

Section 1. Introduction

1.1 Authority. This Ordinance is adopted under the authority granted by Sections 59.97, 60.18 (12), 60.29 (21), 60.74 (7), 61.35 and 62.23 of the WI Statutes. The Town Board of the Town of Black Wolf, Winnebago County, Wisconsin, do ordain as follows:

1.2 Purpose. The purpose of this Ordinance is to promote the health, safety, morals, beauty, aesthetics and general welfare of this Town.

1.3 Intent. The general intent of this Ordinance is to produce a uniform zoning format for the Town of Black Wolf.

1.4 Abrogation and Greater Restrictions. It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or rules, regulations or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises. However, whenever this Ordinance, or The Town of Black Wolf Subdivision Ordinance imposes greater restrictions, the provisions of this Ordinance shall control. In addition, the provisions of the Winnebago County, Wisconsin, Shoreland/Flood Plain, Subdivision and Airport Zoning Ordinances, as adopted by said County as of the date of this Ordinance and as they may later be amended are incorporated by reference. Whenever the Winnebago County Shoreland/Flood Plain, Subdivision or Airport Zoning Ordinances conflict with applicable underlying provisions of this Zoning Ordinance or the Town of Black Wolf Subdivision Ordinance, the more restrictive combinations of such ordinances shall govern.

1.5 Interpretation. The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, beauty, aesthetics and general welfare of the Town of Black Wolf, Winnebago County, Wisconsin, and shall be liberally construed in favor of the Ordinance.

1.6v Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.7 Effective Date. This Ordinance shall be effective as of 12:01 A.M., on the day after the last to occur of: enactment by the Town Board of the Town of Black Wolf; approval by the County Board of Winnebago County; referendum approval by the electors of the Town of Black Wolf, pursuant to §60.74(7) of the Wisconsin Statutes, of the exercise of Town zoning; and publication.

1.8 Title. This Ordinance shall be known as, referred to, or cited as the "Town of Black Wolf Zoning Ordinance."

1.9 Definitions. For the purpose of this Ordinance, the definitions set forth in this section shall be used. Words used in the present tense include the future. The singular number includes the plural number; the plural number includes the singular. The word "shall" is mandatory and not permissive. For technical terms not defined in this section, the definitions of ASPO Report No. 322 are incorporated by reference. Shoreland definitions set forth in Chapter NR 116 of the Wisconsin Administrative Code are incorporated by reference.

ACCESSORY USE OR STRUCTURE

A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

ADVERTISING SIGN

A sign, including, but not limited to, a billboard, which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located.

AIRPORT

The Wittman Field Airport and all County land area associated with same as located in Sections 34 and 35, T18N, R16E and Sections 2 & 11, T17N, R16E, Winnebago County, Wisconsin.

AIRPORT HAZARD

Any structure object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

ALLEY

A special public right-of-way affording only secondary access to abutting properties.

ANIMAL GROOMING

Where not involving any kennel uses, shall be the equivalent of a barbershop, or beauty salon for animals.

BOARDING HOUSE

A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

BOATHOUSE

Any structure designed for the purpose of protecting or storing boats for non-commercial purposes and without provision for human habitation.

BUILDABLE AREA

The space remaining on a lot after the minimum open-space requirements and yard setbacks have been met.

BUILDING

Any structure having a roof supported by columns or walls used or intended to be used for shelter or enclosure of persons, animals, equipment, machinery or materials.

BUILDING AREA (synonymous with floor area)

The total living area bounded by the exterior walls of a building at each floor level, but not including basement, garages, porches, breezeways, and unfinished attics.

BUILDING HEIGHT

The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges or gable, gambrel, hip and pitch roofs, or to the deck line of mansard roofs except where otherwise specified in other sections of this ordinance.

BULKHEAD LINE

A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Section 30.11 of the Wisconsin Statutes. Filling and development is only permitted to the landward side of such bulkhead line.

BUSINESS SIGN

A sign pertaining to goods sold or manufactured or services rendered on the premises upon which the sign is located.

BY-PASS CHANNEL

A channel formed in the topography of the earth's surface to carry storm water runoff through a specific area.

CAMPGROUNDS

As defined in Wisconsin Administrative Code Chapter HFS 178.

CERTIFICATE OF COMPLIANCE

Official certification that a premise conforms to the provisions of the zoning ordinance (and, if applicable, the town building code).

CHANNEL

Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well established banks.

CLINIC - MEDICAL OR DENTAL

A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.

