

**TOWN OF DURAND**  
**ZONING ORDINANCE**  
**SECTION 13**

Amended by Ordinance 2014-1

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# **TABLE OF CONTENTS**

## **ARTICLE A: INTRODUCTION**

- SEC. 13-1-1 AUTHORITY
- SEC. 13-1-2 TITLE
- SEC. 13-1-3 PURPOSE AND INTENT
- SEC. 13-1-4 ABROGATION AND GREATER RESTRICTIONS
- SEC. 13-1-5 INTERPRETATION
- SEC. 13-1-6 SEVERABILITY
- SEC. 13-1-7 AMENDMENT/REPEAL
- SEC. 13-1-8 EFFECTIVE DATE
- SEC. 13-1-9 RESERVED FOR FUTURE USE

## **ARTICLE B: GENERAL PROVISIONS**

- SEC. 13-1-10 ESTABLISHMENT OF DISTRICTS
- SEC. 13-1-11 ZONING MAP
- SEC. 13-1-12 INTERPRETATION OF DISTRICT BOUNDARIES
- SEC. 13-1-13 RELATIONSHIP TO COUNTY ZONING ORDINANCES
- SEC. 13-1-14 USES REGULATED
- SEC. 13-1-15 LOT SIZE
- SEC. 13-1-16 HEIGHT REQUIREMENTS; EXCEPTIONS
- SEC. 13-1-17 AREA AND BULK REQUIREMENTS; EXCEPTIONS
- SEC. 13-1-18 ONE PRINCIPAL STRUCTURE PERMITTED PER LOT
- SEC. 13-1-19 FRONTAGE REQUIREMENTS
- SEC. 13-1-20 DEDICATED ROADWAY
- SEC. 13-1-21 LOTS ABUTTING MORE RESTRICTIVE DISTRICTS
- SEC. 13-1-22 MOBILE STRUCTURES PROHIBITED
- SEC. 13-1-23 SITE REGULATIONS
- SEC. 13-1-24 FLOODPLAIN, WETLANDS (FW) AND STEEP SLOPES (SS)
- SEC. 13-1-25 THROUGH SEC. 13-1-29 RESERVED FOR FUTURE USE

## **ARTICLE C: DISTRICT REGULATIONS**

- SEC. 13-1-30 GENERAL PROVISIONS
- SEC. 13-1-31 GENERAL AGRICULTURAL (GA) DISTRICT
- SEC. 13-1-32 RESIDENTIAL DISTRICT (RD)
- SEC. 13-1-33 COMMERCIAL RESIDENTIAL DISTRICT (CRD)
- SEC. 13-1-34 GENERAL RURAL FLEXIBLE (GRF)
- SEC. 13-1-35 COMMERCIAL DISTRICT (CD)
- SEC. 13-1-36 ZONING MAP
- SEC. 13-1-37 THROUGH SEC. 13-1-39 RESERVED FOR FUTURE USE

## **ARTICLE D: SPECIAL PROVISIONS**

- SEC. 13-1-40 MANUFACTURED HOMES; MOBILE HOMES; MOBILE HOME PARKS
- SEC. 13-1-41 PERSONAL WIRELESS SERVICE FACILITIES
- SEC. 13-1-42 QUARRYING, SAND AND GRAVEL PITS, NONMETALLIC MINING
- SEC. 13-1-43 ADULT-ORIENTED ESTABLISHMENTS
- SEC. 13-1-44 HOME OCCUPATIONS
- SEC. 13-1-45 CAMPGROUNDS, CAMPING RESORTS, RECREATIONAL VEHICLE PARKS
- SEC. 13-1-46 THROUGH SEC. 13-1-49 RESERVED FOR FUTURE USE

## **ARTICLE E : REGULATIONS APPLYING TO ALL DISTRICTS**

- SEC. 13-1-50 NONCONFORMING USES, STRUCTURES AND LOTS
- SEC. 13-1-51 ACCESSORY USES AND STRUCTURES
- SEC. 13-1-52 OFF-SITE IMPACTS OF NONRESIDENTIAL USES
- SEC. 13-1-53 SIGNS

SEC. 13-1-54 ACCESS, SPACING AND VISION CLEARANCE STANDARDS ON TOWN ROADS  
SEC. 13-1-55 HIGHWAY SETBACKS  
SEC. 13-1-56 THROUGH SEC. 13-1-59 RESERVED FOR FUTURE USE

**ARTICLE F: ADMINISTRATIVE DUTIES**

SEC. 13-1-60 TOWN BOARD  
SEC. 13-1-61 BOARD OF APPEALS  
SEC. 13-1-62 PLANNING COMMISSION  
SEC. 13-1-63 ZONING ADMINISTRATOR  
SEC. 13-1-64 THROUGH SEC. 13-1-69 RESERVED FOR FUTURE USE

**ARTICLE G: ADMINISTRATIVE PROCEDURES AND ENFORCEMENT**

SEC. 13-1-70 LAND USE PERMITS  
SEC. 13-1-71 TEMPORARY USE PERMITS  
SEC. 13-1-72 SIGN PERMITS  
SEC. 13-1-73 APPEALS OF ADMINISTRATIVE DECISIONS  
SEC. 13-1-74 VARIANCES  
SEC. 13-1-75 CONDITIONAL USE PERMITS  
SEC. 13-1-76 AMENDMENTS  
SEC. 13-1-77 ZONING ORDINANCE ENFORCEMENT  
SEC. 13-1-78 THROUGH SEC. 13-1-89 RESERVED FOR FUTURE USE

**ARTICLE H: DEFINITIONS OF WORDS AND PHRASES**

SEC. 13-1-90 APPLICATION  
SEC. 13-1-91 RULES  
SEC. 13-1-92 DEFINITIONS

**EXHIBITS**

EXHIBIT 1: DISTRICT USES  
EXHIBIT 2: ZONING MAP  
EXHIBIT 3: GENERAL REFERENCE MAP  
EXHIBIT 4: ANIMAL UNIT CONVERSION

# Zoning Ordinance

## ARTICLE A: INTRODUCTION

### Sec. 1-1-1 Authority

The provisions of this Ordinance are adopted by the Town of Durand pursuant to the authority granted by Sections 60.62, 61.35 and 62.23(7), Wisconsin Statutes. The Board of Supervisors of the Town of Durand, Pepin County, Wisconsin does ordain as follows:

### Sec. 1-1-2 Title

This Ordinance shall be known as, referred to or cited as the "Town of Durand Zoning Ordinance".

### Sec. 1-1-3 Purpose and Intent

This Ordinance is adopted for the following purposes:

- To protect your rights not control them;
- To promote and protect the public health, safety, morals, comfort, convenience and general welfare;
- To minimize congestion in the public rights-of-way, promote safety from natural and man-made disasters, provide for adequate light and air, and avoid undue concentration of population;
- To facilitate the adequate, efficient and cost-effective provision of public services and facilities;
- To encourage the use of lands and natural resources in accordance with their character and adaptability by utilizing special land features, such as slope, topography, soils, vegetation, wetland areas and wildlife;
- To conserve the natural scenic beauty and attractiveness of the Town, and to enhance the aesthetic desirability of the environment;
- To divide the Town into zones within which the location , sizes and uses of buildings and minimum open spaces shall be regulated;
- To prohibit the use of buildings, structures and lands that are incompatible with the intended use or development of lands within the specified districts;
- To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this Ordinance;
- To provide for the compatible and appropriate use of land throughout the Town;
- To provide for the administration of this Ordinance and its amendments;
- To define the powers and duties of the officers and bodies charged to administer this Ordinance; and
- To describe penalties for the violation of provisions of this Ordinance or any of its amendments.

*TOWN OF DURAND ZONING ORDINANCE*

**Sec. 1-1-4 Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing private easements, covenants, deed restrictions or agreements, nor any ordinances, rules, regulations or permits previously adopted or issued pursuant to law except as provided in Sec. 1-1-7. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

**Sec. 1-1-5 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of the Town of Durand and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**Sec. 1-1-6 Severability**

If any provision of this Ordinance held to be invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

**Sec. 1-1-7 Amendment/Repeal**

The Town of Durand Zoning Ordinance is created by this enactment. All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

**Sec. 1-1-8 Effective Date**

This Ordinance shall take effect upon passage and adoption by the Town Board and the filing of proof of posting or publication in the Office of the Town Clerk.

**Sec. 1-1-9 Reserved for Future Use**

## Zoning Ordinance

### ARTICLE B: GENERAL PROVISIONS

#### Sec. 13-1-10 Establishment of Districts

For the purposes of this Ordinance, the Town of Durand is divided into six (6) zoning districts, designated as follows:

- General Agriculture (GA)
- Residential District (RD)
- Commercial District (CD)
- Commercial Residential District (CRD)
- General Rural Flexible (GRF)
- Agricultural Livestock Intensive (ALI)

#### Sec. 13-1-11 Zoning Map

The boundaries of the zoning districts enumerated in Sec. 13-1-10 are hereby established as shown on the “Official Zoning Map of the Town of Durand, Pepin County, Wisconsin” adopted and incorporated herewith by reference. The Official Zoning Map shall be on file and available for public inspection at the office of the Town Clerk, Town of Durand. The Official Zoning Map shall be revised promptly upon the approval of any zoning map amendment requests.

#### Sec. 13-1-12 Interpretation of District Boundaries

When uncertainty arises concerning the boundaries of the zoning districts, the following rules shall apply:

1. Where district boundaries are depicted as approximately following the center lines of streets, highways, or road right-of-way lines, or center lines of streams or drainage ways, such center lines shall be constructed to be such boundaries.
2. Where district boundaries are depicted as approximately following lot lines, such lot lines shall be constructed to be such boundaries.
3. Where district boundaries are depicted as running parallel to center lines of streets, highways or road right-of-way lines, such parallel lines shall be constructed to be such boundaries at a distance from the center lines that fulfills the intent of drawing such lines.
4. Where boundaries do not follow property lines and distances are not specified, boundaries shall be interpreted by the decision-making body.

#### Sec. 13-1-13 Relationship to County Zoning Ordinances

Where lands within the Town of Durand are also subject to Pepin County zoning regulations including, but not limited to bluffland, shoreland, wetland and floodplain zoning, the most restrictive regulations shall be applied (See General Code, County of Pepin, Wisconsin, Chapters 16 and 20).

#### Sec. 13-1-14 Uses Regulated

The following use restrictions and regulations shall apply:

- A. Principal uses. Only those principal uses specified for a district and their essential services shall be permitted in that district.
- B. Unclassified or unspecified uses. Unclassified or unspecified uses may be permitted by the Town Board after the Plan Commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.

**Sec. 13-1-15 Lot Size**

No lot shall be reduced in size such that the lot no longer complies with the minimum lot size requirements specified for the district in which it is located.

**Sec. 13-1-16 Height Requirements; Exceptions**

No structure shall hereafter be constructed or altered in such a way that it does not comply with the height, bulk, yard or setback requirements specified for the district in which it is located.

1. **Height Exceptions for Specific Buildings.** Churches, schools, hospitals and other public and quasi-public buildings may be erected to a maximum height of sixty (60) feet, provided that the front, side and rear yards required in the applicable district are each increased at least one foot for each additional foot of building height above the maximum height otherwise applicable in the district.
2. **Height Exceptions; Other Structures.** Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tanks, water towers, ornamental towers, spires, masts, accessory structures and improvements consistent with agricultural uses, power transmission poles and lines, and towers other than those regulated by Sec. 13-1-41 are excepted from the height requirements of this Ordinance.

**Sec. 13-1-17 Area and Bulk Requirements; Exceptions**

The minimum size of a residential structure shall be seven hundred and twenty, (720) square feet of living area. No part of a yard or other open space required in connection with any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another building. No accessory structure, or portion thereof, shall be erected or extended into a required yard except as allowed by Sec. 13-1-51, Accessory Uses and Structures. No principal structure, or portion thereof, shall be erected or extended into a required yard except for the following:

1. Fire Escapes. Open or enclosed fire escapes may project into a required yard not more than five (5) feet.
2. Customary Architectural Features. Cornices, belt coursed and other ornamental features may project into a required yard not more than one foot.
3. Bus Shelters. Bus shelters may be located within a required yard, so long as no portion of the structure is located within a road right-of-way.

**Sec. 13-1-18 One Principal Structure Permitted Per Lot**

No more than one principal structure shall occupy a single lot, except where a lot or tract is used for public, institutional, commercial or industrial purposes, or as provided in the General Agricultural District. In such cases, all buildings shall conform to all yard/setback requirements around the lot specified for the district in which the lot is located.

**Sec. 13-1-19 Frontage Requirements**

All lots shall have a minimum one hundred (100) foot frontage upon a public roadway or other officially approved means of access; however, in order to receive a building permit for construction of any principal structure the lot must comply with the 1:3 minimum lot width to length ratio requirements.

Lot frontage on the public roadway on a cul-de-sac may not be less than 50 feet provided that the width of the lot at the building setback is at least 100 feet.

**Sec. 13-1-20 Dedicated Roadway**

No permits shall be issued for a lot that abuts a public roadway dedicated to only a portion of its proposed width and located on that side of the roadway from which the required dedication has not been secured.

**Sec. 13-1-21 Lots Abutting More Restrictive Districts**

Except for lots in the Residential District (RD), lots abutting districts with more restrictive (i.e. greater) side yard requirements shall provide side yards no less than that required in the more restrictive district.

**Sec. 13-1-22 Mobile Structures Prohibited**

Except as provided in Sec. 13-1-40 for mobile homes, mobile structures or other vehicles for human occupancy are prohibited as principal or accessory structures or uses in all districts except as temporary offices for contractors on a construction site.

**Sec. 13-1-23 Site Regulations**

1. **Site Suitability.** No land shall be used or structure erected which is held unsuitable for any proposed use by the appropriate decision-making body for reason of flooding, inadequate drainage, soil and rock formations with severe limitations of redevelopment, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of current and future residents of the Town. In addition:
  - a. Each lot or dwelling unit shall be capable of meeting the requirements of the Pepin County Sanitary Code and the Wisconsin Administrative Code regarding the construction of on-site sewage disposal systems.
  - b. For the purposes of this ordinance, a deck shall be considered a part of the building or structure.
2. **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving the natural patterns of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1½) horizontal to one (1) vertical, within a distance of twenty (feet) from the property line, or which would alter existing drainage pattern to adversely impact abutting properties except with the written consent of the owner of the affected properties and with the approval of the appropriate decision-making body. All slopes shall be protected against erosion, and in no case shall any slope exceed the normal angle of slippage of the material involved.
3. **Public Sanitary Sewerage and Private Sewage Disposal Systems.** When a proposed use requires sanitary facilities and public sanitary sewer facilities are available to the lot, the applicant shall construct sanitary sewer facilities in such a manner as to make adequate public sanitary sewer service available to the lot. Where public sanitary sewer facilities are not available, private systems shall be constructed pursuant to applicable regulations of Pepin County and any applicable sanitary district.
4. **Water Supply Facilities.** When a proposed use requires potable water and public water supply facilities are available to the lot, the applicant shall construct water supply facilities in such a manner as to make adequate public water service available to the lot. When it is proposed to establish a private water supply system to serve the lot, the applicant shall construct water supply facilities to conform to all applicable regulations of the appropriate governing jurisdictions.

**Sec. 13-1-24 Floodplain, Wetland (FW) and Steep Slopes (SS)**

1. **Purpose.** The Floodplain, Wetland (FW) and Steep Slope (SS) Areas are 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 Durand. The (FW) and (SS) Areas were also created to accomplish the objectives contained in Ch. NR 115, Wis. Adm. Code. The floodplains and wetlands are shown on a general reference map (Exhibit 3) to depict the general location of the floodplains and wetlands. Floodplains and wetlands are regulated by the Wisconsin Department of Natural Resources and



FEMA, not the Town of Durand. This map is not to be considered an official map in any way, but exists to give the user reference as to the possible locations of the floodplains and wetlands. The regulations of the FW and SS Areas meet 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.

2. **General Protection Policies.** It is the policy of the Town of Durand 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 FW Areas have been established by the Wisconsin Department of Natural Resources and FEMA.
3. **Protected Area: Steep Slopes.** The purposes of regulating SS Areas are to promote safe conditions by preventing development that requires the placement of roads on steep inclines, providing access for emergency vehicle, minimizing erosion and negative visual impacts by preserving natural grades of the land, protecting visually prominent natural features by preserving ridgelines and other significant natural topographical features of hilly areas within the Town of Durand.
  - a. *Prohibited or Regulated Activities.*
    1. All quarrying, sand and gravel pits, and other nonmetallic mining activities are prohibited in the Regulated Area.
    2. The maximum final slope of a driveway, private road or roads to be dedicated to the public shall be no more than twelve (12) percent.
    3. No land with a slope of thirty (30) percent or greater over any distance of fifty (50) feet, will be disturbed for the purpose of constructing buildings or structures.
    4. Telecommunication towers will be regulated by the Pepin County Ordinance Code Chapter 22, Telecommunications Towers, Antennas, and Related Facilities.
    5. On lots with an average slope of fifteen (15) percent to thirty (30) percent, impervious surface shall not exceed ten (10) percent of the gross lot size.
    6. Removal of existing mature vegetation shall be minimized to the greatest extent possible.
    7. Grading shall create a naturally-sloped effect that conforms to the topography of the site. Disturbed areas shall be replanted with common vegetation.

