

SECTION 2: GENERAL PROVISIONS

- 2.1 Jurisdiction. The provisions of this Ordinance shall apply to all structures, land, water and air within the Town of Black Wolf, Winnebago County, Wisconsin.
- 2.2 Compliance. Unless otherwise provided by this Ordinance or applicable State or Federal Law, after the effective date of this Ordinance no structure, land or water shall be developed, and no structure or part thereof shall be located, erected, moved, reconstructed, enlarged, extended, converted or structurally altered without a Zoning Permit and without full compliance with this Ordinance and all other applicable Town, County and State regulations; provided, however, that this Ordinance shall not govern normal farming operations on farmland, or normal filling, grading or landscaping of land which is incidental to land use and development otherwise permitted under this ordinance.

The Town Board, or any owner of property within the Town who are affected by a particular regulation, variance or conditional use under this Ordinance may sue to enforce, compliance with this Ordinance through injunctive relief in addition to any other remedy which may be available.

(1) Building Inspector; Duties.

- (a) A Building Inspector shall be appointed by the Town Board at a rate of compensation and for a term of office which is established by the Town Board at the time of such appointment. When practicable, the Building Inspector shall be a resident of the Town; provided, however, that the Building Inspector shall possess such certification of skill or experience as may be required from time to time by the State of Wisconsin.
- (b) The Building Inspector shall examine all plans and/or blueprints of all structures to be located, erected, moved, reconstructed, enlarged, extended, converted or structurally altered, in order to insure compliance with the Building Code of the Town and other applicable town, county and state regulations.
- (c) The Building Inspector shall accept applications for permits and issue all permits.

(2) Zoning Administrator; Duties.

- (a) A Zoning Administrator shall be appointed by the Town Board at a rate of compensation and for a term of office which is established by the Town Board at the time of such appointment. When practicable, the Zoning Administrator shall be a resident of the Town.

- (b) The Zoning Administrator shall accept applications, issue or deny Zoning Permits, give notice of violations and enforce the provisions of this Zoning Ordinance.
 - (c) The Zoning Administrator and Building Inspector shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by them, or either of them, to ensure compliance with this Ordinance, applicable building codes and town, county and state regulations. They each shall have the authority to procure special inspection warrants in accordance with Wisconsin Statutes.
 - (d) The Zoning Administrator and Building Inspector each shall have the authority to halt any location, erection, moving, reconstruction, enlargement, extension, conversion or structural alteration of a structure, or use of land, which is not in compliance with this Ordinance or applicable building codes and town, county and state regulations. In furtherance of this authority, the Building Inspector may revoke any building permits then issued which pertain to any non-conforming matter by notice in writing to the holder of such permit.
 - (e) Building permits issued for any matter shall be posted in a prominent place on the premises for which the permit has been issued prior to and during the terms of the permit.
 - (f) Notwithstanding any other provision of this Ordinance, where a Zoning Permit has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months after such effective date and diligently pursued to completion, the subject of such permit may be completed in accordance with the approved plans on the basis on which the permit was issued. Upon completion such premises may be occupied under a Certificate of Compliance for the use designated in the permit. Thereafter, however, the premises shall be subject to all provisions of this Ordinance.
- (3) Planning and Zoning Committee
- (a) The Town of Black Wolf Planning and Zoning Committee shall be appointed by the Town Chairman and confirmed by the Town Board. The Committee shall consist of seven (7) members, who shall reside in the Town. Vacancies shall be filled by appointment by the Town Chairman with confirmation by the Town Board for the un-expired term of the member whose position has become vacant. Committee members shall be removable by the Town Chairman for cause upon written charge and after a public hearing conducted by the Town Board.

- (b) A Chairperson shall be appointed by the Town Chairman with confirmation by the Town Board.
- (c) The Town Board shall appoint a secretary, who shall receive compensation according to the Town's Salary rate.
- (d) Terms of service shall be for three (3) years and shall be staggered.
- (e) The Committee shall conduct all public hearings for Zoning applications, Conditional Use Permits, and Land Use planning.
- (f) The Committee shall make recommendations to the Town Board for action on the above applications and public hearings.
- (g) The Committee shall review and make recommendations on the Zoning and Land Use/Subdivision Ordinances and the Land Use Plan.
- (h) The Committee shall review matters as directed per this Ordinance.
- (i) The Committee shall receive compensation at a rate set by the Town Board.

