

**TOWN OF BLACK CREEK  
ZONING ORDINANCE**

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2012

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with Resolution #Z-7-2014-15



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## 2.01 INTRODUCTION

(1) Statutory Authority. This Ordinance is adopted under the authority granted by and established pursuant to the provisions of Wisconsin Statutes Chapters 60, 61, 62, and 91, and amendments thereto. The Town Board of Supervisors of the Town of Black Creek, Outagamie County, State of Wisconsin do ordain as follows: I would suggest that the Town make some specific mention of also adopting Wis. Stat. Chpt. 91, as there may be items that were not discussed in the Ordinance but you want to adopt the statutory law, and due to the fact that under your definitions section you do not reference the specific statute regarding the definition.

(2) Title. This Ordinance shall be known as, referred to, or cited as the "Town of Black Creek Zoning Ordinance," Town of Black Creek, Outagamie County, Wisconsin.

(3) Purpose and Intent. It is the purpose of this ordinance to promote the public health, safety, convenience and general welfare; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to ensure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life; and to promote the efficient and economical use of public funds.

(4) Applicability and Extent of Power. This ordinance is designed to determine, establish, regulate and restrict:

- (a) The areas within which agriculture, forestry, industry, mining, trades, business and recreation may be conducted.
- (b) The areas in which residential uses may be regulated or prohibited.
- (c) The areas in and along or in or along natural watercourses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.

- (d) Trailer camps, or tourist camps and motels or both and mobile home parks.
- (e) Designate certain areas, uses or purposes which may be subjected to special regulation.
- (f) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- (g) The location, height, bulk, number of stories and size of buildings and other structures.
- (h) The location of roads and schools.
- (i) Building setback lines.
- (j) The density and distribution of population.
- (k) The percentage of lot which may be occupied, size of yards, courts and other open spaces.
- (l) Places, structures or objects with a special character, historic interest, aesthetic interest or other significant value, historic landmarks and historic districts.
- (m) Burial sites, as defined in s. 157.70(1)(b).

(5) Adoption and Effective Date. This Ordinance shall be effective after a Township public hearing; recommendation by the Town Zoning Advisory Committee; adoption by the Town Board of Supervisors; review and adoption by the County Board of Supervisors; and publication of posting as provided by law.

## 2.02 GENERAL PROVISIONS

(1) Jurisdiction. The provisions of this Ordinance shall apply to structures and land within the Township of Black Creek, Outagamie County, Wisconsin.

(2) Establishment of Districts. To achieve the purposes of this ordinance, the Town of Black Creek is hereby divided into the following districts as set forth in Section 2.05 of this ordinance:

FP/AED - Farmland Preservation/Exclusive Agricultural District  
AGD - General Agricultural District  
RSF - Single-Family Residential District RTF - Two-Family Residential District RMF - Multi-Family Residential District  
CL - Local Commercial District  
CR - Regional Commercial District  
CP - Planned Commercial District  
IND - Industrial District  
CAO - Critical Areas Overlay

(3) Official Zoning Atlas.

- (a) Establishment. The location and boundaries of the districts shall be as shown in a map atlas entitled the Official Zoning Atlas of Town of Black Creek, Outagamie County, Wisconsin. The district symbol as set out in (1) above and Section 2.05 of this ordinance shall be used to designate each district. The Official Zoning Atlas with all notations, dimensions, designations, references and other data shown shall accompany and be part of this ordinance, and upon adoption by the Town of Black Creek Board, each map page shall be signed by the Town Chairman and attested by the Town Clerk bearing the date of adoption.
- (b) Amendments. Amendments to the Official Zoning Atlas shall be approved by the Outagamie County Board of Supervisors in accordance with the provisions of this ordinance and Section 60.62 of the Wisconsin Statutes. Amendments shall be effective as provided in Section 60.62 of the Wisconsin Statutes. Amendments shall promptly be portrayed on the appropriate map page and include the ordinance number and effective date of the amendment.
- (c) Final Authority as to Zoning Status. Regardless of the existence of purported copies of all or part of the Official Zoning Atlas which may from time to time be made or published, the Official Zoning Atlas,

which shall be located in the Clerk's office, shall be the final authority as to the current zoning status of any lands.

- (d) Replacement of Official Zoning Atlas. If the Official Zoning Atlas, or any page or portion thereof, becomes damaged, lost, destroyed or difficult to interpret, the Town Board may by resolution adopt a new Official Zoning Atlas or any page or pages thereof, which shall supersede the prior Official Zoning Atlas, or page or pages thereof. The new Official Zoning Atlas, or page or pages thereof, may correct drafting or other errors or omissions, but no such correction shall have the effect of amending the original Official Zoning Atlas or page or pages thereof. If, in the process of correcting drafting or other errors or omissions, district boundaries are changed or altered, then action shall be taken only in the form of an amendment.
- (e) Retention of Earlier Maps. All zoning maps which have had the force and effect of official zoning maps for the Town of Black Creek prior to the effective date of adoption of this ordinance shall be retained as a public record and as a guide to the zoning status of lands prior to such date.

(4) Interpretation of District Boundaries.

- (a) Except as otherwise specifically provided, a district symbol or name shown within district boundaries on the Official Zoning Atlas indicates that the district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line.
- (b) Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Atlas, the following rules apply:
  - 1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys or rights-of-way shall be construed as following such centerlines as they exist on the ground.
  - 2. Boundaries indicated as approximately following lot lines shall be construed as following such lines; provided, however, that where such boundaries are adjacent to the dedicated street, highway or right-

of-way and the zoning status of the street, highway or right-of-way is not indicated, the boundaries shall be construed as running to the middle of the street, highway or right-of-way.

3. Boundaries indicated as approximately following the limits of incorporated municipalities shall be construed as following such limits.

4. Boundaries indicated as following railroad tracks shall be construed as being midway between the main tracks.

5. Where boundaries do not follow property lines and distances are not specified, boundaries shall be determined by the use of the scale in the Official Zoning Atlas.

6. Where the property layout existing on the ground is at variance with that shown in the Official Zoning Atlas, the Plan Commission shall interpret the Official Zoning Atlas. The determination by the Plan Commission may be appealed as provided in Section 2.12 (4).

(5) Application of Regulations. The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- (a) No land, building or structure shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- (b) No sign shall hereafter be erected, hung, placed, painted, altered, or moved except in conformity with the regulations of the district in which it is located.
- (c) No part of a yard, open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.
- (d) No lot or yard existing at the effective date of adoption of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of adoption of this ordinance shall meet the minimum requirements established by this

ordinance.

- (e) No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced. No accessory building shall be used unless the principal building on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is part.

(6) Interpretation. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statutes, other regulations, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

(7) Severability. It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be invalid.

(8) Other Regulations Applicable to the Development and Use of Land and Structures. In addition to the applicability of these regulations, certain lands and structures in the Town of Black Creek are also subject to, without limitation, regulations pertaining to floodplains, shorelands and wetlands, and airports and airport operations.

## 2.03 DEFINITION OF TERMS

(1) General. For the purpose of this ordinance, the following shall apply as indicated throughout the ordinance:

- (a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (b) The present tense includes the future tense and the singular includes the plural.
- (c) The word "shall" is mandatory; the word "may" is permissive.
- (d) The words "used" or "occupied" also mean intended, designed or arranged to be used or occupied.

(2) Definition of Terms. For the purpose of this ordinance, the following terms are defined:

(a) Agricultural Accessory Uses and Structures, Agricultural District. Any of the following land uses on a farm:

1. A building, structure, or improvement that is an integral part of, or is incidental to, an *agricultural use*. This may include, for example:
  - a. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
  - b. A facility used to keep livestock on the farm.
  - c. A facility used to store or process inputs primarily for agricultural uses on the farm.
  - d. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
  - d. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
  - f. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
  - g. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
2. An activity or business operation that is an integral part of, or incidental to, an *agricultural use*.
3. A farm residence, including normal residential appurtenances.



4. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:

- a. It is conducted on a farm by an owner or operator of that farm.
- b. It requires no buildings, structures, or improvements other than those described in par. 1 or 3.
- c. It employs no more than 4 full-time employees annually.
- d. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.

(b) Accessory Use or Structure, Non-Agricultural Districts.

A use or structure on the same lot with the principal use or structure and of a nature customarily incidental and subordinate to the principal structure.

(c) Agricultural Use. Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping *livestock*.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(d) Agriculture-related Use. A facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:

1. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
2. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
3. Slaughtering livestock, including livestock from farms in the farmland preservation zoning district.
4. Marketing livestock to or from farms, including farms in the farmland preservation zoning district.

5. Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation zoning district.
- (e) Alley. A public or approved private way which affords only a secondary means of access to abutting property.
  - (f) Airport (Public). Any airport which complies with the definition contained in Chapter 114 Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
  - (g) Alteration. A change or rearrangement in the structural parts of a structure, an enlargement of a structure, whether by extending on the side or by increasing the height, or the movement of a structure from one location to another.
  - (h) Automobile Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories and convenience retail goods may be supplied, dispensed and sold and where minor repair or maintenance work may be performed such as ignition service, tire repair, repair and replacement of minor parts such as pumps and filters and the like. A filling station is not a repair or body shop.
  - (i) Automobile Salvage Yards. Premises used for the storing, dismantling, crushing, shredding or disassembly of used motor vehicles or their parts.
  - (j) Base Farm Tract. All land, whether one parcel or 2 or more contiguous parcels, which is in a farmland preservation zoning district and is part of a single farm under one owner on the date of adoption of this amended zoning ordinance regardless of any subsequent changes in the size of the *farm*.
  - (k) Billboard. An advertising sign used to advertise goods, services, establishments or organizations off the premises.
  - (l) Boarding Houses. An establishment where meals and lodging are provided for compensation by prearrangement other than in dwelling units, without limitation on time periods involved, and for a total of at least four or more boarders.
  - (m) Building. A structure having one or more stories and a roof which is used or intended to be used for shelter or enclosure for persons, property or animals.

- (n) Building Height. A building's vertical measurement, from the main level of the finished grade in front of the building to the highest point on the roof line of a flat roof or a roof having a pitch ratio of less than 1.4 from the horizontal, and to a point midway between the peak and the eaves of a roof having a pitch ratio of more than 1.4.
- (o) Building Frontage. The front of a building shall be construed to be the portion facing a street. For purposes of computation of the number and area of signs, the frontage of a building shall be computed as nearly at ground level as computation of horizontal distance permits. In cases where this test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance, the Plan Commission or Inspector shall select building frontage on the basis of interior layout of the building, traffic on adjacent streets or other indicators.
- (p) Building Line. The rear edge of any required front yard or the rear edge of any required setback line.
- (q) Building Site. The lot or lots or portion of a lot or lots used for a building, the total area of which lots is ascribed to the building for compliance with these zoning regulations.
- (r) Chapter 91. Wisconsin Farmland Preservation law.
- (s) Clinic. An office or group of offices relating to the health care professions including physicians, dentists and the like engaged in the treatment of persons.
- (t) Common Open Space. A parcel or parcels of land or an area of water or combination of land and water designated and intended for either the recreational use and enjoyment of residents of the development for which it was established and for the general public, or for the exclusive recreational use and enjoyment of residents of the development for which it was established. No yard required in connection with any principal use or structure shall be designated or intended for use as common open space.
- (u) Common Ownership. Ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned

by the married couple.

- (v) Community Living Arrangement. Facilities defined in Section 46.03 Wis. Stats.
- (w) Conditional Uses. Those uses or structures that may not be appropriate generally or without restriction throughout a district but which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare. Such uses or structures may be permitted in a zoning district if they meet the requirements of the district in which they are located.
- (x) Contiguous. Adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.
- (y) Convalescent Home and Nursing Home. A place where regular care is provided to three or more infirmed persons, children, or aged persons, who are not members of the family which resides on the premises.
- (z) County. Outagamie County, Wisconsin.
- (aa) DATCP. Wisconsin Department of Agriculture, Trade, and Consumer Protection/
- (bb) Day Care. (Family) A place where regular day care is provided to not more than eight children and is licensed pursuant to Chapter 48 Wis. Stats. (Group) A place where regular day care is provided to nine or more children and is licensed pursuant to Chapter 48 Wis. Stats.
- (cc) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction or additions or substantial improvements to buildings, other structures, or accessory uses, mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, and deposition of materials.
- (dd) Dog Kennel. A place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place that keeps, harbors or has custody of more than three dogs for any purpose.
- (ee) Drive-in Restaurant. Any establishment dispensing or

serving food in automobiles including those establishments where customers serve themselves and may eat or drink in the building or in their automobiles on the premises.

- (ff) Dwelling Unit. A room or rooms connected together, constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.
- (gg) Dwelling, Single-Family Detached. A building containing not more than one dwelling unit, entirely separated from structures on adjacent lots. The term "detached dwelling" shall not include mobile homes, travel trailers, or other forms of portable or temporary housing.
- (hh) Dwelling, Single-Family Attached. A building containing not more than one dwelling unit attached at the side or sides in a series or group of three or more buildings each containing not more than one dwelling unit. Each building shall be separated from the adjoining building or buildings by a party wall or walls extending from footings through roofs. The term "attached dwelling" is intended to imply townhouses, patio, or atrium houses or any form which conforms to this definition.
- (ii) Dwelling, Two Family. One building containing not more than two dwelling units or two buildings, attached at the side, with not more than one dwelling unit per building. The term "two-family dwelling" is intended to imply single-family semi-detached buildings and duplexes or any form which conforms to this definition.
- (jj) Dwelling, Multiple Family. A building containing three or more dwelling units. The term "multi-family dwelling" shall include cooperative apartments, condominiums, apartments and the like. Regardless of how rental units are equipped, any multi-family dwelling in which units are available for rental periods of less than one week shall be considered a motel.
- (kk) Dwelling, Mobile Home. A building transportable in one or more sections, built on a permanent chassis, with body width exceeding eight feet or body length exceeding 32 feet, designed to be used as a single dwelling with or without a permanent foundation when connected to the required utilities.

- (ll) Dwelling, Modular Home. A building made up of two or more modular sections transported to the home site, put on a permanent foundation and joined to make a single dwelling. For the purposes of this ordinance, modular homes shall be allowed as a single-family detached dwelling.
- (mm) Fair Market Value. Assessed value adjusted for equalized value.
- (nn) Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as family.
- (oo) Farm. All land under *common ownership* that is primarily devoted to *agricultural use*. For purposes of this definition, land is deemed to be primarily devoted to *agricultural use* if any of the following apply:
1. The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
  2. A majority of the land area is in agricultural use.
- (pp) Farm acreage. The combined total acreage of all of the following in the "base farm tract:"
1. Farms.
  2. Open space parcels of more than 10 acres.
- (qq) Farm Residence. Any of the following structures located on a *farm*:
1. A single-family residence or duplex that is the only residential structure on the *farm*.
  2. A single-family residence or duplex that is occupied by any of the following:
    - a. An owner or operator of the *farm*.
    - b. A parent or child of an owner or operator of the *farm*
    - c. An individual who earns more than 50 percent of his or her gross income from the *farm*.
  3. A migrant labor camp that is certified under s. 103.92, Wis. Stats.
- (rr) Floor Area. The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the

centerline of walls separating two buildings, excluding public corridors, common restrooms, attic areas, unenclosed stairways, elevator structures, heating or other building machinery or equipment or basement space.

- (ss) Floor Area Ratio. The ratio of the total floor area of a building to the total lot area.
- (tt) Fur Farm. Land, buildings or structures used for the purpose of raising or harboring fur bearing animals including those defined in Sec. 29.01 Wis. Stats., and also including chinchillas, whether the animals are kept for breeding, slaughtering or petting.
- (uu) Garage, Private. An accessory building designed or used for inside parking of not more than three private motor vehicles, recreational vehicles or boats by the occupant of the principal building. A private garage attached to or a part of the main building is to be considered part of the main building.
- (vv) Garage, Storage. An accessory building designed or used for the storage of more than three motor vehicles, recreational vehicles or boats.
- (ww) Gross Farm Revenue. Gross receipts from *agricultural uses*, less the cost or other basis of *livestock* or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Gross farm revenue" includes receipts accruing to a renter, but does not include rent paid to the land owner.
- (xx) Home Occupation. The term "home occupation" shall mean an occupation in a residential district conducted entirely in a dwelling unit, provided that:
  1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof;
  2. No person other than members of the family residing on the premises shall be engaged in such occupation;
  3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, mounted flat against the wall of the principal building;

4. No home occupation shall occupy more than 25 percent of the first floor area of the residence. No home occupation shall be conducted in any accessory building or structure;
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in required front yard;
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates audible or visual interference in any radio or television receivers off the premises.
7. Within the FP/AED District, a home occupation may not impair or limit the current or future agricultural use of the farm or of other protected farmland.