**Sec. 13-1-25 through Sec. 13-1-29 Reserved for Future Use**

# Zoning Ordinance

## ARTICLE C: DISTRICT REGULATIONS

### Sec. 13-1-30 GENERAL PROVISIONS

1. **Jurisdiction.** The jurisdiction of this Ordinance shall include all lands and waters within the corporate limits of the Town of Durand.
2. **Compliance.** No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.
3. **Duties of the Zoning Administrator.** The Town Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue, after on-site inspection, all permits required by this Ordinance. The Zoning Secretary shall assist the Zoning Administrator in the administration and enforcement of the Ordinance. The Zoning Administrator shall further:
  - a. Maintain Records of all permits issued, inspections made, work approved, and other official actions.
  - b. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
  - c. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the Town Attorney in a manner specified by him.
  - d. Assist the Town Attorney in the prosecution of Ordinance violations.
  - e. Access to premises and structures by the Zoning Administrator shall be permitted during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.
  - f. Prohibit the use or erection of any structure, land or water until the Zoning Administrator has inspected and approved such use or erection.
  - g. Request Assistance and cooperation from the local law enforcement and Town Attorney as deemed necessary.
  - h. Attend all meetings of the Town Plan Commission and the Town Zoning Board of Appeals.
4. **Land Use Permit Required.** No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a land use permit from the Zoning Administrator, unless otherwise exempted pursuant to Section 13-1-30(5) of this Ordinance. Applications for a land use permit shall be sent to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:
  - a. Name and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
  - b. Description of the Subject Site by lot, block and recorded subdivision, or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - c. Plat or sketch showing the location, boundaries, dimensions, elevations, or where deemed appropriate by the Zoning Administrator, a location sketch drawn to scale. The scale shall not be smaller than 1" - 40. The plat or sketch shall show uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; offstreet parking, loading areas and drive-ways; existing highway

- access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat or sketch shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.
- d. A photocopy of Any Necessary Shoreland or Floodplain Zoning Permits secured from the Pepin County Zoning Office.
  - e. A Photocopy of any Necessary sanitary Permits secured from the Pepin County Zoning Office.
  - f. Additional Information as may be required by the Town Board, Plan Commission, or the Town Zoning Administrator.
  - g. A Land Use Permit in a residential district shall be granted or denied in writing by the Zoning Administrator within 9 working days of receipt of the application completed in compliance with this chapter. Business and industrial land use permits shall be granted or denied in writing within 31 calendar days of receipt of the application completed in compliance with this chapter. Conditional use permits shall be granted or denied in writing within 60 calendar days of receipt of the application completed in compliance with this chapter. Permits shall expire two (2) years\* after issuance unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.
5. **Uses Not Requiring A Land Use Permit.** No Land Use Permit shall be required for any of the following cases:
- a. For Building An Accessory Building less than 100 square feet in area.
  - b. For Any Improvement or alteration to an existing building less than 100 square feet in area which does not effect a change in use.
  - c. For Repairs that does not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.
  - d. However, any work that qualifies for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Ordinance.
6. **Certificate Of Compliance Required**
- a. No Vacant Land shall be occupied or used; and no building or premises shall be erected, altered, or moved, or create a change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until a certificate of compliance shall have been issued by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such certificate shall be applied for at the time of occupancy of, any land and/or building.
  - b. No building located in a commercial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new certificate of compliance by the Zoning Administrator. Such certificate for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner. Application for a certificate of compliance shall be made in the same manner as for a land use permit pursuant to Section 13-1-30(4) of this Ordinance.
7. **Conditional Use Permit Required.** See Section 13-1-75.
8. **Developers Agreement Required.** All development, which occurs in any commercial district, shall require the execution of a developer's agreement, which covers in some detail the manner, and methods by which the land will be developed. The Town Board may impose time limits for the completion of projects and may require the execution of an irrevocable letter of credit or other appropriate surety to guarantee that the project will be completed on schedule.
9. **Other Permits.** It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or county agency. This includes, but is not limited to, a flood land development permit from the Pepin County Zoning Office.
10. **Site Restrictions.** No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or

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\* Revised September 18, 2008 Ordinance No. 2

rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town Zoning Administrator, in applying the provisions of this section, shall in writing recite the particular facts upon which he bases his conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Town Plan Commission may affirm, modify, or withdraw the determination of unsuitability. In addition:

- a. All Lots shall abut upon a public street, and each lot shall have a minimum frontage of 85 feet at the standard highway setback (Section 13-1-55, Exhibit E2), except where a lot does not meet the required frontage but has access to a public street, and was a lot of record with the Pepin County Register of Deeds on January 1, 2006, such lot may be occupied by any permitted use of the Zoning District within which the lot is located, provided that such proposed use complies with all other applicable provisions of this ordinance.
  - b. All Principal Structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot in a zoning district that allows single family residential dwellings, except, however, that the Town Board may permit more than one principal structure to be located, erected, or moved onto a lot in a zoning district that allows single family residential dwellings,, when authorizing the issuance of a Conditional Use Permit for a conditional use or uses set forth in Sections 13-1-75 of this Ordinance.
  - c. Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Zoning Administrator as being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.
  - d. Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1-1/2 horizontal to 1 vertical within a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.
  - e. No Land Use Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
  - f. Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more\* than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.
11. The following use restrictions and regulations shall apply:
- a. Principal Uses: Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.
  - b. Accessory Uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this Ordinance.
  - c. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board after receiving a recommendation from the Plan Commission in accordance with Section 13-1-75 of this Ordinance.

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\* Revised September 18, 2008 Ordinance No. 2

- d. Unclassified or Unspecified Uses may be permitted by the Town Board provided that such uses are similar in character to the principal uses permitted in the district.
  - e. 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 Board.
  - f. Pets such as dogs and cats are permitted in a Residential District provided, however, that no premise shall be permitted to house or keep more than four (4) adult household pets. Adult household pets are those four (4) months of age or older.
12. **Use Restrictions.** The following use restrictions and regulations shall apply:
- a. Principal Uses: Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.
  - b. Accessory Uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this Ordinance.
  - c. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board after receiving a recommendation from the Plan Commission in accordance with Section 13-1-75 of this Ordinance.
  - d. Unclassified or Unspecified Uses may be permitted by the Town Board provided that such uses are similar in character to the principal uses permitted in the district.
  - e. 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 Board.
  - f. Pets such as dogs and cats are permitted in any district provided, however, that no premise in a Residential District shall be permitted to house or keep more than four (4) adult household pets. Adult household pets are those four (4) months of age or older.
  - g. Domestic Livestock may be kept on any parcel of land two and one-half (2½) acres or more in area, except in a recorded subdivision as defined in Chapter 236 of the Wisconsin Statutes, provided that not more than two (2) animal units shall be permitted for each two and one-half (2 1/2) acres of land. Livestock on existing farms, 20 acres or more in area, shall not be subject to the two (2) animal units per two and one-half (2 1/2) acre limitation.
  - h. Animal Units are defined under NR 243.11 in the Wisconsin Administrative Code (See Exhibit 4). Any future amendments, revisions and modifications of said NR 243.11 incorporated herein are intended to be made a part of this Ordinance.
  - i. Swimming Pools are a permitted accessory use in any district provide that:
    - 1. All swimming pools shall be surrounded by a fence not less than four (4) feet nor more than six (6) feet in height. Sidewalls of above-ground pools four (4) feet high may be used in lieu of a fence. As an alternative to a fence, an automatic pool cover may be utilized if it meets the standards of F1346-91 (Reapproved 1996) of the American Society of Testing and Materials (ASTM), as such standards may be modified, superseded or replaced by ASTM.
    - 2. Access to the swimming pool shall be controlled by a self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner or occupant is not present at the pool. For an aboveground pool, a tip-up ladder may be provided in lieu of a gate. Pools shall be covered when not in use if an automatic pool cover is utilized.
    - 3. Swimming pools shall not be constructed directly over or under electric transmission lines. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or the surrounding fence;
    - 4. No water drained from a swimming pool shall be discharged onto or into any on-site sanitary sewerage system or directly into a navigable body of water;
    - 5. No lighting installed around swimming pools shall throw any rays onto adjacent properties;

6. Swimming pools shall comply with the yard requirements for principal structures in the district in which they are located.
  - j. Abandoned Motor Vehicles and other Materials
    1. No disassembled, dismantled, junked, wrecked, inoperable or unlicensed vehicle shall be stored or allowed to remain in the open upon private property within the Town of Durand ten (10) days after receiving written notice from the Zoning Administrator to remove or enclose the same unless;
      - a. The vehicle is being held as a part of an automotive sales or repair business enterprise located within a properly zoned area;
      - b. Due to individual hardship a variance to keep the vehicle is obtained from the Board of Appeals, but such variance shall, if granted, not exceed one (1) year.
    2. The accumulation or storage of tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, junk, wood, brick, cement block or other unsightly debris which may tend to depreciate property values in the area or create a nuisance or hazard shall not be allowed on any lot or parcel of land within the Town of Durand, except as permitted in Section 13-1-75 operating under a Conditional Use Permit, or elsewhere if completely housed and out of public view.
  - k. Mobile Homes, Mobile Home Parks or trailer camps: See Section 13-1-40.
  - l. Gas and Electric Utility Uses which have been issued a Certificate of Public Convenience and Necessity pursuant to Section 196.491(3) of the Wisconsin Statutes are exempt from the requirements of this Ordinance, and shall not be required to obtain a Land Use Permit or Certificate of Compliance.
  - m. Storage of Motor Vehicles: The outdoor storage of an inoperable motor vehicle on a residential property shall not be permitted for more than two (2) weeks. The stored vehicles shall be in the sideyard, within the setbacks.
13. **Purpose and intent of zoning districts.** The following specifies the purpose and intent of each of the zoning districts established by this chapter.
- a. General Agriculture (GA). This district is established to maintain, preserve and enhance prime agricultural lands historically utilized for crop production. This district is also intended to provide farmland owners with additional management options by allowing limited residential development but with residential density limits set so as to maintain the rural characteristics of the district.
  - b. Residential (R). This district is established to provide for the densest residential development in the Town. The district is intended to be used where residential development is encouraged on lots without public sewer and water and in locations where such a density of development is compatible with surrounding uses. The district is intended to enhance residential areas by restricting nonresidential development.
  - c. General Rural-Flexible (GRF). This district is established to achieve the same objectives as the Residential (R) District but to allow a lower density of residential development to better preserve the rural character of the Town.
  - d. Commercial Residential (CRD). This zone is established to allow for residential growth without limiting the possibility of the development of home occupation growth. This district allows for the mixed use of commercial and residential zoning in the designated area. For various uses permitted in this district, see Exhibit 1.
  - e. Commercial (C). This district is established to provide for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods as well as the entire county. The purpose of the district is to provide sufficient space in appropriate locations for certain commercial and other nonresidential uses while affording protection to surrounding properties from excessive noise, traffic, drainage or other nuisance factors.
  - f. Floodplains and wetlands. This area is established to preserve, protect and enhance the Town's floodplains and wetlands. This district acts as an overlay district and is included within other zoning districts.

**TABLE OF LOT REQUIREMENTS: Table 1.1**

Zoning District	Minimum Lot Area (acres)	Maximum Residential Density	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)
General Agriculture	35	1 residential unit per 35 acres	See Sec. 13-1-31(10), GA Setbacks	See Sec. 13-1-31(10), GA Setbacks	See Sec. 13-1-31(10), GA Setbacks
Residential District	1.5	5 residential unit per 10 acres*	See Sec. 13-1-55, Highway Setbacks	25 principal structure, 10 accessory structure	10 but the sum of the widths on both sides shall be no less than 30
Commercial District	1	N/A	See Sec. 13-1-55, Highway Setbacks	N/A	N/A
Commercial Residential District	2	N/A	See Sec. 13-1-55, Highway Setbacks	15 for buildings up to 25' in height, 1 additional per additional 5' in height	10 but the sum of the widths on both sides shall be no less than 30
General Rule Flexible	2	1 residential unit per 10 acres	See Sec. 13-1-55, Highway Setbacks and Sec. 13-1-31(10) GA Setbacks	15 for buildings up to 25' in height, 1 additional per additional 5' in height	See Sec. 13-1-33 (8) Setbacks and Sec. 13-1-31(10) GA Setbacks

**\*Acreage in excess of 10 acres shall prorate the number of residential units in a per acreage basis and rounded up to the next whole number (e.g. 30 acres = 3 units; 25 acres = 2.5 units = 3 units).**

**Sec. 13-1-31 General Agricultural (GA)**

1. **Purpose.** The Town recognizes the importance of preserving prime agricultural lands for productive agricultural purposes. The General Agricultural District is created to establish and protect areas within which agricultural uses may exist and prosper free from future intrusion from residential development and other urban land uses. It is intended to avoid the operational conflicts which occur when farm and non-farm residential uses become interspersed and to reduce the adverse pressures upon farm livelihood caused by speculative land values and consequent increases in property tax levies upon farmlands. Areas within the GA District placed into the Farmland Preservation Program must adhere to the Farmland Preservation Program guidelines where those guidelines are more restrictive than the Town of Durand’s Zoning Ordinance. The specific purposes of the General Agricultural District are to:
  - Preserve productive agricultural land for food and fiber production;
  - Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs;
  - Maintain a viable agricultural base to support agricultural processing and related service industries;
  - Reduce costs of providing services to scattered non-farm uses;
  - Pace and shape growth;
  - Implement the provisions of the county agricultural plan as adopted and periodically revised; and
  - Comply with the provisions of Chapter 91, Wisconsin Statutes (Exclusive Agricultural Zoning) to permit eligible landowners to receive tax credits.
2. **Applicability.** The GA District includes agricultural lands historically exhibiting high crop yields, which generally consist of Class I, II, and III soil capability classes established by the United States Department of Agriculture, Natural Resource Conservation Service, and other lands that are integral parts of productive farm operations.

3. **Definitions Related to GA District.**

**GENERAL AGRICULTURAL DISTRICT.** The General Agricultural District is created to establish and protect areas within which agricultural uses may exist and prosper free from future intrusion from residential development and other urban land uses. It is intended to avoid the operational conflicts which occur when farm and non-farm residential uses become interspersed and to reduce the adverse pressures upon farm livelihood caused by speculative land values and consequent increases in property tax levies upon farmlands.

4. **Permitted Uses.** The following uses are permitted in the GA District:

- a. *Agricultural Uses.* General farming, including dairying, livestock and poultry raising, nurseries, greenhouses and other similar enterprises or uses except for farms operated of the disposal or reduction of garbage, sewage, rubbish or offal, provided that no greenhouses or buildings for the housing of livestock or poultry shall be located within 100' of any boundary of a residential lot other than that of the owner or lessee of such greenhouses or buildings containing such livestock or poultry. Agricultural use shall be limited to the following:
  1. General farming, including dairying, livestock and poultry raising, nurseries, greenhouses and other similar enterprises or uses except for farms operated of the disposal or reduction of garbage, sewage, rubbish or offal, provided that no greenhouses or buildings for the housing of livestock or poultry shall be located within 100' of any boundary of a residential lot other than that of the owner or lessee of such greenhouses or buildings containing such livestock or poultry.
  2. Agricultural Uses, including livestock facilities of less than 500 animal units, subject to compliance of standards set forth in Sec 13-1-31(10) of this ordinance.
  3. Single family residential dwellings occupied by at least one person or member of a family who earns a substantial part of his livelihood from farm operation on the parcel, contributes work which is substantially needed in the farm operation or is a parent, child or spouse of the farm operator, and structures accessory and secondary to such dwelling, provided that no more than 2 such dwelling units may be established with or without creation of separate parcels, upon a tract of land which existed as a single tract or parcel on the effective date of this chapter.
  4. Single family residential dwellings and related farm structures existing at the effective date of this Ordinance remaining after farm consolidation may be separated from the original farm parcel provided that the parcel and improvements conform with all regulations in Sections 30-1-31(7)(8) & (9). Such pre-existing uses located in areas subject to zoning in this Section which do not conform to the agricultural related status requirements shall not be subject to any limitations imposed or authorized under Section 59.97(10) of the Wisconsin Statutes and may be altered, repaired or rebuilt if destroyed, but are subject to setback, height and other dimensional requirements of this Section.
  5. Roadside stands selling only produce from the farm operation on the premises.
  6. Commercial feedlots that have fewer than five hundred (500) animal units.
  7. Chapter 93 of the State Statutes is hereby adopted and made part of this Ordinance with respect to agricultural uses. Any future amendments, revisions and modifications of said Chapter 93 incorporated herein are intended to be made a part of this Ordinance. Unless otherwise stated, all provisions under Sec. 13-1-31 of this Ordinance will be subject to the provisions set forth in Chapter 93 of the State Statutes.
- b. *Single Family Uses.* Single family residential dwellings occupied by at least one person or member of a family who earns a substantial part of his livelihood from farm operation on the parcel, contributes work which is substantially needed in the farm operation or is a parent, child or spouse of the farm operator, and structures accessory and secondary to such dwelling, provided that no more than 2 such dwelling units may be established with or without creation of separate parcels, upon a tract of land which existed as a single tract or parcel on the effective date of this chapter.
- c. *Agriculturally-Related Dwellings.* Dwellings that have a use consistent with agricultural use and that are occupied by any of the following:



1. An owner of the parcel;
  2. A person who, or a family at least one adult member of which, earns the majority of his or her gross income from conducting the farm operations on the parcel;
  3. A parent or child of an owner who conducts the majority of the farm operations on the parcel;
  4. A parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operations on the parcel.
- d. *Pre-Existing Dwellings and Residential Lots.* Pre-existing dwellings that do not conform to Sec. 13-1-30(4)(b) above may be continued in residential use and shall not be considered nonconforming uses under this Ordinance. Such pre-existing dwellings may be altered, repaired or rebuilt if destroyed but are subject to setback, height and other dimensional requirements. Residential lots of record held in separate ownership from adjoining lands at the date of the adoption of this ordinance may be used for new dwellings (one per lot of record), that shall then be classified as pre-existing dwellings.
- e. *Accessory Structures.* Accessory structures and improvements consistent with agricultural uses, and those consistent with dwellings as listed under Sec. 13-1-30(4)(b) above.
- f. *Accessory Uses.* Uses clearly related, but incidental to the primary farm operation such as seed and fertilizer sales, grain drying and repair of farm equipment.
- g. *Gas and electric utility* uses consistent with agricultural uses and not requiring authorization under Section 196.491, Wisconsin Statutes.
5. **Conditional Uses.** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any Conditional Use Permits in the GA District. Conditional Use Permits may be granted only for those uses outlined below that are consistent with agricultural uses. The following uses are allowed in the GA District upon the granting of a Conditional Use Permit:
- a. Religious, institutional, governmental and utility uses that are not permitted uses and are found to be locating in a GA District by necessity in light of alternative locations available for such uses.
  - b. Agricultural Uses, including livestock facilities of 500 or more animal units, subject to compliance of standards set forth in Sec 13-1-31(10) of this ordinance.
  - c. Community living arrangements serving nine (9) or more persons; day care homes for the care and supervision of nine (9) or more children.
  - d. A structure or improvement made incident to a lease for oil and natural gas exploration and extraction.
  - e. Farm dwellings and related structures, existing prior to the adoption of this Ordinance, that are separated from the farm lot after farm consolidation.
  - f. Home occupations other than those specifically defined in Sec. 13-1-30(4)(e) above.
  - g. The temporary, seasonal establishment of one (1) roadside stand per lot for the sale of produce grown on the premises shall be allowed without a temporary use permit.
  - h. Community living arrangements serving eight (8) or fewer persons; adult family homes; foster homes and treatment foster homes, subject to Section 60.63(3), Wisconsin Statutes; family day care homes.
  - i. Family farm businesses if limited to existing farm dwellings or structures or portions of the existing farmstead that are not dedicated to agricultural uses. No more than two (2) persons who are not members of the resident farm family may be employed in the family farm business. For purposes of this subsection, “family farm business” means any of the following:
    1. The purchase, sale, lease or rental of personal or real property;
    2. The manufacture, processing or marketing of products, commodities or any other personal property;
    3. The sale of services.
6. **Decision Criteria for Conditional Use Permits.** When reviewing Conditional Use application in the GA District, the Planning Commission shall consider the following criteria in addition to those set forth in Sec. 13-1-75(5) of this Ordinance when making a recommendation:
- a. The relationship of the application to the “Purposes” set forth above;

- b. The compatibility of, and/or potential conflict with existing agricultural uses;
  - c. The need of the proposed use to be located in the GA District;
  - d. The availability of alternative locations in districts other than GA District;
  - e. The agricultural productivity of the lands involved;
  - f. The acreage of productive agricultural land to be converted to non-agricultural use by the proposed use;
  - g. Whether adequate public facilities to accommodate the development presently exist or will be provided within a reasonable time;
  - h. Whether the provision of public facilities to accommodate development will place an unreasonable burden on the Town to provide them;
  - i. Whether the land proposed for rezoning is suitable for development;
  - j. Whether development will result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.
7. **Conditions That May Be Attached.** The following conditions may be attached to the granting of a Conditional Use Permit. A performance bond or other comparable form of security may be required to insure compliance with such requirements.
- a. Increased setbacks and yards;
  - b. Specifications for water supply, liquid waste, and solid waste disposal facilities;
  - c. Landscaping and planting screens;
  - d. Operational controls;
  - e. Erosion prevention measures;
  - f. Location of the use on the lot; and
  - g. Similar requirements found necessary to fulfill the purpose and intent of this ordinance.
8. **Minimum Lot Size.** The minimum lot size to establish a residence or farm operation shall be thirty-five (35) acres, with the following exceptions:
- a. The minimum lot size to establish a separate parcel for an additional residence for persons specified in Sec. 13-1-30(4)(c)(2)-(4) shall be one and one-half (1 1/2) acre.
  - b. Where an additional residence for persons specified in Sec. 13-1-30(4)(c)(2)-(4) is located on a farm without creating a separate parcel, the residence shall be at least one hundred (100) feet from other dwellings.
  - c. Lots with farm dwellings and related structures specified in Sec. 13-1-31(5) above shall be a minimum of 65,000 square feet and a maximum of five (5) acres.
9. **Height Limitations.** The maximum height for all residential structures shall be thirty-five (35) feet. The maximum height for all non-farm accessory structures shall be twenty (20) feet. There shall be no specific height limitation for any farm-related structures, except that the total height of any such structure shall not exceed .8 times its distance from the nearest lot line.
10. **Setbacks.** The minimum front yard for farm dwellings and accessory structures shall be in accordance with Sec. 13-1-55 of this ordinance.
- a. **General Setbacks (Applies to livestock structures)**
    - 1. **Property Lines:** Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 500 animal units, and a minimum of 200 feet from the property line if the livestock facility will have 500 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.
    - 2. **Public road right-of-way:** Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the public road right-of-way if the livestock facility will have fewer than 500 animal units, and 200 feet from the public road right-of-way if the livestock facility will have 500 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way.
    - 3. **Waste Storage Structure:** A new waste storage structure may not be located within 100 feet of a property line, or within 100 feet of the nearest point of any

public road right-of-way. A single new waste storage structure may be constructed closer to the property line of public road if a new structure is:

- Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
- No larger than the existing structure.
- No further than 50 ft. from the existing structure.
- No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 200 feet of a property line or road may not expand toward that property line or road.

