

ORDINANCE NO. 3-2010
TOWN OF GARFIELD
POLK COUNTY, WISCONSIN
ZONING ORDINANCE

Effective February 1st, 2011

Amended:
October 11, 2011
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ARTICLE 1: INTRODUCTION

Section A: Authority. The Town Board of the Town of Garfield has the specific authority, powers and duties, pursuant to Sec. 60.61, 60.62, 61.35 and 62.23, Wisconsin Statutes, pursuant to the specific statutory sections noted in this Ordinance and by the adoption of village powers under Sec. 60.10, Wisconsin Statutes, and by the granting of powers to zone under the above statutory provisions by the electors of the Town of Garfield at a legally called and noticed Special Town Meeting on September 15, 2009 to zone certain areas in the Town of Garfield and to regulate, prohibit, and restrict construction, alteration, erection and enlargement of certain structures and buildings in the Town of Garfield and to regulate and control certain uses, activities, businesses and operations in the Town of Garfield.

Section B: Title. This Ordinance shall be known as the “Town of Garfield Zoning Ordinance” and when referred to herein it also known as “this Ordinance.”

Section C: Purpose. The purpose of this Ordinance is to protect and promote the health, safety and general welfare of the Town of Garfield, Polk County, Wisconsin and its residents through the establishment of minimum regulations governing use and development and providing penalties for the violation of its provisions. This Ordinance shall divide the Town into districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.

Section D: Intent. It is the general intent of this Ordinance to:

1. Provide for compatibility of different land uses;
2. Promote orderly development and redevelopment;
3. Regulate land use, location and use of buildings, lot coverage, the size of yards and other open spaces, and the density of population;
4. Provide adequate light, air, drainage and convenience of access to property;
5. Facilitate the adequate provision of public facilities and utilities;
6. Stabilize and protect property values;
7. Preserve and promote the conservation of natural resources;
8. Provide for the administration and enforcement of this Ordinance;
9. Provide penalties for the violation of this Ordinance.

Section E: Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, or permits already issued. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

Section F: Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes.

Section G: Effective Date. This Ordinance shall be originally effective after a public hearing, adoption by the Town Board, approval of Polk County and publication or posting as required by law.

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ARTICLE 2: DEFINITIONS

Accessory Building. A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building.

Accessory Structure or Use. Any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

Animal Feeding Operation. A lot or facility, other than a pasture or grazing area, where animals have been, are or will be stabled or confined, and will be fed or maintained for a total of 45 days or more in a 12-month period, as defined in Wisconsin Department of Natural Resources NR 243.03(4) of the Wisconsin Administrative Code, effective July 1, 2007.

Animal Unit. A unit of measure as defined in Wisconsin Department of Natural Resources NR 243.03(5) of Wisconsin Administrative Code, effective July 1, 2007, to determine the total number of single animal types, or combination of animal types, that are at an Animal Feeding Operation.

Antenna. A device for the reception of television or radio signals.

Basement. A story partly or wholly underground which, if occupied for living purposes, shall be counted as a story.

Bed and Breakfast or Boarding House. A building other than a hotel, motel or restaurant where lodging and meals are furnished for compensation to not over six persons not members of the resident family.

Best Management Practices (BMPs). Practices and industry standards designed to minimize environmental damage.

Board of Appeals. A three (3) member board, and one (1) alternate, appointed by the Town Chairman, and approved by the Town Board of the Town of Garfield, Polk County, Wisconsin, to hear appeals by any person aggrieved or by any officer, department, board or bureau of the Town of Garfield affected by any decision of the administrative officers.

Boathouse. A building or portion thereof used for the housing or care of boats and other associated marine equipment and not permitted to be used for human habitation and one story in height.

Buffer. The use of land, topography, space, fences or landscape plantings to screen or partially screen a property in order to reduce undesirable influences, such as: sight, noise, dust, and other external effects which a land use may have upon other adjacent or nearby land uses.

Building. A structure used, designed or intended for the protection, shelter, enclosure or support of person, animals or property. When a building is divided into separate parts by a division wall without openings, extending from the ground up, each part shall be deemed a separate building.