(yy) Hotel. An establishment where sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge, as distinguished from multifamily dwellings and boarding houses, where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients. Hotels may serve meals to both occupants and others. The term "hotel" is also intended to imply motel, motor court, motor lodge, tourist court or any form which conforms to this definition.

(zz) Junk Yard. Premise where land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be usable, nor shall it apply to the processing of used, discarded or salvageable materials incident to manufacturing activity on the same site.



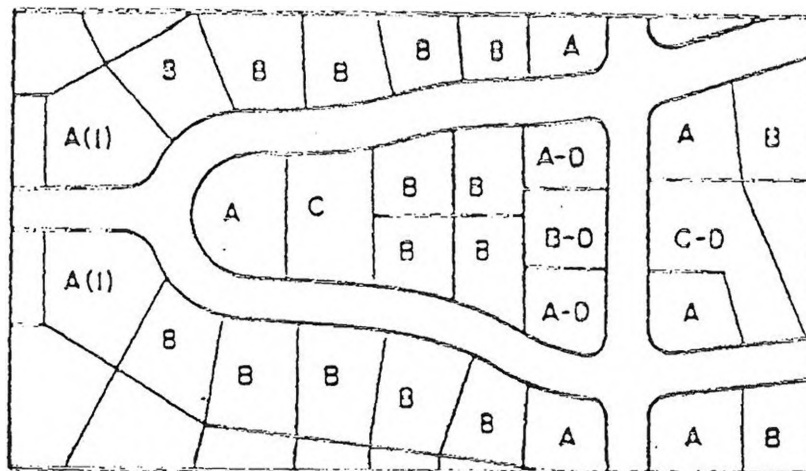
- (aaa) Landscaping. Landscaping shall consist of, but not be limited to, grass, ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape architectural features such as rock, fountains sculpture, decorative walls and tree wells.
- (bbb) Livestock. Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites and farm-raised fish.
- (ccc) Lot. A parcel of land used or set aside and available for use as the site for one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" shall mean land designated as a distinct and separate parcel on a legally recorded deed or plat in the Register of Deeds' office.
- (ddd) Lot Area. The total horizontal area within the lot lines of the lot.
- (eee) Lot Coverage. The percentage of the lot area covered by the principal structure.
- (fff) Lot Depth. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (ggg) Lot Frontage. The front of an interior lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street shall be considered frontage, and yards shall be provided as set out in these zoning regulations. For the purpose of computing number and area of signs, frontage of a lot shall be established by orientation of the frontage of buildings thereon, or of principal entrance points to the premises if building frontage does not clearly indicate lot frontage. If neither of these methods are determinant, the Building Inspector shall select on the basis of traffic flow on adjacent streets, and the lot shall be considered to front on the street with the greater flow.
- (hhh) Lot Types. The diagram below illustrates terminology used in these zoning regulations with reference to corner lots, interior lots, reversed frontage lots and through lots.

1. Corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots A(1) in the diagram.

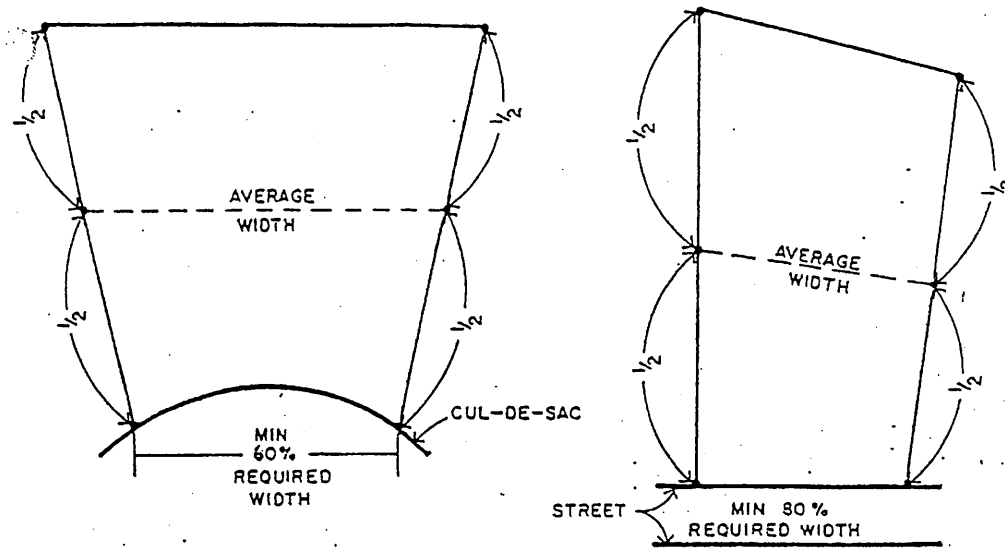
2. Interior lot, defined as a lot other than a corner lot with only one frontage on a street.

3. Through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

4. Reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or a through lot (C-D).



(iii) Lot Width. Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with street line) and the rear most points of the side lot lines in the rear, provided, however, that the width between the side lot lines at their foremost points in the front shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than 60 percent of the required lot width (see image at top of following page).



- (jjj) Mobile Home Park. Premises designed and maintained for the location of two or more mobile homes under a continuing local general management and including special facilities for common use by the occupants such as open space areas and recreational areas and buildings.
- (kkk) Mobile Home Site. A mobile home site is a parcel or lot within a mobile home park, designated for the accommodation of not more than one mobile home.
- (lll) Mobile Home Subdivision. Premises where more than two mobile homes are located for non-transient living purposes and where lots are set aside and offered for sale for use by mobile homes for living purposes.
- (mmm) Net Acre. The total acreage of a lot, tract or parcel of land excluding land in existing and proposed streets and street rights-of-way.
- (nnn) Net Density. The term "net density" refers to the number of residential dwelling units permitted per net acre of land and is determined by dividing the number of units by the total area of land within

the boundaries of a lot or parcel not including street rights-of-way. In the determination of the number of dwellings to be permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

- (ooo) Nonfarm Residence. Any residence other than a farm residence.
- (ppp) Nonfarm Residential Acreage. The combined total acreage of all parcels on which nonfarm residences are located, all parcels on which The Town of Black Creek has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the Conditional Use permit application pertains. If an existing residence is located on an undivided farm as of the date of adoption of this amended ordinance, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres.
- (qqq) Office, Business. A business office is an office for such activities as real estate agencies, advertising agencies (but not sign shops), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit bureau (but not finance company), abstract and title agencies or insurance companies, stockbrokers, and the like. It is characteristic of a business office that retail or wholesale goods are not shown on the premises to a customer. A barber or beauty shop is not a business office.
- (rrr) Office, Professional. A professional office is an office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists psychologists, and the like.
- (sss) Open Space Parcel. A parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.
- (ttt) Plan Commission. The agency or commission designated by the Town Board pursuant to Section 62.23 Wis. Stats.
- (uuu) Planned Unit Development. A residential land development comprehensively planned as an entity via a unitary plan which permits flexibility in building siting, mixtures of housing types, usable open spaces and the preservation of significant natural features.

(vvv) Prime farmland. All of the following:

1. An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
2. Land, other than land described in par. (a), which is identified as prime farmland in the county's certified farmland preservation plan.

(www) Prior Nonconforming Use. A land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.

(xxx) Protected Farmland. Land that is any of the following:

1. Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
2. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development.

(yyy) Recreational Camp. Premises and facilities used occasionally or periodically for the accommodation of members of groups or associations for outdoor recreational activities.

(zzz) Sign. Any structure, part thereof, or device attached thereto or painted or represented thereon which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation of any person or thing in such a manner as to attract attention from outside of the building. The following signs shall not be included in the application of sign regulations herein:

1. Signs not exceeding one square foot in area and bearing only property numbers, postbox numbers, names of occupants of the premises, or other identification not having commercial connotations.
2. Flags and insignia of any government except when displayed in connection with a commercial promotion.
3. Legal notices, identification, informational, or

directional signs erected or required by governmental agencies.

4. Integral or architectural features of buildings except letters, trademarks, moving parts or moving lights.

5. Signs directing or guiding traffic and parking on private property, but bearing no advertisement matter and not exceeding the nine square feet in area.

6. Temporary paper signs advertising a cultural or civic matter within 30 days of such an event.

(aaaa) Sign, Accessory. A sign relating in its subject matter to the premises on which it is located.

(bbbb) Sign, Types.

1. Detached sign is a sign not attached to or painted on a building but which is affixed to the ground, fence, or wall not part of a building.

2. Flat sign is a sign attached to or parallel to the face of a building or erected or painted on the outside wall of a building and where support of such sign is provided by the wall. No part of such sign shall extend more than 18 inches from the building.

3. Marquee sign is a sign attached to or hung from a marquee projecting from and supported by a building.

4. Projecting sign is a sign attached to and projecting 18 inches or more from the face of the wall of a building.

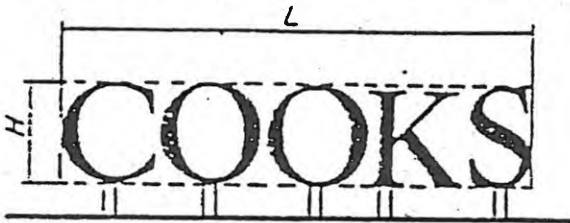
(cccc) Sign Area. Sign area shall be computed as including the entire area within the periphery of a regular geometric form or combinations of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed; but not including frames or structural elements of the sign bearing no advertising matter. In the case of double face signs, where both faces advertise a single facility, product or service, only one face shall count toward area. (See illustration on following page.)

(dddd) Sign, Number of. For the purpose of determining

number of signs, a sign shall be considered to be a single display surface or device containing elements organized, related, and composed to form a unit. Where subject matter is displayed randomly without any organization of the elements, each element shall be considered to be one sign. (See illustration on

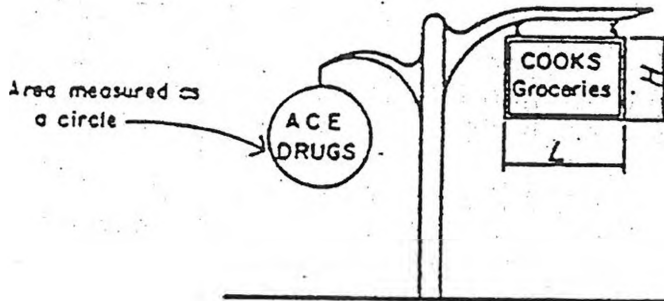


1 Sign



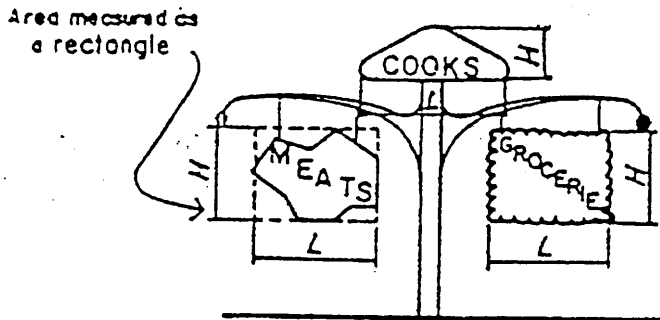
1 Sign:

Separate letters - area measured as a unit



2 Signs:

Advertising separate facilities and units not related



1 Sign:

Units all related, not random display

following page.)

(eeee) Stable. Premises where more than one horse (livestock) is boarded, raised, kept or trained regardless of whether such horses are (livestock is) owned by the occupants or owners of the premises. A stable shall provide not less than one acre of lot

area per horse.

- (ffff) Stable, Riding. Premises on which horses are (livestock is) kept for the purpose of renting them to the public on any basis. A riding stable shall consist of not less than five acres.
- (gggg) Storage Establishment. Premises where goods and materials or more than three motor vehicles, recreational vehicles or boats are stored for a fee.
- (hhhh) Story. That portion of a building, other than a basement, that is between the surface of any floor and the surface of the next floor above it or, if there is not a floor above, then the space between such floor and the ceiling next above it.
- (iiii) Street Line. The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way line.
- (jjjj) Structure. Anything constructed or erected with a fixed location on the ground, or attached to something with a fixed location on the ground. Among other things, structures include signs, fences, mobile homes, and parking lots.
- (kkkk) Variance. A relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Variances may be granted only if they meet the requirements of Section 2.12 of this ordinance.
- (llll) Yard. An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, provided, however, that fences, walls, poles, posts and other customary yard accessory ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction visibility. "Required yard" means that minimum distances specified by these regulations measured from the property line.
- (mmmm) Yard, Front. A yard extending across the front of a lot between the side lot lines, and extending from the street line to the nearest line of the principal structure or projection of the principal structure.
- (nnnn) Yard, Rear. A yard extending across the rear of



a lot between the side lots lines, and extending from the rear property line to the nearest line of the principal structure or projection of the principal structure.

(oooo) Yard, Side. A yard extending between the nearest building or projection thereto and the side lot line, and extending from the front yard to the rear yard.

## 2.04 NONCONFORMITIES

- (1) Applicability and Intent. Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed nonconforming. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions.
- (2) Nonconforming Uses of Land (Or Land with Minor Structures Only). Where at the effective date of adoption or amendment of this ordinance a use of land exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure or structures with a fair market value of less than \$10,000, such use may be continued subject to the following restrictions:
  - (a) Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this ordinance.
  - (b) Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this ordinance.
  - (c) When such use is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
  - (d) No additional structure in connection with such use shall be erected.
  - (e) Such use becomes lawful at the time of the amendment to the ordinance.
- (3) Nonconforming Uses of Structures. Where at the effective date of adoption or amendment of this ordinance the use of a structure exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure with a fair market value exceeding \$10,000, such use may be continued subject to the following restrictions:
  - (a) No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted or

permissible in the district in which it is located.

(b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this ordinance. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building, nor any other building not used for such nonconforming use.

(c) There may be a change in tenancy, ownership, or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.

(d) When such use of a structure is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.

(e) If a structure occupied by a nonconforming use is removed or destroyed or damaged to an extent of more than 50 percent of its fair market value at the time of destruction, the nonconforming use shall not be resumed.

(4) Nonconforming Structures. Where at the effective date of adoption or amendment of this ordinance a structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

(a) Such structure shall not be altered in any manner which would increase the degree of nonconformity. The total structural repairs or alterations in such nonconforming structure shall not during its life exceed 50 percent of the fair market value of the structure.

(b) If such structure is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided reconstruction shall substantially reflect the prior structural arrangement and shall not increase the degree of nonconformity. If such structure is destroyed or damaged to an extent of more than 50 percent of its fair market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the district in which it is located.

- (5) Nonconforming Characteristics of Use. If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.
- (6) Nonconforming Lots of Record.
  - (a) In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.
  - (b) If two or more lots, or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this ordinance, the lands involved shall be considered to be an individual parcel for the purposes of this ordinance, and no portion of such parcel shall be used, divided, or sold which does not meet the lot area and lot width requirements for the district in which it is located.
- (7) Nonconforming Signs. No nonconforming sign shall be altered in any manner which would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50 percent of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign. If a nonconforming sign is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided any reconstruction does not increase the degree of nonconformity which previously existed.
- (8) Casual, Temporary, or Illegal Use. The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.
- (9) Repairs and Maintenance. Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

- (10) Existing Conditional Uses. Any use or structure existing on the effective date of adoption or amendment of this ordinance which is classified as a Conditional Use in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the terms of this ordinance.

## 2.05 SCHEDULE OF DISTRICT REGULATIONS

### (1) Interpretation and Organization.

(a) District regulations shall be as set forth in this Section and as modified and supplemented by Sections 2.06 and 2.07.

(b) Permitted principal and accessory uses and structures listed for any district shall be permitted by right subject to the conditions as specified.

(c) Conditional uses and structures listed for any district are permissible only upon approval by the Town of Black Creek Plan Commission after notice and hearing subject to the conditions specified and any other conditions as may be imposed by the Plan Commission to promote the general health, safety and welfare.