4. Water quality and related setbacks:
  - a. Navigable Waters and Wetlands: A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under State Statutes Sec. 59.692, 61.351 or 62.231.
  - b. Floodplain: A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under Stat Statute Sec. 87.30.
  - c. Wells: All wells located within a livestock facility shall comply with chapters NR 811 and 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chapters NR 811 and 812, regardless of whether the livestock facility operator owns the land on which the wells are the alteration does not reduce the distance between the livestock structure and existing well.
5. Single-family residences: No single-family residence shall be constructed within 1,000 feet of livestock structure or building, including animal waster storage areas. This provision shall not apply to dwelling units that are accessory to a livestock facility.

11. **Rezoning from GA.** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any rezoning. When deciding on rezonings from GA to a different district classification, the Planning Commission shall consider the following:
  - a. Adequate public facilities to accommodate the development presently exist or will be provided within a reasonable time.
  - b. The provision of public facilities to accommodate development will not place an unreasonable burden on the Town to provide them.
  - c. The land proposed for rezoning is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas
  - d. The potential for conflict with remaining agricultural uses in the area.
  - e. The need of the proposed development location in an agricultural area.
  - f. The availability of alternative locations.
  - g. The productivity of the agricultural lands involved.
  - h. The location of the proposed development to minimize the amount of agricultural land converted.

**Sec. 13-1-32 Residential (RD) District.**

1. **Purpose and Characteristics:** The RD Residential District is primarily intended to provide for single-family residential development. Densities not to exceed one (1) unit per one and one-half (1½) acres of land. See Table 1.1: Table of Lot Requirements is intended to provide for high quality, year-round residential development in areas where the reasonable provision of municipal services is feasible. This District is designed to provide single-family homesites in those developing areas that offer “rural residential” amenities, services and facilities.

2. **Permitted Uses**
  - a. Single-family dwellings and essential services.
  - b. Farms and agricultural uses existing at the time of adoption of this Ordinance.
3. **Permitted Accessory Uses**
  - a. Private garages and carports.
  - b. Gardening, tool and storage sheds incidental to the residential use.
  - c. Home occupations and professional home offices.
  - d. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  - e. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.\*
4. **Conditional Uses**
  - a. See Sections Exhibit 1: District Use Classifications.
5. **Minimum Lot Size for Multi-Family Dwellings.** One and one-half (1½) acre. See Table 1.1 (found in Article C, District Regulations, 13-1-30(13), page 6): Table of Lot Requirements.
6. **Height Limitations for Principal Building.** Thirty-five (35) feet.
7. **Minimum Front Yard Setback.** See Sec. 13-1-55, Highway Setbacks.
8. **Minimum Side and Rear Yard Setbacks.** The minimum side yard setback shall be ten (10) feet; however, the sum of the widths of both side yards shall be no less than thirty (30) feet. The minimum rear yard setback shall be twenty-five (25) feet for a principal structure and ten (10) feet for an accessory structure.

**Sec. 13-1-33 Commercial Residential District (CRD).**

1. **Purpose.** The Commercial Residential District (CRD) is intended to provide for the orderly and attractive business development in appropriate locations which are compatible with residential development and does not exhibit intense active of other business districts. The CRD is also intended to provide for business and customer service establishments which serve the convenience and general retail needs of the Town. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscaping and development character and intensity of use, which is compatible with the rural character of the Town.
2. **Permitted Uses.**
  - Accounting, auditing and bookkeeping services.
  - Advertising agency services.
  - Antique stores.
  - Architectural services.
  - Art gallery.
  - Bakeries and bagel stores.
  - Barber shops and beauty shops.
  - Book stores.
  - Bridal stores.
  - Candy store.
  - Card stores.
  - Chiropractor services.
  - Collection and adjustment services.
  - Commodity contracts, brokers and dealer services.
  - Computer store.
  - Consumer and mercantile credit reporting services.
  - Dental services
  - Employment services.
  - Engineering services.
  - Florist (not including green houses).
  - Formal wear stores.
  - Fur store.

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\* Revised September 18, 2008 Ordinance No. 2

- Gift stores.
  - Hardware stores.
  - Health club store.
  - Hobby and craft shops.
  - Holding and investment services.
  - Insurance agents, brokers and services.
  - Interior design studios.
  - Jewelry stores.
  - Land surveying services.
  - Legal services.
  - Medical clinics.
  - Medical supply stores.
  - Musical instrument stores.
  - Office supply stores.
  - Optical stores.
  - Optometry services.
  - Osteopath services.
  - Personal credit services.
  - Public relations services.
  - Public service office (not including government offices).
  - Real estate agents, brokers and management services.
  - Security broker, dealers and flotation services.
  - Stenographer services.
  - Title abstracting services
  - Travel arrangement services.
  - Urban planning services.
3. **Permitted Accessory Uses.**
- a. Accessory garages for storage of vehicles used in conjunction with the business or for occupants of the premises.
  - b. Off street parking and loading areas
  - c. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker as a secondary use.
  - d. Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  - e. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.
4. **Conditional Uses.**
- a. Any permitted use with a drive-through.
  - b. Animal veterinary hospital.
  - c. Child day care facility.
  - d. Multi-family buildings.
  - e. Outdoor vending machine store.
  - f. Pet stores.
  - g. Pharmacies.
  - h. Stationary stores.
  - i. Studios for photography, painting, music, sculpture, dance or other recognized fine art.
  - j. Telephone stores.
  - k. Variety stores.
  - l. Weight loss stores.
5. **Minimum Lot Size.** Two (2) acres.
6. **Height Limitations for Principal Building.** Forty (40) feet.
7. **Minimum Front Yard Setback.** See Sec. 13-1-55, Highway Setbacks.
8. **Minimum Side and Rear Yard Setbacks.** The minimum side yard setback shall be ten (10) feet; however, the sum of the widths of both side yards shall be no less than thirty (30) feet. The minimum rear yard setback shall be fifteen (15) feet for buildings up to twenty-five (25) feet in height, plus one foot for each additional five (5) feet, or fractional portion thereof, in height.

**Sec. 13-1-34 General Rural Flexible (GRF) District.**

1. **Purpose.** This district has been established to maintain and enhance agricultural operations in the Town. The district provides for low-density residential development that is compatible with rural environment.
2. **Permitted Uses.**
  - a. Single-Family Dwellings and essential services.
  - b. Agricultural activities include:
    - The cultivation, harvesting, and sale of crops and related farm products.
    - The raising and sale of livestock or fowl, with associated pasture and barnyards.
    - Orchards, nurseries, greenhouses, and related horticultural uses.
    - Growing and sale of Christmas trees.
    - Agricultural structures such as barns, silo, storage sheds and stables.
    - Agricultural operations of four hundred (400) or fewer animal units.
  - c. Open space uses primarily passive:
    - Hiking and walking trails, picnic areas and similar uses.
    - Conservation of natural areas in their existing state.
    - Easements for access, drainage, sewer and water lines, or other public purposes.
    - Stormwater management facilities for the proposed development including detention and retention basins.
3. **Conditional Uses.** See Exhibit 1: District Use Classifications.
4. **Minimum Lot Size.** See Table 1.1 (found in Article C, District Regulations, 13-1-30(13), page 6): Table of Lot Requirements.
5. **Height Limitations for Principal Building.** See Sec. 13-1-31(9<sup>\*</sup>): Height Limitations (Ordinance 2)
6. **Minimum Front Yard Setback.** See Sec. 13-1-55: Highway Setbacks and 13-1-31(10) General Agricultural Setbacks.
7. **Minimum Side Yard Setbacks.** See Sec. 13-1-33(8): Setbacks and 13-1-31(10) General Agricultural Setbacks.

**Sec. 13-1-35 Commercial District (CD)**

1. **Purpose.** The Commercial District is intended to provide for the orderly and attractive business development in appropriate locations along arterial highways in the Town which can provide the necessary infrastructure and services. The Commercial District is also intended to provide for business and commercial service establishments which serve the convince and general retail needs of the Town, as well as establishments which are locally related to and dependent upon highway traffic or designed to serve the needs of such traffic. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscaping and development character and intensity of use, which is compatible with the rural character of the Town.
2. **Minimum Lot Size.** The minimum lot size to establish a commercial business in this district shall be one (1) acre.
3. **Permitted Uses**
  - Antique and collectors stores.
  - Appliance stores.
  - Architectural services.
  - Art gallery.
  - Bakeries and bagel stores.
  - Banks, credit unions, and savings and loan associations.
  - Barber shops and beauty shops.
  - Bath shops.

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\* Revised September 18, 2008 Ordinance No. 2

*TOWN OF DURAND ZONING ORDINANCE*

- Book stores.
- Bridal stores.
- Building supply stores excluding lumber yards.
- Business offices.
- Camera and photographic supply stores.
- Candy store.
- Chiropractor services.
- Clothing stores.
- Computer store.
- Delicatessen.
- Dental clinics.
- Drug stores.
- Engineering services.
- Equipment storage area.
- Florist.
- Fruit Stores.
- Fur store.
- Gift stores.
- Grocery stores.
- Hardware stores.
- Health store.
- Hobby and craft shops.
- Home and furnishings stores.
- Insurance and real estate offices.
- Investment services.
- Jewelry stores.
- Law offices.
- Reserved for future use.
- Meat Markets.
- Medical clinics.
- Musical instrument stores.
- Newspaper and magazine stores.
- Office supplies and business machine stores.
- Optical stores.
- Osteopath services.
- Paint, glass, and wallpaper stores.
- Plumbing and heating supplies.
- Self-service laundries and dry-cleaning establishments.
- Shoe stores and leather goods stores.
- Sporting goods stores.
- Taxidermy.
- Tobacco shops.
- Travel arrangement services.
- Urban planning services.
- Variety stores.
- Vegetable stores.
- Weight loss services.
- Or similar uses consistent and compatible with permitted uses as determined by the Town Board.

**4. Permitted Accessory Uses**

- a. Accessory garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
- b. Off street parking and loading areas.
- c. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker as a secondary use.

- d. Satellite dish antennas located on the roof of the principal structure or in the rear yard. e. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.
- 5. **Conditional Uses.** See Exhibit 1: District Use
  - a. Animal veterinary hospital.
  - b. Child day care facility.
  - c. Gasoline service stations, provided that all service islands and pumps shall meet the setback requirements.
  - d. Marinas
  - e. Motel and hotels
  - f. Multi-family buildings
  - g. Pet stores
  - h. Restaurants.
  - i. Taverns.
  - j. Theaters.
  - k. Permitted uses which exceed the site regulations by more than 10%.

**Sec. 13-1-36 Zoning Map**

- 1. **Purpose.** The Town of Durand is hereby divided into Zoning Districts as shown upon a map designated as the Zoning Map of the Town of Durand and made part of this Ordinance, and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.
- 2. **Map Changes.** The Official Zoning Map shall be kept current at all times. A change resulting from amendment to the district boundaries shall be shown on a detailed excerpt map showing the exact area of change which references shall be a part of the official amendatory ordinance and kept as a supplementary file record to the official map. The Official Zoning Map shall be corrected within 30 days of passage of the amendatory ordinance.
  - a. Any map change, or text amendment shall become effective upon passage and publication, except that where the amendment involves the provisions of this Ordinance regulating floodplains or wetlands under the terms of NR 116 or NR 117 of the Wisconsin Administrative Code, no such change or amendment shall become effective if disapproved by the Wisconsin Department of Natural Resources (WDNR), provided said department acts within 30 days of the Town's adoption of the proposed change or amendment. Notice of public hearing for any such change shall be sent not less than 10 days before the date of hearing to said WDNR.
  - b. Determination of Boundaries. District boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to the reasonable intent of this Ordinance.
- 3. **Boundaries.** Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section, or sixteenth section lines; or the centerlines of streets, highways, railways, or alleys.
  - a. The boundaries of the floodplain and wetland areas, as drawn on the general reference map, are intended to represent the edge of lake, stream, swamp, marsh, or other lands found to be in the floodplain as designated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).
    - 1. The location of floodplain boundaries is based on technical information contained in the Official FEMA Maps for Pepin County. Where a conflict exists between the floodplain limits shown on the flood insurance study maps and the general reference map, and/or actual field conditions, the elevations of the 100 year recurrence interval flood profile shall be the governing factor in locating the regulatory floodplain limits. Where flood profiles have not been prepared, other available evidence may be examined.
- 4. **Identification of Official Ordinance and Map.** The text of the official zoning regulations and the corresponding Official Zoning District Map shall be kept on file in the offices of the Town and



*TOWN OF DURAND ZONING ORDINANCE*

any other copies thereof shall be purely informational and shall not have the status of law. Said text and map shall be identified by the signature of the Town Board Chairman, attested by the Town Clerk. together with the date of the adoption of this Ordinance, under the following words: "This is to certify that this is the Official Zoning (Ordinance) (Map) referred to in Section 13-1-36 of the Town Zoning Ordinance, Town of Durand, Pepin County, State of Wisconsin.

**Sec. 13-1-37 through Sec. 13-1-39 Reserved for Future Use**

# Zoning Ordinance

## ARTICLE D: SPECIAL PROVISIONS

### Sec. 13-1-40 Manufactured Homes; Mobile Homes; Mobile Home Parks

1. **Purpose.** The Town Board finds that regulating the location and placement of manufactured homes and mobile homes is necessary to ensure that the siting of such units is aesthetically harmonious with the surrounding uses and preserves the general character and integrity of the neighborhood. Sec. 13-1-40 is not intended to address the commercial or industrial use of these units.
2. **Applicability.** Sec. 13-1-40 regulates the location and placement of manufactured homes and mobile homes, and the location, development and expansion of mobile home parks. A manufactured home, as defined by this Ordinance, shall be considered a Single-Family Dwelling, not subject to the provisions of Sec. 13-1-40, if it meets all of the following criteria:
  - a. The structure is located on an individual lot and taxed as an improvement to real property in the same manner as a conventionally-built, single-family dwelling;
  - b. The structure is connected to utilities and permanently installed on a foundation system in compliance with the applicable requirements of the Uniform Dwelling\* Code;
  - c. The structure is covered with an exterior siding material customarily used on conventionally-built, single-family dwellings that extends to the ground or, in the case of a solid concrete or masonry perimeter foundation, extends to the top of the foundation; and
  - d. The roof is constructed of shingles or other material customarily used for conventionally-built, single-family dwellings.
  - e. Width of structure can be no less than 20 feet.
3. **Locational Restrictions; Manufactured Homes and Mobile Homes.** Manufactured homes and mobile homes that do not meet the requirements in 13-1-40 2\* are permitted uses only in mobile home parks that are established and operated in compliance with Sec. 13-1-40(4) or in the North Half of the Northeast Quarter of the Northwest Quarter, Section 23, Township 25, Range 13 West.
4. **Mobile Home Parks**
  - a. *Locational Restrictions.* Mobile home parks are permitted uses only in the RD District upon receipt of a Site Plan Permit and a Conditional Use Permit, in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-75.
  - b. *Development Design Standards.* A mobile home park shall be designed and constructed to comply with the following standards:
    1. Site Preparation. Existing trees, rock formations and other natural site features shall be preserved to the extent practical. Mobile/manufactured home sites shall be fitted to the terrain with minimum site disturbance. The developer shall provide an approved potable water supply and public sewer or a private sewage collection and treatment system that meets all state, county and Town requirements.
    2. Minimum Lot Size. The minimum lot size for a mobile home park shall be ten (10) acres.
    3. Minimum Front Yard for Mobile Home Park. See Sec. 13-1-55, Highway Setbacks.
    4. Minimum Side and Rear Yards for Mobile Home Park. Twenty-five (25) feet.
    5. Recreation Areas. A minimum of eight (8) percent of the gross area of the mobile home park shall be devoted to recreational areas and facilities.
    6. Driveway Standards. Each mobile/manufactured home site shall abut a driveway that conforms to town road standards.

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\* Revised September 18, 2008 Ordinance No. 2

7. **Site Density and Spacing.** The maximum gross density of mobile/manufactured home sites shall be five (5) sites per acre. Each mobile/manufactured home site shall be clearly defined and shall accommodate no more than one mobile/manufactured home and one accessory structure.
  - i. **Minimum Site Size.** Five thousand (5,000) square feet per mobile/manufactured home site.
  - ii. **Maximum Site Coverage.** Thirty (30) percent of site area for mobile/manufactured home and accessory structure.
  - iii. **Minimum Yard Requirements.** The minimum allowable yards between mobile/manufactured homes, between mobile/manufactured homes and lot lines, or between mobile/manufactured homes and enclosed appurtenances shall be ten (10) feet front yard, twenty (20) feet side yards, and fifteen (15) feet rear yard.
8. **Skirting.** Mobile/manufactured homes shall have around their perimeters a continuous skirting material of wood, metal or masonry extending from the bottom of the home to the finished grade of the home stand, with open space(s) only as necessary to allow for necessary utility lines, hitches or other appurtenances.
9. **Offices and Management Residences.** One permanent residence and attached office is permitted within park boundaries for a resident manager and his/her immediate family members.
10. The road needs to meet town road standards.