Building, Height of. The vertical distance from the base point of elevation as defined in this Ordinance to the highest point of a flat roof; to the decline of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

Business. Any occupation, employment or enterprise wherein merchandise is exhibited or sold or rented, or which occupies time, attention, labor and materials, or where services are offered for compensation.

Campground. Any premises established for overnight habitation by persons using equipment designed for the purpose of temporary camping and for which a fee is charged.

Carport. An automobile shelter having one or more sides.

Cellar. The unfinished portion of a structure located mostly below grade without sufficient exits or natural lighting and ventilation to be considered as livable space.

Centerline. A line connecting the points on highways from which setback distances shall be measured, at any point on the highway.

Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

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

Connecting Streets. Streets of cities, townships and villages that connect state trunk highways as defined in Sec. 84.92(11), Wisconsin Statutes.

Dependant Mobile Home. A mobile home that does not have complete bathroom facilities.

Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions to structures or accessory uses, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, deposition of materials.

District. Parcels or sections of the Town of Garfield, Wisconsin, for which the regulations governing the use of land and buildings are uniform.

Double Wide. A home usually constructed like mobile homes with a hitch and undercarriage for transporting. The separate units are joined together at the site.

Drainage System. One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Dust Free. (As applied to driveways or parking spaces.) Construction of washed and packed gravel or trap rock, concrete, macadam or asphalt.

Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

Dwelling, Multiple. A building or portions thereof designed for and used by more than two (2) families. Classification of a residential structure shall be determined by its present or projected occupancy and design and not by the characteristics of ownership and tenancy such as condominium arrangements.

Dwelling, One Family or Single. A detached building designed for or occupied exclusively by one (1) family.

Dwelling, Two Family. A detached or semi-detached building designed for and occupied exclusively by two (2) families living independently of each other.

Emergency Shelters. Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare; fire; flood; windstorm; riots; or invasions.

Family. The body of persons who live together in one (1) dwelling unit as a single housekeeping entity.

Fence. A barrier constructed of materials other than evergreen shrubbery erected for the purpose of protection, confinement, enclosure, or privacy.

Finished Room. A room created by covering the walls and ceiling with plaster, dry wall, paneling or other similar building material, so as to block from view the structural members of the wall and ceiling; trimming the doors, windows and built-in cabinets with molding; and preserving the walls and trim with paint, varnish or other similar material.

Floor Area. The area within the exterior wall lines of a building, provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics, basements or utility rooms, garages, breezeways, unenclosed porches or terraces.

Frontage. All property abutting on one (1) side of a street or road measured along the street or road.

Frontage, Reversed. When the rear lot line of a corner lot coincides with part or all of the side lot line of another lot in the same block, reverse frontage exists.

Garage, Private. An accessory building or space used for storage only.

Garage, Public. A building or portion thereof used for the housing or care of motor vehicles for the general public or where any such vehicles are equipped or repaired for remuneration or kept for hire or sale.

Grade. The elevation or level of the street closest to the sign to which reference is made, measured at the street's centerline.

Home Occupation. Any business or profession which is clearly secondary to the main use of the premises as a dwelling and is conducted only by members a family residing in the dwelling.

Home Occupation, Major. A home occupation authorized in Article 4 of this Ordinance as a conditional use by the Town Board.

Home Occupation, Minor. A home occupation authorized in Article 4 of this Ordinance, without a hearing or permit, only from the principle dwelling of the property.

Home Occupation, Nonconforming. A nonconforming home occupation is one that was established and maintained prior to the effective date of this Ordinance, but is no longer allowed because of application of this Ordinance or any amendment thereto.

Household Pets. Animals commonly found in residence as pets, such as dogs, cats, birds and other small animals, provided that they are not raised or reared for commercial resale.

Kennel. Any place where four (4) or more dogs over three (3) months of age are owned, boarded, bred or offered for sale.

Less Restricted. The use of land or buildings first permitted in a certain district is less restricted than other uses first permitted in districts appearing earlier in the numerical order in which such districts are numbered in this Ordinance.

Licensee. Any person licensed to operate and maintain a commercial enterprise, under this Ordinance.

Licensing Authority. The Town of Garfield.

Living Space. That portion of a dwelling occupied by the residence for normal daily living functions, to include, but not limited to, all space on the main level of a dwelling, any upper level rooms that have been finished for daily use, and any lower level rooms that have been finished for daily use, but not including any room used for a furnace, water heater or similar mechanical device, unless they occupy a minor portion of such room and the remainder of the room has been finished for daily use.