CLOTHING STORES

Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and millinery shops.

CONDITIONAL USES

Use of a special nature as to make impractical their predetermination as a principal use in a district.

CONDOMINIUM

A structure having two (2) or more dwelling units, each assigned to individual ownership, but located on a lot having common ownership and use arrangement.

CONSERVATION STANDARDS

Guidelines and specifications for land and water conservation practices and management enumerated in the Technical Guide prepared by the U.S. Department of Agriculture, Land Conservation Service, for the County, adopted by the County Land and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the landowner selects that alternative which best meets his needs in developing his land and water conservation plan.

CONVERSION

Changing the original purpose of a building to a different use.

CORRIDORS, ENVIRONMENTAL

Those contiguous lands which contain a significant grouping of sensitive lands, such as wood lots; streams; wildlife areas such as wetlands, marshes, bogs, native vegetation, etc. which form an elongated pattern that tie these lands together into broad corridors having outstanding quality for the enhancement of the scenic and natural environment of the Town of Black Wolf.

DEVELOPMENT

Any activity which results in an alteration of either land or vegetation, except farming and normal grading and filling, for purposes of changing to or intensifying existing uses in agricultural, residential, business, recreational, institutional, or industrial property.

DIGITAL COMPILATION

An electronic method of mapping and storing map and text data in a raster, vector, text, or similar format within a computerized records system.

DIRECTIONAL SIGN

An on-premises sign for the purposes of directing patrons or attendants to a business establishment, club, church, or other such organization, off the main traveled highway (without advertising, text, or art).

DITCHING

The creation or maintenance of a channel-like land area designed or used for carrying surface water runoff, including snow melt, from one location to

another. Ditching does not include municipal work within public rights-of-way, nor such things as vegetation removal or planting.

DRAINAGE

A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied herein to surface water.

DWELLING UNIT

A structure having provisions for living, cooking, sanitary and sleeping facilities, arranged for the use of one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others. If two living areas have separate exiting and no common use areas, then they are separate dwelling units.

DWELLING - SINGLE (ONE) FAMILY *

A permanent structure - placed on a permanent foundation, having one (1) or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others. The structure shall be located on a private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured, and modular homes. In no event shall a mobile home be considered as a single family dwelling.

DWELLING - TWO FAMILY (DUPLEX)*

A permanent structure having two (2) dwelling units combined into one structure. The structure shall be located on one (1) private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured, and modular homes. In no event shall a mobile home be considered as a two family dwelling.

DWELLING - MULTI-FAMILY (APARTMENT)

A permanent structure having three (3) or more dwelling units - combined into one structure - for occupancy by three (3) or more families.

EFFICIENCY

A single family dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

ESSENTIAL SERVICES (On-site or Public)

Services provided by public and private utilities, necessary for the reasonable exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam and water services, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water pumps, lift stations, and hydrants, but not including buildings used or intended to be used for human habitation.

EXCAVATION

Any act by which organic matter, earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

FAMILY

Any number of persons living together and cooking on the premises as a single house - keeping unit together with all necessary employees of the family.

FENCE

Any artificially constructed barrier or berm of any material or combination of materials erected to enclose or to screen areas of land.

FILL/FILLING

Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting therefrom.

FLOATING ZONE (unmapped)

A zoning district whose requirements are fully described in the text of the ordinance but which is unmapped. It is "anchored" to the land in response to an application for a zoning permit when the standards of the floating district are met. It then overlays the previous zoning designation.

FLOOD PLAIN

The land adjacent to a body of water which has been or may be hereafter covered by flood water, as defined by chapter NR115 of the WI Administrative Code.

FLOODWAY

The channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream.

FRONTAGE

The smallest dimension of a lot abutting a public street measured along the street lines.

GRADE/GRADING

The alteration of the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.

GRADE (HOUSE)

The final ground surface elevation, after construction, at the point where the exterior walls of the structure either meet, or emerge from the ground except where floodplain requirements apply. Sloping sites will have more than one grade as appropriate. This point shall normally be the highest elevation of the building site.

GARAGE (PRIVATE)

A structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles, recreational vehicles, boats, yard equipment, etc., of the families residing at the premises upon which the garage is located. Carports shall be considered garages within this definition.

GARAGE (Attached)

A private garage sharing a common wall with the principal structure, or being attached to the principal structure with a fully enclosed breezeway.