**Sec. 13-1-41 Personal Wireless Service Facilities (See Pepin County Ordinance Code Chapter 22, Telecommunications Towers, Antennas, and Related Facilities)**

(Cr. Ord. No. 179, Am. #28, § 2, 12-20-00)

**Sec. 13-1-42 Quarrying, Sand and Gravel Pits, Nonmetallic Mining (See Pepin County Ordinance Code Chapter 24, Nonmetallic Mining Reclamation and Town of Durand Nonmetallic Mining Ordinance Section 1.)**

(Cr. Ord. No. 179, Am. #32, 7-18-01)

**Sec. 13-1-43 Adult-Oriented Establishments**

1. **Purpose.** The Town Board finds:
  - a. Adult-oriented establishments require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of the Town;
  - b. Adult-oriented establishments may not be used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature;
  - c. It has been found in Milwaukee and Kenosha Counties, Wisconsin; Chattanooga, Tennessee; Newport News, Virginia; and Marion County, Indiana, to name a few locales, that the viewing booths in adult-oriented establishments have been and are being used by patrons for engaging in sexual acts, particularly between males, including but not limited to, intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions in said booths;
  - d. Acquired Immune Deficiency Syndrome (AIDS) is a sexually-transmitted disease that destroys the body's immune system, and has no known cure;
  - e. Statistics from the State of Wisconsin have indicated an increase in the number of AIDS cases in the state;
  - f. The concern over sexually-transmitted diseases is a legitimate health concern of the Town that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the Town;

- g. Licensing is a legitimate means of accountability to ensure that operators of adult-oriented establishments comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation;
- h. Adult-oriented establishments, because of their very nature, have a deleterious effect on both the existing establishments around them and the surrounding residential areas adjacent to them;
- i. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area;
- j. The Town Board wants to prevent these adverse effects and thereby protect the health, safety, and welfare of Town residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;
- k. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments; and
- l. It is not the intent of the Town Board to condone or legitimize the distribution of obscene materials, and the Town Board recognizes that state and federal laws prohibit the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities in the Town of Durand.

**2. Definitions Related to Adult-Oriented Establishments**

**ADULT BOOKSTORE:** An establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.

**ADULT ENTERTAINMENT:** Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

**ADULT MOTION PICTURE THEATER:** An enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.

**ADULT-ORIENTED ESTABLISHMENT:** Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

**BOOTHS/CUBICLES/ROOMS/COMPARTMENTS/STALLS:** Enclosures that are specifically offered to the public or members of an adult-oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "booth," "cubicle," "room," "compartment," or "stall" does not mean such enclosures that are private offices used by the owners, managers, or persons employed on the premises for

attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any person other than employees, nor shall this definition apply to hotels, motels, or other similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.

*OPERATORS:* Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

*SPECIFIED ANATOMICAL AREAS:* Less than completely and opaquely-covered human genitals, pubic region, buttocks, female breasts below the point immediately above the top of the areola; or, human male genitals in a discernible turgid state, even if opaquely covered.

*SPECIFIED SEXUAL ACTIVITIES:* Simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado masochistic abuse, fellatio, or cunnilingus; or (c) fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

3. **License.** Except as provided below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the Town without first obtaining a license to operate issued by the Town Board. A license may be issued only for one adult-oriented establishment located at a fixed and certain location. Any person who desires to operate more than one adult-oriented establishment must have a license for each. No license or interest in a license may be transferred to any person. All adult-oriented establishments existing at the time of the passage of this ordinance must submit an application for a license within ninety (90) days of the passage of this ordinance. A license fee in an amount established by the Town Board shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned. A license renewal fee in an amount established by the Town Board shall be submitted with the application for renewal. A license must be renewed every year.
4. **Application for License.** Any person desiring to secure a license shall make application to the Town Clerk. The applicant for a license shall furnish the following information under oath:
  - a. the name and address of the intended operator;
  - b. the name and address of the owner of the premises if different from the operator;
  - c. the name and address of the adult-oriented establishment to be operated by the applicant;
  - d. written proof that the individual is at least eighteen (18) years of age;
  - e. the address of the adult-oriented establishment to be operated by the applicant;
  - f. if the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agents, and the name and address of all shareholders owning more than five (5) percent of the stock in such corporation and all officers and directors of the corporation;
  - g. if the establishment is in operation, the date on which the owner acquired the establishment for which the license is sought. The date on which the establishment began operations as an adult-oriented business at the location for which the license is sought;
  - h. if the establishment is a corporation, a certified copy of the Articles of Incorporation and a certified copy of a certificate of good standing disclosing that the corporation is authorized to transact business in the State of Wisconsin;
  - i. proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of a recorded deed; and
  - j. if the operator is not the fee owner of the tract of land, then the lease, purchase contract, purchase option contract, lease option contract, or other documents evidencing the legally-enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract of land for the establishment.
5. **Issuance of License.** The Town shall approve the issuance of a license to the applicant within forty-five (45) days after receipt of the application unless the Town finds one or more of the following to be true:
  - a. the applicant is under eighteen (18) years of age;
  - b. the applicant or the applicant's spouse is overdue in the payment of Town taxes, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to an adult-oriented establishment;
  - c. the applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application;

- d. the applicant is residing with a person who has been denied a license by the Town to operate an adult-oriented establishment within the preceding twelve (12) months, or residing with a person whose license to operate an adult-oriented establishment has been revoked within the preceding twelve (12) months;
  - e. the premises to be used have not been approved by the Zoning Administrator, Fire Department, or any other local, state, or federal official as being in compliance with applicable laws, regulations and ordinances;
  - f. the fee required by this ordinance has not been paid; or
  - g. any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.
6. **Hearing.** The Town Board, before revoking or suspending any license, shall give the operator at least ten (10) days' written notice of the charges against him and the opportunity for a public hearing before the Town Board or its designated committee.
7. **Transfer.** The transfer of a license or any interest therein, shall automatically and immediately revoke the license.
8. **Inspection.** Any applicant or licensee shall permit representatives of the County Sheriff's Department, County Health Department, Town Fire Department, Zoning Administrator, or other Town or state departments or agencies to inspect the premises of an adult-oriented establishment for the purpose of ensuring compliance with this ordinance and all relevant state and federal laws.
9. **Locational Restrictions.** An adult-oriented establishment shall be permitted within the Town of Durand only in the CD District upon receipt of a Site Plan Permit and a Conditional Use Permit in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-75, and only if it meets all of the locational requirements set forth in below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is or is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult entertainment business is or is to be separated.
- a. Adult-oriented establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.
  - b. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple or other place of religious assembly.
  - c. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public or private school offering general education for students between the years kindergarten through twelfth grade.
  - d. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any day care home or family day care home.
  - e. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public park or playground. For purposes of this Section, bike paths, trails, waterways and boat launches shall not be deemed to be a public park.
  - f. Adult-oriented establishments shall be prohibited from locating within one thousand (1,000) feet of any other adult entertainment business.
  - g. Adult-oriented establishments shall be prohibited from locating within one thousand (1,000) feet of any existing establishment selling alcoholic beverages for consumption on premises.
10. **Development Design Standards.**
- a. *Exterior.* It shall be unlawful for an owner or operator of an adult-oriented establishment:
    1. to allow the merchandise or activities of the establishment to be visible from a point outside the establishment;
    2. to allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by this ordinance;
    3. to allow exterior portions of the establishment to be painted in a color other than a single color.
  - b. *Signage.* The operator shall comply with Sec. 13-1-53, Signs. In addition, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

- c. *Booth/Room/Cubicle.* Any adult-oriented establishment having available for customers, patrons, or members, in a booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:
  1. Each booth, room, or cubicle shall be totally accessible to and from isles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock, or other control-type devices;
  2. Every booth, room, or cubicle shall meet the following construction requirements:
  3. Each booth, room or cubicle shall be separated from adjacent booths, rooms, or cubicles and any non-public areas by a wall;
  4. Have at least one side totally open to a public lighted isle so that there is an unobstructed view at all times of anyone occupying the same;
  5. All walls shall be solid and without any openings, extended from floor to a height of not less than six (6) feet and be light-colored, non-absorbent, smooth textured and easily cleanable;
  6. The floor must be light-colored, non-absorbent, smooth textured and easily cleanable;
  7. The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
  8. Only one individual shall occupy a booth, room, or cubicle at any time. No occupants shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.
11. **Responsibilities of the Operator.** Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
12. **Minors.** It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished either a valid operator's drivers license or a valid personal identification certificate issued by a State reflecting that the person is eighteen (18) years of age or older.
13. **Hours of Operation.** An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to 12 midnight, seven days a week.
14. **Nonconforming Adult-Oriented Uses.** Any business lawfully operating on the effective date of this ordinance that is in violation of the locational or structural configuration requirements of this ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period of not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. The non-conforming use is required to submit an application for a permit and otherwise comply with the requirements of this ordinance.

#### **Sec. 13-1-44 Home Occupations**

1. **Purpose.** The purpose of Sec. 13-1-44 is to provide regulations for limited commercial uses conducted by a homeowner that are compatible with the surrounding properties. Any commercial uses of greater intensity than those contemplated by Sec. 13-1-44 shall require a rezoning or relocation of the commercial use to an appropriately-zoned site.
2. **Applicability/Restrictions.** A home occupation may be carried on as a permitted use within a dwelling or accessory building by a member of the family residing on the premises if it complies with the following standards:

- a. The home occupation shall be clearly incidental and subordinate to the use of the premises as a residence or customary farming operation;
  - b. An accessory structure shall not be dedicated exclusively to the home occupation;
  - c. Only two persons who do not reside on the premises, but are employed in connection with the home occupation, may be present on the premises at one time;
  - d. No internal or external alterations to the residential structure are necessary in order to carry on the home occupation, including, but not limited to, the creation of a separate or exclusive business entrance;
  - e. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference in excess of that generally associated with a residential use;
  - f. The home occupation shall not be of the type that will generate automobile traffic in excess of that generally associated with a residence or customary farming operation;
  - g. The number of motor vehicles dedicated exclusively for use in connection with the home occupation shall be limited to one;
  - h. The outdoor display or storage of goods, materials, supplies or equipment visible from other properties or a public right-of-way shall not be allowed;
  - i. Off-street parking shall be available for all visitors and any employee.
3. **Existing Home Occupations.** Nonconforming home occupations that were established legally prior to the enactment of this Ordinance may be continued as legal nonconforming home occupations.

**Sec. 13-1-45 Campgrounds, Camping Resorts, Recreational Vehicle Parks**

1. **Purpose.** The Town Board finds that regulating the location and placement of campgrounds, camping resorts and recreational vehicle parks is necessary to ensure that the siting of such uses is aesthetically harmonious with the surrounding uses, preserves the general character and integrity of the neighborhood, and promotes the safety of Town residents.
2. **Applicability.** Sec. 13-1-45 is designed to regulate lands used for the purpose of temporary occupancy by tourists and campers for camping by the use of recreational vehicles, tents or temporary camping shelters, subject to the provisions set forth below.
3. **Definitions Related to Campgrounds.**

*CAMPGROUND:* Any publicly or privately owned parcel or tract of land accessible by a motor vehicle and which is designed, maintained, intended or used for the purpose of temporary occupancy by campers using recreational vehicles, tents or other temporary camping shelter and which is open to the public and designated as a camping area and set aside for free or paying camping purposes. The term Campground shall include camping resorts and recreational vehicle parks.

*CAMPSITE:* Any area within a campground delineated to be occupied by a single recreational vehicle, tent or other temporary camping shelter.

*RECREATIONAL VEHICLE:* A portable structure designed to be used as a temporary dwelling for travel, recreational or vacation uses. A Recreational Vehicle shall include those structures built directly on the chassis of a motor vehicle, designed to be mounted on the chassis of a motor vehicle or designed as an independent, wheeled vehicle to be towed by a motor vehicle.

*TEMPORARY OCCUPANCY:* For the purposes of Sec. 13-1-45, Temporary Occupancy means the occupying of a campsite by a recreation vehicle, tent or other temporary camping shelter for a cumulative period not to exceed sixty (60) days in any twelve (12) month period, whether or not such recreation vehicle, tent or temporary camping shelter is inhabited during any of such time period.
4. **Locational Restrictions.** Campgrounds shall comply with all of the following locational restrictions:
  - a. Campgrounds are permitted uses only in the GRF District upon receipt of a Site Plan Permit and a Conditional Use Permit, in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-75.
  - b. Campgrounds shall be prohibited in or within three hundred (300) feet of any zoning district that allows single-family, two-family or multiple-family dwellings as a permitted use.



5. **Development Design Standards.** A campground shall be designed and constructed to comply with the following standards:
  - a. **Minimum Lot Size.** The minimum lot size for a campground shall be five (5) acres.
  - b. **Minimum Front Yard for Campground.** See Sec. 13-1-55, Highway Setbacks.
  - c. **Minimum Side and Rear Yards for Campground.** Forty (40) feet.
  - d. **Site Density and Spacing.** The maximum gross density of campsites shall be fifteen (15) sites per acre. Each campsite shall be clearly delineated.
    1. **Minimum Campsite Dimensions.** Twenty-five (25) feet wide by forty (40) feet long per campsite.
    2. **Maximum Campsite Separation.** Each campsite shall be separated from other campsites by an area no less than fifteen (15) feet wide
  - e. **Compliance with Wisconsin Administrative Code.** Campgrounds shall comply with the requirements of Chapter HFS 178, Wisconsin Administrative Code, as may be amended from time to time.
6. **Camping Outside Designated Campgrounds; Limitations.** The use of recreational vehicles or other camping shelters for temporary habitation on any public or private lands within the Town other than designated campgrounds is limited to a cumulative period not to exceed thirty (30) days in any twelve (12) month period.

**Sec. 13-1-46 through Sec. 13-1-49 Reserved for Future Use**

## Zoning Ordinance

### ARTICLE E: REGULATIONS APPLYING TO ALL DISTRICTS

#### Sec. 13-1-50 Nonconforming Uses, Structures and Lots

1. **Purpose.** The purpose of this subsection is to provide for the gradual elimination of nonconforming uses and structures by allowing short-term maintenance and improvement, but not expansion of nonconformities.
2. **Applicability.** Sec. 13-1-50 shall apply to uses, structures and lots that become nonconforming as a result of the enactment of this Ordinance, or any subsequent amendments.
3. **Nonconforming Uses of Land.** A nonconforming use of land may be continued, provided that:
  - a. The use is not enlarged, increased, or extended to occupy a greater area of land or structure than was occupied on the date of adoption of this Ordinance;
  - b. If it is replaced by a conforming use, the nonconforming use may not thereafter be resumed;
  - c. If a nonconforming use ceases for a period of more than twelve (12) months the subsequent use of the land shall be conforming.
  - d. Changes in tenancy, ownership or management of a nonconforming use are allowed, provided there are no changes in the nonconforming use unless those changes bring the use into compliance.
4. **Nonconforming Structures.** A nonconforming structure may remain and be used, provided that:
  - a. The structure is not enlarged or altered so as to increase its nonconformity;
  - b. If moved, the structure shall be made to conform to regulations of this Ordinance; and
  - c. If the structure is damaged or destroyed by more than fifty (50) percent of its replacement value, as determined by the Zoning Administrator, the structure must be reconstructed in compliance with the requirements for the zone in which it is located. When a structure is damaged or destroyed by fifty (50) percent or less of its replacement value, a nonconforming structure may be repaired or reconstructed and used as before the time of damage, provided a building permit is obtained and restoration is begun within one year from the date of destruction
5. **Nonconforming Lots.** Any nonconforming single lot, tract or parcel of land that was lawfully created and recorded prior to the adoption of this Ordinance may be used for the purposes permitted by this Ordinance, notwithstanding the minimum lot area, lot width and lot depth required. Any nonconforming lot in common ownership with a contiguous lot on the date of adoption of this Ordinance shall not be used for purposes permitted by this Ordinance unless the lot is combined with the contiguously owned lot and/or combined in a manner adequate to comply with the required minimum lot area, lot width and lot depth as specified for the zone in which the lot is located; provided, that this provision shall not apply to lots in final plats filed prior to the date of adoption of this Ordinance, or lots that contain a dwelling. The owner of combined lots shall apply for a boundary line adjustment to remove boundary lines that are shared by contiguous lots, or to redraw boundary lines so that all contiguous lots become conforming lots.

#### Sec. 13-1-51 Accessory Uses and Structures

1. **Purpose.** The authorization and limitation of specific accessory uses and structures in appropriate districts is necessary in order to limit the potential impacts of those uses and structures on neighboring properties.
2. **Applicability; Authorization.** Accessory uses and structures are permitted in any district in connection with any principal use lawfully existing within such district. If a use is allowed as a principal use, such use is also permitted as an accessory use with the same requirements as the principal use (e.g. a Conditional Use Permit may be required). The limitations set forth in this subsection do not apply to accessory uses and structures consistent with agricultural uses in the GA District.

3. **Principal Use/Structure In Place.** A stand alone accessory building prior to construction of a primary structure (Residential) may be permitted only after a plan with specifications is approved by the Planning Commission.
4. **Attached Accessory Buildings.** Where the accessory building is physically attached to the principal building, it shall be considered to be part of the principal building and subject to all bulk requirements applicable to the principal building.
5. **Detached Accessory Buildings.** Except as provided in Sec. 13-1-17, the following restrictions apply to detached accessory buildings.
  - a. Detached accessory buildings shall not occupy any portion of the front yard in a platted subdivision<sup>\*</sup>.
  - b. Detached accessory buildings shall not be located within five (5) feet of the principal building or another accessory building. If detached accessory building is within ten (10) feet of principal building or another accessory building, it must meet the fire separation requirements of Comm 21.08 of the Wisconsin Uniform Dwelling Code<sup>\*</sup>.
  - c. Detached accessory buildings shall not exceed twenty feet in height<sup>\*</sup>.
6. **Permitted Accessory Structures.** Permitted accessory structures include, but are not limited to, the following:
  - a. Private drives, driveways, parking lots, and detached garages, pole buildings, storage sheds, carports, canopies, loading docks, decks and patios.
  - b. Children's' playhouses, gazebos or similar structures.
  - c. Tennis courts, basketball courts or similar recreational facilities limited to use by the occupants of the principal building and their guests.
  - d. Earthen fill placed against the outer walls of the principal building to enhance the energy efficiency of the structure.
  - e. Dumpsters or other refuse containers on commercial or industrial properties, provided that such facilities are located in the rear of the principal building.
  - f. Radio, amateur radio, dish and television antennas not exceeding sixty (60) feet in height, provided:
    1. Roof-mounted antennas in residential zones shall not extend higher than thirty (30) feet above the peak of the roof;
    2. The antenna, including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize its visible impact on surrounding properties and from public rights-of-way.
    3. Antennas shall be installed to meet all structural specifications of the manufacturer. All components and materials shall be noncombustible and corrosive-resistant.
  - g. Fences, subject to the following restrictions:
    1. Setback Requirements. Fences may be placed within the front, side or rear yard, except that solid fences greater than three (3) feet in height shall not be placed anywhere in the front setback area as extended to the side lot lines.
    2. Materials. Barbed wire and electric fences are prohibited except in the GA, GRF, and RD parcels of four (4) acres or more, and as part of security fences in other districts, provided that, when used as part of a security fence, barbed wire shall not be less than seven (7) feet above ground level.
    3. Sound Barrier/Privacy Fences. Sound barrier/privacy fences built along back or side yard lot lines to prevent sound penetration from abutting roadways shall not be more than eight (8) feet in height in agricultural and residential districts and not more than twelve (12) feet in height in business and industrial districts.
    4. Vision Clearance. All fences shall be erected so as to comply with Sec. 13-1-54, Vision Clearance Standards.
    5. All other requirements under this section will follow the provisions set forth in Chapter 90 of the State Statutes.