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

Lot, Corner. A lot located at the intersection of two (2) streets, any two (2) corners of which have an angle of one hundred twenty (120°) degrees or less. If bounded by a curved street in which case the chord within the limits of the lot line forms and angle of one hundred twenty (120°) degrees or less.

Lot, Interior. A lot other than a corner lot.

Lot, Sewered. A lot not served by a private on-site septic system.

Lot, Unsewered. A lot served by a private on-site septic system.

Lot Line. The line bounding a lot as herein described.

Lot Width. The horizontal distance between the side lot lines of a lot measured within the lot boundary and at the minimum required front setback line.

Manufactured Home. A mobile home made to standards specified by the Federal Department of Housing and Urban Development (HUD) effective in 1980.

Mobile Dwelling Unit. A trailer, van, mobile home, recreational vehicle, tent, bus, truck, or automobile or similar apparatus for residential purposes, temporary or permanent.

Mobile Home. A home which is, or was as originally constructed, with a hitch and undercarriage designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

Mobile Home Park. A mobile home park means any plot or plots of ground upon which two (2) or more units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home. A home which is pre-built in units or modules that can be joined in various configurations at the site and contains a HUD plate.

More Restricted. The use of land or buildings first permitted in a certain district is more restricted than other uses first permitted in districts appearing later in the numerical order in which such districts are numbered in this Ordinance.

Non-Dependent Mobile Home. A mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year-round facilities.

Non-Conforming Use. A use or occupancy of a building or premises, lawful at the time of the passage of this Ordinance, or amendments thereto, which use or occupancy does not conform to the regulations of this Ordinance, or any amendments thereto.

Non-Conforming Structure. A building occupied at the time of the passage of this chapter, or amendments thereto, which because of size or placement on a lot, or the size of the lot, does not conform to the regulations of this Ordinance or any amendments thereto.

Nursery. Any building or lot, or portion thereof, used for the cultivation or growing of plants and including accessory buildings.

Outlot. A lot remnant or parcel of land with a plat remaining after platting, which is intended for open space use, for which no development is intended other than that which is accessory to the open space use. An outlot may not be developed for any use or structure that requires a private, on-site wastewater treatment system.

Parcel. Contiguous land under single-entity ownership and having a parcel identification number registered with Polk County.

Parking Lot. A lot where automobiles are parked or stored temporarily but not including the wrecking of automobiles or other vehicles or storage for the purpose of repair or wrecking.

Person. Any natural individual, firm, trust, partnership, association or corporation.

Plan Commission. The Town of Garfield, Polk County, Wisconsin Plan Commission.

Pre-Built Home. A dwelling built with conventional methods and materials but away from the permanent location. The pre-built structure generally is moved to the site in one unit.

Pre-Cut Home. A home built on the site, however, all the studs, joists and rafters are pre-cut at a mill or factory.

Prefab, Prefabricated or Panelized Home. A type of home which is built in sections at the factory. These sections are insulated, plumbed and wired at the factory, and trucked to the site and assembled.

Premises. A lot with the required front, side and rear yards for a dwelling including any structure.

Principal Structure. The main building or other structure on a lot that is utilized for the property's principal use. Principle structure includes attached garages and porches.

Professional Office. The office of a doctor of medicine or dentistry, practitioner, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

Property Boundary Line. The line between parcels of land that touch each other or parcels of land that are separated only by a river, stream or transportation or utility right-of-way.

Public Utilities. Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary and storm sewer.

Quarrying. The removal of mineral aggregates, topsoil or other natural materials from the earth by excavating, stripping or any other mining process.

Screening. Screening is a solid fence, six (6) feet high or a planting belt not less than fifteen (15) feet wide and not less than six (6) feet high.

Service Station. Any building, structure or premises or other place used for the dispensing, sale or offering for sale of any motor fuel or oils, having pumps and storage tanks; also where battery, tire and similar services are rendered, but not including buildings or premises where such business is incidental to the conduct of a public garage used for the repair or storage of motor vehicles.

Setback. The minimum horizontal distance between a building and the street or lot line.