(d) In those instances where district regulations set forth a list of permitted or permissible uses followed by the phrase "and uses of a similar nature," it is understood that the list of permitted or permissible uses is not exhaustive or all inclusive but that other uses of a like or similar nature are also permitted or permissible. Determination of whether a specific use, not enumerated, is of a like or similar nature shall be made by the Plan Commission. The determination by the Plan Commission may be appealed as provided in Section 2.12(4).

(e) All uses and structures, dimensional, sign and off-street parking regulations in the Schedule of District Regulations shall be subject to Section 2.06.

(f) All uses and structures, as specified in the Schedule of District Regulations, shall be subject to the regulations and requirements for the use as provided in Section 2.07.

### (2) FP/AED Farmland Preservation/Exclusive Agricultural District.

(a) Permitted Uses. The following land uses are allowed without a Conditional Use permit in a farmland preservation zoning district:

1. Agricultural uses on farms as defined in Chapter 91.01(2) Wis. Stats.
2. Agricultural Accessory Uses and Structures, including one roadside stand per farm used solely for the sale of products produced on the premises and home occupations, except that a conditional use permit is required under section (2)(b) for the following

agricultural uses and agricultural accessory uses on farms:

a. A new or expanded facility used to keep cattle, swine, poultry, sheep or goats, if that facility will have more than 500 animal units.

3. Nonfarm residences constructed in a rural residential cluster according to a conditional use permit issued under section (2)(b)3 for that cluster.

4. Undeveloped natural resource and open space areas.

5. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

(b) Conditional Uses.

1. General.

a. The Plan Commission may issue a Conditional Use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section.

b. Before issuing a Conditional Use permit, the Plan Commission shall determine in writing that the proposed use meets applicable conditions under this section. The Plan Commission may issue the permit subject to any additional conditions which the Plan Commission deems necessary to carry out the purposes of this ordinance.

2. Nonfarm Residences. The Plan Commission may issue a Conditional Use permit for a proposed nonfarm residence if all of the following standards will be met when the approved nonfarm residence comes into existence:

a. If the nonfarm residence will be located in a base farm tract:

1. The ratio of nonfarm residential acreage to farm acreage in the base farm tract will not exceed 1:20.

2. There will be no more than 4 dwelling units in nonfarm residences, nor more than 5 dwelling units in residences of any kind, in the base farm tract.

3. Nonfarm residential parcels created from a base farm tract shall be no smaller than 1 acre in size.

b. Neither the nonfarm residence, nor the parcel on which the nonfarm residence is located, will do any of the following:

1. Convert prime farmland, or cropland other than a woodlot, from agricultural use if there is a reasonable alternative available to the permit applicant.
2. Significantly impair or limit the current or future agricultural use of any other protected farmland.

3. Nonfarm Residential Clusters. The Plan Commission may issue a single Conditional Use permit authorizing 2 or more proposed nonfarm residences if all of the following apply:

a. The Conditional Use permit includes all of the following information:

1. The total number of nonfarm residences authorized by the permit.
2. A legal or survey description of each parcel on which a nonfarm residence is authorized.
3. The number of nonfarm residences authorized on each parcel, if more than one.
4. The number of dwelling units authorized in each authorized nonfarm residence, if more than one.

b. Each of the parcels described under section (2)(b)3.a.2. shares a boundary with at least one other parcel described under section (2)(b)3.a.2.

c. Each of the proposed nonfarm residences will meet all of the standards under section (2)(b)2. when all of the proposed nonfarm residences have come into existence.

d. The Conditional Use permit prohibits all of the following:

1. Any further division of any parcel described in section (2)(b)3.a.2.
2. Any nonfarm residence or dwelling unit on a parcel identified in section (2)(b)2., other than a nonfarm residence or dwelling unit identified in the permit.

4. Agricultural Accessory Uses on Farms. The Plan Commission may issue a Conditional Use permit under section (2)(b) for the following agricultural accessory uses:

- a. A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats,



and that will have more than 500 animal units, provided the proposed facility meets the standards prescribed in Ch. ATCP 51, Wis. Adm. Code.

5. Agriculture-related Uses. The Plan Commission may issue a Conditional Use permit for an agriculture-related use if all of the following apply:

a. The use supports agricultural uses in the farmland preservation zoning district in direct and significant ways, and is more suited to a farmland preservation zoning district than to an industrial or commercial zoning district.

b. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

c. 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.

d. The use is reasonably designed to minimize conversion of land, at and around the use site, from *agricultural use* or open space use.

e. The use does not substantially impair or limit the current or future *agricultural use* of other *protected farmland*.

f. Construction damage to land remaining in *agricultural use* is minimized and repaired to the extent feasible.

6. Compatible Infrastructure.

a. The Plan Commission may issue a Conditional Use permit for any of the following uses if that Use meets applicable conditions under section (2) (b) 6.b:

1. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.

2. Communication uses, including transmission lines, cell towers, antennae and broadcast towers.

3. Oil, gas and other pipelines.

4. Electrical transmission lines.

5. Wind turbines.

6. Solar power generation facilities.

7. Drainage facilities.

b. The Plan Commission may issue a Conditional Use permit for a proposed use under par. (a) if all of the following apply:

1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

2. 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.

3. 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.

4. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.

5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

7. Government and Nonprofit Community Uses. The Town may issue a Conditional Use permit for a government use, or for an institutional, religious or community use, if the Town determines that 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 the 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 other protected farmland.

e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

8. Nonmetallic Mining Extraction. The Plan Commission may issue a Conditional Use permit for a nonmetallic

mineral extraction operation if all of the following apply:

- a. The operation complies with all of the following:
  1. Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter.
  2. Applicable provisions of the Outagamie County Non-Metallic Mining Reclamation Ordinance.
  3. Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- b. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- c. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
- d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- e. The operation does not substantially impair or limit the current or future agricultural use of other protected farmland.
- f. The Conditional Use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for agricultural use, according to a written restoration plan included with the permit.

(c) Rezoning Land out of a Farmland Preservation Zoning District.

1. Except as provided in sub. (c)2, land may not be rezoned out of a farmland preservation zoning district unless the Plan Commission does all of the following prior to the rezoning:
  - a. Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  2. The rezoning is consistent with any comprehensive plan, adopted by the Plan Commission, which is in effect at the time of the rezoning.
  3. The rezoning is substantially consistent with the Outagamie County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
  4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection (c)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 Outagamie 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, the Town shall submit to DATCP a report of the number of acres rezoned out of the FP/AED District during the previous year and a map that clearly shows the location of those areas. A copy of this report shall also be provided to the Outagamie County Planning and Zoning Department.

(3) AGD General Agricultural District

(a) Purpose. The intent of this district is to maintain open land areas predominantly devoted to farming and agricultural related uses. It is anticipated that while certain areas within this district will eventually be used for non-agricultural uses; the intensity of development will remain significantly limited due to a lack of urban facilities and services. It is also intended that this district provide for small scale family oriented businesses on a case-by-case basis.

(b) Permitted Principal Uses and Structures

1. Permitted principal uses and structures listed in (2)(c)1.
2. Public and semi-public non-profit institutional uses of a similar nature.
3. Parks, preserves and golf courses.
4. Single family detached dwellings and mobile homes unrelated to any farm operations, as a principal use and structure on individual lots which are not part of a recorded subdivision plat as defined in the Town of Black Creek Subdivision Ordinance.

(c) Permitted Accessory Uses, Agricultural Accessory Uses, and Structures

1. All permitted accessory uses, agricultural accessory uses, and structures in the AED District.
2. Home occupations.

(d) Conditional Uses and Structures

1. Conditional Uses and structures listed in (2)(d)1 through 6, provided, however, that no such use or structure shall be located within 500 feet of an existing residential dwelling other than the owners or within 500 feet of the exterior boundary of a recorded subdivision plat.
2. Two family dwellings provided that the dimensional requirements of Section 2.05(5) are met.
3. Cemeteries.
4. Veterinary offices.
5. Warehouse, storage, and building supply establishments subject to the conditions in (1) above.
6. Resource extraction uses including quarrying and sand and gravel pits subject to the requirements to Section 2.07(3).
7. Outdoor commercial recreational uses including recreational camps, campgrounds, golf, archery and rifle ranges, sledding and skiing facilities and uses of a similar nature.
8. Commercial exhibits of historical or natural significance.
9. Automobile salvage yards subject to the conditions in section (3)(d)1 above involving storage of less than 50 vehicles and where no

crushing or processing of parts and materials is conducted on the premises and provided all vehicles and parts are effectively screened from view from any residential lot or public highway.

10. Contractors storage yard provided all equipment and materials are effectively screened from view from any residential lot or public highway.

11. The following uses provided the owner or proprietor resides on the premises: Automobiles, farm equipment and small engine repair shops; offices and/or shops in connection with skilled tradesman including plumbers, electricians, carpenters, welders and the like; and production and/or sales of crafts produced on the premises provided mechanical or chemical processes are incidental or non-existent.

12. Taverns existing before the effective date of adoption of this ordinance.

13. Sales of lawn and garden equipment in connection with a plant nursery.

14. Airports, public or private.

15. Dog Kennels.

(e) Dimensional

1. Principal Agricultural Uses. Minimum lot area - four (4) acres; lot width - 200 feet and front yard - 37 feet. There are no side or rear yard requirements and no height limitations on buildings or structures.

2. Single-Family Detached Dwellings and Mobile Homes on Individual Lots. Minimum lot area - 43,556 square feet; lot width - 120 feet; front yard - 37 feet; rear yard - 25 feet; side yards - 12 feet each.

3. Other Permitted or Permissible Uses and Structures. Minimum lot area - one (1) acre; lot width - 120 feet; front yard - 37 feet; rear yard - 25 feet; side yards - 12 feet each, provided, however, that for any building or structure over 40 feet in height the side yards shall be increased by one (2) feet for every two (2) feet in additional height. Minimum lot area and yard requirements may be increased as a condition for a Conditional Use permit.

(4) RSF Single Family Residential District

(a) Purpose. This district is intended to provide for single-family detached residential development. The density of development is based on the availability

of public facilities and the extent of coordination and planning as indicated by whether the development is part of an approved and recorded subdivision plat.

(b) Permitted Principal Uses and Structures

1. Single-family detached dwellings.
2. Public and semi-public non-profit institutional uses including churches, schools, libraries and the like, provided principal access shall be directly onto a collector or arterial street.
3. Parks, playgrounds, golf courses and community centers.
4. Community living arrangements subject to the provisions and limitations of Section 59.97(15) Wis. Stats.
5. Day care (Family).

(c) Permitted Accessory Uses and Structures

1. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
2. Temporary structures in connection with the construction of principal structures provided such structures are not used for living purposes. Temporary structures shall not remain over 90 days after construction of the principal structure is substantially complete.
3. Home occupations.
4. Public utility installations.

(d) Conditional Uses and Structures

1. Convalescent homes and nursing homes.
2. Cemeteries.
3. Gardens, nurseries and orchards provided no sales are conducted on the premises.
4. Cluster Subdivisions subject to the provisions of Section 2.07(5) and the Land Division & Subdivision regulations of the Town of Black Creek.
5. Mobile Home Subdivisions subject to the provisions of Section 2.07(8).
6. Mobile Home Parks subject to the provisions of Section 2.07(7).

7. Accessory dwelling subject to the provisions of Section 2.07(2).
8. Bed and breakfast establishments provided the owner resides on the premises.
9. Storage garage as an accessory building.
10. Day care (Group).

(e) Dimensional Requirements.

1. Single-Family Detached Dwellings.

a. Within an approved and recorded subdivision plat served by public sewer, minimum dimensions as follows: lot area - 7,200 sq. ft. per dwelling; lot width - 60 ft.; front yard - 25 ft.; side yards - 6 ft. each; rear yard - 25 ft. Maximum lot coverage - 30%; maximum heights - 35 ft. (2 1/2 stories).

b. Not within an approved and recorded subdivision plat but served by public sewer, minimum dimensions as follows: 9,000 sq. ft. per dwelling; lot width - 75 ft.; front yard - 25 ft.; side yards - 7 ft. each; rear yard - 25 ft. Maximum lot coverage - 20%; maximum height - 35 ft. (2 1/2 stories).

c. Within an approved and recorded subdivision plat not served by public sewer, minimum dimensions as follows: lot area and lot width as provided in Chapter ILHR 85, Wisconsin Admin. Code, but in no event shall lot area be less than 43,556 square feet in a conventional subdivision or less than 21,778 square feet in a conservation subdivision and lot width be less than 120 feet; - 37 ft.; side yards - 12 ft. each; rear yard - 35 ft. Maximum lot coverage - 15%; maximum height - 35 ft. (2 1/2 stories).

d. Not within an approved and recorded subdivision plat not served by public sewer, minimum dimensions as follows: lot area and lot width as provided in Chapter ILHR 85, Wisconsin Admin. Code, but in no event shall lot area be less than 43,556 square feet and lot width be less than 120 feet; front yard - 37 ft.; side yards - 12 ft. each; rear yard - 25 ft. Maximum lot coverage - 15%; maximum height - 35 ft. (2 1/2 stories).

2. Other Permitted or Permissible Uses and Structures.

a. Served by public sewer, minimum dimensions as follows: lot area - 10,000 sq. ft.; lot width - 90 ft.; front yard - 25 ft.; side yards - 15 ft. each; rear yard - 30 ft. Maximum lot coverage - 20%; maximum height - 35 ft. (2 1/2 stories).

b. Not served by public sewer, minimum dimensions as follows: lot area - 43,556 sq. ft.; lot



width - 120 ft.; front yard - 37 ft.; side yards - 12 ft. each; rear yard - 25 ft. Maximum lot coverage - 15%; maximum height - 35 ft. (2 1/2 stories).

(f) Permitted Accessory Signs.

1. One subdivision identification sign limited to 40 sq. ft. in area.
2. One temporary sign for each street frontage advertising the sale or lease of real estate and one temporary sign advertising the development of property. No temporary sign shall be erected within 10 ft. of any adjacent side yard and no temporary sign shall remain after the sale, lease or development of the property.
3. In connection with any public or semi-public institution, the following signs are permitted: one identification sign limited to 30 sq. ft. in area, one bulletin board limited to 20 sq. ft. in area and not more than two temporary signs or banners limited to a combined area of 30 sq. ft. in connection with special events, provided that no such sign or banner shall be displayed for a period of more than two weeks.

(g) Off-Street Parking Requirements.

1. Dwellings: 1.5/unit
2. Churches: 1/3 fixed seats
3. High Schools: 1/3 students plus 1/employee
4. Elementary school, junior high school, day nurseries: 1/employee
5. Libraries, exhibits, community centers: 1/3 persons of maximum capacity
6. Convalescent home, children's home, nursing home: 1/4 beds plus 1/employee

(5) RTF Residential Two-Family District

(a) Purpose. This district is intended to provide for medium density residential development with emphasis on

two-family and single-family attached residential uses. This district is also intended to provide for infilling opportunities for parcels which for various reasons have been by-passed by development. This district is primarily intended to apply to areas presently served by a public sewer system.

(b) Permitted Principal Uses and Structures.

1. Permitted principal uses and structures listed in section (4)(b)(1-5).
2. Two-family dwellings served by a public sewer system.
3. Single-family attached dwellings served by a public-sewer system.

(c) Permitted Accessory Uses and Structures.

1. Permitted accessory uses and structures listed in section (4)(c)(1-4)1.

(d) Conditional Uses and Structures.

1. Conditional Uses and structures listed in section (4)(d)(1-10).
2. Two-family dwellings not served by a public sewer system.
3. Planned Unit Developments subject to the provisions of Section 2.07(4).

(e) Dimensional Requirements.

1. Single-Family Detached Dwellings. Dimensional requirements as provided in the RSF District.
2. Two-Family Dwellings.
  - a. Served by public sewer and water, minimum dimensions as follows: lot area - 10,800 sq. ft. (5,400 sq. ft. per family); lot width - 150 ft.; front yard - 37 ft.; side yards 12 ft. each; rear yard - 25 ft. Maximum lot coverage - 30%; maximum height - 35 ft. (2 1/2 stories).
  - b. Not served by public sewer, minimum dimensions

as follows: lot area and lot width as provided in Chapter ILHR 85, Wisconsin Admin. Code but in no event shall lot area be less than 65,334 square feet and lot width be less than 240 feet; front yard - 37 ft.; side yards - 12 ft. each; rear yard - 25 ft. Maximum lot coverage - 15%; maximum height - 35 ft. (2 1/2 stories).