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<sup>\*</sup> Revised September 18, 2008 Ordinance No. 2

**Sec. 13-1-52 Off-Site Impacts of Nonresidential Uses**

1. **Purpose.** The regulations of this subsection are designed to protect residential structures from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards and nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past.
2. **Noise.** No operation or activity shall transmit any noise exceeding 70 dBA from 7:00 a.m. to 10:00 p.m. and 60 dBA from 10:00 p.m. to 7:00 a.m. The following are exempt from these regulations:
  - a. Noises from temporary construction or maintenance activities during daylight hours;
  - b. Noises from emergency, safety or warning devices;
  - c. Noises not directly under the control of the property owner.
  - d. Seasonal agricultural uses.
3. **Vibration.** Continuous, frequent, or repetitive vibrations that exceed 0.002g peak may not be produced. In general, this means that a person of normal sensitivities should not be able to feel any vibrations. The following are exempt from these regulations:
  - a. Vibrations lasting less than five (5) minutes per day;
  - b. Vibrations from temporary construction or maintenance activities and vehicles which leave the site; however, vibrations from primarily on-site vehicles and equipment are not exempt. Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration.
4. **Odor.** Continuous, frequent, or repetitive odors may not be produced. The odor violation threshold is the point at which an odor is detectable at the property line. However, an odor detected for less than 15 minutes per day is exempt. Odor measuring equipment may be used for measurements when there are doubts about the level of odor. Scentometer reading No. 0 is generally the point at which an odor is detectable. Scentometer No. 0 is 1 to 2 dilutions of clean air. Odor will also be regulated by Section 93.90 of the State Statutes and rule ATCP 51.
5. **Glare, Lighting.** Glare is illumination caused by all types of lighting and from high temperature processes such as welding or metallurgical refining. Glare may not cause illumination, either directly from the source, or indirectly from reflection, visible from another property. All light sources shall be hooded or shielded so that the lamp is not visible from adjacent properties or public rights-of-way. Strobe lights are not permitted in any cases. However, typical farm yard lights are exempt. Light measuring equipment may be used for measurements when there are doubts about the level of illumination. 0.5 foot candles of light, measured at the property line, is the presumptive level of violation.

**Sec. 13-1-53 Signs**

1. **Purpose.** Regulate signage in the Town of Durand.
2. **Sign Standards.** Signs may be displayed under the following conditions:
  - a. If a sign takes up more than 15 square feet on any side, and not affixed flat against a building, a permit must be obtained prior to installation of the sign.
  - b. Any permanent structured signs or signs stationary for 60 days or greater that are not affixed flat against a building, must be by permit only.
  - c. Signs that do not require a permit:
    1. Real estate signs not exceeding eight square feet in area which advertise the sale, rental, or lease of the premises upon which the signs are temporarily located;
    2. Name, occupation, and warning signs not exceeding two square feet located on the premises;
    3. Official signs, such as traffic control, parking restrictions, information, and notices;
    4. Temporary signs not exceeding 15 square feet advertising on-premises sale of agricultural products in the GA, and GRF District; and
    5. Political campaign signs during campaign for elected office.

**Sec. 13-1-54 Access, Spacing and Vision Clearance Standards on Town Roads**

1. **Purpose.** This Section sets forth vehicular access and vision clearance requirements for all developments along roadways located within the Town. The Town recognizes that public roadways are public investments that require control mechanisms in order to assure both public safety and functional capacity. All private access points shall meet the requirements set forth in this Section.
2. **Applicability.** Entrances to, or exits from a Town road shall be prohibited except at permitted access points. No person shall construct an access point for a private driveway, public road or road to be dedicated to the public to a Town road unless a zoning\* permit has been obtained from the Zoning Administrator. Before any parcel of land is allowed to be developed, it must be proven that access can be provided in such a way that it will not violate the provisions of this Section. Vehicular access to Federal, State and County Trunk Highways shall be allowed as provided by the governing jurisdiction (i.e. access to County Trunk Highways is governed by Pepin County).
3. **Access Standards.** When a property owner owns more than one parcel adjacent to another with the same zoning, all with frontage on the Town road, the parcels shall be treated as a single parcel for purposes of this subsection. In the case of corner lots abutting two Town roads, regardless of parcel zoning and proposed use, access shall be granted to the Town road with the lower average daily traffic (ADT) whenever possible
  - a. **Parcels Zoned GA, RD, CD, or CRD.** Multiple access points for parcels zoned GA, RD, CD, and CRD are permitted so long as the horizontal distance between the center lines of access points meet the spacing standards set forth below.
  - b. **Parcels Zoned CD or CRD.** Parcels zoned CD or CRD are allowed one access point per fifty (50) required parking spaces. Each access point must meet the criteria of this Section. Access points must provide for safe, efficient movement of traffic by allowing vehicles to enter and exit the roadway in a forward motion.
4. **Spacing Standards.** Except in a platted subdivision, access points shall not be allowed when the horizontal distance between the center lines of the proposed access point and an existing access point, or between the center lines of the proposed access point and an existing intersection would be less than seventy five (75) feet\*.
5. **Stopping Sight Distance Standard.** Access points shall not be allowed unless the applicant can demonstrate that the location of the access point complies with the stopping sight distance standards set forth in Exhibit E1. The stopping sight distance is a function of the Town road speed limit and road curvature (horizontal and vertical). A person standing fifteen (15) feet back from the intersection of the access point center line with the Town road right-of-way shall have an unobstructed view of persons standing in the center of the nearest oncoming lane of the Town road in each direction.

**EXHIBIT E1: STOPPING SIGHT DISTANCE FOR DRIVEWAY LOCATION**

Speed Limit on Town Road (miles per hour)	Minimum Sight Distance Required (“D”)
25	150'
30	200'
35	250'
40	325'
45	400'
50	475'
55 or greater	600'

\* Revised September 18, 2008 Ordinance No. 2

6. **Design Standards.** Access points must comply with the following design standards:
  - a. **Private Driveways.** Private driveways with access to one or two agricultural or residential parcels shall have a minimum width of fourteen (14) feet and a minimum return radius of twenty (20) feet.\*.
  - b. **Other Driveways.** Driveways serving commercial, industrial and other residential developments not identified in (1) above shall meet the driveway specification standards on file with the Zoning Administrator.
  - c. **Culverts.** Culverts shall be a minimum of fifteen (15) inches in diameter and placed under at least one foot of cover. Culverts must be constructed of corrugated metal or concrete with end walls.
  - d. **Slopes.** Slopes to the side of the access shall not be steeper than 4:1 (25 percent) or that of the embankment of the Town road, whichever is less.
  - e. **Retaining walls.** Retaining walls are prohibited.
  - f. **Pavement.** Pavement of driveway access shall consist of blacktop or, concrete, compacted gravel, or suitable material approved by the Town Board\*.
  - g. **Drainage.** Construction of access shall be such that drainage of the Town road shall not be impeded.
  - h. **Curb and Gutter.** When applicable, existing curb and gutter shall be removed at the entrance for new access and new curb and gutter must be provided within the right-of-way.
  - i. **Angle.** Angle of access shall be as close to ninety (90) degrees with the center line of the Town road as possible, but in no case less than seventy-five (75) degrees.
7. **Vision Clearance Standards.** On corner lots in all zoning districts, nothing shall be placed 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 following dimensions:
  - a. *Intersection of Stop Roads/Driveway Access Points with Through Roads (Federal, State, County or Town Roadways).* The vision clearance area at stop intersections where a stop road/driveway access point intersects with a through roadway (Federal, State, County or Town roadway) is a function of the speed limit of the through road. A person standing fifteen (15) feet back from the intersection of the right-of-way lines on the stop road must have an unobstructed view to a point on the center line of the through road.
  - b. *No-Stop Intersections.* At no-stop intersections, a person standing at a location on the center line of any road one hundred-ninety (190) feet from the intersection of the center lines has an unobstructed view to a point located on the center line of the intersecting road one hundred-ninety (190) feet from the intersection of the center lines.
  - c. *All-Stop Intersections.* At all-stop (four-way stop) intersections, a person standing twenty-five (25) feet back from the intersection of the right-of-way lines on the stop road has an unobstructed view to a point on the right-of-way of the intersecting road located twenty-five (25) feet from the intersection of the right-of-way lines.

### Sec. 13-1-55 Highway Setbacks

1. **Purpose.** Highway setback lines are established in the Town of Durand to protect the health and safety of residents and travelers by providing adequate unobstructed separation between transportation corridors and temporary and permanent structures.
2. **Setback Distances.** Except as provided in Sec. 13-1-55(3) below, the setback distance shall be from the centerline of the highway or from the right-of-way line, whichever is greater\*. No structure or portion thereof constructed or erected after the effective date of this ordinance is permitted within the setback distance provided in Exhibit E2.

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\* Revised September 18, 2008 Ordinance No. 2

\* Revised September 18, 2008 Ordinance No. 2

**EXHIBIT E2: HIGHWAY SETBACK DISTANCES\***

Highway Classification	The Greater of...	
	Setback from Center Line	Setback from Right-of-Way Line
Streets within platted subdivisions	<u>48 feet</u>	<u>30 feet</u>
<u>Town Roads</u>	<u>63 feet</u>	<u>30 feet</u>
<u>County Highways</u>	<u>75 feet</u>	<u>42 feet</u>
Federal and State Highways	<u>110 feet</u>	<u>50 feet</u>

(Ordinance 2)

3. **Structures Within Setback Lines.** The following structures may be located within the setback distance set forth in E2, provided they do not violate the provisions of Sec. 13-1-54, Vision Clearance Standards:
  - a. (a) Open fences.
  - b. (b) Essential service utilities.
  - c. (c) Underground structures not capable of being used as foundations for future prohibited above-ground structures.
  - d. (d) Driveway access points permitted under Sec. 13-1-54, Access, Spacing and Vision Clearance Standards.
  - e. (e) Official traffic control signs.
  - f. (f) Reconstruction of damaged or destroyed residences or accessory structures in existence on the effective date of this Ordinance, if such residences or structures were initially constructed with permanent foundations.
4. **Crops, Trees, Shrubs, Other Vegetation.** Nothing in Sec. 13-1-55 shall be interpreted as prohibiting the planting and/or harvesting of crops, shrubbery, trees or other vegetation within the setback distance, provided they do not violate the provisions of Sec. 13-1-54, Vision Clearance Standards.

**Sec. 13-1-56 through Sec. 13-1-59 Reserved for Future Use**

# Zoning Ordinance

## ARTICLE F: ADMINISTRATIVE DUTIES

### Sec. 13-1-60 Town Board

1. **Powers and Duties.** The Town Board, in general, performs the following functions in relation to matters addressed by this ordinance:
  - a. Adopt and periodically review a schedule of fees, payable by applicants, for the review and processing of Land Use Permits, Sign Permits, Conditional Use Permits, applications for variances, applications for amendments to this ordinance (text or map), and appeals of decisions of the Zoning Administrator.
  - b. Approves, approves with changes, or disapproves, after due consideration of any recommendations made by the Planning Commission, any application for an amendment to this ordinance, including applications for amendment to the officially adopted zoning map.
  - c. Approves, approves with conditions, or disapproves, after due consideration of the recommendations made by the Planning Commission, any application for a subdivision plat.
  - d. Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this ordinance.

### Sec. 13-1-61 Board of Appeals

1. **Creation and Membership.** The Zoning Board of Appeals under this ordinance is the Board of Appeals that has been duly created by the Town of Durand. The appointment of members and alternates, terms of appointment, filling of vacancies, use of alternates and other provisions related to the creation and membership of the Board of Appeals shall operate in accordance with Section 62.23(7)(e), Wisconsin Statutes as amended from time to time.
2. **Organization.**
  - a. The Board of Appeals shall have power to adopt rules and regulations for its own governance consistent with the provisions of this or any other ordinance of the Town.
  - b. Meetings of the Board of Appeals shall be held at the call of the Chair of the Board of Appeals, or at such other times as the Town Board may determine necessary.
  - c. All meetings of the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceedings showing its action and 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.
  - d. The Board of Appeals may call on the Zoning Administrator, Permit Issuer or other administrative officials for assistance in the performance of its duties, and it shall be the duty of such officials to provide such assistance as is reasonably requested.
3. **Powers and Duties.** The Board of Appeals shall have the following powers and duties:
  - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the administration or enforcement of this ordinance.
  - b. To hear and decide applications, in specific cases, for variances from this ordinance.
  - c. To hear and decide all other matters referred to it upon which it is required to act under this ordinance.



**Sec. 13-1-62 Planning Commission**

1. **Creation and Membership.** The Planning Commission under this ordinance is the Planning Commission that has been duly created by the Town of Durand. It is the responsibility of the Planning Commission to implement and enforce this ordinance as set forth hereafter. The Plan Commission consists of one (1) member of the Town Board, who may be the Town Board Chairperson, and six (6) citizen members, who are not otherwise Town officials, and who shall be persons of recognized experience and qualifications.
2. **Appointments.** The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of April to fill any expiring term. The Town Board Chairperson may appoint himself or herself or another Town Board member to the Plan Commission and may designate himself or herself, the other Town Board member, or a citizen member as Chairperson of the Plan Commission. [All appointments are subject to the advisory approval of the Town Board.] In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board members elected. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Sects. 19.01 and 60.31, Wis. Stats.
3. **Terms.** The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified. However, the Plan Commission Chairperson or member who is a Town Board Chairperson or Town Board member shall serve on the Commission for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with his or her term on the Town Board. An initial appointment of such Town Board Chairperson or Town Board member made after April 30 shall be for a term that expires two (2) years from the previous April 30.
4. **Organization.**
  - a. The Planning Commission shall have power to adopt rules and regulations for its own governance consistent with the provisions of this or any other ordinance of the Town.
  - b. Meetings of the Planning Commission shall be held at the call of the Commission Chair, or at such other times as the Town Board may determine necessary.
  - c. All meetings of the Planning Commission shall be public. The Planning Commission shall keep minutes of its proceedings showing its action and the vote of each member upon questions requiring a vote or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
  - d. The presence of four (4) members of the Planning Commission shall constitute a quorum. The concurring vote of three (3) members shall be required to any matter upon which it is required to pass under this ordinance. The grounds of every such determination shall be based on evidence presented in the record.
  - e. The Planning Commission may call on the Zoning Administrator or other administrative officials for assistance in the performance of its duties, and it shall be the duty of such officials to provide such assistance as is reasonably requested.
2. **Powers and Duties.** The Plan Commission, under sec. 62.23(4), Wis. Stats., shall have the power:
  - a. Necessary to enable it to perform its functions and promote Town planning.  
To make reports and recommendations relating to the plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
  - b. To recommend to the Town Board programs for public improvements and the financing of such improvements.
  - c. To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
  - d. For itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

**Sec. 13-1-63 Zoning Administrator**

1. **Powers and Duties.** It shall be the duty of the Building Inspector and/or other official designated as Zoning Administrator by the Town, to administer and enforce the provisions of this ordinance. The Zoning Administrator/ shall be appointed by the Town Board Chair and confirmed by the Town Board. The Zoning Administrator shall:
  - a. Examine all applications for Land Use Permits, Occupancy Permits, Sign Permits and Temporary Use Permits, and approve such permits when there is compliance with the provisions of this ordinance.
  - b. Revoke by order any permits approved under a misrepresentation or misstatement of fact, or approved contrary to the law or provisions of this ordinance.
  - c. Conduct inspections to determine compliance or non-compliance with the provisions of this ordinance.
  - d. Issue stop-work orders and orders requiring the correction of all conditions found to be in violation of the provisions of this ordinance.
  - e. When directed by the Town Board, institute in the name of the Town any appropriate legal action or proceedings to prevent or correct any violation of this ordinance.
  - f. Maintain maps and/or records of all nonconformities and approved Conditional Use Permits and variances.
  - g. At the request of the Town Board, Town Board Chair, Planning Commission or Board of Appeals, present to such persons or bodies facts, records or reports that may assist them in making decisions, or assist them in any way as requested.

**Sec. 13-1-64 through Sec. 13-1-69 Reserved for Future Use**

## Zoning Ordinance

### ARTICLE G: ADMINISTRATIVE PROCEDURES AND ENFORCEMENT

#### Sec. 13-1-70 Land Use Permits

1. **Purpose.** The Land Use Permit is a document issued by the Zoning Administrator to verify that a proposed structure(s) or alteration of an existing structure or structures, as represented, will conform to all applicable provisions of law.
2. **Applicability.** No building shall be erected, altered, structurally altered, reconstructed or moved until a Land Use Permit has been issued by the Zoning Administrator. A Land Use Permit shall be required for the construction or alteration of any building or structure, including swimming pools, and if the foot print of the original structure is exceeded, not including routine maintenance or repairs. However, if the construction or alteration affects a change in use, a Land Use Permit shall be required.  
Provided that prior to the commencement of any activity that does meet the criteria set forth above, the owner shall notify the Zoning Administrator in writing of such activities, giving the address and exact nature of the work to be done, the commencement date and an estimate of its cost. The Zoning Administrator may require further information if it is deemed necessary to the enforcement of the provisions of this ordinance.
3. **Application.** Application for a Land Use Permit shall be made in writing to the Zoning Administrator upon a form furnished by the Zoning Administrator and shall include the following information as may required by the Zoning Administrator in his discretion:
  - a. Name and address of the owner of the land and, if different, the owner of the structure.
  - b. A statement addressing the current use and proposed use of the land and structures.
  - c. Lot dimensions (including total acreage or square footage) and the location, dimensions and arrangements of all proposed open spaces, yards, buffering, parking and signs.
  - d. Site layout, drawn to scale, showing the location and dimensions of all existing and proposed uses and buildings with their height and floor dimensions and setbacks from the public right-of-way.
  - e. For structures intended for human habitation, satisfactory proof of a safe and adequate water supply and satisfactory proof that the proposed sewerage system complies with all applicable laws and ordinances.
  - f. Any other information necessary for the Zoning Administrator to enforce the provisions of this ordinance.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Issuance of Land Use Permit.** If it is determined that the proposed structure, as represented, will comply with all applicable state laws and the provisions of this ordinance, the Zoning Administrator shall officially approve and sign one set of plans and return it to the owner, and issue a Land Use Permit. The Land Use Permit shall be kept on display at the site of the proposed building until work is completed.
6. **Time Limits.** Land Use Permits issued pursuant to this Section are valid for a period of twenty-four (24)\* months from the date of issuance. If substantial work, as measured in terms of expenditure of labor and materials or economic value of improvements, has not commenced prior to the expiration of the permit the applicant shall be required to reapply for a new Land Use Permit. The Zoning Administrator may grant an applicant a one-time, twelve-month extension of a Land Use Permit if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

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\* Revised September 18, 2008 Ordinance No. 2

7. **Improper Issuance.** A Land Use Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

