 days prior to the hearing as well as all property owners within 300 feet of the site under consideration**.** The Environmental Services Committee shall state in writing the grounds for refusing a conditional use permit.

e. Recording - When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the Department of Natural

Resources within 10 days after application for the conditional use permit is granted or denied.

f. Revocation - Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the Zoning Department

g. Expiration –Conditional use permits for construction, alteration or removal of structures shall expire twelve months from their date of issuance if no building activity has begun within such time.

10.6.6 FEES

The governing committee may, by motion, adopt fees for the following:

A) Land Use Permits.
B) Public Hearings.
C) Conditional Use Permits.
D) Appeals to the Board of Adjustment
E) Variances
F) Other, as necessary

10.6.7 ENFORCEMENT AND PENALTIES

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this Ordinance contrary to the provisions of this Ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation.

A) As authorized by Wis. Stat. CHAPTER 66, the Zoning Administrator or the County Zoning Agency shall issue citations for any violations of this Ordinance. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than two-hundred ($200.00) dollars nor more than one-thousand ($1000.00) dollars per offense, together with the taxable costs of action. Each day of continued violation shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance there may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Section 87.30(2), Wisconsin Statutes. The County also retains the summons and complaint avenue for forfeitures and remedial action as provided by Wis. Stat. Section 59.69(11).

B) There shall be a penalty fee of 2 times the regular permit fee in those cases where building is commenced without first obtaining a land use permit, providing the structure is in conformance with the provisions of this Ordinance. In cases where the project cannot be permitted without a variance, the penalty fee shall be applied towards the variance application fee.

C) The Zoning Department may issue an on-site stop work order, as appropriate, whenever it determines that a violation of this Ordinance or the building permit is taking place.

Wisconsin Court of Appeals Holds Municipalities Do Not Get a Second Chance at Conditional Use Permit Denial

On June 17, 2020, the Wisconsin Court of Appeals, District II upheld a conditional use permit (CUP) for a sport shooting range in the City of Delafield, *Hartland Sportsmen's Club, Inc. v. City of Delafield*, 2019AP740. The court's decision was the latest development in Hartland Sportsmen's Club's (HSC) request for a CUP, from the City of Delafield (City or Delafield), to continue operating a shooting range. In the previous case *HSC I*, the Court of Appeals found that the City could not show a factual basis for its denial of HSC's CUP, so the court reversed the denial for being arbitrary and capricious. *See Hartland Sportsmen's Club, Inc. v. City of Delafield (HSC I)*, No. 2016AP666 (WI App Aug. 30, 2017), *review denied*, 2018 WI 20, 389 Wis. 2d 106, 909 N.W.2d 175.

After that ruling, HSC did not request, nor did the court remand, the case to the municipality for further proceedings. However, rather than issuing the CUP, Delafield instead reconsidered the permit by holding new hearings, issuing new findings and ultimately again denying the permit. HSC then brought a new action for a writ of mandamus, arguing that the prior court rulings in *HSC I* required the City to issue the CUP based on HSC's previous application. The Court of Appeals sided with HSC, finding that the ruling in *HSC I* reversed the City's denial for being arbitrary and capricious, thus requiring the City to issue the CUP.

The court stated that the purpose of certiorari judicial review of municipal and administrative decisions, such as the denial of a CUP, is to ensure procedural due process. After review, a certiorari court has three options – affirm, reverse, or remand for further proceedings consistent with the court's decision. The court noted that remand to the municipality or administrative tribunal for further hearings is appropriate only when the defect in the proceedings is one that can be cured. However, supplementation of the record by the government decision maker with new evidence or to assert new grounds is not permitted. Outright reversal is appropriate when due process violations cannot be cured on remand, which includes cases in which the evidence failed to support the government's decision.

The court found that the outright reversal of the City's denial in *HSC I* was appropriate because the violation of due process would not be cured by remanding for further proceedings on the permit. In *HSC I*, the court found that the City could not show a factual basis for its denial of the CUP, and invalidated the denial for being arbitrary and capricious. Municipalities do not have the authority to revisit a previously denied permit when a court has invalidated the denial on a factual basis.

For municipalities, this case shows that it is crucial to get these permit decisions right the first time by ensuring that any denial is supported by a factual basis. If not, municipalities will not get a second chance when a court reverses a denial for being arbitrary and capricious.

This case should also serve as a reminder for municipalities to update their CUP processes to comply with the relatively recent changes to CUP requirements[1]. As discussed above, after *a certiorari* judicial review, municipalities will not be able to supplement the record with new hearings and further fact finding because of due process concerns. This inability to supplement the record means that municipalities will effectively forego their opportunity to decide CUPs if their CUP processes do not comply with the changes to CUP requirements—especially the requirement for "substantial evidence" in the record to support denial.

– Eric Hagen

[1]Wisconsin Act 67, effective Nov. 28, 2017, made important changes to municipal land use powers, which impacted the conditional use permit authority of all local governments, including cities and villages.

ROLL CALL Board Members	Aye	Nay	Exc.
Olson			
Route			
Warhdahl			
Nelson (Chairperson)			
LaBlanc			
Ruck			
Prichard			
Kelly			
O'Connell			
Middleton			
Luke (2nd Vice Chair)			
Duncanson			
Arcand			
Bonneprise (Vice Chair)			
Demulling			

BOARD ACTION

Vote Required: Majority Vote of a Quorum

Motion to Approve — Adopted ☐

1st _____ Defeated ☐

2nd _____

Yes: _____ No: _____ Exc: _____

Reviewed by: _____, Corp. Counsel

Reviewed by: _____, Administrator

Reviewed by: _____, Finance

FISCAL & LEGAL IMPACT:

Certification:

I, Lisa Ross, Clerk of Polk County, hereby certify that the above is a true and correct copy of a resolution that was adopted on the ___ day of _____, 2020 by the Polk County Board of Supervisors.

_____

Lisa Ross
County Clerk, Polk County

Committee _____

☐ Recommended
☐ Not Recommended
☐ Neutral

Resolution No. 41-20

RESOLUTION TO APPROVE THE D.D. KENNEDY PARK LAND-SWAP

TO THE POLK COUNTY BOARD OF SUPERVISORS:

WHEREAS, Polk County owns and maintains the D.D. Kennedy Park, a recreational County park; and

WHEREAS, it was recently discovered that the portion of the area maintained by the County as a part of the Park, including the location of the bridge, is actually owned by Theodore and Patricia Hansen (the Hansens), rather than the County; and

WHEREAS, the Hansens have agreed to a mutual land swap with the County of parcels of nearly equal size (4.26 acres); and

WHEREAS, this land swap would allow the County to continue maintain the property that was previously believed to be a part of the Park and will not impact the current trail and recreation generally available to the public at the Park.

NOW, THEREFORE, BE IT RESOLVED, that the Polk County Board of Supervisors hereby authorizes the County to deed the parcel number 024000360000, a parcel of land located in the Southeast Quarter of the Northwest Quarter Section 3, Township 33 North, Range 17 West, in the Town of Garfield to the Hansens in consideration of the Hansens contemporaneously deeding the County parcel number 024000310000, a parcel of land located in the Northeast Quarter of the Northwest Quarter Section 3, Township 33 North, Range 17 West, in the Town of Garfield.

BE IT FURTHER RESOLVED, that the parcel deeded to the Hansens is intended to be considered a single parcel a with the parcel described in Document number 590855, Volume 798, Page 471.

BE IT FURTHER RESOLVED, the parcel deeded to the County is intended to be considered as a single parcel with the parcel description in Document number 354352, Volume 356, Page 26.

SUBMITTED BY:

_____