3. Single-Family Attached Dwellings. Each single-family attached development shall have a minimum lot area of 43,556 sq. ft. and minimum lot width of 120 ft. Each group or series of single-family attached dwellings shall have a minimum front yard of 37 ft.; side yards of 12 ft. each; and rear yard of 25 ft. Maximum density is 10 dwelling units per net acre; maximum lot coverage - 25%; and maximum height - 35 ft. (2 1/2 stories). Not more than 6 dwelling units shall be contiguous or in one series or group and not more than 2 contiguous dwelling units in one group or series shall have the same or approximately the same roof line or building line. Not less than 40% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Section 2 .10 is required for all single-family attached dwelling developments. Common open spaces shall be subject to the requirements of Section 2.06(9).

4. Other Permitted or Permissible Uses and Structures. Dimensional requirements as provided in the RSF District.

(f) Permitted Accessory Signs.

1. Permitted accessory signs listed in section (4) (f).

(g) Off-Site Parking Requirements.

1. Applicable requirements as specified in the RSF District.

(6) RMF Multi-family Residential District

(a) Purpose. This district is intended to provide for medium to high density residential areas with emphasis on multi-

family or apartment development. This district requires access to public sewer.

(b) Permitted Principal Uses and Structures .

1. Permitted principal uses and structures listed in section (4)(b)1 through 5.
2. Two-family dwellings.
3. Single-family attached dwellings.
4. Multi-family dwellings provided the building does not exceed three stories in height.

(c) Permitted Accessory Uses and Structures.

1. Permitted accessory uses and structures listed in section (4)(c)(1-4).

(d) Conditional Uses and Structures.

1. Conditional Uses and structures listed in section (4)(d)(1-10).
2. Multi-family dwellings in buildings exceeding three stories in height.

(f) Dimensional Requirements.

1. Single-Family Detached Dwellings. Dimensional requirements as provided in the RSF District.
2. Two-Family Dwellings. Dimensional requirements as provided in the RTF District.
3. Single-Family Attached Dwellings. Dimensional requirements as provided in the RTF District.
4. Multi-Family Dwellings.
  - a. Not exceeding 3 stories or 45 ft. in heights, minimum dimensions as follows: lot area - 10,000 sq. ft.; lot width - 90 ft.; front and rear yard - 25 ft.; side yards - 20 ft. each. Maximum density - 20 dwelling units per net acre; lot coverage 30%. Not less than 30% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan

under Section 2.10 is required.

b. Exceeding 3 stories or 45 ft. in height, minimum dimensions as follows: lot area - 20,000 sq. ft.; lot width - 100 ft.; all yards - 25 ft. each provided, however, that for every 2 ft. in building height above 45 ft., yard width or depth shall be increased 1 ft. Not less than 30% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Section 2.10 is required.

5. Other Permitted or Permissible Uses and Structures. Dimensional requirements as specified in the RSF District.

(g) Permitted Accessory Signs.

1. Permitted accessory signs listed in section 4) (f) (1-3).

(h) Off-Street Parking Requirements.

1. Applicable requirements as specified in the RSF District.

(7) CL Local Commercial District.

(a) Purpose. This district is intended to apply to commercial establishment located to serve primarily localized commercial markets throughout the town. It is the intent of this district to encourage grouping of such commercial establishments. The district is not intended to apply to major or large scale commercial establishments of a regional character.

(b) Permitted Principal Uses and Structures.

1. Retail outlets including the sale of food, liquor, wearing apparel, art or photographic supplies, printing, books or stationary, sundries or notions, jewelry, luggage, florist or gifts, drugs, pets, home furnishings and appliances, sporting goods or hobbies, automotive parts, hardware and building supply establishments and uses of a similar nature.

2. Service establishments including barber or beauty shop, shoe repair, laundry or dry cleaner, appliance repair, photographic or dance studio and uses of a similar nature.

3. Business and professional offices including banks and other financial institutions, insurance and real estate, travel agency, medical or dental clinic, attorney's office, engineering office and uses of a similar nature.

4. Taverns and restaurants.

5. Hotels and motels.

6. Clubs and organizations, profit or non-profit.

7. Indoor commercial recreational establishments including motion picture theaters billiard parlors, arcades, bowling alleys, rinks, and uses of a similar nature.

8. Convalescent homes and nursing homes and day care (Family or Group).

9. Office equipment and supplies.

10. Garden center, plant nursery or landscape contractor.

11. Veterinary offices.

12. Mortuaries.

13. Equipment rental.

14. Existing dwellings.

15. Storage establishments.

(c) Permitted Accessory Uses and Structures.

1. Uses and structures which are customarily accessory and clearly incidental and subordinate to permissible principal uses and structures when they are located on the same lot or a lot contiguous with the principal use or structure.

2. Public utility installations.

(d) Conditional Uses and Structures.

1. Automobile filling stations and car washes.
2. Automobile, boat, motorcycle, construction equipment and farm implement sales, service and repair.
3. Wholesale and warehouse establishments.
4. Printing and publishing establishments.
5. Outdoor recreational establishments including archery ranges, miniature golf and amusements.
6. Light manufacturing uses and structures such as packaging, bottling, storage facilities and laboratories provided all activities are conducted within completely enclosed buildings not involving odor, noise, smoke or other noxious effects detectable to normal senses from off the premises.
7. Radio stations - transmitter tower.
8. Dog kennel.
9. Building trades contractor with storage yard for material and equipment on premises provided all materials and equipment are effectively screened from view from any residential lot or public highway.
10. Agricultural-related uses and structures such as feedmills and co-ops.
11. Woodworking and cabinetry.
12. Billboards.

(e) Dimensional Requirements.

1. All permitted Principal Uses and Structures.
  - a. Served by public sewer, minimum dimensions as follows: lot area - 10,000 sq. ft.; lot width - 90 ft.; front yard - 37 ft.; side yards - 20 ft each, rear yard - 50 ft. Maximum lot coverage - 25% and maximum height - 50 ft. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of Section 2.06(11).

b. Not served by public sewer, minimum dimensions as follows: lot area - 43,556 sq. ft.; lot width - 90 ft.; front yard - 37 ft.; side yards - 20 ft each, rear yard - 50 ft. Maximum lot coverage - 25% and maximum height - 50 ft. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of Section 2.06(11).

2. All Conditional Uses and Structures.

a. Served by public sewer, minimum dimensions as follows: lot area - 12,000 sq. ft.; lot width - 100 ft.; front yard - 35 ft.; side yards - 25 ft. each; rear yard - 50 ft. Maximum lot coverage - 25%; maximum height - 50 ft. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of Section 2.06(11).

b. Not served by public sewer, minimum dimensions as follows: lot area - 43,556 sq. ft.; lot width - 100 ft.; front yard - 35 ft.; side yards - 25 ft. each; rear yard - 50 ft. Maximum lot coverage - 25%; maximum height - 50 ft. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of Section 2.06(11).

(f) Permitted Accessory Signs

1. All Permissible Principal Uses and Structures. For each establishment or each frontage on a public street or highway, if such establishment is located at the intersection of two public streets or highways, the following signs:

a. One detached sign, in the building setback area (front yard), limited to aggregate area to three times the lineal feet of frontage; provided however, that no detached sign shall exceed 250 square feet in area, no part of the supporting structure shall be closer than 10 feet to the right of way and at least 12 feet of clear space, exclusive of the supporting structure, shall be maintained underneath the sign for visibility purposes.

b. One flat, marquee or projecting sign and 40 feet of sign area for each 20 feet of lineal frontage. The sign area may be used in a lesser number of signs than permitted, but the maximum number of signs shall not be exceeded.

2. Temporary signs advertising the sale or lease of property.

(g) Off-Street Parking Requirements.



1. Retail and service establishments (except restaurants) and business and professional offices: 1/200 sq. ft. of floor area.
2. Taverns and restaurants (except drive-in restaurants): 1/100 sq. ft. of floor area.
3. Drive-in restaurants: 1/50 sq. ft. of floor area.
4. Hotels and motels: 1/sleeping room plus parking requirements for taverns or restaurants as applicable.
5. Clubs and organizations, mortuaries, theaters and other recreational establishments: 1/3 persons of maximum capacity.
6. Printing and publishing and light industrial: 1/employee.
7. Convalescent or nursing homes: 1/4 beds plus 1/employee.
8. Wholesale and warehouse establishments: 1/300 sq. ft. of floor area.

(8) CR Regional Commercial District

(a) Purpose. This district is intended to apply to areas which are now intensely developed or are expected to be intensely developed for commercial uses serving a regional commercial market.

(b) Permitted Principal Uses and Structures.

1. Permitted principal uses and structures 1 through 3 in the CL District where the building or structure does not exceed 40,000 square feet of floor area. The front of all buildings shall be faced with decorative masonry or other materials of suitable aesthetic, safety and durability value.

2. Permitted principal uses and structures 4 through 14 in the CL District. Building fronts shall meet the requirements of paragraph 1 above.

(c) Permitted Accessory Uses and Structures.

1. Permitted accessory uses and structures in the CL District.

(d) Conditional Uses and Structures.

1. Retail, service and office uses and structures where the building or structure exceeds 40,000 sq. ft. of floor area.

2. Conditional Uses and structures 1 through 8 in the CL District.

(e) Dimensional Requirements.

1. All Permitted or Permissible Principal Uses and Structures. Lot area 12,000 sq. ft.; lot width - 100 ft.; front yard - 37 ft.; side yards - 20 ft. each; rear yard - 50 ft. Maximum lot coverage - 25%; maximum floor area ratio, 1 to 1. (Floor area ratio is the ratio of the floor area of the building or structure to the lot area.) There is no maximum height requirement except that for every 2 feet in building height over 50 ft., yard depth or width shall be increased 1 ft. Ingress and egress shall be channeled and, where feasible, coordinated with adjacent establishments. Any required yard adjacent to the residential district without an intervening street shall be subject to the landscaped buffer requirements of Section 2.06(11). A site plan under Section 2.10 is required for all buildings and structures exceeding 20,000 sq. ft.

(f) Permitted Accessory Signs.

1. Permitted accessory signs as specified in the CL District.

(g) Off-Street Parking Requirements.

1. Off-street parking requirements as specified in the CL District.

(9) CP Planned Commercial Office District

(a) Purpose. This district is intended to apply to large-scale commercial developments with either single or multiple buildings on a single lot or parcel designed and managed

as a single entity. This district should be located such that there is direct access to major arterial streets and highways.

(b) Permitted Principal Uses and Structures.

1. Business and professional offices.
2. Art gallery, museum, library, community center, publicly owned and operated recreational facilities.
3. Hotels and restaurants.
4. Clubs and organizations.
5. Retail shopping centers provided all sales and storage are conducted within a completely enclosed building.
6. Hospitals, health centers, nursing homes and convalescent homes.
7. Vocational, trade or business schools.
8. Publicly owned auditoriums or convention centers.

(c) Permitted Accessory Uses and Structures.

1. Uses and structures which are customarily accessory and clearly incidental and subordinate to permissible principal uses and structures.
2. Public Utility Installations.

(d) Conditional Uses and Structures.

1. Privately owned auditoriums or convention centers.
2. Privately owned sporting and recreational facilities.

(e) Dimensional Requirements.

1. All Permissible-Principal Uses and Structures. Minimum dimensions: lot area - two acres; lot width - (street frontage requirement) 200 ft. Maximum lot coverage -35%. This district contemplates more than

one principal building on a lot. There are no minimum lot area requirements per building. However, no building shall be located within 25 feet of another building or exterior property line. There are no maximum height requirements except that for every 2 feet in height above 4 stories or 50 ft., the width or depth of yards adjacent to exterior lot lines shall be increased 1 foot. A site plan under Section 2.10 is required.

(f) Permitted Accessory Signs.

1. For Each Development. One general identification sign limited to 300 sq. ft. in area if maintained approximately parallel to the right-of-way or two signs limited to 150 sq. ft. in area if mounted back to back or angled to be read from opposite directions, for each frontage of development.

2. For Each Establishment. One sign and one square foot of sign area for each lineal foot of building frontage. Such signs shall refer only to the name and nature of the business conducted within the building and to goods and services offered and shall be mounted flat against the wall of the building.

3. Temporary signs advertising the sale or lease of property.

(g) Off-Street Parking Requirements.

1. As specified in the CL or CR Districts.

2. Auditoriums and convention centers: 1/3 persons of maximum capacity.

(10) IND Industrial District

(a) Purpose. This district is intended primarily for manufacturing and closely related uses. It is intended to preserve such lands for the functions of industrial activity, wholesaling, warehousing and distribution. To allow maximum latitude for operations, performance standards are applied at district boundaries. It is further the intent of this district that it be so located in relation to major

thoroughfares that resulting traffic generated by industrial activity will not be channeled through residential areas.

(b) Permitted Principal Uses and Structures.

1. Wholesaling, warehouse, storage or distribution establishments (except bulk storage of flammable liquids) and uses of a similar nature.
2. Automobile, boat, construction and farm implement sales, service and repair.
3. Printing and publishing.
4. Agricultural-related uses including feedmills and coops
5. Service establishments catering to commercial and industrial uses including business machine services, linen supply, freight movers, communication services, canteen services and uses of a similar nature.
6. Light manufacturing uses including bottling, packaging, laboratories and uses of a similar nature.
7. Manufacturing uses including production, processing, cleaning, testing and the distribution of materials and goods except wrecking yards, fertilizer and chemical manufacture and canneries or slaughterhouses. All manufacturing uses are subject to the provisions of Section 2.07(6).

(c) Building contractor with storage yard.

1. Transportation terminals.

(d) Permitted Accessory Uses and Structures.

1. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
2. Outside storage of materials and products provided such storage shall not be closer than 25 ft. from the street line or 10 ft. from any lot line. Storage areas

shall be enclosed by fencing material and/or landscaping to be 75% or more opaque between 2 and 6 feet above average ground level. All storage areas shall be surfaced with gravel or hard surface materials. Storage materials shall not be piled or stacked to a height beyond the principal building.

3. Temporary storage of waste materials and trash provided such materials/trash shall be enclosed by a fence of solid material not less than 6 ft. in height.

4. Public utility installations.

(e) Conditional Uses and Structures.

1. Bulk storage of flammable liquids.

2. Fertilizer and chemical manufacture subject to the provisions of Section 2.07(6).

3. Canneries and slaughterhouses subject to the provisions of Section 2.07(6).

4. Automobile wrecking or salvage yards and junk yards provided such use shall not be located closer than 250 ft. to any property zoned residential, and no portion of the lot within 37 ft. of a public street or highway shall be used for any purpose other than offstreet parking for employees or patrons. All activities and storage shall be completely enclosed pursuant to the landscaped buffer requirements of Section 2.06(11).

5. Sanitary landfills and energy recovery systems.

(f) Dimensional Requirements.

1. All Permissible Principal Uses and Structures. Minimum dimensions: lot area - 12,000 sq. ft.; lot width - 100 ft.; front yard - 37 ft.; side yards - 20 ft. each; rear yard 25 ft.; provided however, there are no rear or side yard requirements when a railroad right-of-way abuts at the side or the rear of the property line. Any required side or rear yard adjacent to a residential district boundary shall be subject to the landscaped buffer requirement of Section 2.06(11).

Maximum lot coverage - 35%. There are no maximum height requirements except that for every 2 feet in height above 50 ft., the width or depth of yards shall be increased by 1 foot. A site plan under Section 10 is required for all buildings and structures exceeding 30,000 sq. ft. in floor area.

(g) Permitted Accessory Signs.

1. For Each Principal Building. For each principal building or each frontage on a public street or highway if such establishment is located at the intersection of two public streets or highways, the following signs:

2. One detached sign, in the building setback area (front yard), limited in aggregate area to 250 square feet; provided, however, that no part of a supporting structure shall be closer than 10 feet to the right of way, no part of the sign shall overhang the right of way and at least 12 feet of clear space, exclusive of the supporting structure, shall be maintained underneath the sign for visibility purposes.

Flat signs limited in aggregate area to 20 percent of the wall area fronting on a public street or highway.

3. Temporary signs advertising the sale or lease of property.

(h) Off-Street Parking Requirements.