Setback Lines. Lines established adjacent to highways, lot lines, lakes, and streams or other places for the purpose of defining limits within which any or certain buildings, structures or uses may not be constructed, maintained or carried on, except as shown herein. "Within a setback line" means between the setback line and the highway, lot line, lake or stream to which the setback line is adjacent.

Sign. Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise, identify, convey information or direct attention to a product, service, place activity, person, institution, business or solicitation, including any permanently installed or situated merchandise. For the purpose of removal, signs shall also include all sign structures.

Space. A plot of ground within a mobile home park, designed for the accommodation of one mobile home unit.

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

Story, Half. A story under any roof except a flat roof, the wall plats of which on a least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

Street. A public or private thoroughfare which affords a primary means of access to abutting property.

Street Line. A dividing line between a street and the abutting lot.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Structural Alterations. Any change in the supporting members of a structure, such as bearing walls, columns, purlins, rafters, beams or girders, footing and piles.

Subdivision. Division of a lot, parcel or tract of land by the owner(s) thereof or agent for the owner(s) for the purpose of sale or building development where the act of division creates two (2) or more lots or building sites, or two (2) or more lots or building sites are created by successive subdivision activity within a five (5) year period.

Subdivision, Minor. A subdivision creating one (1) to four (4) lots.

Subdivision, Major. A subdivision creating five (5) or more lots.

Subdivision, State. The division of a lot, parcel, or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels of building sites of one and one-half (1-1/2) acres or less in area, or where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres each or less in area by successive division within a period of five (5) years.

Temporary Structure. A moveable structure not designed for human occupancy which may be use for the protection of good or chattels.

Use. The purpose for which land or premises or a building thereon is designated, arranged or intended, or which it is or may be occupied or maintained.

Use, Accessory. A use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Use, Conditional. A use of land, water or building which is allowable only after the issuance of a special permit by the Town Board under conditions specified in this Ordinance.

Use, Permitted. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

Use, Principal. The main use of land or buildings as distinguished from subordinate or accessory use. A principal use may be “permitted” or “conditional.”

Variance. Permission granted, by the Board of Appeals, to a land owner to build or develop in a manner inconsistent with the dimensional standards established in this Ordinance.

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.

Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The front and rear yards extend the full width of the lot.

Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.

Yard, Rear. An open space, unoccupied except for accessory buildings extending from the rear lot line to the rear line of the main building for the entire width of the lot line, excluding such projections as are permitted herein.

Yard, Side. A yard or open space on each side of the main building extending from the side wall of the building to the side lot line and from the front yard to the rear yard. When an accessory building is

constructed as part of the main building or constructed on one side of the main building, the side yard requirements shall be the same for the accessory building as required for the main building.

Zoning Lot. A parcel of land considered or treated as a single unit. A zoning lot may or may not correspond with a lot of record.

ARTICLE 3: ZONING DISTRICTS

Section A: Introduction

1. This Article contains the general zoning provisions and indicates what uses may be made of property, the permissible lot size, height of buildings and dimensions of required yards and open space. It divides the area to which it applies into five (5) districts. Each district has its own set of regulations.
2. The locations of the districts are shown on the official Town of Garfield Zoning Map available at the Town Hall.
3. Within most districts there are established “permitted uses” and “conditional uses.” Permitted uses are those which are allowed in that district provided that the property-owner obtains a permit by showing that the proposed use is listed as a permitted use. Conditional uses are those that are allowed only after the Plan Commission reviews the proposed use, holds a public hearing and decides whether to approve, based on certain conditions being met and compliance with the regulations contained in this Ordinance.
4. The fact that a use is shown as a permitted use does not always mean that project may proceed. The Polk County Shoreland, Sanitary, and Subdivision Ordinances, and other Articles of this Ordinance may result in a permitted use not being allowed to proceed, depending on the manner in which those provisions apply.

Section B: Districts Established. For the purposes of this Ordinance, the Town of Garfield is hereby divided into the following five (5) zoning districts:

1. Residential
2. Agricultural
3. Agricultural – Residential
4. Conservation
5. Commercial

Section C: District Boundaries.