GARAGE (Public or Commercial)

Any garage not falling within the definition of "private garage" as herein established, and used for storage, repair, rental or servicing of motor vehicles, recreational vehicles, boats, and yard equipment.

HIGH WATER ELEVATION (Ordinary high water mark)

The average annual high water level of a pond, stream, lake, flowage, or wetland referred to on an established datum plane or, where such elevation of the line up to which the presence of the water is so continuous as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic or vegetative characteristics.

HOUSEHOLD OCCUPATION

Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed fifty (50) percent of the area of only one floor of the residence, and uses only household equipment. A household occupation does not include display of goods.

KENNEL, COMMERCIAL AND ANIMAL HOSPITALS

An establishment where animal pets not part of the actual household on the lot on which the facility is located are raised, bred or boarded and/or medically treated.

LIVING ROOM

All rooms within a dwelling except closets, foyers, storage areas, utility rooms, and bathrooms.

LOADING AREA

A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

LOT

A contiguous parcel of land having a minimum of thirty three (33) feet of frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance.

LOT LINES AND AREA

The peripheral boundaries of a parcel or lot and the total area lying within such boundaries.

LOT WIDTH

The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth of such lot from its road or street frontage or other access to a public right of way. On irregularly shaped lots, the width shall be the average width of the lot within five (5) percent of the minimum required width. (Average width according to Ch. H65 Wisconsin Administrative Code.)

MANUFACTURED HOME

A structure substantially constructed off-site meeting minimum provisions for dwellings and meets all of the following criteria:

- (a) Transportable in one or more sections.
- (b) Built on a permanent chassis.
- (c) Placed on a permanent foundation.
- (d) Connected to utilities (plumbing, heating, gas, electrical).
- (e) Constructed on or after June 15, 1976 in accordance with U.S. Housing and Urban Development standards and identified with a HUD seal of approval.

MINOR STRUCTURES

Any small, movable accessory erection or construction such as tool houses, pet houses, play houses, ice shanty, and arbors, no more than eight (8) feet in height with no more than one hundred (100) square feet of building area. Not to exceed a total of three (3) per lot.

MOBILE HOME**

Constructed prior to June 15, 1976, a vehicle designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of forty five (45) feet.

MOBILE-MOUNTED SIGN

A temporary sign which is mounted or designed for mounting on wheels or a temporary platform.

MODEL HOME, GARAGE

A building which is constructed, or located and used as an example of other such buildings which are offered for sale. The model itself is customarily not currently for sale or occupancy and may in some instances be only temporarily positioned on the site. The model differs from a "spec" building which is one that is permanently positioned on a site and is or will be available for immediate sale and occupancy.

NON-CONFORMING USES OR STRUCTURES

Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto which does not conform to the regulations of this Ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a non-conforming structure and not a non-conforming use; provided, however, that an existing principal structure and attached garage(s) that is located 30 feet or more from road right-of-way and 7 feet or more from side lot lines shall be deemed a legal use for purposes of determining the area setback requirements contained in this Ordinance.

OBSTRUCTION

Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire fence, rock gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OPEN SPACE

An unoccupied space open to the sky on the same lot as the principal structure or development which is in addition to other required yard areas and which is not used for parking or driveway purposes.

OUTDOOR STORAGE

The keeping of materials, equipment, product(s) or their components, outside of a structure. Customary accessory storage such as waste receptacles, or business vehicle parking shall not be considered outside storage provided the principal structure is present and said storage is directly associated with the principal use.

OVERLAY ZONE

Zoning requirements that are described in the ordinance text, mapped, and are imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

PARKING LOT

A structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.

PARKING SPACE

A graded and surfaced area of not less than one-hundred eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PARTIES IN INTEREST

Includes all abutting property owners, all property owners within one-hundred (100) feet, and all property owners of opposite frontages.

PIERHEAD LINE

A boundary line established along any section of the shore or any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Section 30.13 of the Wisconsin Statutes. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to Section 30.12 (2) of the Wisconsin Statutes.

PRINCIPAL USE

The main use of land or structures as distinguished from a secondary or accessory use.

PRIVATE OR QUASI-PUBLIC CLUB

An association of persons organized for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

PRIVATE ROAD

Any road or drive other than a public street or highway which serves two (2) or more principal structures.

PROFESSIONAL HOME OFFICES

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians, or other recognized professions used to conduct such professions in which the office does not exceed one-half (1/2) the area of only one (1) floor of the residence and no more than two (2) nonresident persons are employed for the conduct of such profession.