2.3 Zoning Permit.

- a) Applications for a Zoning Permit shall be made in writing to the Zoning Administrator on forms which he or she shall provide, and shall include the following information, if applicable about the subject site:
 - (1) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any;
 - (2) Description of the subject site by its legal description according to the Winnebago County, Wisconsin, Registry or land survey in accordance with Town of Black Wolf, Wisconsin, Subdivision Ordinance;
 - (3) Address of the subject site;
 - (4) Zoning district in which the subject site is located;
 - (5) Zoning district for which the applicant is applying for the subject site;
 - (6) Type of structure to be constructed on the subject site, if known;
 - (7) Existing and proposed use and operation of the subject site and if known, the structure;

- (8) Number of proposed or anticipated employees and/or occupants of the subject site and structure;
- (9) Plot plan showing the location, property boundaries, and dimensions, uses and sizes of the following: subject site; existing and proposed structures; existing and proposed sanitary facilities and well; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed yards; and finished grades.
 - (a) The proposed finished grade for a principal structure at its center or other highest grade elevation on any such plot plan, shall be a grade which is not less than twelve (12) inches above the crown of any adjacent improved public or platted road
 - (b) Where an alternate finished grade elevation would better suit the existing or proposed uses surrounding the subject site, or would better facilitate orderly surface water drainage on and off the subject site, the Building Inspector shall have the authority to set an alternative finished grade elevation at the time of application for a building permit; provided, however, that such alternative grade shall be noted on the zoning application and permit by the Building Inspector at the date of issue of the permit.
- b) A Zoning Permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days after receipt of a complete application. Where public sewer is unavailable, no permit shall be issued without the prior approval of sanitary plans and if applicable issuance of a Sanitary Permit by the Winnebago County, Wisconsin, Sanitary Inspector. Where public sewer is available no permit shall be issued without the prior approval of sanitary plans and, if applicable, issuance of a sanitary permit by the Town of Black Wolf Sanitary District #1. Except for barns, silos and similar farm buildings, no zoning permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided either by the Town of Black Wolf Sanitary District #1 or otherwise in accordance with the Winnebago County, Wisconsin Sanitary Ordinance and Chapter H 62.20 of the Wisconsin Administrative Code as amended from time to time.
- (c) A Zoning Permit is issued in anticipation of proposed construction. It shall lapse and become void six months after date of issue unless substantial work on said construction has been commenced and diligently pursued within that period.

2.4 Building Permits. A Building Permit shall be required as per the Town of Black Wolf Building Permit Ordinance

- a) Applications for a Building Permit shall be made in writing to the Building Inspector on forms which he or she shall provide and which shall include the following:
 - (1) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any;
 - (2) Description of the subject site by its street address or, if there is none, by its legal description according to the Winnebago County, Wisconsin Registry or other land survey;
 - (3) Type of structure or work proposed to be done and statement of cost of work proposed to be done or, where not known, good faith estimate of such cost.
- b) A Building Permit shall be granted or denied in writing by the Building Inspector within thirty (30) days after receipt of a complete application. Where public sewer is unavailable, no permit or new construction intended to be occupied by human beings shall be issued without the prior approval of sanitary plans and issuance of a Sanitary Permit by the Winnebago County, Wisconsin, Sanitary Inspector or the Town of Black Wolf Sanitary District #1. Except for barns, silos and similar farm buildings, no permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided in accordance with the Town of Black Wolf Sanitary District #1 or Winnebago County, Wisconsin, Sanitary Ordinance and Chapter H. 62.20 of the Wisconsin Administrative Code as amended from time to time.
- c) Building Permits shall recite the information set forth in the application and shall be displayed at the subject site and shall lapse and become void six months after date of issue unless substantial work has been commenced and diligently pursued within that period.
- d) All building permits shall expire 24 months from date of issue. Any work not completed at the end of this time shall require a new permit.

2.5 Certified Survey Maps (CSM)

Submittal. Combining parcels or creation of a Minor Land Division shall be by certified survey map. The certified survey map shall be submitted to the Town of Black Wolf Zoning Administrator (or designee). The certified survey map shall be prepared according to 236.34, Wisconsin Statutes, and shall show clearly on its face the following:

- 1. Whole Parent Parcel(s) must be shown on CSM when combining or dividing parcel parcel(s).