1. The district boundaries contained in Section B above are shown on the official Town of Garfield Zoning Map in the Town Hall.
2. Whenever possible, the boundaries shall be construed to follow U.S. Public Land Survey lines; lot or property lines; or centerlines of streets, highways, easements, and railroad right-of-way.
3. No building shall be erected or premises used for any purpose unless in compliance with the provisions established for the district in which the building or premises are located.

Section D: Residential District. The Residential District is created to establish and protect the essential characteristics of areas within which predominantly low density residential use should occur, along with certain community and recreational uses to serve the residents of the district.

1. Permitted Uses. The following uses of land are permitted in the Residential District:
 - a. Accessory buildings, including private garages and buildings clearly incidental to the residential use of the property, except that no accessory buildings may be used as a separate dwelling unit and shall not be permitted until it’s associated main building is present or under construction.
 - b. Churches, cemeteries, public and private schools.
 - c. Gardening and nurseries for propagation of plants and trees.
 - d. Minor Home Occupations (as in Article 4, Section H.4.).
 - e. Public buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance equipment.

- f. Public parks and playgrounds, including swimming pools, golf courses, tennis courts and picnic grounds. Such uses shall contain sufficient yard area to provide a buffer space and adequate parking facilities according to the following guidelines:
 - i. No yard shall be less than twenty-five (25) feet wide, except that no yard need be provided adjacent to the fairways and greens of golf courses.
 - ii. Each yard shall be increased for the following:
 1. Swimming pools larger than forty (40) feet by sixty (60) feet, one (1) foot additional yard for each two (2) feet of width or length of the pool in the direction of the additional width or length.
 2. Picnic grounds having seating arrangements for more than forty (40) persons, ten (10) feet of additional width on every yard for each additional ten (10) persons or fraction thereof which such picnic ground is designated for or equipped to accommodate.
 3. Any such yard which abuts on a public street or highway may be reduced by half ($\frac{1}{2}$) the width of such a street or highway, but in no case to less than fifteen (15) feet.
 4. Each yard shall be left in its natural condition and the natural vegetation of the area, including grasses, flowers, shrubs and trees, except no noxious plants, trees, or weeds shall be allowed to grow and develop, or other vegetation of equivalent density shall be planted therein, so as to provide a natural screen between the park or playground and the neighboring residential areas, and so that such yards be, so far as possible, unused and unusable for the general purposes of such parks and playgrounds.
 5. The above regulations shall be mandatory as applied to any park or playground established by the Town of Garfield.
 - g. Single-family dwellings.
 - h. Swimming pools, above or below ground, with four (4) foot tall chain link fence and shrubbery screening or a five (5) foot tall solid fence.
 - i. Telephone, telegraph and power distribution poles, lines and necessary appurtenance equipment and structures, such as transformers, unit substations and related equipment housing, but no service garage or storage yards.
 - j. Trails for non-motorized uses.
2. Conditional Uses. The following uses are permitted as conditional uses within the Residential District, upon approval by the Town Board:
 - a. Bed and breakfast or boarding house.
 - b. Conservation subdivision development pursuant to the Town of Garfield Subdivision Ordinance.
 - c. Day-care centers.
 - d. Major Home Occupations (as in Article 4, Section H.5.).
 - e. Oversized accessory buildings.
 - f. Professional office, provided that:
 - i. Such office is conducted solely by a member of the resident family entirely within the residence and incidental to the residential use of the premises.
 - ii. There shall be no external alterations that would affect a substantial change in the residential character of the building.
 - iii. Not more than fifty (50%) percent of only one floor for the dwelling shall be devoted to such offices.
 - iv. Not more than one (1) person not members of the resident family may be employed in non-professional capacities in such office.
 - g. Residential day-care centers.