1. Applicable parking requirements as specified in the CR District.

2. Manufacturing: 1/employee on maximum shift.

(11) CAO Critical Areas Overlay

(a) Purpose. The Critical Areas Overlay (CAO) District is intended to protect the public health and safety by minimizing development in areas prone to unwanted soil erosion and groundwater contamination, and on sites difficult to develop in a safe manner, and promote the general welfare by preserving unique and valuable geologic

and other natural resource features of the Town of Black Creek. The regulations of the CAO District are premised, in part, on a shared community vision, discovered and detailed through the comprehensive planning process, that calls for protection of natural resources and unique geologic features found within the Town. The restrictions included within the CAO District are in addition to County regulations regarding shorelands, wetlands, and floodplains.

(b) General Protection Policies.

1. It is the policy of the Town of Black Creek that the beneficial functions, structures, and values of critical areas be protected, and, further, that potential dangers or public costs associated with inappropriate use of such areas be eliminated or reduced by reasonable regulation. The standards of the CAO District represent a reasonable balance between individual and collective interests. In striking that balance, the Town recognizes that, because of the wide variety of types of developments, and the relationships between them and their natural environments, it is neither possible or advisable to establish inflexible critical areas protection standards. The standards set forth in this section are presumptive requirements. The reviewing body may permit deviations from these presumptive standards whenever it is determined that such deviations will satisfy the purposes set forth in Sec. 11. In considering the appropriate course of action to follow when allowing deviations from the standards, the preferences set forth below are established to guide development actions; they are in no particular order, and may be mixed to achieve maximum critical areas protection while facilitating reasonable use of property:

- a. Avoid the impact altogether by not allowing a particular action unless no reasonable, noncritical area alternatives are available;
- b. Avoid the impact by directing the particular action to noncritical areas on the same site, which may require deviation from the physical or dimensional requirements of this Ordinance (such as setbacks or lot dimensions);



- c. Minimize the impact by limiting the degree or magnitude of the action;
- d. Rectify the impact by repairing, rehabilitating or restoring the affected critical area.

(c) Triggering applications.

1. The regulations of Sec. 11 apply in all zoning districts, and are triggered whenever an application for any of the following actions is filed (hereinafter referred to as "triggering applications") and it is found that such action is taking place on a parcel of real property containing a designated critical area or its buffer:

a. Any permit or action set forth in this Ordinance.

b. Any permit required by the Land Division & Subdivision Regulations of the Town of Black Creek Land Division and Subdivision Ordinance;

3. Clearing and grading permits or permits for any other development activity.

(d) Exemptions. The following activities are specifically exempt from the provisions of Sec. 11, whether or not such activity requires the submission of a triggering application:

1. Existing and ongoing agricultural activities.

2. Normal and routine maintenance and operation of existing irrigation and drainage ditches, swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons and livestock water ponds; provided that such activities do not involve conversion of any critical areas not being used for such activities to another use;

3. Construction, maintenance, operation and repair or replacement of existing utility facilities and associated rights-of-way, including reasonable access roads;

4. Site investigative work in conjunction with the preparation of a land use application submittal, such as surveys, soil logs, percolation tests and other related activities;

5. Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways;

6. Any projects for which application(s) have been submitted prior to the adoption of this Ordinance.

(e) Application of Standards.

1. No application involving a designated critical area shall be approved unless it is determined to be in compliance with Sec. 11 of this Ordinance. The standards of Sec. 11 of this Ordinance shall be applied in addition to other applicable requirements of this Ordinance. Whenever other requirements of this Ordinance conflict with the requirements of Sec. 11, the most stringent requirements shall govern. In instances where a proposal involves a parcel of real property with more than one critical area the standards that pertain to each identified critical area shall apply. Compliance with Sec. 11 shall not remove any obligations with respect to applicable provisions of any other federal, state, county or Town regulation.

(f) Identification of Critical Areas.

1. Upon submittal of triggering application, the Permit Issuer shall determine the probable existence of critical areas on the parcel involved in the application. The Permit Issuer shall review and consider the most appropriate, publicly available information in determining the probable existence of critical areas, including, but not limited to, the following:

- a. Large scale (1" = 200') Outagamie County topographic maps;
- b. USGS 7.5-minute topographic quadrangle maps;
- c. 1" = 400' aerial photographs;
- d. Wisconsin Wetland Inventory" maps prepared by the Wisconsin Department of Natural Resources;
- e. Town of Black Creek Comprehensive Plan.

(g) Requirements of Access and Additional Studies.

1. The Permit Issuer may also conduct field investigations with permission of the landowner, and may require private studies be conducted by the applicant, including, but not limited to, the following:

- a. Topographic surveys prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
- b. Field surveys of trees and/or plant material compiled by a landscape architect, forester, arborist, biologist or botanist with a

professional degree in one of those fields of endeavor.

(h) Application Process.

1. Conditional Use Permit Required. Any action taking place on a parcel of real property containing a designated critical area requires that the applicant apply for, and be granted a Conditional Use Permit. If the triggering application is an application for a Conditional Use Permit, such application shall be sufficient to satisfy this requirement.

2. Submission Requirements. Applicants shall submit the following information along with the application for a Conditional Use Permit:

a. Ten (10) full size copies of a "Critical Areas Protection Plan" prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate that correctly shows the following information:

1. A drawing legend at appropriate scale with the date of preparation, north arrow, and designation of existing and proposed contours at a minimum two (2) foot contour interval.

2. The location of the proposed development activity.

3. The names, addresses and telephone numbers of the owners, Subdividers, lessee and/or developer(s) of the property and of the designer of the plan.

4. The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.

5. The location of any existing or proposed lot lines, right-of-way lines and easements.

6. The location and dimensions of all permanent easements on the subject property and boundary lines adjacent to the site.

7. The location and extent of any existing critical areas features defined and described in Sec. 12.10-12.12 below. Each individual resource area on the site shall be graphically and numerically shown on the Critical Areas Protection Plan.

8. Graphic and numeric illustration shown on the Critical Areas Protection Plan of those existing critical areas features (in square feet or acres) that will be disturbed and

those that will be preserved. Numeric data may be shown in tabular form with labeled reference to specific areas designated on the Critical Areas Protection Plan.

9. Graphic illustration and notes relating to how the protection/mitigation measures will be achieved.

3. Application Processing. If the procedures governing the triggering application require Planning Commission or Board of Appeals review, the Critical Areas Protection Plan shall be reviewed, and protection standards applied, by the applicable decision-making body concurrent with the triggering application. In all other cases, the Critical Areas Protection Plan shall be reviewed, and protection standards applied, by following the procedures for Site Plan Review set forth in Section 16 of this Ordinance.

(i) Required Findings.

1. In addition to addressing the decision criteria of the underlying triggering application, the decision-making body shall also determine how the Critical Areas Protection Plan meets the protection standards set forth in Sec.11 or, when deviation from the standards is permitted, how the plan achieves maximum critical areas protection while facilitating reasonable use of property.

(j) Critical Area #1: Woodlands.

1. Purpose. The woodlands of the Town of Black Creek significantly contribute to the scenic attractiveness of the town and provide habitat for numerous species of plant and animal life. The purpose of these regulations is to perpetuate the existence of woodlands.

2. Regulated Area. Mature woodlands wherein twenty-five (25) percent or more of the trees have a diameter-at-breast-height (DBH) of twenty (20) inches or more. No trees grown for commercial purposes should be considered a woodland.

3. Prohibited or Regulated Activities:

a. Clearing of trees shall be permitted for building footprints, driveways and sites for onsite sewage disposal systems. Building footprints may be cleared a distance of twenty-five (25) feet from the exterior walls of principal buildings and fifteen (15) feet from accessory buildings. Selective pruning of remaining trees shall be permitted, provided that

seventy (70) percent of the original canopy is left intact. (b) Selective pruning of woodlands shall be permitted, provided that seventy (70) percent of the original canopy is left intact. b. Clear cutting on contiguous land under single ownership shall be permitted, provided that the clear-cut area not exceed the lesser of ten (10) acres or thirty (30) percent of woodlands in any ten-year period. An area clear-cut for commercial purposes shall not be converted or developed for another use within seven (7) years from the date clear cutting was completed. c. Other sound forestry practice techniques (as defined in Chapter 46, Wisconsin Administrative Code) recommended by a qualified forester are permitted if designed to protect or enhance the woodlands.

4. Exceptions. Exceptions to these restrictions may be granted upon a showing of special needs or circumstances of the landowner.

(k) Critical Area #2: Riparian Corridors.

1. Purpose. The purposes of regulating riparian corridors are to promote safe conditions by preventing land uses inconsistent with preserving and protecting surface waters from the negative affects of nonpoint water pollution; protect important aquatic species and habitat; and maintain lower water temperatures in area streams.

2. Regulated Area. A protective buffer extending 100 feet from the high water mark of any perennial stream.

3. Prohibited of Regulated Activities.

- a. Any activity that permanently alters the landscape within the regulated area including, but not limited to: plowing, gardening, planting of turf grass, and non-native landscaping.
- b. Artificial hardening of stream banks utilizing concrete embankments, riprap, or similar methods.
- c. Removal of existing mature vegetation and existing native species shall be minimized to the greatest extent possible.

4. Exceptions for Existing Lots of Record. Nothing in Sec.11 shall prevent one one-family detached home from being built on any legal lot existing on the effective date of this Ordinance, provided it complies with the other development standards of this Ordinance, any grading ordinances presently in effect, and the development standards of the underlying zone. Where

provisions may conflict, the most restrictive shall apply.

## 2.06 SUPPLEMENTARY DISTRICT REGULATIONS

- (1) General Application. The regulations set forth herein shall supplement or modify the regulations set forth in 2.05 Schedule of District Regulations.
- (2) Setbacks on Federal, State and County Highways. The front yard (setback) requirements enumerated in Section 2.05 are applicable to local streets and highways. Front yard (setback) requirements for federal and state highways are 50 feet and county trunk highways 37 feet. Setback requirements for federal, state and county highways are subject to 2.06(3)(b).
- (3) Lots and Yards.
  - (a) More Than One Building on a Lot. In any district, more than one building housing a principal use may be erected on a single lot provided that yard and other requirements of these regulations shall be met for each building as though it were on an individual lot, unless otherwise specified in Sections 2.05 and 2.07 for planned commercial or residential developments.
  - (b) Through Lots and Corner Lots. On through lots or lots with double frontage, the required front yard shall be provided on each street. On corner lots the street side yard shall be equal the required front yard for lots fronting on that street.
  - (c) Development in Mapped Streets. Where an official line has been established for the future widening or opening of a street, the depth of a front yard or the width of a side yard shall be measured from such official line to the nearest line of the building.
  - (d) Access. Every building housing a principal use hereafter erected or moved shall be on a lot with access to a public street and all such building shall be so located as to provide safe and convenient access for servicing and off-street parking, unless otherwise specified in Sections 2.05 and 2.07.
  - (e) Building Groups. In any non-residential district, a group or buildings separated only by common or party walls shall be considered as one building.
  - (f) Yard Encroachments. Every part of every required front and side yard shall be open and unobstructed by structures from 30 inches above the general ground level of the graded lot upward to the sky except as hereinafter provided or as otherwise permitted in these regulations:
    1. Roof eaves may project into a required side yard not more than 3 feet where the required side yard is 12 feet or more in width. Roof eaves may project into a required side yard not more than 2 feet where the required side yard is less than 12 feet.

2. Sills, belt courses, cornices, vertical solar screens and other ornamental features may project not over one foot into a required yard.

3. Fire escapes, stairways and balconies whether unroofed, open and unenclosed or enclosed shall not intrude into required yards.

4. Solar collectors which are part of the principal building may extend into a required rear yard for a distance not to exceed 10 feet, and solar collectors may extend into a required side yard, provided that they have a minimum 7 foot clearance from grade and provided further that such extension shall be at least 5 feet distant from the adjacent lot line and shall not extend more than 3 feet from the building.

#### (4) Accessory Uses and Structures

(a) Accessory Building Number Limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one additional accessory building may be placed on a lot. No accessory building shall be built on a lot without a principal building.

(b) Attached Accessory Buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.

(c) Detached Accessory Buildings. No detached accessory building shall occupy any portion of the front yard, and no detached accessory building shall occupy more than 30 percent of the rear yard, or be located within 3 feet of any other accessory building, principal building or lot line.

(d) Accessory Structures. Notwithstanding fences, residential driveways and parking lots, unless otherwise provided by these regulations, no structure shall be located within 3 feet of any accessory building, principal building or lot line.

(e) Fences, Walls, Hedges. Ornamental fences, walls, and hedges may be permitted in any required yard, or along the edge of any required yard provided, however, that in residential districts no such fence, wall, or hedge shall exceed a height of 3 1/2 feet along the sides or front edge of any front yard and no such fence, wall or hedge shall exceed a height of 8 feet in any other required yard.

(f) Accessory Parking and Storage in Residential Districts.

1. There shall be no customary storage of any sports vehicle, boat, boat trailer, utility trailer, camper or any like business or recreational vehicle in the required front yard of any residential district.

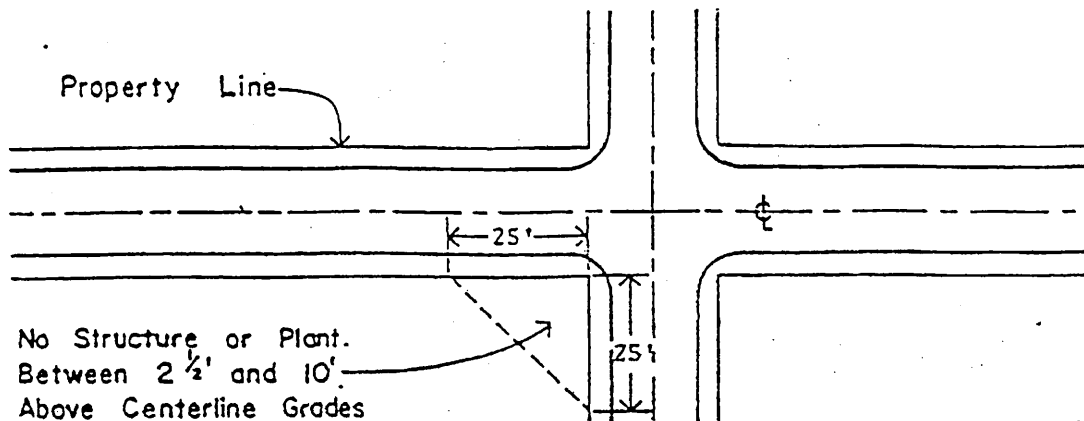
2. No person shall park or store more than two unlicensed motor vehicles. No person may offer any motor vehicles for



sale on a recurrent basis in any residential district.

3. No person shall store in the open more than three full cords of firewood in any residential district. No firewood shall be stored in any required front yard or closer than two (2) feet to any residential lot line.

- (5) Height Exceptions. The height limitations in Section 2.05 Schedule of District Regulations do not apply to belfries, cupolas, antennas, water tanks, elevator bulkheads, chimneys, spires, flagpoles or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (6) Corner Visibility. On any corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the right of way lines of such corner lots and a line joining the points along said right of way lines (25) feet from the point of intersection. See illustration below.



(7) Signs.

(a) Character of Signs. Flashing signs, remnants, banners, streamers and all other fluttering or spinning signs shall be prohibited except in connection with temporary sales, cultural events or civic activities. No sign shall display flashing or intermittent lights customarily associated with danger or emergencies.

(b) Signs in Residential Districts. No sign in a residential district shall exceed 8 feet in height or produce artificial light from within.

(c) Signs in Commercial Districts. Temporary window signs advertising a sale or special event at an individual commercial establishment shall be exempt from the sign regulations.

(d) Maintenance of Signs. All signs shall be maintained so as to present a neat, clean appearance. Painted areas shall be kept in good working order.

(8) Off-Street Parking.

(a) Requirements not Specified. Parking requirements for a use not specified shall be the same as required for a use of similar nature or sufficient off-street parking shall be provided such that no public street shall be used for parking.

(b) Fractional Spaces. Where computation of the required parking spaces results in a fractional number, only the fraction of 1/2 or larger shall be counted as one.

(c) Changes in Buildings or Use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of 25 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50 percent or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

(d) Mixed Uses. In the case of mixed uses the parking spaces required shall equal the sum of the requirements of the uses computed separately.

(e) Joint Use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually provided such uses are not operated during the same hours. A written agreement shall accompany any joint use arrangement.

(f) Off-lot Parking. Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces must also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement. Off-lot parking spaces for residential uses shall be within 200 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.