**Sec. 13-1-71 Temporary Use Permits**

1. **Purpose.** The Temporary Use Permit is a document issued by the Zoning Administrator to regulate the size, location and placement of structures and/or uses not intended to become permanent. Such uses may include, but are not limited to the sale of merchandise, tents or structures for outdoor events open to the public, or the location and setup of circuses and carnivals.
2. **Exceptions.** Garage sales, rummage sales, "sidewalk sales" in conjunction with the year-round business use of the premises, and roadside stands for the sale of produce, Christmas trees or other products grown or produced on the premises and sold on a seasonal basis (not to exceed ninety (90) days in a calendar year) are exempt from the requirements of Sec. 13-1-71.
3. **Applicability.** In order for a Temporary Use Permit to be issued, such use must be of a type permitted as a permanent use in the underlying zoning district where the use is to be located and must comply with all provisions of that district.
4. **Application.** Application for a Temporary Use Permit shall be made in writing to the Zoning Administrator upon a form furnished by the Zoning Administrator and shall contain the information required by Sec. 13-1-70(3), as applicable. If the proposed use is in conformity with the provisions of this ordinance, the Temporary Use Permit shall be issued by the Zoning Administrator within ten (10) days from the date of application.
5. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
6. **Time Limits.** Temporary Use Permits issued pursuant to this Section are valid for a period of ninety (90) days from the date of issuance and the use shall be discontinued immediately upon the expiration of the Temporary Use Permit. An applicant may not be granted more than one Temporary Use Permit for the same use in a calendar year.
7. **Improper Issuance.** A Temporary Use Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

**Sec. 13-1-72 Sign Permits**

1. **Purpose.** The Sign Permit is a document issued by the Zoning Administrator to regulate the size, location and placement of signs, and to create a record of the signs placed within the Town.
2. **Applicability.** A permit to erect or construct a sign shall be required for all awning signs, marquee signs, and mobile signs, and any other sign with a sign copy area of fifteen (15) square feet or greater. Exceptions to this requirement are limited to temporary real estate, construction, development and agriculture signs.
3. **Application.** Application for a Sign Permit shall be made in writing to the Zoning Administrator upon a form furnished by the Zoning Administrator. If the proposed sign is in conformity with the provisions of this ordinance, the Sign Permit shall be issued by the Zoning Administrator within ten (10) days from the date of application. The Zoning Administrator shall issue a suitable identification tag with each Sign Permit. The identification tag shall be placed on the sign or on a support column in a location that is easily visible to the Inspector.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Time Limits.** If the application is for a permit for a temporary sign, the permit granted is valid for a period of ninety (90) days from the date of issuance and the sign shall be removed immediately upon the expiration of the permit. An applicant may not be granted permits for temporary signs in excess of the time restrictions provided under Sec. 13-1-53.
6. **Improper Issuance.** A Sign Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

**Sec. 13-1-73 Appeals of Administrative Decisions**

1. **Purpose.** The Board of Appeals shall hear and decide cases where it is alleged there is an error of law in any decision made by the Building Inspector or Zoning Administrator in the enforcement of this ordinance. For the purposes of this subsection, “decision” means any written order, ruling, requirement or decision made by the Zoning Administrator in acting to carry out the provisions of this ordinance.
2. **Application.** Any person, firm, corporation or governmental unit materially affected by a decision of the Building Inspector or Zoning Administrator may appeal such decision. The appeal must be filed with the Town Clerk no more than thirty (30) days after the Zoning Administrator issues the decision being appealed. An appeal must be in writing and contain the following:
  - a. (A brief statement as to how the appellant is materially affected by or interested in the matter appealed;
  - b. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision being appealed;
  - c. The relief requested, such as reversal or modification;
  - d. Signature, address, and phone number of the appellant, and name and address of appellant's designated representative, if any. In the event an organization is the appellant, one person shall be designated as the contact person for all procedural matters related to the appeal; and
  - e. Any documentation supporting appellant's position on appeal.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the written appeal.
4. **Procedure.** The Board of Appeals shall hold a public hearing on the appeal no more than forty-five (45) days from the filing date of the appeal, and shall issue its decision no later than sixty (60) days from the filing date of the appeal. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
5. **Decision Criteria.** The order, determination or decision of the Zoning Administrator may be reversed or modified if appellant affirmatively demonstrates any of the following:
  - a. The decision is an erroneous interpretation of this ordinance;
  - b. The decision is not supported by substantial evidence; or
  - c. The decision is outside the authority of the Land Use Zoning Administrator.

**Sec. 13-1-74 Variances**

1. **Purpose.** Variances are the mechanism by which the Town may grant relief from the terms of this ordinance where, owing to special physical conditions, a literal enforcement of the height, bulk, setback or other dimensional provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
2. **Use Variance Prohibited.** A variance is authorized only where practical difficulty or unnecessary hardship are a result of the physical characteristics of the subject property. Variances are not authorized for changes in density requirements or for allowing or expanding uses otherwise prohibited. A variance shall not be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
3. **Application.** All applications for a variance shall be made in writing to the Zoning Administrator on a form furnished by the Zoning Administrator. 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, the application shall contain information as required by Sec. 13-1-70(3), as applicable. The application should also provide information necessary to demonstrate how the request meets the variance decision criteria set forth below. The Zoning Administrator shall refer all applications and accompanying materials to the Board of Appeals.

4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Procedure.** The Board of Appeals shall hold a public hearing on the application no more than forty-five (45) days from the filing date of the completed application, and shall issue a written decision no later than sixty (60) days from the filing date of the completed application. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
6. **Decision Criteria.** The variance may be approved, or approved with conditions, if:
  - a. The variance will not permit the establishment of a use which is not permitted or permissible in the zoning district in which the subject property is located;
  - b. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located;
  - c. The variance is necessary for the preservation of the same rights permitted to other properties in the same vicinity and zone as the subject property, but which is denied to the subject property because of special physical circumstances such as size, shape, topography, location or surroundings;
  - d. The need for a variance has not arisen from actions taken or proposed by the applicant;
  - e. The variance is the minimum necessary to afford relief to the applicant; and
  - f. The variance is consistent with this and all other Town ordinances.
7. **Conditions.** A variance may be approved with conditions. If no reasonable conditions can be imposed that will ensure the application meets the decision criteria set forth above, then the application shall be denied.
8. **Time Limits.** If the applicant has not filed for a Land Use Permit or other necessary development permit prior to the expiration of one year from the date of the granting of the variance by the Board of Appeals, the applicant shall be required to reapply for a variance. The Zoning Administrator may grant an applicant a one-time, one year extension if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

#### Sec. 13-1-75 Conditional Use Permits

1. **Purpose.** The Conditional Use Permit is a mechanism by which the Town may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property.
2. **Application.** All applications for a Conditional Use Permit shall be made in writing to the Town of Durand Zoning Administrator on a form furnished by the Town of Durand Zoning Administrator. 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, the application shall contain information as required by Sec. 13-1-70(3), as applicable. The application should also provide information necessary to demonstrate how the request meets the Conditional Use Permit decision criteria set forth below. The Town of Durand Zoning Administrator shall refer all applications and accompanying materials to the Town of Durand Plan Commission and Town Board. The Plan Commission will review all applications and accompanying materials and provide the Town Board with their recommendations.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
4. **Procedure.** The Durand Town Board shall hold a public hearing on the application no more than forty-five (45) days from the filing date of the completed application, and shall issue a written decision no later than sixty (60) days from the filing date of the completed application. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Durand Town Board. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Durand Town Board.

5. **Decision Criteria.** A Conditional Use Permit may be granted, or granted with conditions, if:
  - a. The use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property;
  - b. Adequate provisions are made for roads, water, fire protection, sewage disposal and other necessary facilities;
  - c. The use will not be materially detrimental to uses or property adjacent to the subject property;
  - d. All reasonable measures have been taken to eliminate any negative impacts that the proposed use may have on the surrounding area;
  - e. In the case of a Conditional Use Permit for the construction or use of buildings, structures or other improvements for public utility uses reasonably necessary for the public convenience and welfare, that the use or improvement shall meet a demonstrable public need and provide a public benefit; and
  - f. The use complies with this and all other Town ordinances.
6. **Conditions.** A Conditional Use Permit may be granted with conditions. If no reasonable conditions can be imposed that will ensure the application meets the decision criteria set forth above, then the application shall be denied.
7. **Time Limits.** If the applicant has not filed for a Land Use Permit or other necessary development permit prior to the expiration of one year from the date of the granting of the Conditional Use Permit by the Durand Town Board, the applicant shall be required to reapply for a Conditional Use Permit. The Zoning Administrator may grant an applicant a one-time, one-year extension if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.
8. **Special Exceptions.**
  - a. **Approval Required.** These procedures apply to livestock facilities that require a conditional use permit under this ordinance.
  - b. **Permits for Existing Livestock Facilities:**
    - i. A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
      1. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.
      2. The maximum number of previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on (May 1, 2006 or on the effective date of the permit requirement, whichever date is later).
    - ii. A permit is not required for a livestock facility that existed before May 1, 2006 or before the effective date of the permit requirement in this ordinance.
    - iii. A permit is not required for a livestock facility that was previously issued a conditional use permit or other local approval. A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.
  - c. **Application Procedure.** A livestock operator must complete the application and worksheets prescribed by ATCP 51, including any authorized local modification. The application requirements specified in ATCP 51, Wis. Adm. Code are incorporated by reference, without reproducing them in full. The application form and worksheets established compliance with the standards in ATCP 51 and this ordinance. The operator must file 3 duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.
  - d. **Application Fee:** A non-refundable application fee of \$600 shall accompany an application.
  - e. **Application Review Procedure:**

- i. Within 45 days after the Town of Durand receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town of Durand shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
    - ii. Within 14 days after the Town of Durand notifies an applicant that the application is complete, the Town of Durand shall notify adjacent landowners of the application. The Town of Durand shall use the approved notice form in ATCP 51, and mail a written notice to each adjacent landowner.
    - iii. The Town of Durand shall grant or deny an application within 90 days after the notice of a complete application is provided as required by ii. Above. The Town of Durand may extend this time limit for good cause, including any of the following:
      1. The Town of Durand needs additional information to act on the application.
      2. The applicant materially modifies the application or agrees to an extension. The Town of Durand shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town of Durand will act on the application.
  - f. Public Hearing: The Town of Durand may schedule public hearing on the application within 90 days after issuing notice of a complete application.
  - g. Standards: The standards for issuing a permit are as follows:
    - i. The state livestock facility siting standards adopted ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.
    - ii. Setbacks authorized by this ordinance.
  - h. Criteria for Issuance of a Permit:
    - i. A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in the ordinance.
    - ii. A permit may be denied if any of the following apply:
      1. The application, on its face, fails to meet the standard for approval.
      2. The political subdivision finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this ordinance.
      3. Other grounds authorized by s. 93.90, Stats., that warrant disapproving the proposed livestock facility.
    - iii. No conditions may be imposed on a permit other than the standards provided in this ordinance.
  - i. Record of Decision:
    - i. The Town of Durand shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
    - ii. In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps, and other documents (other than engineering specifications) included in the application.
  - j. Notice to the Department: The town/county clerk as required by ATCP 51.36 within 30 days of the town/county decision on the application shall do all of the following:
    - i. Give the Department of Agriculture, Trade and Consumer Protection written notice of the town/county decision.
    - ii. File with the Department a copy of the final application granted or denied, if the town/county has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps, and other attachments included in the application, except that it is not required to include the engineering design specifications.)



- iii. If the town/county has withdrawn a local approval under this ordinance, file with the department a copy of the town/county final notice or order withdrawing the local approval.
- k. Expiration of Permit: A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within 2 years after issuance of permit:
  - i. *Begin* populating the new or expanded livestock facility.
  - ii. *Begin* constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.
- l. Permit modifications: The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town of Durand shall not withhold authorization for those changes.
- m. Compliance Monitoring: The Town of Durand shall monitor compliance with the ordinance as follows:
  - i. Upon notice to the livestock facility owner request the right of the Zoning Administrator to personally view the permitted facility at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
  - ii. If the livestock facility owner refuses the Zoning Administrator the right to view the permitted facility, the Zoning Administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
  - iii. If a permitted facility is found not to be in compliance with the commitments made in the approved application, the Zoning Administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and be complied with in a reasonable amount of time stated in this written notice.
  - iv. If non-compliance of the permit conditions as described in the written notice given by the Zoning Administrator continue past the stated reasonable time to comply, the Zoning Administrator may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.
  - v. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The town board (county committee) shall schedule a hearing within five days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.
- n. Terms of the Permit: A permit and the privileges granted by a permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a permit. The (political subdivision) is authorized suspend a permit or seek other redress provided in this ordinance for non-compliance.
- o. Transferability: A permit and the privileges granted by the permit run with land, and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application. Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the town/county clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

**Sec. 13-1-76 Amendments**

1. **Purpose.** The amendment process provides a method for making changes to the text of this ordinance or the adopted zoning map to allow for changes in existing conditions or the direction of development, the preservation of property values, the protection of natural resources, or to correct ordinance language, operation or procedures when deemed necessary, all to promote the health, safety, morals or the general welfare of the entire Town.
2. **Application.**
  - a. *Text Amendment.* Text Amendments may be initiated by resolution of the Town Board, by the Planning Commission on its own initiative, or by a property owner or resident of the Town. A property owner or resident shall file an application in writing with the Town Clerk on forms furnished by the Town Clerk. The application should also provide information necessary to demonstrate how the request promotes the health, safety, morals or the general welfare of the Town. The Town Clerk shall refer all applications and accompanying materials to the Planning Commission.
  - b. *Map Amendment.* Map amendments (rezones) may be initiated by resolution of the Town Board, by the Planning Commission on its own initiative, or by the owner(s) of the particular property to be rezoned. Property owner(s) shall file an application in writing with the Town Clerk on forms furnished by the Town Clerk. The application should also provide information necessary to demonstrate how the request relates to the decision considerations set forth in Sec. 13-1-76(5) below. The Town Clerk shall refer all applications and accompanying materials to the Planning Commission.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
4. **Procedure.** The Planning Commission shall hold a public hearing on the proposed amendment no more than forty-five (45) days from the filing date of the application or resolution, and shall forward a written recommendation to the Town Board no later than sixty (60) days from the filing date of the application. Notice of the Planning Commission's public hearing shall be mailed to the parties of interest, as determined by the Planning Commission. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Planning Commission. In making its recommendation to the Town Board, the Planning Commission shall consider any relevant evidence gathered at the public hearing, any applicable decision considerations and any other applicable ordinance provisions. If the Planning Commission fails to forward such recommendation, the Town Board shall hold a public hearing no later than ninety (90) days from the filing date of the application. Notice of the Town Board's public hearing shall be mailed to the parties of interest. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Town Board. The Town Board shall issue its decision on the application no later than thirty (30) days from the date of the Town Board's public hearing. In making its decision, the Town Board shall consider any relevant evidence gathered at the public hearings, the recommendation of the Planning Commission, any applicable decision considerations and any other applicable ordinance provisions. If the Town Board action is to approve the amendment, or approve the amendment with modifications, it shall further act to formally adopt the amendment by ordinance. In the case where the Planning Commission unanimously recommended denial of the change, or in the case where a valid protest as addressed in Section 62.23(7)(d)(2), Wisconsin Statutes is filed prior to or at the public hearing, a three-fourths ( $\frac{3}{4}$ ) vote of the Town Board members is required for approval of the amendment.
5. **Decision Considerations**
  - a. *Text Amendments.* In deciding on a proposed text amendment, the Planning Commission and Town Board should consider and address whether the amendment will promote the health, safety, morals and general welfare of the Town.
  - b. *Map Amendments.* In deciding on a proposed map amendment, the following factors should be considered:

- i. Whether the proposed amendment is warranted because of changed circumstances or a need for additional land in the proposed zone and the proposed designation is appropriate for reasonable development of the subject property;
- ii. Whether the subject property is suitable for development in general conformance with the zoning standards of the proposed zoning designation;
- iii. Whether the proposed amendment will be materially detrimental to uses or property adjacent to the subject property;
- iv. Whether provisions are or can be made for roads, water, fire protection, sewage disposal and other necessary facilities that are adequate for the density and use to which the subject property is being rezoned;
- v. Whether the proposed amendment will promote the health, safety, morals or general welfare of the Town.

**EXHIBIT G1: REVIEW PROCEDURES**

Decision Type	Zoning Administrator	Planning Commission	Zoning Board of Appeals	Town Board
Land Use Permits	D		A	
Temp. Use Pmt.	D		A	
Sign Permits	D		A	
Variances			D	
Conditional Use Permits		R		D
Text Amendments		R		D
Map Amendments		R		D

D = Decision, R = Recommendation, A = Appeal

**Sec. 13-1-77 Zoning Ordinance Enforcement**

1. **Notice of Violation.** Whenever it comes to the attention of the Zoning Administrator that a building or structure is or is proposed to be erected, constructed, reconstructed, altered or converted, or any use established in violation of the provisions of this ordinance, the Zoning Administrator shall issue a stop-work order or other order requiring the correction of all conditions found to be in violation of the provisions of this ordinance. The order shall notify the responsible person that he/she shall commence correction of all violations within seven (7) days of the date of the order, and shall correct all violations within thirty (30) days of the order. If corrections are not commenced within seven days or concluded within thirty (30) days of said order, each day that a violation continues shall be considered a separate offense.
2. **Remedies.** In the event that the responsible person does not complete all necessary corrective measures within the time period specified in Sec. 13-1-77(1) above, the Town Board may take any and all steps necessary to institute appropriate legal action to enjoin, correct or abate such violation.
3. **Penalties.** Any person who is convicted of violating any provision of this ordinance, or any order rule or regulation made hereunder, shall be fined not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for each offense, together with the costs of enforcement. Each day the violation exists will constitute a separate offense.

**Sec. 13-1-78 through Sec. 13-1-89 Reserved for Future Use**

# Zoning Ordinance

## ARTICLE H: DEFINITIONS OF WORDS AND PHRASES

### Sec. 13-1-90 Application.

In the construction of this ordinance, the rules and definitions contained in Article H shall be observed and applied, except when the context clearly indicates otherwise.

### Sec. 13-1-91 Rules.

Words used in the present tense shall include the future tense; the singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure". The word "shall" is mandatory and not directory; the word "may" is permissive.

### Sec. 13-1-92 Definitions.

**ABANDONMENT:** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions during periods of vacationing, remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of seasonal closure.

**ABUTS, ABUTTING:** Having a common property line or district line.

**ACCESSORY RESIDENCE:** Accessory Dwelling Unit: A second subordinate dwelling unit added to or created within a single-family dwelling, with a provision for independent cooking, living, sanitation, and sleeping.

**ACCESSORY USE:** See USE, ACCESSORY.

**ADJACENT:** To lie near or close to; in the neighborhood or vicinity of.

**ADJOINING:** Touching or contiguous, as distinguished from lying near or adjacent.

**ADULT FAMILY HOME:** As defined in Section 50.01(1), Wisconsin Statutes, and licensed under Section 50.033, Wisconsin Statutes.

**AGRICULTURE or AGRICULTURAL USES:** Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, vegetables or berries; sod farming; placing land in federal programs in return for payments in kind; owning land enrolled in the conservation reserve program under 16 USC 3831-3836; participating in the milk production termination program under 7 USC 1446.