- h. Two-family dwellings.
 - i. Wells, water storage tanks and water distribution systems for central water systems, and central septic servicing more than one (1) property.
 - 3. Minimum Lot Area.
 - a. Sewered lots. Buildings or other parts of buildings hereafter erected or structurally altered for single or two-family dwelling purposes shall provide a lot area of not less than 12,750 square feet; minimum width shall be one hundred (100) feet. The proportion of depth in relation to width for such a lot shall be in excess of three to one (3:1), depth to width.
 - b. Unsewered lots. The same regulations shall apply as in 3(a) above except that the minimum lot area shall be two (2) acres and the minimum lot width shall be two hundred (200) feet.
 - 4. Height.
 - a. No building shall be more than two and one-half (2.5) stories or thirty-five (35) feet in height, whichever is greater, with height measurements commencing at the grade level of the highest existing topography.
 - b. Residential buildings may be increased in height by not more than ten (10) feet or one (1) story when all yards and other required open spaces are increased by one (1) foot for each foot in height by which such building exceeds the normal height limit of the district.
 - 5. Yards.
 - a. Side Yard. There shall be a side yard on each side of the building.
 - i. The aggregate width of the side yards for the main building shall not be less than twenty-five (25) feet and no single side yard shall be less than ten (10) feet wide. The highway setback regulations in Article 4, Section J shall apply to all corner lots.
 - ii. The minimum permitted side yard for an accessory building in a residence district shall be ten (10) feet, provided it is detached from the main building. When an accessory building is attached or connected to the main building they shall be considered to be as one and the conditions in (i) above shall apply.
 - iii. For lots less than eighty (80) feet and of record as such at the date of the passage of this Ordinance, the aggregate width of the side yards shall be equivalent to three (3) inches for each foot of the lot width and no single side yard shall be less than forty (40) percent of the aggregate width. The buildable width of any lot shall not be reduced to less than twenty-four (24) feet.
 - b. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet in depth from any main building. Accessory buildings shall be provided with minimum rear yard of not less than ten (10) feet.

Section E. Agricultural District. The Agricultural District is created to establish and protect areas within which agricultural uses may exist and prosper free from future intrusion from future 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 farmland.

- 1. Permitted Uses. The following uses are permitted in the Agricultural District:
 - a. Accessory buildings (as in Section D.1.a.) plus such additional accessory buildings as are incidental and necessary to the agricultural uses permitted under this Section.
 - b. Beekeeping.
 - c. Forest and game management.
 - d. Grazing.
 - e. Greenhouses.

- f. Livestock facilities with fewer than five hundred (500) animal units, together with associated livestock structures, as defined by Wisconsin Department of Agriculture, Trade and Consumer Protection ATCP 51, Subchapter II and III, of Wisconsin Administrative Code, effective April 2009, which provisions are hereby incorporated by reference, provided any such use shall be located not less than one hundred (100) feet from any property boundary line.
 - g. Minor home occupations (as in Article 4, Section H.4.).
 - h. One single-family dwelling.
 - i. Operations where horses, bison, farm-raised deer, or camelids are owned, boarded, bred or offered for sale where operations involve fewer than twenty (20) animals, except that one (1) animal beyond the initial twenty (20) may be kept for each acre available for grazing, feed production and waste disposal up to two hundred (200) animals and provided that any structure used to house, feed, confine or show animals, store feed, or collect or store waste generated are not within one hundred (100) feet of any property boundary line.
 - j. Plant nurseries and orchards.
 - k. Raising agricultural crops, grass, mint, ginseng and seed crops.
 - l. Raising trees, fruit, nuts, grapes, vegetables, berries, specialty crops and other similar agricultural production operations.
 - m. Roadside stands.
 - n. Sod raising.
 - o. Structures and improvements that are consistent with agricultural uses.
 - p. Swimming pools.
 - q. Telephone, telegraph and power distribution poles, lines and necessary appurtenance equipment and structures, such as transformers, unit substations and related equipment housing, but not service garage or storage yards.
 - r. Trails for non-motorized use.
2. Conditional Uses. The following uses are permitted as conditional uses within the Agricultural District upon approval by the Town Board:
- a. Auto salvage yards, auto repair and auto body shops.
 - b. Agricultural supply businesses such as farm machinery dealers and seed, fertilizer and chemical dealers, and industries which process agricultural products largely produced on nearby farms, provided that any such use shall be located not less than one hundred (100) feet from any property boundary line.
 - c. Agricultural warehouses, agricultural shops and agricultural storage yards, provided that any such use shall be located not less than one hundred (100) feet from any property boundary line.
 - d. Churches and cemeteries.
 - e. Communication or similar towers, not including silos or elevators, in excess of fifty (50) feet shall be allowed only in areas found to be distinctly rural where the use can be found to be subordinate to and compatible with agricultural uses in the area and not in conflict with any established airstrips.
 - f. Conservation subdivision development pursuant to the Town of Garfield Subdivision Ordinance.
 - g. Contractor's storage yard. Any such yard shall be so placed or screened by planting as not visible from any public highway or residential building other than that of the owner of such yard, his agent or employee and shall not be located less than five hundred (500) feet from any property boundary line shared with property upon which a dwelling other than that owned by the owner, his family, agent, employee or tenant of such business is located or two hundred (200) feet from any other property boundary line.
 - h. Dams, power plants, flowage areas.