(g) Off-Street Parking: Measurement. Floor space or area shall mean the gross floor area inside exterior walls, where floor space is indicated on the Schedule of District Regulations as a basis for determining the amount of off-street parking required.

(h) Design Standards. Each required off-street parking space shall have a stall width of at least 9 feet and a stall length of at least 18 feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 11 feet for 30 degree parking; and 20 feet for 90 degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet. No parking area of more than four spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect any adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands. All parking areas shall be surfaced with a durable, dustproof surface consisting of concrete or bituminous concrete or of compacted gravel or crushed stone properly sealed and surface treated.

(9) Off-Street Loading.

(a) Loading Space Requirements. The loading space requirements specified in the following table shall apply to all districts:

Floor

Use	Area (Sq. Ft.)	Loading Spaces
Retail, wholesale	2,000-10,000	1
warehouse, service,	10,000-20,000	2
manufacturing, and	20,000-40,000	3
industrial establish-	40,000-60,000	4
ments	Each additional 50,000	1
Hotels, offices	5,000-10,000	1
hospitals, places	10,000-50,000	2
of public assembly	50,000-100,000	3
	Each additional 25,000	1
Funeral homes	2,500-4,000	1
	4,000-6,000	2
	Each additional 10,000	1

(b) Multiple or Mixed Uses. Where a building is devoted to more than one use or for different uses, and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

(c) Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such

space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.

(d) Design Standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 45 feet, and a vertical clearance of at least 14 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 25 feet in length, and 8 feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect any neighboring residence.

(10) Common Open Space.

(a) Nature. Common open space shall not include street right of ways, driveways, parking areas or yards required in connection with any building.

(b) Buildings and Structures. Common open space areas may contain complementary buildings and structures appropriate for the recreational use and enjoyment of the residents of the development for which it was established consistent with the Land Division & Subdivision Regulations of the Town of Black Creek.

(c) Reservation. When common open space or any portion thereof is to be reserved for the exclusive use and enjoyment of the residents of the development from which it was established, the developer shall establish conditions as to the ownership, maintenance, and use of such areas as deemed necessary to assure preservation of its intended purposes. Land designated as common open space shall be restricted by appropriate legal instrument as open space perpetually or for a period of not less than ninety-nine years. Such instrument shall be binding upon the developer, his successors and assigns, and shall constitute a covenant running with the land, and be recorded as a condition of approval.

(d) Maintenance. In the event that common open space is improperly maintained, the Town may serve written notice upon any property owner or association setting forth the manner in which such property owners or association has failed to maintain the common open space and demand maintenance deficiencies to be corrected within 30 days. If the deficiencies as originally set forth or subsequently modified are not corrected within 30 days, the Town may enter upon such common open space and correct maintenance deficiencies. The cost of such maintenance shall be assessed ratable against the properties within the development that have the right to use the area and shall become a tax lien on said properties. The Town shall file notice of any liens in the office of the Town Clerk.

(11) Landscaped Buffer. The use of properly planted and maintained buffer areas may reduce and ease potential

incompatibility between and among different uses of land in proximity to each other.

(a) Requirements. Where these regulations require a landscaped buffer area, the following requirements shall be met:

1. The landscaped buffer area shall not be less than eight feet in width measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property line or lines.

2. The area shall be so designed, planted and maintained as to be seventy-five percent or more opaque between two and six feet above average ground level when viewed horizontally.

3. Types and number of plantings for landscaped buffers shall be submitted with application for a building permit or Conditional Use, along with plans and statements demonstrating how the buffer will be maintained in the future.

4. Plantings shall be of a size and type which will insure the meeting of the seventy-five percent opacity requirement within no longer than twelve months of the date of the first planting.

5. Failure to maintain the landscaped buffer area as set out above shall be a violation of these zone regulations.

(b) Substitution for Landscaped Buffer Area. Except when otherwise specifically provided by these regulations, a six foot high opaque structure set in a six foot wide landscaped buffer area may be substituted for the six foot high planted buffer above. If such opaque structure is of non-living materials, for each ten feet thereof, an average of one shrub or vine shall be planted abutting such barrier but need not be spaced ten feet apart. Such shrubs or vines shall be planted along the outside of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscaping.

(c) Sight Distance. When an accessway intersects a public right of way, all landscaping shall provide unobstructed visibility at a level between two and one half feet and ten feet as provided in Section 2.06(5). No structure of landscaping except required grass or ground cover shall be located closer than three feet from the edge of any access.

(12) Personal Wireless Service Facilities.

(a) Purpose. The Town Board finds that regulating matters

related to the location and placement of personal wireless service facilities is necessary to protect the public health, safety and welfare while accommodating the communications needs of residents and businesses in a manner consistent with federal law. The purposes of this section:

1. Facilitate the provision of wireless telecommunication services to the residents and businesses of the Town.
2. Minimize adverse visual effects of towers through design and siting standards;
3. Avoid potential damage to adjacent properties from tower failure through setback requirements;
4. Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the Town;
5. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Town.

(b) Definitions Related to Personal Wireless Service Facilities.

1. ABOVE GROUND LEVEL (AGL): A measurement of height from the natural grade of a site to the highest point of the structure.
2. ALTERNATIVE SUPPORT STRUCTURE: Structures other than towers that may support personal wireless service facilities antennas, including but not limited to buildings, water towers, steeples, silos or utility poles.
3. ANTENNA: The surface from which wireless radio signals are sent and received by a personal wireless service facility, including directional panel antennas, dishes and omnidirectional "whip" antennas.
4. CAMOUFLAGED: A personal wireless service facility that, due to design or appearance, hides, obscures or conceals the presence of the tower and antennas.
5. CARRIER: A company that provides wireless services. As used in this subsection, "carrier" shall also include companies that build telecommunications towers and lease tower space to carriers.
6. CO-LOCATION: The use of a single support structure by more than one carrier.
- FALL ZONE: The area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.
7. MONOPOLE: A type of tower that is self-supporting as a single pole design.
- PERSONAL WIRELESS SERVICES: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Federal Telecommunications Act of 1996.

8. PERSONAL WIRELESS SERVICE FACILITY: A facility for the provision of personal wireless services.
9. SEPARATION: the distance between one carrier's antenna array and another carrier's array.
10. TELECOMMUNICATIONS TOWER: Any structure designed and constructed primarily for the purpose of supporting one or more personal wireless service facility antennas, including, but not limited to monopoles, guyed towers and lattice towers.
11. TOWER, GUYED: A monopole or lattice tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
12. TOWER, LATTICE: A type of tower that is self-supporting with multiple legs and cross-bracing of structural steel.
13. TELECOMMUNICATIONS SUPPORT FACILITY: An enclosed building, cabinet, shed or box within which are housed batteries, electrical or other equipment necessary for the operation of the personal wireless service facility.

(c) Exemptions. The following uses are not subject to the provisions of Sec. 12(a)(b):

1. Television antennas, satellite dishes and receive only antennas, provided that the primary use of the property is not a telecommunication facility and that the antenna use is accessory to the primary use of the property.
2. Antennas and supporting towers, poles and/or masts owned and/or operated by and for federally licensed amateur radio operations.
3. Mobile services providing public information coverage of news events of a temporary or emergency nature.
4. Any other devices listed as exempt in Section 704 of the Federal Telecommunications Act of 1996.

(d) Locational Restrictions. Wireless communication facilities shall comply with the following locational restrictions. The provisions of Sec. 13-1-36, Critical Areas Overlay District apply additional restrictions to those facilities located in identified Critical Areas:

1. Personal wireless services antennas locating on alternative support structures are permitted uses in any District upon receipt of a Site Plan Permit if the highest point of the antenna is thirty (30) feet or less above the highest point of the alternative support structure. A Conditional Use Permit shall be required for locating on an alternative support structure if the highest point of the antenna is greater than thirty (30) feet above the highest point of the alternative support structure or the antenna or support facilities significantly alter the appearance or structure of the alternative support structure.
2. Personal wireless service facilities co-locating on existing telecommunication towers are permitted uses

upon receipt of a Site Plan Permit, provided that the installation of the new facility does not increase the overall height of the existing structure by more than twenty (20) feet. A Conditional Use Permit shall be required for collocating on an existing tower if the collocated antenna array or equipment increases the overall height of the existing tower by more than twenty (20) feet or significantly alters the appearance or structural integrity of the tower approved and permitted under this Section.

3. Temporary telecommunication towers one hundred (100) feet AGL or less in height, and supporting facilities (commonly known as "cells on wheels"), are permitted uses only in the A-1, BD and ID Districts upon receipt of a Site Plan Permit; said Permit shall be for a period not to exceed one year. The applicant's site plan shall clearly demonstrate that the proposed temporary tower does not pose a public safety hazard.

4. Telecommunications towers and their support facilities are permitted uses only in the A-1, BD and ID Districts upon receipt of a Conditional Use Permit and a Site Plan Permit, provided that no Conditional Use Permit for the placement or construction of a telecommunications tower shall be issued unless the applicant presents to the committee credible evidence establishing to a reasonable degree of certainty the following:

- a. No existing telecommunication tower is located within the area in which the applicant's equipment must be located
- b. No existing telecommunication tower within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost.
- c. No existing telecommunication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment, and the deficiency in structural strength cannot be remedied at a reasonable cost.
- d. The applicant's equipment would cause electromagnetic interference with equipment on the existing telecommunications tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing telecommunications tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost.
- e. The fees, costs or contractual provisions required by the owner in order to collocate on an existing



telecommunication tower are unreasonable relative to industry norms; or

f. The applicant demonstrates that there are other factors that render existing telecommunication towers unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new telecommunication tower.

(e) Security for Removal. The applicant for a Conditional Use Permit for a telecommunication tower shall, prior to issuance of such permit, provide to the Town of Empire a performance bond in the amount of twenty thousand (\$20,000) dollars, or an amount equal to a written estimate of the cost of removal prepared by a qualified contractor, or other comparable security to guarantee that the telecommunications tower will be removed when no longer in operation. The Town will be named as obligee in the bond and must approve the bonding company.

(f) Minimum Separation. No telecommunication tower shall be located within one thousand, five hundred (1,500) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.

(g) Development Design Standards. Wireless communication facilities shall comply with the following standards:

1. Provision of Space on Telecommunications Towers for Co-Location. All telecommunications towers shall be constructed to physically accommodate and structurally support at least two (2) additional carriers for co-location of other telecommunications facilities. Co-location space need not be available on the tower as initially placed or constructed, provided that the tower will support the later addition of the required number of co-located facilities. The tower owner/operator shall make the co-location spaces available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates that allow the tower owner/operator to recoup the cost of providing the co-location sites and a fair return on investment.

2. Minimum Parcel Size. If a telecommunication tower and support facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the zoning district in which the land is located. If a tower and support facilities are located on a leased parcel of land that already has a principal use, the facilities shall be considered an accessory use and a smaller area of land may be leased provided that all requirements of this ordinance are met.

3. Minimum Setbacks for Telecommunications Towers. The following setback provisions shall be measured from the base of the tower or telecommunications support

facilities, unless otherwise stated. If more than one setback standard applies in a particular situation (i.e. lot line and habitable buildings) the greater setback distance prevails.

a. Highway Setbacks.

1. Federal and State Highways - The greater of 110 feet from the centerline or 50 feet from the right-of-way line.
2. County Highways and Town Roads. The greater of 100 feet from the centerline or 50 feet from the right-of-way line.
3. Streets within Platted Subdivisions. 30 feet from the right-of-way line.

b. Lot Line Setbacks. Fifty (50) feet for towers; twenty-five (25) feet for guy wire anchors in the case of guyed towers.

c. Setbacks From Habitable Commercial and Residential Buildings. One hundred twenty-five (125) percent of the height of the tower AGL.

4. Security and Landscaping. Towers and guy wires shall be surrounded with security fencing or equipped with anti-climbing devices, if appropriate. If located in a highly visible area, the tower and any support facilities shall be landscaped at the L3 level or greater.

5. Camouflaging. Camouflaged towers and support facilities are encouraged and may be required in Critical Areas, residential areas, or other sensitive areas as determined by the appropriate decision-making body.

6. Color. A telecommunications tower shall be painted a non-contrasting color in relation to its environment unless otherwise required by the Federal Communications Commission or Federal Aviation Administration. Towers using unpainted galvanized metal are permitted.

7. Lighting. Telecommunications towers shall not be artificially lighted unless required by the Federal Aviation Administration or other applicable regulatory body.

8. Signage. The use of any portion of a telecommunications tower or support facilities for any signs other than warning or equipment information signs is prohibited.

9. Access. All telecommunications tower sites must be served by an ingress/egress road with a minimum thirty (30) foot right-of-way and turnaround. Existing access points shall be utilized wherever possible. The access point shall be approved by the applicable governmental body with jurisdiction.

(h) Technical Review. In the event the decision-making body determines that it is necessary to consult with an independent technical expert regarding an applicant's assertion of consistency with the requirements of this section, all reasonable costs and expenses associated with such consultation

shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the decision-making body shall be grounds for denial or revocation of a Conditional Use Permit. The applicant may provide to the decision-making body the names of consultants that the applicant believes are qualified to assist in resolving the issues before the decision-making body.

(i) Abandonment. Permits issued hereunder shall identify the primary type or types of transmission equipment that is to be placed on the subject telecommunication tower. Any telecommunication tower on which the transmission equipment so identified is no longer placed or used for a continuous period of twelve (12) months shall be removed by the holder of the Conditional Use Permit issued under this Section. If the tower is not removed within sixty (60) days of such notification, the Town may remove the tower at the expense of the holder of the Conditional Use Permit.

## 2.07 SPECIAL PROVISIONS

(1) General Application. Requirements for uses and structures specified in this Section shall apply to such uses and structures whether permitted by "right" or permissible by Conditional Use.

(2) Accessory Dwellings.

(a) Intent. It is the intent of the accessory dwelling provisions to provide for housing options for the extended family and certain specified segments of the population. These regulations are established to permit modification of single-family dwellings to include an accessory dwelling unit to be occupied by no more than two persons who are handicapped, over the age of 60 years old, or related to the owner occupant.

(b) Mandatory Owner Occupancy. The owner of the single-family residence must occupy either the principal residence or the accessory residence.

(c) Nature and Scale of Accessory Unit. An accessory dwelling may be a separate, complete housekeeping unit provided, however, that it is substantially contained within the structure of the single-family dwelling and clearly a subordinate part thereof. Permissible modifications to the structure are a limited extension of the structure to the rear and the creation of a separate entrance at the side or rear. The accessory apartment shall not exceed 600 square feet of floor area or 25 percent of the entire floor area of the dwelling, whichever is greater. Any external modification shall be done with a design and materials similar in appearance to the principal structure such that to the maximum extent possible, the external appearance of the dwelling will remain as a single-family dwelling.

(d) Dimensional Requirements. Maximum lot coverage and maximum height requirements, as well as minimum yard requirements in the RSF District, shall be met.

(3) Resource Extraction.

(a) Intent. It is the intent of these regulations to permit resource extraction uses in outlying areas as a temporary or transitional use with assurances that later re-use for other permissible uses and structures is possible.

(b) Existing Operations. The requirements of this Section shall not apply to existing operations only where more than 50 percent of the area (excluding setbacks required herein) of a parcel of record has been excavated at the time of adoption of this ordinance. Where less than 50 percent of the area has been

excavated, any extension of operations within the parcel or on adjacent parcels shall comply with the requirements of this Section including restoration for the entire parcel(s).

(c) Uses and Operations. Permitted uses or operations shall include the removal for sale or processing of timber, natural vegetation, topsoil, fill, sand, gravel, rock or any mineral. Processing may include crushing, washing or refining. Storing or stockpiling of such materials on the site is permissible. Permissible uses may also include concrete or asphalt manufacturing.

(d) Area and Setback Requirements. The parcel shall consist of a minimum of five acres with dimensions sufficient to adequately accommodate the proposed uses with minimum adverse affects on adjacent lands. No operations shall be permitted within 100 feet of any exterior boundary of the tract or within 250 feet of any building intended for human occupancy existing at the time of permit application. For operations involving blasting, processing or manufacturing, the Plan Commission may increase required setbacks as a condition of approval.

(e) Location. Location shall be appropriate to existing development and development which may reasonably be expected within the time period specified herein for permits. The site shall be so located as to make it unnecessary to conduct trucking operations on any platted street in a residential subdivision.