- a. All existing buildings.
 - b. Setbacks
 - c. Water Courses
 - d. Drainage ditches
 - e. Setbacks to structures to adjacent property and other features pertinent to division of property should be shown.
 - f. D.O.T. approval when parcel is abutting a State of Wisconsin Highway or Federal Highway.
 - g. Acreage to right-of-way spelled out.
 - h. Location of access to road.
2. Prior CSM Number (if applies)
 - a. Put at top.
 3. Tax Parcel Number
 - a. Put in a box
 - b. On proper parcel or pointing to proper parcel
 4. Existing parcel boundaries that fall within new parcel(s) shall be identified with dashes (---) or periods (...).
 5. Date of Map With a Graphic Scale
 6. Other Pages
 - a. Surveyor's Certificate, recorded survey description, surveyor signature and date.
 - b. Owner(s) Certificate of Approval, signature(s) and date with Notary Public's signature, date and commission expiration date.
 - c. Town of Black Wolf Treasurer's Certificate of Approval, signature and date verifying that there are no unpaid taxes or special assessments in accordance with 236.21(3).
 - d. town of Black Wolf Board Certificate of Approval, Town Chairman's signature and date after board approval.

Certified Survey Map after approval of all required authorities shall be recorded in the Winnebago County Register of Deeds Office.

- 2.6 Certificate of Compliance. Where a Zoning Permit is required under this Ordinance, no development or structure shall be used or occupied until a Certificate of Compliance has been issued by the Zoning Administrator. Such Certificate shall state that the development or structure is in compliance with the applicable standards of this Ordinance. An application for a Zoning Permit is deemed an application for a Certificate of Compliance.

A Certificate of Compliance also shall be required before the use of, or change in use of any non-conforming use. However, upon written request of the owner, the Zoning Administrator shall issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this Ordinance, which Certificate shall state the extent and kind of use made of the building or premises and the manner in which it may not conform to the provisions of this Ordinance. Residential lots which are plotted or otherwise identified by certified survey map or similar legal description on the effective date of this amended ordinance and which comprise less than one (1) acre in sewer areas and two (2) acres in unsewered areas are not non-conforming lots or uses.

2.7 Site Restrictions.

- a) The following requirements shall apply to all land use sites:
 - (1) All lots shall abut upon a public street, and each lot shall have a minimum frontage of thirty-three (33) feet. All lots shall also have a minimum width at the minimum required street yard setback as prescribed for the particular zoning district in which the lot is located.
 - (2) All principal residential structures shall be located on a lot; and only one principal residential structure shall be located, erected, or moved onto a lot.
 - (3) No construction of accessory structures or accessory uses shall be permitted prior to construction of the primary residential, commercial, or business structure.
 - (4) No Zoning Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width.
 - (5) Lots abutting more restrictive district boundaries than those of the district in which it is located, shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than seventy-five (75) feet from the district boundary lines so as to equal the average of the street yards required in both districts.
 - (6) All street setbacks shall be measured from the affected road right-of-way line, road easement or from any road widths shown on a duly adopted street width map
- b) No land shall be used or structure erected where the land is determined to be unsuitable for such use or structure by the Town Board and the Town Of Black Wolf Planning and Zoning Committee, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, aesthetics, and general welfare of the Town.

- c) "Aesthetics" may only constitute grounds for prohibiting a use of land or structure if such use will substantially and adversely affect the value of property in the vicinity or impose an odor, noise, or visual effect, upon neighbors or passersby which is clearly obnoxious to the prevailing aesthetics of the community. In all cases the Town Board shall serve as the Aesthetic Review Board.
- d) The Town Board, Building Inspector, Zoning Administrator and the Black Wolf Planning and Zoning Committee, in applying the provisions of this section, shall itemize in writing the particular facts upon which is based a conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/or she so desires. Thereafter the Town Board, Building Inspector, Zoning Administrator and the Black Wolf Planning and Zoning Committee may affirm, modify, or withdraw its determination of suitability.

2.8 Surface Water Drainage. Controlled storage and release of surface water runoff shall be required for all commercial and industrial developments and for residential developments that contain an area in excess of 5 acres in order to eliminate the accumulation or transportation of excess surface water runoff on or through other land or habitable structures.