- i. Electrical generating facilities designed for nominal operation at capacity of less than 12,000 kilowatts, telephone, telegraph and power transmission lines, poles and lines, including transformers, substations, relay stations, equipment housings and other similar necessary appurtenant facilities; natural gas substations; radio and television stations and transmission towers and microwave radio relay towers, provided that such facilities are found to be necessary and to be located so as to avoid unreasonable interference with other uses permitted or existing in the district.
- j. Governmental uses, such as police and fire stations, town halls, highway storage garages, solid waste disposal and sewage treatment plants, schools, public parks and campgrounds, public recreational use, airports and landing strips.
- k. Hot mix plants engaged in public highway related projects provided that such operations are of a temporary nature not exceeding one hundred twenty (120) days of operation.
- l. Kennels, when located not less than five hundred (500) feet from any property boundary line shared with property upon which a dwelling other than that owned by the owner, his family, agent, employee or tenant of such business may be located.
- m. Licensed game management as set forth in Chapter 29 of the Wisconsin Statutes.
- n. Limited commercial recreational activities which are found to be subordinate to the primary agricultural use of the property, which are compatible with the agricultural use on that and surrounding properties, and which are not likely to attract other related uses.
- o. Livestock facilities with greater than five hundred (500) animal units, together with associated livestock structures, that meet the siting requirements and applicable standards of Wisconsin Department of Agriculture, Trade and Consumer Protection ATCP 51, Subchapter II and III, of Wisconsin Administrative Code, effective April 2009, which provisions are hereby incorporated by reference.
- p. Major home occupations (as in Article 4, Section H.5.).
- q. More than one single-family dwelling occupied by one (1) or more persons earning a substantial livelihood from the singly entity-owned contiguous farm operation, together with related structures, provided that they be established according to the Town of Garfield Subdivision Ordinance.
- r. Quarry or gravel pits, provided that they be located not less than two hundred (200) feet from abutting highway right-of-way line and not less than one thousand (1,000) feet from any residential dwelling nor shall any operational facilities such as buildings, parking lots, storage yards or stock piles be located less than three hundred (300) feet from any property boundary line and provided that the owner of the premises and the operator shall file an agreement accompanied by a surety bond or other financial guarantee for the restoration, within one (1) year after discontinuing operations, or the site to a condition of practical usefulness and physical attractiveness. Minimum requirements for restoration shall be the elimination of all water holes by filling and grading and side sloping of any area disturbed by the quarrying operation to the minimum angle of repose of the slope material or a two to one (2:1) slope, whichever is lesser.
- s. Sawmills, which shall not be located less than five hundred (500) feet from any property boundary line shared with property upon which a dwelling other than that owned by the owner, his family, agent, employee or tenant of such business may be located.
- t. Slaughterhouses, which shall not be located less than seven hundred (700) feet from any property boundary line shared with property upon which a dwelling other than that owned by the owner, his family, agent, employee or tenant of such business is located or two hundred (200) feet from any other property boundary line.
- u. Wind energy systems.

3. Minimum lot area.
 - a. The minimum lot area for a principal residence or farm operation shall be twenty (20) acres. The proportion of depth to width for such a lot shall not be in excess of three to one (3:1), depth to width.
 - b. Residences allowed under Section E.1., which are parcels separated by means of a certified survey map from the tract or the farm operation to which they relate, must have a minimum of two (2) acres and be approved in conformance with the Town of Garfield Subdivision Ordinance. No more than one such parcel may be separated from a lot described in 3.a. above and no additional residences may be located on the remaining parcel unless they be established according to the Town of Garfield Subdivision Ordinance.
4. Height. The provisions of Section D.4. of this Article shall apply to all buildings for human habitation.
5. Yards. The provisions of Section D.5. of this Article shall apply.