(f) Plan of Operation. Each application for a Conditional Use shall be accompanied by a plan of operation for the site including the following information:

1. Statement of ownership of the parcel and control of the operations.
2. Extent of the area to be excavated.
3. Location, width and grade of all easements or rights of way on or abutting the parcel.
4. Existing topography by five-foot contour intervals; existing watercourses and drainageways; existing vegetation and soils; depth to groundwater as indicated by at least four borings; and existing buildings or structures.
5. Cross section showing extent of sand or gravel deposits and the water table.
6. Estimated type and volume of excavation; method(s) of extracting and processing; and the sequence of operations.
7. Proposed equipment and proposed locations of equipment; proposed areas for ponding; proposed drainage modifications; proposed processing and storage areas; proposed interior roads and ingress and egress to the site; and proposed areas for the disposition of overburden or topsoil.

(g) Plan of Restoration. Each application for a Conditional Use shall be accompanied by a plan of restoration for the site including the following information:

1. A statement on the planned restoration including phasing and timing of the restoration process and re-use of the site.
2. A plan showing fill methods and materials; final contours of the site; proposed roads within the site; the location of any water bodies or watercourses within the restored area; landscaping or vegetative planting; and areas of cut and fill.
3. The method of disposing of any materials, equipment or buildings on the site.

(h) Time Limitations. No Conditional Use permit shall be issued for a period exceeding eight years consisting of not more than six years for the operational phase and not more than two years for the restoration phase. Upon expiration of the operational phase, the applicant may request and receive extensions of this phase for three year periods unless changing conditions indicate the extension will be detrimental to the public health, safety and welfare. Any extension shall require the submission of a new plan of restoration if the operation is extended or enlarged. If such extension is denied, the applicant shall complete the restoration phase within the two-year time period specified.

(i) Financial Assurance. To insure completion of the restoration phase, as proposed within the two-year time period, each applicant shall submit a performance bond or other financial guarantee sufficient in amount to cover the restoration expense relative to the proposed operation or extension thereto.

#### (4) Planned Unit Development (PUD).

(a) Intent. The intent of the Planned Unit Development provisions is to encourage quality and desirable development by allowing for greater flexibility and design freedom than that permitted under basic residential district regulations. These regulations are established to permit and encourage diversification, variation and imagination in layout of residential development; to encourage the preservation of open space; and to encourage more rational, economic development with respect to the provisions of public services.

(b) Unified Control. All land included for development as a PUD shall be under the legal control of the applicant, whether that applicant be an individual, partnership, or corporation or group of individuals, partnerships or corporations. Applicants requesting approval of a PUD shall present firm evidence of unified control of the entire area within the proposed PUD together with evidence that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.

(c) The applicant shall state agreement to (1) proceed with the

proposed development according to the provisions of these zoning regulations and such conditions as may be attached to the Conditional Use for PUD; (2) provide agreements, contracts and deed restrictions necessary for completion of the development according to the approved plans; and (3) bind their successors in title to any commitments made in the approval process.

(d) Permitted Uses. Any use permitted in the RMF District.

General Requirements. All permitted uses shall be subject to the accessory use and structure, sign, height and parking requirements of the district in which it is located.

(e) Area and Density Requirements. A tract of land proposed for development as a Planned Unit Development shall contain a minimum area of two acres and a maximum density of 12 dwelling units per net acre.

(f) Internal Lots and Frontage. Within the boundaries of the PUD, no minimum lot size or minimum yards shall be required, provided, however, that no structure shall be located closer to any peripheral property line than a distance equal to the height of such structure.

(h) Access. Every dwelling unit shall have access to a public street either directly or via an approved private road, pedestrian way, court or other area dedicated to public or private use or common element guaranteeing access. Permitted uses are not required to front on a dedicated public street.

(i) Engineering Design Standards. Normal standards or operational policy regarding right-of-way widths, provision for sidewalks, street lighting and similar environmental design criteria shall not be mandatory in a Planned Unit Development, but precise standards shall be made a part of the approved plan and shall be enforceable as a part of this ordinance.

(j) Procedures for Approving Planned Unit Developments.

1. Development Plan. A development plan shall accompany the application for a Conditional Use permit and contain the following information:

a. Names of the owners and developer.

b. Scale, date, north arrow.

c. Existing streets, buildings, watercourses, easements and utility lines.

d. Proposed pattern of public and private streets, accessways and parking areas. Locations and arrangements of lots, buildings by dwelling types, open space areas and recreational facilities, if any.

e. Architectural drawings and sketches illustrating the design and character of the various buildings proposed.

f. Appropriate statistical data on the size of the development, number of dwellings by type, percentage of open space and other data pertinent to review.

g. General outline of deed restrictions and other

documents pertaining to the development, operation and maintenance of the project.

2. Plan Approval. Upon approval of a development plan, a Conditional Use permit shall be issued. All terms, conditions and stipulations made at the time of approval shall be binding upon the applicant or any successors in interest.

3. Preliminary and Final Plans. Approval of a development plan for a Conditional Use does not constitute preliminary or final plat approval. Preliminary and final plats shall be submitted and processed in accordance with standard subdivision review procedures.

4. Changes in Plan. Minor changes in plans shall be made by application and follow procedures pursuant to Section 2.10. Minor changes shall not be considered a reapplication for Conditional Use permit. Substantial changes in plans shall be made by application and processed as a new application for a Conditional Use permit.

5. Deviations from Approved Plans. Deviations from approved plans or failure to comply with any requirement, condition or safeguard during approval or platting procedures shall constitute a violation of these zoning regulations.

(k) Building Permits. Final approval does not constitute approval for the construction of individual buildings or structures in the development. Application for building permits shall be submitted and processed in accordance with standard procedures.

(5) Cluster Subdivision.

(a) Intent. The intent of the Cluster Subdivision provisions is to provide voluntary-alternative zoning provisions which promote ingenuity in design and preserve the natural features of the site.

(b) Unified Control. All land included for development as a Cluster Subdivision shall meet the requirements of unified control for Planned Unit Developments in Section 2.07(4)(b).

(c) Permitted Uses. Single-family detached dwellings.

(d) General Requirements. All permitted uses shall be subject to the accessory use and structure, sign, height and parking requirements of the district within which the subdivision is located.

(e) Area and Density Requirements. A tract or parcel of land proposed for development as a Cluster Subdivision shall contain a minimum area of two acres. Maximum density of a Cluster Subdivision shall be eight

(f) Minimum Lot Area Requirements. All single-family detached dwellings shall have a minimum lot area of 3,600 square feet,



front yard of 10 feet and rear yard of 20 feet. There shall be a minimum side yard of 2 feet and minimum aggregate side yards of 12 feet provided, however, that there shall be a minimum building separation of 10 feet. All lot size reductions shall be compensated for by a substantially equivalent amount of land in cluster open space to be preserved and maintained for its scenic, recreational or conservation value. The maximum extent practicable, such open space areas shall be directly accessible by all dwellings.

(g) Procedures for Approving Cluster Subdivisions. The procedures for approving Cluster Subdivisions shall be the same as provided in Section 2.07(4)(i).

(6) Industrial Development.

(a) Intent. It is the intent of this ordinance to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control, and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

(b) Standards of Operation.

1. Vibration. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the Industrial District boundaries. Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

2. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

External Lighting. No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the Industrial District boundaries.

3. Odor. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable order as defined in Chapter NR 429, Wisconsin Administrative Code.

4. Particulate Emissions. No operation or activity shall emit any particulate matter into the ambient air which exceeds the limitations as established in NR 415, Wisconsin Administrative Code.

5. Visible Emissions. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 431, Wisconsin Administrative Code.

6. Hazardous Pollutants. No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 445, Wisconsin Administrative Code.

(c) Administration. Determinations necessary for the administration and enforcement of these standards range from those which can be made by a reasonable person using normal senses and no mechanical equipment, to those requiring substantial technical competence and complex equipment. It is the intent of this ordinance that the methods to be used in determining compliance shall be the responsibility of the Building Inspector and Plan Commission subject to the following procedures:

1. Approval of Building Permits. Prior to approving a zoning permit for any industrial use or any change thereof, the Building Inspector and Plan Commission shall have received from the applicant evidence or assurance that the proposed use or changing use will satisfy the air quality, vibration and exterior lighting standards of this ordinance.
2. Violation of Standards. Whenever the Building Inspector or Plan Commission have reason to believe the air quality, vibration and exterior lighting standards of this ordinance have been violated, written notice shall be made by certified mail to the person or persons responsible for the alleged violation. Such notice shall describe the alleged violation and shall require an answer or correction of the alleged violation within 30 days. Failure to reply or correct the alleged violation within 30 days may cause lawful action to be taken to cause correction as provided in this ordinance or referral of the alleged violation to the Wisconsin Department of Natural Resources.

(7) Mobile Home Park.

(a) Intent. It is the intent of this ordinance to provide limited opportunities for mobile home parks as a means of providing balance and variety to housing in the Town of Black Creek. All mobile home parks are subject to the site plan requirements of Section 2.10

(b) Character of Tract. Each mobile home park tract shall be suitable for the development proposed recognizing and preserving to the maximum extent practicable outstanding natural features. Every mobile home park shall be located on a well drained area and the premises shall be properly graded so as to prevent the accumulation of storm or other waters.

(c) Access. Access shall be designed for safe and convenient movement of traffic into and out of the park. All vehicular traffic into and out of the park shall be through designated entrances and exits.

(d) Streets. All sites shall abut upon a street. For a two-way street, the width must be a least 32 feet if parking is to be permitted on both sides of the street; 25 feet in width if parking is permitted on only one side; or 18 feet in width if parking on the street is prohibited. A one-way street must be at least 14 feet in width and parking is prohibited unless the width is appropriately increased.

(e) Sites. Each site shall be clearly defined and delineated. The basic dwelling unit shall not occupy more than 25 percent of the site area and the basic dwelling unit and all accessory buildings shall not occupy more than 35 percent of the site area. Each site shall contain a concrete slab not less than 10 feet by 20 feet in dimension for carport or patio; such slab shall not be required until after the mobile home is in position.

(f) Area and Density. A tract of land proposed for development as a Mobile Home Park shall contain a minimum area of three acres and a maximum density of eight dwelling units per net acre.

(g) Site Requirements. Each mobile home site shall contain a minimum area of 3,600 square feet. Each mobile home shall have a minimum front yard of 25 feet, rear yard of 25 feet and side yards of 8 feet each.

(h) Mobile Home Standards. Each mobile home shall be certified as meeting the Mobile Home Construction and safety standards of the Department of Housing and Urban Development. Each mobile home shall have a visible foundation or skirting around the entire perimeter to form a complete enclosure under exterior walls.

(i) Buffer Area. A buffer area not less than 25 feet in width may be required along public streets and mobile home park boundaries. Such buffer strip may be used for drainage structures and utility easements but shall not be used for any other purpose. All such buffer strips shall be planted in suitable ground cover material.

(j) Off-Street Parking. Two off-street parking spaces shall be provided for each site. One parking space for each 200 sq. ft. or non-storage floor space shall be provided for offices, recreation facilities and the like.

(k) Accessory Uses and Structures.

1. Accessory uses and structures 1 through 3 in the RSF District.
2. Park recreation facilities, including room or center, courts for games and the like.
3. Park offices, maintenance facilities and laundry facilities.
4. Enclosed storage structures and storage garage facilities, with use limited to park residents only.

(l) Utilities. Each mobile home site shall be connected to

central water and sewer. No individual water supply or sewage disposal system shall be permitted in any mobile home park. Each site shall also be provided with

electrical power and central gas (if used) and shall be serviced by individual meters.

(8) Mobile Home Subdivision.

(a) Intent. It is the intent of this ordinance to provide opportunities for mobile home subdivisions wherein mobile home sites (lots) are individually owned.

(b) Character of Tract. Each mobile home subdivision tract shall be suitable for the development proposed recognizing and preserving to the maximum extent practical, outstanding, natural features. Every mobile home subdivision shall be located on a well drained area and the tract shall be properly graded so as to prevent the accumulation of surface water.

(c) Permitted Uses. Mobile homes and manufactured homes. Each mobile home shall be certified as meeting the safety standards of the Department of Housing and Urban Development. Each mobile home shall have a permanent foundation and form a complete enclosure under exterior walls. Minimum width of the main structure shall not be less than 16 feet as measured across the narrowest portion of the structure.

(d) Area and Density Requirements. A tract or parcel of land proposed for development as a mobile home subdivision shall contain a minimum area of two acres. Maximum density of a mobile home subdivision shall be six dwelling units per net acre.

(e) Lot Requirements. Each lot in a mobile home subdivision shall have a minimum lot area of 3,600 square feet; minimum lot width of 30 feet; minimum front yard of 25 feet; minimum side yards of 8 feet each; and minimum rear yard of 25 feet. Each lot shall be connected to control water and sewer.

(f) Buffer Area. A buffer area of not less than 25 feet in width may be required along exterior subdivision boundaries. Such buffer area may be used for drainage structures and utility easements.

(g) Accessory Uses and Structures. As for the RSF District.

(h) Approval and Permits. Approval procedures shall be as provided in Section 2.07(5) for a cluster subdivision provided, however, a mobile home subdivision shall not need a Conditional Use permit as a cluster subdivision. Final approval of a mobile home subdivision does not constitute approval for individual structures. Application for building permits shall be submitted and processed in accordance with standard procedures.

## 2.08 ADMINISTRATION AND ENFORCEMENT

(1) Plan Commission - Duties and Powers. There is hereby recommended an on-going Planning Commission, to preserve, protect, and promote the ideals set forth in this Ordinance. The Plan Commission shall have the following duties and powers.

(a) Examine all applications for building permits and, if necessary, advise the Town Building Inspector as to the provisions of this ordinance and arrange for corrections to be made to insure compliance with this ordinance; and, for applications for building permits for any structure requiring connection to a private domestic sewage treatment and disposal system, advise the Town Building Inspector as to whether a system satisfying all applicable codes already exists or that all permits necessary to install such a system have been obtained. All permits shall be examined to insure any proposed construction will not interfere with a functioning private domestic sewage treatment and disposal system.

(b) Examine all applications for Conditional Uses and building permits which require submittal and approval of a site plan under Section 2.10 of this ordinance and refer such applications to the Plan Commission. Conditional Use permits and building permits which require site plan approval shall only be issued upon order of the Plan Commission.

(c) Receive all applications for a Conditional Use, interpretation, appeal and/or variance and refer such applications to the Plan Commission or Board of Appeals. A variance shall only be issued upon order of the Board of Appeals.

(d) Conduct inspections to determine compliance or non-compliance with the provisions of this ordinance.

(e) Issue stop, cease, and desist orders, and orders requiring the correction of all conditions found to be in violation of the provisions of this ordinance. Such written orders shall be posted in the property in a conspicuous place and/or served personally or by certified mail upon persons deemed by the Plan Commission to be in violation of the provisions of this ordinance. It shall be unlawful for any persons to violate any such order issued by the Plan Commission.

(f) Institute in the name of the Town any appropriate action or proceedings to prevent violations of this ordinance.

(g) Revoke by order, any building permit approved under a misstatement of fact or contrary to the provisions of this ordinance.

(h) Maintain maps of all Conditional Uses and maintain a file on each.

(i) Upon request of the Town Board, Plan Commission, or Board

of Appeals, present to such persons or bodies, facts, records, or reports which they may request to assist them in making decisions, or assist them in any other way as requested.

(j) Maintain a map or maps showing the current zoning classification of all lands under the jurisdiction of this ordinance. The Plan Commission shall also ensure that a current copy of the Official Zoning Map is available for public inspection.

(k) For good cause, recommend the removal of a Town Building Inspector to the Town Board.

(2) Town Building Inspectors. Upon adoption of this ordinance the Town shall appoint a Town Building Inspector.

(3) Town Building Inspector - Duties and Powers.

(a) Receive and examine all applications for building permits and forthwith transmit copies of all such applications to the Plan Commission.

(b) Issue building permits only where there is compliance with the provisions of this ordinance. Building permits for structures requiring connection to a private domestic sewage treatment and disposal system shall be issued only where there is compliance with applicable sanitary codes. Building permits which require site plan approval under Section 2.10 of this ordinance shall only be issued by order of the Plan Commission. Building permits for development in the floodplain, shoreland and wetland jurisdiction of the Town of Black Creek shall not be issued until approved by the Plan Commission.