**AGRICULTURE, ANIMAL:** The use of land for any animal feeding operations, including areas for storage, treatment and disposal of manure and other related waste products.

**AGRICULTURE, CROP:** The use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.

**AGRICULTURE, STORAGE:** Grain elevators and other facilities for the warehousing and storage of agricultural products.

**AIRPORT, PUBLIC:** Any airport which complies with the definition contained in Section 114.002(18m), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

**ALLEY:** A public right-of-way which affords a secondary means of vehicular access to abutting properties. A street shall not be considered an alley.

**ALTERATION:** Any change, addition or modification to the size, shape or use of an existing building or structure. (See also STRUCTURAL ALTERATION.)

**ANIMAL HOSPITALS OR POUNDS:** Land or buildings devoted to the care, feeding, or examination of animals by a veterinarian or person charged with the responsibility of caring for impounded animals.

**ANIMAL UNIT:** One (1) animal unit is equivalent to two (2) cows, two (2) horses, ponies or mules, four (4) hogs, eight (8) sheep, eight (8) goats or twenty (20) poultry.

**APARTMENT:** A room or group of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single dwelling unit, and which shall include complete kitchen facilities permanently installed. (See also DWELLING UNIT; DWELLING, MULTIPLE FAMILY).

**AUTOMOBILE:** See MOTOR VEHICLE.

**AUTOMOBILE REPAIR STATION:** A building or premises designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. (See also AUTOMOBILE SERVICE STATION, CONVENIENCE STORE).

**AUTOMOBILE SERVICE STATION:** A building or premises used for offering fuels, lubricating oil, grease, tires, batteries and accessories for motor vehicles for retail sale to the public, and where light maintenance activities such as engine tuneups, lubrication, and minor repairs are conducted. Automobile service stations do not include open sales lots. (See also AUTOMOBILE REPAIR STATION, CONVENIENCE STORE).

**AUTOMOBILE WRECKING YARD:** Any premises where the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts takes place. The presence on any lot or parcel of land of three (3) or more motor vehicles which, for a period exceeding 30 days, have not been capable of operating under their own power and have been stored in an open area visible from neighboring properties or a public right-of-way shall constitute prima-facie evidence of an automobile wrecking yard. (See also SALVAGE YARD).

**BASEMENT:** That portion of a building that is partly or completely below grade. A basement shall be termed a cellar when more than one-half of its floor to ceiling height is below the average finished grade. A basement or cellar shall be counted as a story if it is used for living quarters. (See also CELLAR.)

**BED AND BREAKFAST ESTABLISHMENT:** Any place of lodging that provides six (6) or fewer rooms for short-term lodging for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast. Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wisconsin Administrative Code.

**BLOCK:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or other lines of demarcation. A block may be located in part beyond the boundary lines of the Town of Durand.

**BOARD OF APPEALS:** The Zoning Board of Appeals of the Town of Durand, Wisconsin.

**BOARDING HOUSE:** An establishment with long-term lodging for six (6) or fewer persons where meals are regularly prepared and served as part of the rental arrangement, and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

**BUFFER:** An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, an/or other berms, designed to limit continuously the view of an/or sound from the site to adjacent sites or properties.

**BUILDABLE LOT AREA:** That portion of a lot remaining when all required yard space has been excluded.

**BUILDING:** Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to land. (See also STRUCTURE).

**BUILDING, ACCESSORY:** A subordinate structure or structures detached from, but located on the same lot as the principal structure, the use of which is incidental and related to that of the principle structure.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space, or from other buildings or structures, by a permanent roof and by exterior walls, pierced only by windows and normal entrance and exit doors.

**BUILDING, DETACHED:** A building surrounded by open space on the same lot.

**BUILDING HEIGHT:** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs as measured from the curb level if the building is not more than 10 feet from the front lot line, or from the grade in all other cases.

**BUILDING, PRINCIPAL:** A building in which the principal use permitted on the lot is conducted.

**BUILDING, TEMPORARY:** Any building not designed to be permanently located at the place where it is, or where it is intended to be temporarily placed or affixed.

**BULK:** The term used to indicate the size and setback of buildings or structures, and the location of same with respect to one another, and includes the following: (a) size and height of buildings; (b) location of exterior walls; (c) floor area ratio; (d) open space allocated to buildings; and (e) lot area and lot width.

**CAMPGROUND:** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including tents and recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character

**CAR WASH:** An area of land and/or a structure with machine- or hand-operated facilities used principally

for the cleaning, washing, polishing or waxing of motor vehicles.

**CARPOR:** A roofed automobile shelter with two or more open sides.

**CELLAR:** A space having more than one-half of its floor to clear-ceiling height below average finished grade. A cellar shall be counted as a story if it is used for living quarters. (See also BASEMENT.)

**CENTER LINE:** The center line of any road or highway is the point equidistant from the right-of-way lines, regardless of the location of the surfacing, pavement, roadbed or directional separator of the roadway within the right-of-way.

**CHURCH or PLACE OF RELIGIOUS ASSEMBLY:** A building or structure primarily used as a place where religious services, meetings or related activities of any denomination are conducted.

**CLUBS, FRATERNITIES, LODGES AND MEETING PLACES OF A NON-COMMERCIAL NATURE:** A non-profit association of persons, who are bonafide members paying dues, which owns, hires or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

**COMMERCIAL ENTERTAINMENT FACILITIES:** A structure, building or land devoted to one or more of the following uses: tavern, bar, supper club, restaurant or similar use.

**COMMUNITY LIVING ARRANGEMENT:** Any of the following facilities licensed or operated or permitted under the authority of the Wisconsin Statutes: child welfare agencies under Section 48.60; group homes for children under Section 48.02(7); community-based residential facilities under Section 50.01; and youth village programs under Section 118.42. "Community living arrangement" does not include adult family homes as defined in Section 50.01(1), Wisconsin Statutes; day care centers, nursing homes, general hospitals, special hospitals, prisons or jails. The establishment of a community living arrangement shall be in conformance with all applicable provisions of the Wisconsin Statutes, including Section 60.63 and amendments thereto, the Wisconsin Administrative Code, and the provisions of this ordinance. [See Section 60.63, Wisconsin Statutes]

**CONCESSION STAND:** A structure devoted to the sale of confections, snacks or other light meals and providing no inside seating nor drive-in service for the customers.

**CONVENIENCE STORE:** A retail establishment where packaged and/or preprepared food, beverages and convenience items, and gasoline or any other motor fuels are offered for sale, but automobile maintenance services are not performed. (See also AUTOMOBILE REPAIR STATION, AUTOMOBILE SERVICE STATION).

**DAY CARE HOME:** Any facility operated by a person required to be licensed by the State of Wisconsin under Section 48.65, Wisconsin Statutes for the care and supervision of nine (9) or more children for less than twenty-four (24) hours a day. (See also FAMILY DAY CARE HOME).

**DENSITY, GROSS:** The number of dwelling units permitted per acre of land, said land area to include any existing or proposed public or private roads or rights-of-way.

**DENSITY, NET:** The number of dwelling units permitted per acre of land, said land area not to include any existing or proposed public or private roads or rights-of-way.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

**DRIVE-IN FACILITY:** An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises.

**DWELLING:** A building or portion thereof that provides living facilities for one or more families, but not including hotels, motels or boarding houses

**DWELLING UNIT:** One or more rooms physically arranged so as to create an independent housekeeping establishment of occupancy by one family or not more than three (3) roomers, which shall include complete toilet and kitchen facilities permanently installed

**DWELLING, MULTIPLE FAMILY (APARTMENTS AND CONDOMINIUMS):** A building containing three (3) or more dwelling units used for occupancy by three (3) or more families living independently of each other.

**DWELLING, TWO-FAMILY (DUPLEXES):** A single residential building containing two dwelling units, separated from each other by common or party walls without openings, entirely surrounded by open space on the same lot.

**DWELLING, SINGLE-FAMILY:** A residential building containing one dwelling unit entirely surrounded by open space on the same lot.

**EXPANDED LIVESTOCK FACILITY:** A livestock facility that is created by the expansion, after *May 1, 2006*. Includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

**EXTRA-TERRITORIAL AREA:** Any area within the Town of Durand within 3 miles of the corporate limits of a first, second or third class city, or 1 \_ miles of a fourth class city or village. [See Section 62.23 (7a), Wisconsin Statutes]

**FAMILY:** Any number of individuals living together as a single household unit or complete domestic establishment, but not including a group occupying a boarding house or hotel.

**FAMILY DAY CARE HOME:** Any facility meeting the definition provided in Section 66.304, Wisconsin Statutes, operated by a person required to be licensed by the State of Wisconsin under Section 48.65, Wisconsin Statutes for the care and supervision of four (4) to eight (8) children for less than 24 hours a day. (See also DAY CARE HOME).

**FARMSTEAD:** One or two single-family dwellings and related structures accessory to agricultural operations located on a single parcel of land used primarily for agriculture.

**FENCE:** A structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.

**FENCE, OPEN:** A fence including gates, at least fifty (50) percent of the surface area of which is open space to allow an unobstructed view through the fence.

**FENCE, SOLID:** A fence, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it.

**FLOOR AREA:** The sum of the gross horizontal area of the several floors of the building, excluding areas used for off-street parking facilities and the horizontal areas of the basement and cellar floors that are devoted exclusively to uses accessory or incidental to the operation of the entire building. All horizontal dimensions shall be taken from the exterior of the walls.

**FOOD PROCESSING ESTABLISHMENTS:** Commercial facilities such as canneries, cheese factories, condenseries, creameries and other such establishments for the processing, packing or manufacture of agricultural products, any portion of which are grown off-site.

**FOSTER HOME:** The primary domicile of a foster parent required to be licensed under Section 48.62, Wisconsin Statutes, which has four (4) or fewer foster children. [See Section 48.02(6), Wisconsin Statutes] (See also GROUP HOME).

**FRONTAGE:** The length of any one property line of a premises, which property line abuts a legally accessible road right-of-way. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage.

**GAME FARM:** The business of propagating, breeding, raising, or producing game in captivity for the purpose of marketing the game or their products, by having the game under positive control (captivity), as in a pen or an area of land or water that is completely enclosed by a generally escape proof barrier.

**GARAGE, DETACHED:** A building, not attached to a dwelling, designed and used for the storage of vehicles owned and used by the occupants of the dwelling to which it is accessory.

**GARAGE, STORAGE, OR OFF-STREET PARKING:** A building or portion thereof designed or used or land used exclusively for storage of motor vehicles, and in which motor fuels and oils are not sold, and motor vehicles are not equipped, repaired, hired or sold.

**GRADE:** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**GRADE, ESTABLISHED:** The established grade of the street or sidewalk as prescribed by the Town of Durand.

**GROOMING SHOP:** A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc., overnight.

**GROUP HOME:** Any facility operated by a person required to be licensed under Section 48.625, Wisconsin Statutes, for the care and maintenance of five (5) to eight (8) foster children. [See Section 48.02(7), Wisconsin Statutes] (See also FOSTER HOME).

**HOME OCCUPATION:** An accessory use of a dwelling unit or accessory building for gainful employment that is clearly incidental and subordinate to the use of the premises as a residence or customary farming occupation.

**HOTEL:** A facility offering temporary lodging accommodations on a daily rate to the general public and generally providing additional services such as restaurants, meeting rooms and/or recreation facilities.

**HUNTING CABINS:** A structure less than 800 square feet used for the purpose of hunting that does not have the following; indoor plumbing including water and sewer piped to either municipal or septic system,



full or partial basement, or a private road leading to the structure itself.

**JUNK:** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

**JUNKYARD:** See SALVAGE YARD.

**KENNEL:** An establishment licensed to operate a facility housing dogs, cats or other household pets and where selling, grooming, breeding, boarding, training for a fee, letting for hire of animals is conducted as a business.

**KENNEL, PRIVATE:** Any building or buildings or land designed or arranged for the care of dogs and/or cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.

**LAND AREA:** When referring to a required area per dwelling unit, means "net land area", the area exclusive of public rights-of-way and other public open space.

**LAND USE PERMIT:** Land Use Permit is a document issued by the Zoning Administrator to verify that a proposed structure(s) or alteration of an existing structure or structures, as represented, will conform with all applicable provisions of law.

**LAUNDERETTE:** A business that provides coin-operated self-service type washing, drying, dry-cleaning, and ironing facilities, providing that no pick-up or delivery service is maintained.

**LIVESTOCK:** Domestic animals traditionally used in this state in the production of food, fiber or other animal products. "Livestock" includes cattle, swine, poultry, sheep and goats. "Livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

**LIVESTOCK FACILITY:** A feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate "livestock facility."

**LIVESTOCK STRUCTURE:** A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

**LOADING SPACE:** A space within the principal building or on the same lot as the principal building providing for the standing, loading or unloading of trucks and with access to a street or alley.

**LOT:** A parcel of land intended to be separately owned, developed, and otherwise used as a unit, having at least the minimum area required for a lot in the zone in which such lot is located.

**LOT, CORNER:** A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

**LOT, FLAG:** A lot with access provided to the bulk of the lot by means of a narrow corridor.

**LOT, INTERIOR:** A lot other than a corner lot or through lot.

**LOT, SUBSTANDARD:** A parcel of land intended to be separately owned, developed, and otherwise used as a unit, but having insufficient size to meet the lot width, lot area, yard, off-street parking areas, open space or other provisions of this Ordinance as pertaining to the district wherein located.

**LOT, THROUGH:** A lot having frontage on two (2) more or less parallel streets, which is not a corner lot. For the purposes of this Ordinance, both frontages shall be deemed front lot lines.

**LOT AREA:** The total horizontal area within the lot lines of a lot.

**LOT DEPTH:** The mean horizontal distance measured between the front and rear lot lines.

**LOT LINE, FRONT:** That boundary of a lot which abuts a street line. On a corner lot, the lot line having the shortest length abutting a street line shall be the front lot line.

**LOT LINE, REAR:** That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. Where the side property lines of a lot meet in a point, the rear lot line shall be assumed to be a line not less than ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**LOT LINE, SIDE:** Any lot line which is not a front or a rear lot line.

**LOT OF RECORD:** A lot whose existence, location and dimensions have been legally recorded or

registered with the Register of Deeds of Pepin County, Wisconsin on a plat or in a deed.

**LOT WIDTH:** The horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first thirty (30) feet of lot depth from the street line.

**MAIN BUILDING FACADE:** That portion of a building or structure which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets the main building facade shall contain the main entrance to such building.

**MANUFACTURED HOME:** A factory-built, single-family structure that is manufactured in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (as evidenced by the presence of a manufacturer's certification label on the unit).

**MANUFACTURING ESTABLISHMENT:** An establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or resting of materials, goods, or products.

**MARQUEE OR CANOPY:** A roof-like structure of a permanent nature which projects from the wall of a building.

**MEDICAL OFFICE:** See OFFICE, MEDICAL.

**MOBILE HOME:** A transportable, factory-built home, designed to be used as a year-round residential dwelling that was built prior to June 15, 1976, which was the effective date of the Federal Manufactured Housing and Construction and Safety Standards Act of 1974.

**MOBILE HOME PARK:** Any plot or plots of ground upon which two (2) or more manufactured homes or mobile homes are located that are occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodation. [See Section 66.058(1e), Wisconsin Statutes].

**MOTEL:** A building or group of buildings containing lodging rooms, such building or buildings being designed, intended or used primarily for the temporary lodging of automobile travelers and providing automobile parking conveniently located on the premises. Motels are primarily distinguished from hotels by their accommodation of automobiles and automobile travelers.

**MOTOR VEHICLE:** Any automobile, pickup truck, truck, truck-trailer, trailer, semi-trailer, motorcycle, motor home or other passenger vehicle propelled or drawn by mechanical power.

**NONCONFORMING USE:** A lawful use of land and/or location of buildings or structures that does not comply with current land use regulations, but which complied with applicable regulations at the time the use was established. A nonconforming use of land shall be deemed abandoned by nonuse for a period of one (1) year after the use became nonconforming. If such nonconforming use of land has been or becomes abandoned, such land shall not thereafter be used or occupied except for a use which conforms to the use regulations of the zone in which the use is located.

**NONMETALLIC MINING or NONMETALLIC MINING OPERATIONS:** Operations or activities for the extraction from the earth of mineral aggregates, such as stone, decomposed granite, sand and gravel; nonmetallic minerals including, but not limited to asbestos, beryl, clay, feldspar, peat, talc and topsoil; related operations or activities including, but not limited to excavation, grading and dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals; and related processes such as stockpiling, crushing, screening, scalping, dewatering and blending.

**NOXIOUS MATTER OR MATERIAL:** A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

**NURSING HOME:** A home for aged, chronically ill, infirm, or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three (3) or more persons, not members of any family residing on the premises, are received and provided with food, shelter and care, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.

**OFFICE, MEDICAL OR PROFESSIONAL:** A professional office or offices, the principal use of which is for offices of physicians, chiropractors, dentists or other licensed health care practitioners for examination and treatment of persons on an outpatient basis, or offices for attorneys, accountants or other professional service providers.

**OFFICE, COMMERCIAL:** A building or portion thereof wherein services are performed involving predominantly managerial, administrative or clerical operations.

**OFFICIAL MAP:** The Official Map of the Town of Durand.

**OPEN SALES LOT:** Land used or occupied for the purpose of buying, selling, or renting merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes automobiles, trucks, motor scooters, motorcycles, boats or similar commodities.

**OPEN SPACE:** That part of the lot area not used for buildings, parking, or service. Open space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, pools, water courses, wooded areas and paved surfaces used as access drives but not used for vehicular parking of any kind.

**PARKING LOT:** A structure or premises containing five (5) or more parking spaces open to the public.

**PARKING SPACE:** An enclosed or unenclosed, area reserved for off-street parking for one motor vehicle and which is accessible to and from a street or alley.

**PARTIES OF INTEREST:** Shall, at a minimum, include the applicant, the owner of the subject property (if different than the applicant) and all adjacent property owners.

**PET SHOP:** An establishment wherein any person, partnership or corporation is engaged primarily in the retail sale of household pets and pet supplies.

**ZONING ADMINISTRATOR:** The officer or other designated authority charged with the administration and enforcement of this ordinance, or his/her duly authorized representative.

**PLANNING COMMISSION:** The Planning Commission of the Town of Durand, Wisconsin.

**PRINCIPAL USE:** See USE, PRINCIPAL

**PROFESSIONAL OFFICE:** See OFFICE, PROFESSIONAL.

**QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING:** See NONMETALLIC MINING.

**RECREATION AREA:** A recreation area included park, playground, ballfield, ski hill, sportfield, swimming pool, golf course, commercial riding stables or riding academies or other facilities and areas constructed for recreational activities and open for use by public or private organizations.

**RECREATIONAL VEHICLE:** all units, other than manufactured homes as herein defined, which are mobile and are primarily used or maintained as a temporary dwelling for travel, vacation or recreational purposes.

**RETAIL:** The sale of goods or merchandise in small quantities to the consumer.

**RIDING STABLES:** Property used for both commercial and recreational equine activities like outdoor rings, paddocks or organized riding (horse shows, events, etc.).

**ROADSIDE STAND:** An enclosed or semi-enclosed structure, no larger than 50 square feet in ground area, used or intended to be used for the sale of farm products solely by the owner or tenant of the farm on which such structure is located.