It is not the intent of this section to take land areas out of use for the sole purpose of storing excess surface water, nor to restrict land use or to increase development costs. The use of natural topographic paths of surface water runoff to form planned channels and the restriction of such channels to form storage areas is encouraged. Since political and ownership boundaries often make the use of natural topographic drainage patterns impractical, earth-moving that is done to develop land usage should also be planned to provide a bypass channel for surface water runoff that will not create a diversion of drainage or radically change applicable watershed boundaries.

(1) Surface Water Drainage Design Considerations - General.

- (a) Where required by Sec. 2.8, a complete surface water management system shall be provided in all areas within the development site for handling surface water runoff that flows into or across the site from the outside, or emanates from the site without undesired additional flooding of any other lands in the drainage basin. Soil types shall be coefficients within the basins involved.
- (b) Surface water drainage design shall consist of a drainage plan and report that demonstrates that peak post development flow rates shall be no greater than predevelopment flow rates for the 2, 25, and 100 year storms as determined by United States Department of Agriculture Technical Release 55 (TR-55), Urban Hydrology for Small Watersheds. The plan

and report will follow Chapter 20.58 of the Black Wolf Subdivision Ordinance.

- (2) Surface Water Design Considerations - Subdivisions & Planned Residential Areas. Subdivision plans and R-5 "Planned Residential District" shall not be approved unless all lands intended for use as building sites can be assured drainage within the site plan as approved by the Town. Unless other arrangements are made with the Town, the developer shall construct, install and furnish all necessary drainage structures including pipes, catch basins, ditches, and retention areas etc. Construction shall conform to all Town specifications.
- (3) The drainage system for such site plan shall be integrated with generally existing drainage facilities covered by Town easement and/or established drainage which serves the area within the development, and said drainage shall not cause damage to any property rights of others. Discharge onto adjacent properties where there is no existing drainage outlet or where no natural drains exist will not be permitted without the developer acquiring the necessary easements, as determined by the town.
- (4) Lots subject to Sec. 2.8 shall be developed to maximize the amount of surface water drainage which is percolated into the soil on site and to minimize direct overland runoff into adjoining property, streets, and water courses. Water runoff from roofs and other impervious surfaces shall be diverted into swales, or terraces on the lot. Where a positive outfall is unavailable or inadequate, and the installation or revision of the outfall is not economically practicable, a retention-seepage basin may be included in the drainage system. The basin shall be designed using accepted engineering practices. In all cases the basin shall be designed and located in such a manner as to cause the least amount of damage to the property of others when the design is exceeded. Sufficient drainage right-of-way shall be set aside to allow for egress, ingress, and continuous maintenance around the perimeter of the basin.
- (5) Sump Pump Discharge.
 - (a) Definition: "Sump pump discharge" means any clear water discharge from a building or other structure.
 - (b) Regulations:
 - i) In areas where storm sewer is not available, the sump pump shall discharge at least two (2) feet from the foundation of any building. Discharge from the sump pump shall be directed to the rear lot line, to the street, or to a drainage or road ditch. It shall not be closer than ten (10) feet to the property of adjacent owners. The place of discharge is the point where the water is discharged upon the ground from hoses, pipes, or other connections to the sump pump.

- ii) No discharge from any sump pump is permitted to create a nuisance.
 - a. The sump pump discharge shall be considered a nuisance in situations including, but not limited to, such discharge creating icing problems on a town street or sidewalk, damaging a street or sidewalk, creating ponds of standing water, and allowing discharged water to flow onto adjoining property.
 - b. If the sump pump creates or constitutes a nuisance, the Town shall require the owner of the property discharging the water to correct the problem so the water from the sump pump is discharged in such manner as not to interfere with the use of the adjacent properties by the adjacent property owners.