(c) Receive and forthwith transmit to the Plan Commission all applications for building permits which require site plan approval under Section 2.10 of this ordinance.

(d) Conduct inspections to determine compliance or noncompliance with the provisions of this ordinance and report any violations of this ordinance to the Plan Commission and the Town Board.

(4) Remedies. Compliance with the provisions of this ordinance shall be enforced by appropriate fines and penalties. Compliance may also be enforced by injunctive suit of the Town or by the owner or owners of real estate within the district affected by the regulation.

(5) Penalties. Any person who violates any provision of this ordinance or any order, rule or regulation made hereunder shall, upon conviction, forfeit not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for each offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

(6) Notice of Violation. If the Plan Commission finds that any of the provisions of this ordinance are being violated,

he shall notify, in writing by registered or certified mail, the person(s) responsible indicating the nature of the violation and ordering the action necessary to correct the violation. Whenever a person shall have been notified in writing that he is in violation of the provisions of this ordinance, such person shall commence correction of all violations within then (10) days of notice and shall correct all violations within forty-five (45) days of notice. If such corrections are not commenced within ten (10) days of written notice or not corrected with forty-five (45) days of written notice, each day that a violation continues shall be considered a separate offense.

## 2.09 BUILDING PERMITS

(1) Applicability. No building or structure (except signs exempt from the provisions of this ordinance) shall be erected, constructed, reconstructed, altered, moved or enlarged until a building permit has been obtained from the Plan Commission or Town Building Inspector.

(2) Application for Building Permit. Application for a building permit shall be made in writing upon a form furnished by the Town of Black Creek and shall include the following information:

(a) Name and address of the owner of the land and the owner of the building or structure if different.

(b) Plot and construction plans drawn to scale, showing the actual shape and dimensions of the lot to be built upon and the exact sizes and locations on the lot of buildings or structures already existing, if any, and the exact sizes and locations on the lot of buildings or structures proposed to be erected, constructed, reconstructed, altered or enlarged.

(c) The existing and/or proposed use of all buildings or parts thereof on the lot.

(d) The number of families the building is designed to accommodate, the gross leasable floor space of the building, or the number of employees the building is designed to accommodate.

(e) The location and number of required off-street parking and loading spaces.

(f) Such other information with regard to the lot and existing or proposed buildings or structures as may be necessary to determine compliance with and provide enforcement of these regulations including, but not limited to, a detailed plan of any existing private domestic sewage treatment and disposal system.

(3) Approval and Issuance of Building Permit. If the Plan Commission or Town Building Inspector determine that the proposed structure or building will comply with the provisions of this ordinance, he shall officially approve and sign one set of plans and return it to the owner or applicant, and shall issue a building permit which shall be kept on display at the site of the proposed building or structure.

(4) Construction to be as Provided in Applications. Building permits issued on the basis of applications and plans approved by the Plan Commission or Town Building Inspector authorizes only the use, arrangement and construction set forth in such approved applications and plans. Use,



arrangement and construction at variance with that authorized shall be deemed a violation of this ordinance.

(5) Lapse of Permit. A building permit shall have lapsed and be void unless substantial construction or operations described in the permit are commenced within one year from the date of its issuance.

(6) Improper Issuance. A building permit which was issued in error or under a misstatement of fact by the applicant shall not create any right in such permit, and the Town shall be entitled to revoke such permit.

(7) Prior Permits. No building permit lawfully issued by the Plan Commission or Town Building Inspector prior to the effective date of adoption or amendment of this ordinance shall be invalidated by the adoption or amendment of this ordinance. Such permit shall remain valid and subsisting subject only to its own terms.

## 2.10 SITE PLANS

(1) Applicability and Procedure. Where, by the terms of this ordinance, a site plan is required in connection with any use or structure, such site plan shall be submitted coincident with an application for a building permit or Conditional Use, as the case may be. The Plan Commission shall forthwith circulate the site plan for comment by the Town Plan Commission and any other Town officer which may have a responsibility for or interest in an aspect of the development.

Within thirty (30) days of submittal, the Plan Commission shall transmit the site plan along with all pertinent comment to the Plan Commission for their consideration. Except as required in connection with a Conditional Use, no public notice and hearing is required for site plan consideration but such matters shall be handled in public session as part of a previously prepared agenda. All matters relating to site plan consideration shall be a public record. In cases where a site plan is submitted in connection with an application for a Conditional Use public notice and hearing is required. Site plan approval shall require formal action of the Plan Commission.

(2) Contents. A site plan required to be submitted by the terms of this ordinance shall contain the following elements, where applicable:

(a) Statements of ownership and control of the proposed development.

(b) Statement describing in detail the character and intended use of the development.

(c) A site plan containing the title of the project and the names of the project planner and developer, date, and north arrow and, based on an exact survey of the property drawn to a scale of sufficient size to show boundaries of the project, any existing streets, buildings, water courses, easements, and section lines; exact location of all buildings and structures; access and traffic flow; off-street parking and off-street loading areas; recreation facilities locations; and access of utilities and points of utility hookups.

(d) Tabulations of total gross acreage in the project and the percentages thereof proposed to be devoted to the various permitted uses;

(e) Tabulations showing the derivation of numbers of off-street parking and loading spaces and total project density in dwelling units per gross acre.

(f) Architectural definitions for buildings in the development; exact number of dwelling units, sizes, and types, together with typical floor plans of each type.

(g) Storm drainage and sanitary sewage plans.

(h) If common facilities (such as recreation areas or structures, common open space, etc.) are to be provided for the development, statements as to how such common facilities are to be provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, home owners associations, surety arrangements, or other legal instruments providing adequate guarantee to the Town that such common facilities will not become a future liability for the Town.

(i) Plans for signs, if any.

(j) In the Industrial Districts, plans for the exterior walls of all buildings, lighting, outside storage and industrial processes and materials pertinent to conformance with the industrial performance standards herein.

(k) Such additional data, maps, plans or statements as may be required for the particular use or activity involved or as the applicant or Plan Commission may believe is pertinent.

## 2.11 CONDITIONAL USES

(1) General. A Conditional Use is a use or structure that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare. Such uses or structures may be permissible in a zoning district as a Conditional Use only if specific provision for such use or structure is made in the district. A Conditional Use shall not be issued for any other use or structure.

(2) Procedure. All applications for a Conditional Use shall be submitted to the Plan Commission. Where a site plan is required by the terms of this ordinance it shall be submitted coincident with the application. In cases where a site plan is not required by the terms of this ordinance, the application shall contain information equivalent to that required for a building permit under Section 2.09(2). The application may also be accompanied by any other material or information necessary to demonstrate that the grant of a Conditional Use will be in harmony with the general intent and purpose of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public interest. All applications and accompanying materials to the Plan Commission.

(3) Public Hearing. Upon the filing of an application for a Conditional Use, the Plan Commission shall fix a reasonable time (not more than 45 days from the filing date) for a public hearing. A Class 2 notice pursuant to Chapter 985 Stats., shall be published specifying the date, time and place of hearing and the matters to come before the Plan Commission. Notice shall be mailed to the parties in interest as determined by the Plan Commission.

(4) Conduct of Hearing. Any hearing required under this section shall be conducted as a Class A hearing or Class B hearing as described below. Unless requested in writing by the applicant or any other party in interest as determined by the Plan Commission, a hearing required under this section shall be conducted as a Class A hearing. Any written request for a Class B hearing shall be accompanied by the payment of a fee in the amount of \$250.00.

(a) Class A Hearing. A Class A hearing is an informal proceeding conducted by the Plan Commission in accordance with the following procedures:

1. The Commission Chairperson shall open the hearing and make a concise statement of its scope and purposes. Appearances shall be entered on the record. Any official or employee of the Town of

Black Creek and any other person may participate in the hearing. Any person desiring to participate in the hearing, whether on his or her own behalf, or as an authorized agent or attorney, shall enter an appearance in person by giving his or her name and address, the name and address of the person being represented, and the capacity in which he or she is representing such person.

2. Persons entering an appearance may make statements, offer evidence or ask questions concerning the matter to be heard. Such statements need not be made under oath. The Chairperson shall determine the order in which people may speak and may limit the length of the presentations if it appears there will not be enough time for all who wish to speak or if presentations are unduly repetitious. Cross examination of those who speak may not be permitted but clarifying questions of those who speak or rebuttal statements shall be permitted by the Chairperson. Statements may be submitted in oral or written form.

3. The hearing shall be recorded by an electronic recording device.

(b) Class B Hearing. A Class B hearing is a formal administrative proceeding conducted by a hearing examiner in accordance with the following procedures:

1. The hearing examiner may be an official or employee of the Town of Black Creek or a person appointed by the Town of Black Creek. The examiner may administer oaths and affirmations; issue subpoenas; receive relevant evidence; regulate the course of the hearing; and hold conferences to simplify the issues by consent of the parties. The functions of the examiner shall be performed in an impartial manner, and the examiner may at any time disqualify himself or herself for personal bias or other disqualification.

2. Any official or employee of the Town of Black Creek and any other person may participate in the hearing. Any person desiring to participate in the hearing, whether on his or her own behalf or as an authorized agent or attorney, shall enter an appearance in person by giving his or her name and address, the name and address of any party being represented, and the capacity in which he or she is representing such person. Any person entering an appearance may examine and cross examine witnesses and may present testimony and other evidence.

3. The hearing examiner shall open the hearing and make a concise statement of its scope and purpose. Appearances shall be entered on the record. Thereafter the parties may make opening statements which shall be confined to a brief summary or

outline in clear and concise form of the evidence intended to be offered.

4. The order of proceeding shall be the applicant proceeding first with the presentation of evidence; other interested persons or parties in support of the application; persons or parties in opposition to the application; and the Town of Black Creek Administrator's report, if any. Any party or person may conduct cross examinations reasonably required for a full and true disclosure of the facts.

5. The hearing examiner shall not be bound by common law or statutory rules of evidence and shall admit all testimony having reasonable probative value but shall exclude immaterial, irrelevant or unduly repetitious testimony. All evidence shall be duly offered and made part of the record. Every party or person shall be afforded an opportunity to rebut or offer countervailing evidence.

6. Documentary evidence may be received in the form of copies or excerpts. Parties or persons intending to offer documentary evidence may be ordered by the hearing examiner to furnish copies to opposing parties in advance of the hearings for review. Documentary evidence may then be admitted in evidence provided the authors thereof are present and available for cross examination.

7. Objections to evidence shall be recorded and parties shall be afforded the opportunity to make an offer of proof.

8. A stenographic, electronic or other record shall be made of the proceedings. Typed transcripts shall be prepared upon request and receipt of payment of reasonable costs.

(5) Conditions and Safeguards. Where, by the terms of these regulations, certain conditions or requirements are specified for a Conditional Use or structure such conditions or requirements must be imposed by the Plan Commission. In addition to the conditions or requirements specified by the terms of these regulations, the Plan Commission may impose appropriate additional conditions or requirements as deemed necessary to insure the proposed use or structure will serve the objectives of this ordinance and promote the public health, safety, comfort, convenience and general welfare. Violation of such conditions and requirements, when made part of the terms under which the Conditional Use is granted, shall be deemed a violation of this ordinance.

(6) Records and Decisions. The Plan Commission shall keep a record of its proceedings under this section, all of which shall be filed immediately as public records. All decisions under this section shall be taken by resolution in which a majority of the Plan Commission members must concur provided, however, that if the Town within which the proposed use or

structure is located files a written resolution with the Commission prior to or on the date of the required hearing, objecting to the grant of the Conditional Use, approval of the grant of a Conditional Use shall require the affirmative vote of three-fourths of the Plan Commission. Every final decision under this section shall be in writing accompanied by findings of fact based on the record. No Conditional Use shall be approved unless the Plan Commission shall find:

(a) The establishment, maintenance or operation of the proposed Conditional Use or structure at the proposed location will not be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity.

(b) The establishment, maintenance or operation of the proposed Conditional Use or structure, alone or in combination with other existing Conditional Uses and structures in the vicinity will not cause traffic hazards.

(c) Adequate provision is made for surface water drainage; ingress and egress to the property; and off-street parking.

(d) Adequate public facilities and services are available for the proposed Conditional Use or structure.

(7) Appeals from Plan Commission Decisions. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department or board of the municipality affected by a decision of the Plan Commission pursuant to Section 2.12(4).

## 2.12 BOARD OF APPEALS

(1) Establishment of Board. In order that the objectives of this ordinance may be more fully and equitably achieved and a means for interpretation provided, there is established a Board of Appeals (hereinafter referred to as the Board) for the Town of Black Creek.

(2) Membership and Terms of Office.

(a) Board Members. The Board shall consist of three (3) members. The Town Executive shall appoint the members with the approval of the Town Board. The members of the Board shall all reside within the Town. The Board shall choose its own chairperson.

(b) Terms. The terms of the first three Board members appointed shall be for one (1), two (2) and three (3) years respectively. Successors shall be appointed in such manner at the expiration of each term and their terms of office shall be three (3) years in all cases, beginning July 1, in the year in which they were appointed and until their successors are appointed.

(c) Vacancies. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(d) Compensation. The actual and necessary expenses incurred by the Board in the performance of its duties shall be paid and allowed by the Town Board as in cases of other claims against the Town. The Town Board may also compensate the members of the Board and their assistants as may be authorized by the Town Board.

(3) Rules, Meetings, Decisions and Records.

(a) Rules. The Town Board shall adopt rules for the conduct of the business of the Board in accordance with the provisions of this ordinance. The Board may adopt further rules as necessary to carry into effect the regulations of the Town Board. No rule may be changed without the concurring vote of a majority of the Board.

(b) Meetings. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairman, or in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

(c) Records and Decisions. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to



vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions or decisions shall be taken by resolution in which the concurring vote of a majority of the members of the Board shall be necessary. Each resolution shall contain a written statement of the grounds forming the basis of such resolutions. Notice of filing of all actions and decisions shall be mailed to the parties in interest as determined by the Board.

(4) Powers and Duties - Appeals.

(a) Powers. The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of . this ordinance. The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(b) Procedures. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or the building inspector or other administrative officer. Such appeal shall be taken within sixty (60) days of the order, requirement, decision or determination appealed from by filing with the Plan Commission and with the Board a notice of appeal specifying the grounds thereof. The Plan Commission shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board may request the applicant to provide additional information as may be needed to determine the case.

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

(d) Withdrawal or Amendment.

1. If the applicant elects to withdraw the appeal any time before final determination is made by the Board, this fact shall be noted on the

application, with the signature of the applicant attesting withdrawal. Copies of the withdrawn application shall be returned to the files of the Board, to the Building Inspector or officer and to the applicant.

2. Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice, the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the chairperson shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for deferral.

(5) Powers and Duties - Variances.

(a) Powers. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a lateral enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

(b) Requirements for a Variance. In general the power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this ordinance. Variances shall only be granted when the Board finds that:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this ordinance.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to

other lands, structures, or buildings in the same district.

4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.

5. The hardship is not shared generally by other land or buildings in the area.

6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.

(6) Powers and Duties - Interpretations. The Board shall have the power to hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts.

(7) Public Hearings.

(a) Time Period. Upon filing with the Board an application for an appeal or variance, the Board shall fix a reasonable time [not more than sixty (60) days from the filing date] for a public hearing.

(b) Notice of Hearing. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall be published specifying the date, time and place of the hearing and matters to come before the Board.

(8) Conduct of Public Hearings. Any hearing required under this section shall be conducted by the Board in accordance with Section 2.11(4) (a).

(9) Appeals from Board Decisions. Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the municipality, may within thirty (30) days after the filing of the decision in the office of the Board, commence an action seeking the remedy available by certiorari.

## 2.13 AMENDMENTS

(1) Power of Amendment. The Town Board may amend the regulations and requirements of this ordinance or change the district boundaries of the Official Zoning Maps. A petition for amendment may be made by any property owner in the area to be affected by the amendment, by the Town Board or by any member of the Town Board or Town Planning Commission.

(2) Procedures. The petition shall be filed with the Town Clerk who shall immediately refer it to the Planning Commission for its consideration, report and recommendations. Procedures shall be in accordance with Chapter 59.97(5)(e) Stats.

## 2.14 FEES

(1) Fees for amendments, Conditional Uses, variances, appeals and contested case hearings shall be established by the Town Board. No action shall be taken prior to payment of requisite fee. The Town Board shall post a schedule of Fees in an accessible place and shall advise of same.