REAR YARD

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

RECREATIONAL VEHICLE

Recreational vehicle means any of the following, whether it is "dependent" -requires camp facilities for toilet and lavatory, or "self-contained" - can operate independent of connections to sewer, water and electrical systems:

- (a) Camping trailer. A canvas or folding structure mounted on wheels and designed for travel, recreation and vacation use.
- (b) Motor-home. A portable temporary dwelling to be used for travel, recreation and vacation, constructed as a integral part of a self-propelled vehicle.
- (c) Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

- (d) Travel trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses and permanently identified as a travel trailer by the manufacturer of the trailer.
- (e) Tent. A portable lodge of canvas or strong cloth, stretched and sustained by poles.
- (f) Any similar vehicle, unit, etc., which is less than forty-five (45) feet in length.

RETENTION BASIN

A pond-type facility which provides for storage or storm-water runoff and controlled release of this runoff during and after a flood or storm.

ROAD

A public right-of-way providing primary access to abutting properties.

RUNOFF

The portion of precipitation on the land which reaches a drainage system.

SETBACK LINES

The interior limits of the minimum required yard areas of a lot.

SHORE YARD

A yard extending across the full width or depth of a lot the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the point of the high water elevation of a pond, stream, lake, or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the high-water line.

SHORELANDS

Those lands lying within the following distances: One thousand (1,000) feet from the high-water elevation of navigable lakes, ponds, and flowages and three hundred (300) feet from the high-water elevation of navigable streams, or the landward side of the floodplain, whichever is greater.

SHORELINES

The intersection of the land surfaces abutting lakes, ponds, streams, flowages, and wetlands with the average annual high-water elevation.

SIDE YARD

A yard extending from the street yard setback line to the rear yard setback line of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

SIGNS

Any words, letter, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trade marks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, professions, business, commodity or product and which is visible from any public street or highway but not including:

- (a) usual board notices in or about church property or any educational or public institution;
- (b) legal notices required to be posted by municipal, state or federal law; or
- (c) highway or traffic signs authorized to be erected by municipal, state or federal law.

SMOKE UNIT

The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

STORAGE CAPACITY

The volume of space available above a given cross section of a floodplain for the temporary storage of flood water. The storage capacity will vary with stage.

STREET

A public right-of-way providing primary access to abutting properties.

STREET YARD

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed

street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.

STRUCTURE

Any erection or construction, such as buildings, towers, masts, booms, signs, decorations, carports, machinery and equipment, and opaque fences.

Structure, Accessory - A building or portion of a building used for a purpose customarily incidental to the permitted principal use of the lot, or to a principal building, and located on the same lot as the principal use.

Structure, Principal - The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

STRUCTURAL ALTERATIONS

Any change which would increase or decrease the floor area or height of a building.

SUBSTANDARD LOT

Any lot, with or without structures, having lesser dimensions and/or area than required by the districts of this ordinance.

SURFACE WATER RUNOFF

Water that results from precipitation which is not absorbed by the soil or plant material.

TEMPORARY SIGN

Any sign which pertains to auctions, bazaars, festivals, or other similar events or to any aspect of a political campaign.

TEMPORARY STRUCTURE

A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

TREE

Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than five feet.

UTILITIES

Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power, substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, gas regulation stations and sewage disposal plants, but not including municipal incinerators, warehouses, shops and storage yards.

WETLANDS

Those lands which are level or nearly level and, based upon SWCD soil mapping data, are poorly drained. Such lands are flooded frequently and/or covered with water throughout most of the year. Such lands may be marked by old drainage channels and often may contain small bodies of water in places. The native vegetation was mainly sedges, rushes, reeds and other water tolerant plants. Both mineral and organic material are in these lands. These lands occur within the following soil series: Houghton, Willette, Palms, Edwards, Adrian, Udorthents, Fluvaquents.

YARD

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

ZONING ADMINISTRATOR

A person designated by the Town Board to administer and enforce this Ordinance. Reference to the Zoning Administrator shall be construed to include duly appointed assistants responsible for enforcing and administering all requirements of this Zoning Ordinance.

ZONING PERMIT

An official finding that a proposed use of a property, as indicated by an application, complies with the requirements of the zoning ordinance or meets special conditions of a variance or conditional use permit; the ordinance will specify the building activities that need to have such a permit.

* However, in no case shall mobile homes be considered as single-family or two-family dwellings under these definitions.

** See definition of "Dwelling -- Single Family" and "Dwelling -- Two-Family".