2.9 Use Restrictions. The following use restrictions and regulations shall apply, and unless otherwise specified, the basic standards of a district shall be minimum standards:

- (1) Principal Uses. Only those principal uses specified for a district, their on-site services and the following accessory uses and conditional uses shall be permitted in that district, except gardening shall be a principal use in all districts.
- (2) Accessory Uses. Unless otherwise specified in other sections, accessory uses and structures are permitted in any district, but not until their principal use and structure are present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; servant's, owner's itinerant agricultural laborers, and watchman's quarters not for rent; private swimming pools; and private emergency shelters.
 - (a) Accessory Use Location. Unless otherwise specified in other sections of this ordinance, accessory uses and detached accessory structures are permitted within the buildable area or in the rear yard only; they shall not be closer than ten (10) feet to the principal structure; shall not exceed seventeen (17) feet in height; shall not occupy more than twenty (20) percent of the rear yard area of the particular site; shall not be closer than three feet to any lot line or five feet to any alley.
- (3) Conditional Uses. Conditional uses and their accessory uses are considered as special uses which require a public hearing and approval all in accordance with Section 4.0 of this Ordinance.

In addition to those stated elsewhere in this Ordinance, the following shall be conditional uses in all zoning districts of this Ordinance:

- (a) Utilities - and associated structures - provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
- (b) Governmental and cultural uses, except the town hall, town offices and town fire stations shall be considered principal uses - except in the A-1 Agri-Business District they shall require conditional use approval.
- (c) One-time disposal, except in Floodplain/Shoreland District, subject to receiving DNR permit. (According to. Sec. 4.4).

(4) Unclassified or Unspecified Uses. According to Section 10.7 (4) of this Ordinance.

(5) Temporary Uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Town Of Black Wolf Planning and Zoning Committee. Other temporary uses, e.g. mobile homes, emergency housing needed due to natural disaster, etc., shall be reviewed annually for continued use according to Section 10.7 (6) of this Ordinance.

(6) Animal Restriction. Unless otherwise specified, no premises in a Residential District shall be used to harbor more than three (3) dogs. Puppies whelped on any such premises as a result of fortuitous mating may be retained on the premises until they are six months old and shall not be taken account of in determining the number not in excess of three (3) dogs here-in-above permitted on such premises. No premises in a Residential District shall be used for breeding or rearing of dogs for sale or hire or for the boarding of dogs for pay. The raising or keeping of exotic reptiles shall be prohibited. (Effective 11-2011)

(7) Dog Day Care/Kennel Licensing. No dog day care/kennel shall be located

- i) In any zone except A-1;
- ii) Within 2000 yards of any residential dwelling unit, other than the residence of the owner of such dog day care/kennel, unless all residents within the 2000 yard setback consent in writing to a lesser setback.

2.10 Sanitary Regulations. The provisions of the Town of Black Wolf Sanitary District #1 Ordinance and of Chapters H62.20; H65 and NR112 of the Wisconsin Administrative Code, are incorporated by reference.

2.11 Reduction or Joint Use. After the effective date of this ordinance no lot, yard, parking area, building area, or other space shall be reduced in area or dimension below the requirements of this Ordinance. No part of any lot, yard, parking area, or other space required for a particular structure or use shall be used for any other structure or use.

- 2.12 Violations. It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Ordinance.

In case of any violation, the Town Board, the Zoning Administrator, the Town Of Black Wolf Planning and Zoning Committee, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Ordinance. Every structure, fill or development placed or maintained in floodplains in violation of this Ordinance is a public nuisance; and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the Town or any citizen who lives in or within five hundred (500) feet of the floodland.

- 2.13 Penalty:

- (1) General Penalty. Any person who shall violate any of the provisions of the Ordinance shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - (a) First Offense – Penalty. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than Fifty (\$50.00) nor more than Three Hundred Dollars (\$300.00), together with the cost of prosecution including reasonable attorneys’ fees and, in default of payment of such forfeiture and cost of prosecution including reasonable attorneys’ fees shall be added to the property tax, with an interest rate, with interest, at the current interest rate charged for delinquent property taxes.
 - (b) Second Offense – Penalty. Any person found guilty of violating any or part of this Ordinance who shall previously have been convicted of a violation of the same Ordinance within one (1) year shall, upon conviction thereof, forfeit not less than Three Hundred Dollars (\$300.00) nor more than One Thousand (\$1,000.00) for each such offense, together with the cost of prosecution including reasonable attorneys’ fees and, in default of payment of such forfeiture and cost of prosecution including reasonable attorneys’ fees, shall be added to the property tax, with interest, at the current interest rate charged for delinquent property taxes.
- (2) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

- (3) Other Remedies. The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution, including reasonable attorneys' fees above.