**ROADWAY:** That portion of a right-of-way that is used or intended to be used for the travel of motor vehicles.

**SALVAGE YARD:** An open area where junk, wastes, used, or secondhand materials are bought, sold, exchanged, stored, processed or handled. An Automobile Wrecking Yard is also considered a salvage yard.

**SANITARY LANDFILL:** A method of disposing of refuse by spreading and covering such refuse with earth to a depth of two (2) feet on the top surface and one (1) foot on the sides of the bank, which sides shall have a least 1:2 slope.

**SELF-SERVICE STORAGE FACILITY:** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and or personal goods.

**SETBACK:** The minimum horizontal distance between the roadway center line or road right-of way, as applicable, and the nearest vertical wall or other element of a building or structure, excluding steps.

**SHORELAND JURISDICTION:** The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.

**SHORELAND WETLAND:** A wetland, as defined by this Ordinance, which is located within a shoreland area.

**SITE PLAN:** a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

**SLOPE:** The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

**STORAGE, OUTDOOR:** Land outside any building or roofed area and used for the keeping of goods, supplies, raw material or finished products.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders; except that the application of any exterior siding to an existing building for the purpose of beautifying or modernizing shall not be considered a structural alteration. (See also ALTERATION).

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground. The term "structure" shall include, but not be limited to, buildings, signs, foundations, concrete and asphalt pads and equipment boxes.

**TAVERN:** An establishment where liquors are sold to be consumed on the premises but not including restaurants where the principal business is the serving of food.

**TEMPORARY STRUCTURE:** A movable structure not designed for human habitation nor for the permanent storage of goods or chattels.

**TOWN:** Town of Durand, Wisconsin.

**TOWN BOARD:** The Board of Supervisors of the Town of Durand, Wisconsin.

**TRAILER, BOAT or CARGO:** A vehicle designed exclusively for the transportation of one boat or less than 10 foot beam and 30 foot length or, if used for the hauling of cargo, not over seventy (70) square feet in cargo floor area.

**TREATMENT FOSTER HOME:** As defined in Section 48.02(17q), Wisconsin Statutes.

**TREE, CANOPY:** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are often referred to as shade trees.

**TREE, UNDERSTORY:** A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. These types of trees are often referred to as ornamental trees.

**USE:** The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, ACCESSORY:** A use clearly incidental and subordinate to, and on the same lot as a principal use.

**USE, CONDITIONAL:** A use that would not be appropriate generally as a permitted use in the zoning district, but which may be allowed in the district after the imposition of special restrictions or requirements different from those usual restrictions for the district in which the use is located.

**USE, PERMITTED:** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL or PRIMARY:** The primary use of land or structures, as distinguished from a secondary or accessory use.

**UTILITIES, ESSENTIAL SERVICES:** Services provided by public or private utilities, necessary for the exercise of a principal use or service of a principal structure. These services include underground, surface or overhead gas, electrical, steam, water, 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 storage tanks, conduits, cables, pumps, lift stations and hydrants.

**UTILITIES, MAJOR:** Major public facilities serving community- or region-wide needs, such as water treatment plants, sewage disposal plants, municipal incinerators, municipal warehouses, landfills, shops and equipment and storage yards.

**UTILITIES, MINOR:** Public facilities such as water wells, water and sewage pumping stations, water storage tanks, electric power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, and buildings accessory thereto.

**VISION CLEARANCE TRIANGLE:** An area intended to be maintained in a manner which does not significantly obstruct a motorist's vision of an intersecting street.

**WASTE:** Manure, milking center waste and other organic waste generated by a livestock facility.

**WASTE STORAGE FACILITY:** One or more waste storage structures. "Waste storage facility" includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.

**WATERCOURSE:** A permanent or intermittent stream channel.

**WETLAND:** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

**WOODLAND:** An area or stand of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast (DBH) of at least ten (10) inches; or any grove consisting of fifteen (15) or more individual trees having a DBH of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove. However, no trees grown for commercial purposes should be considered a woodland.

**YARD:** An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

**YARD, FRONT:** The portion of the yard on the same lot as the principal building, located between the front line of the principal building extended to the side lot lines and the front lot line.

**YARD, REAR:** The portion of the yard on the same lot with the principal building, located between the

*TOWN OF DURAND ZONING ORDINANCE*

rear line of the principal building extended to the side lot lines and the rear lot line.

**YARD, SIDE:** A yard extending along the side lot line between the front and rear yards.

**ZERO LOT LINE:** The location of a building on a lot such that one or more of the building's sides rests directly on a lot line.

**ZONING DISTRICT:** Areas delineated on the Zoning Map of the Town of Durand within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth in this Ordinance, and within which certain yards and other open spaces, lot areas, building sizes and density requirements may be required or regulated, or within which other such regulations are applied.

**Exhibit 1: District Uses**

**Table of Uses Town of Durand**

P = Permitted Use  
 C = Conditional Use  
 X = Not permitted in the district

<b>Principle Uses</b>	<b>GA</b>	<b>RD</b>	<b>CD</b>	<b>CRD</b>	<b>GRF</b>	<b>FW*</b>	<b>SS</b>
<b>Agricultural Uses</b>							
General Agriculture	P	C	C	C	P	-	C
Green Houses	P	C	P	C	C	-	X
<b>Commercial Uses</b>							
Antique Shop, Art Gallery	C	X	P	C	C	-	X
Bed-and-breakfast	C	C	P	C	C	-	X
Boardinghouse	C	C	P	C	C	-	X
Family day care	C	C	P	C	C	-	X
Farm and home business	C	X	C	C	C	-	X
Farm market	C	X	P	X	P	-	X
General retail and services	C	C	P	C	C	-	X
Home business	C	C	P	C	C	-	X
Home occupation	C	C	P	C	C	-	X
Indoor maintenance and repair	C	C	P	C	C	-	X
Kennels	C	X	C	C	C	-	X
Lodging-Hotel	X	X	C	C	X	-	X
Mini-storage	X	X	P	X	X	-	X
Offices	X	X	P	X	X	-	X
Roadsides stand	P	X	C	X	P	-	X
Trade/contractor establishment	X	X	P	X	X	-	X
Game Farm	C	X	X	X	C	-	X
<b>Industrial Uses</b>							
Heavy industrial uses	X	X	C	X	X	-	X
Light industrial uses	X	X	C	X	X	-	X
Nonmetallic mining	X	X	C	X	X	-	X
Mining, accessory uses	X	X	C	X	X	-	X
Salvage yards	X	X	C	X	X	-	X
Sawmills/planing mills	X	X	C	X	X	-	X
<b>Institutional Uses</b>							
Cemetaries	C	X	X	X	C	-	C
Community living arrangements - per state statutes	X	C	C	C	X	-	X
Private institutional	X	X	C	C	C	-	X
Public institutional	X	X	C	C	C	-	X

GA-General Agriculture	CRD-Commercial Residential District	SS-Steep Slopes
RD-Residential District	GRF-General Rural Flexible District	*Regulated by other agencies
CD-Commercial District	FW-Floodplain, Wetlands	such as DNR, FEMA, & County

P = Permitted Use  
 C = Conditional Use  
 X = Not permitted in the district

<b>Principle Uses</b>	GA	RD	CD	CRD	GRF	FW*	SS
<b>Outdoor Recreational Uses</b>							
Private outdoor recreation	P	C	C	C	P	-	P
Public outdoor recreation	P	C	C	X	C	-	P
Riding stables	P	X	C	X	P	-	X
<b>Residential Uses</b>							
Accessory residence	C	P	X	X	P	-	X
Duplexes	X	P	X	P	X	-	X
Manufactured homes	P	P	X	P	P	-	X
Manufactured home parks	X	C	X	P	X	-	X
Multiple-family dwellings	X	P	X	P	C	-	X
Second farm residence	C	X	X	X	C	-	X
Single family residence	P	P	X	P	P	-	X
Hunting Cabins	C	X	X	X	C	-	C
Mobile Home	X	X	X	X	X	-	X
<b>Miscellaneous Uses</b>							
Airports	X	X	X	X	X	-	X
Airstrips	C	X	X	X	X	-	X
Clean fill site	C	X	C	X	C	-	X
Communication towers <70 feet	C	X	C	X	C	-	C
Communication towers >70 feet	C	X	C	X	C	-	C
Filling and grading	C	C	C	C	C	-	C
Sludge disposal	C	X	X	X	C	-	X
Solid waste facility	C	X	C	X	X	-	X
Utility facilities	C	C	C	C	C	-	C
Unspecified temporary uses	C	C	C	C	C	-	C
Welding or snowmobile type shop	C	X	C	C	C	-	X
Camping during construction of a residence	P	P	X	X	C	-	X
Contractor's project office	P	C	P	P	C	-	X
Second residence during construction	P	C	C	C	C	-	X
Temporary concrete or asphalt plant	C	X	P	X	C	-	X
GA-General Agriculture RD-Residential District CD-Commercial District	CRD-Commercial Residential District GRF-General Rural Flexible District FW-Floodplain, Wetlands			SS-Steep Slopes *Regulated by other agencies such as DNR, FEMA, & County			

# TOWN OF DURAND

Pepin County, Wisconsin

## ZONING MAP

Exhibit 2

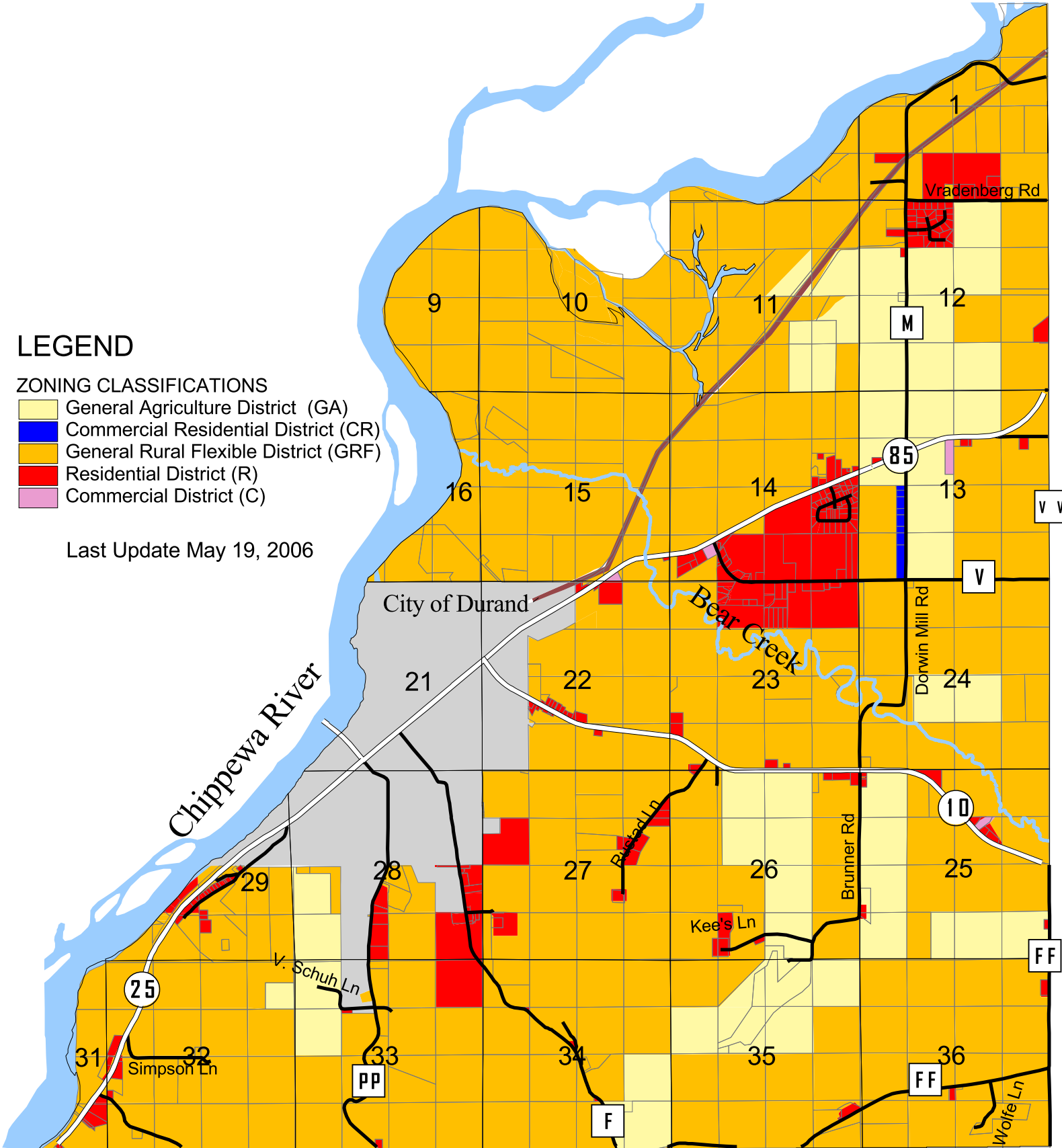


### LEGEND

#### ZONING CLASSIFICATIONS

- General Agriculture District (GA)
- Commercial Residential District (CR)
- General Rural Flexible District (GRF)
- Residential District (R)
- Commercial District (C)

Last Update May 19, 2006



See General Reference Map for approximate locations of floodplains and wetlands.

0 2640 5280 Feet







# TOWN OF DURAND

Pepin County, Wisconsin

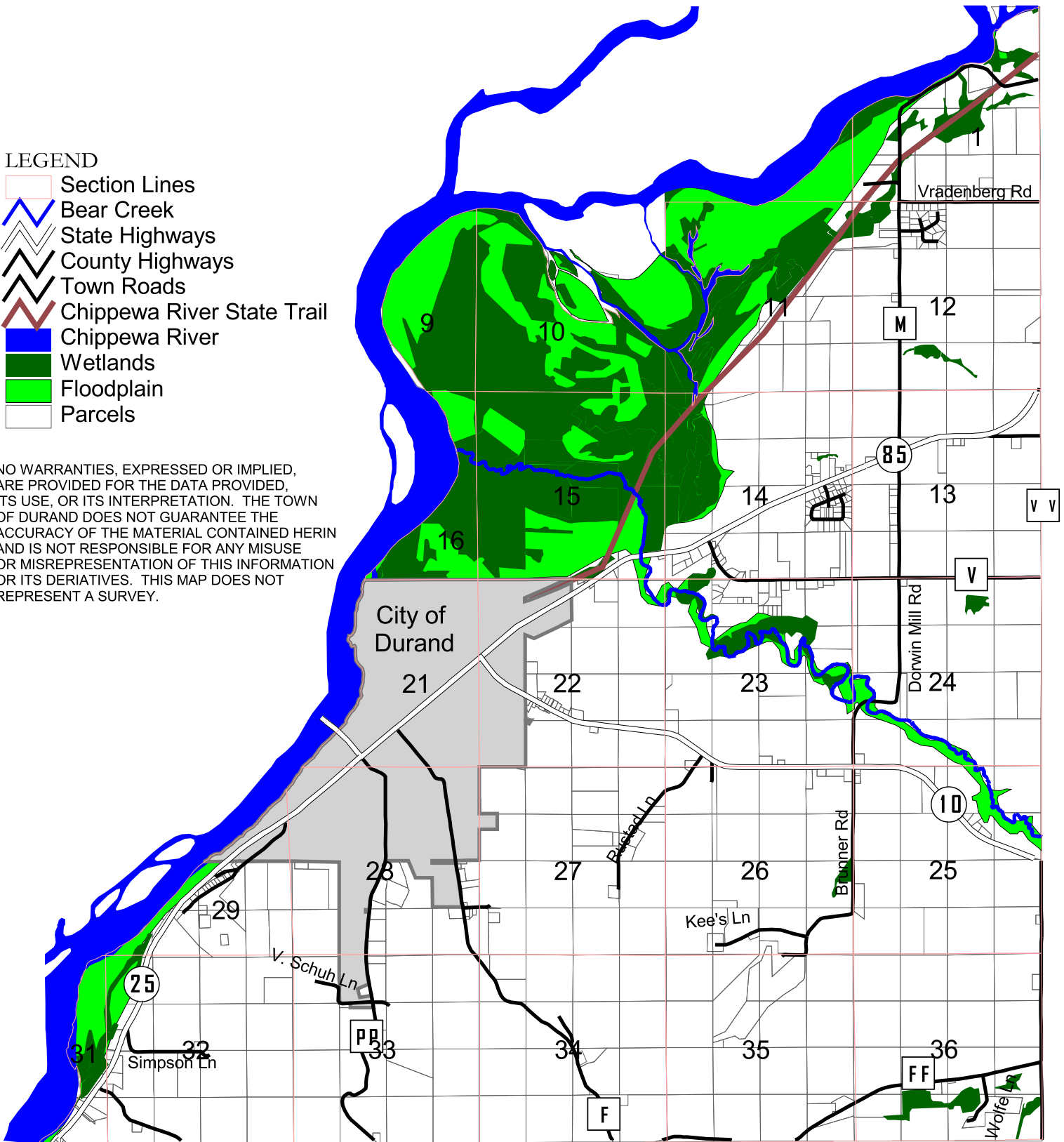
## GENERAL REFERENCE MAP

Exhibit 3

### LEGEND

-  Section Lines
-  Bear Creek
-  State Highways
-  County Highways
-  Town Roads
-  Chippewa River State Trail
-  Chippewa River
-  Wetlands
-  Floodplain
-  Parcels

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PLEASE CONSULT THE LOCAL ZONING ADMINISTRATOR REGARDING FWSS LANDS PRIOR TO THE DEVELOPMENT OR PURCHASE OF LAND. THESE LANDS INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING: FLOODPLAINS, WETLANDS, AND SLOPES GREATER THAN 20%.

0 2640 5280 Feet

Exhibit 4

Number Equivalent to 1,000 Animal Units		
NUMBER EQUIVALENT TO 1,000 ANIMAL UNITS	ANIMAL TYPES	ANIMAL EQUIVALENCY FACTOR
	<b>DAIRY CATTLE:</b>	
700	Milking and Dry Cows	1.4
910	Heifers (800 to 1200 lbs)	1.1
1670	Heifers (400 to 800 lbs)	0.6
5000	Calves (under 400 lbs)	0.2
	<b>BEEF CATTLE:</b>	
1000	Steers or Cows (600 lbs to Mkt)	1.0
2000	Calves (under 600 lbs)	0.5
700	Bulls	1.4
	<b>SWINE:</b>	
2500	Pigs (55 lbs to Mkt)	0.4
10000	Pits (up to 55 lbs)	0.1
2500	Sows	0.4
2000	Boars	0.5
	<b>SHEEP:</b>	
10000	Per Animal	0.1
	<b>HORSES:</b>	
500	Per Animal	2.0
	<b>DUCKS:</b>	
5000	Per Bird (Wet Lot)	0.2
100000	Per Bird (Dry Lot)	0.01
	<b>CHICKENS:</b>	
100000	Layers	0.01
200000	Broilers	0.005
100000	Broilers (continuous overflow watering)	0.01
30000	Layers or Broilers (liquid manure system)	0.033
	<b>TURKEYS:</b>	
55000	Per Bird	0.018
	<b>COMBINED ANIMAL UNITS:</b>	
1000	Calculated Total	

History: CR 00-034: cr. Register September 2002 No. 561, eff. 10-1-02.