Section F. Agricultural – Residential District. The Agricultural – Residential District is created to establish areas which agricultural uses, limited commercial, institutional, and residential uses may be located. This district is intended to include areas in which exclusivity of agriculture use on an area-wide basis is not warranted because of such factors as the existence of mixed uses prior to the date this district was established and located, demonstrated or expected ability of farm and selected non-farm uses to exist in close proximity without undue conflict or a determination that the area is in a state of transition to urban-residential character.

1. Permitted Uses. The following uses are permitted in the Agricultural – Residential District:
 - a. Any permitted use in the Agricultural District.
2. Conditional Uses. The following uses are permitted as conditional uses within the Agricultural – Residential District upon the approval of the Town Board:
 - a. Agricultural supply businesses (as in Section E.2.b.)
 - b. Agricultural warehouses, agricultural shops and agricultural storage yards (as in Section E.2.c.).
 - c. Churches and cemeteries.
 - d. Contractor’s storage yard (as in Section E.2.g.).
 - e. Conservation subdivision development pursuant to the Town of Garfield Subdivision Ordinance.
 - f. Governmental uses (as in Section E.2.j.).
 - g. Hot mix plants (as in Section E.2.k.).
 - h. Kennels (as in Section E.2.l.).
 - i. Licensed game management (as in Section E.2.m.)
 - j. Limited commercial recreational activities (as in Section E.2.n.).
 - k. Major home occupations (as in Article 4, Section H.5.).
 - l. One additional single family dwelling provided that the lot size which the dwellings are located is at least twice that required in Section 3 below.
 - m. One two-family dwelling.
 - n. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay stations, equipment housings and other similar necessary appurtenant facilities, radio relay towers, provided that such facilities are found to be necessary and to be located so as to avoid unreasonable interference with other uses permitted or existing in the district.
 - o. Wells, water storage tanks and water distribution systems for central water systems, and central septic systems servicing more than one property.
 - p. Wind energy systems.

3. Minimum lot area. The following provisions shall apply to residential parcels.
 - a. Sewered lots. Buildings or other parts of buildings hereafter erected or structurally altered for single or two-family dwelling purposes shall provide a lot area of not less than one (1) acre. The proportion of depth in relation to width for such a lot shall not be in excess of three to one (3:1), depth to width.
 - b. Unsewered lots. The same regulations shall apply as in 3(a) above except that the minimum lot area shall be three (3) acres.
4. Height. The provisions of Section D.4. of this Article shall apply to all buildings for human habitation.
5. Yards. The provisions of Section D.5. of this Article shall apply.

Section G. Commercial District. The Commercial District is created to establish and protect locations in which a wide variety of compatible commercial uses can be located. Within this district, residential development, heavy manufacturing and non-retail commercial enterprises are not permitted in the interest of furthering the livelihood of the permitted retail commercial uses and protecting uses from the effects of incompatibility.

1. Permitted Uses. The following uses are permitted in the Commercial District:
 - a. Automotive sales.
 - b. Barber or beauty shops.
 - c. Banks and financial institutions.
 - d. Business and Professional offices and clinics.
 - e. Cabinet/fixture assembly shop with retail showroom.
 - f. Clothing and dry good stores.
 - g. Drug stores and pharmacies.
 - h. Dry-cleaning and laundry establishments.
 - i. Electrical, household appliance, radio, television and computer sales and service.
 - j. Equipment rental.
 - k. Farm equipment, machinery, and services.
 - l. Food and convenience stores.
 - m. Gasoline service stations.
 - n. Gift, variety stores and antique shops.
 - o. Greenhouse, when primary use is the direct selling of retail goods and items to the public.
 - p. Mini-storage or self-storage facilities.
 - q. Non-residential day-care facility.
 - r. Restaurants and drinking establishments.
 - s. Sporting goods and athletic shops.
 - t. Veterinarian clinics.
2. Conditional Uses. The following uses are permitted as conditional uses within the Commercial District upon the approval of the Town Board.
 - a. Any retail, wholesale, professional or other commercial use in the Commercial District not listed as a permitted use.
 - b. Changes of use in a non-conforming structure or property.
 - c. Permitted uses with aggregate structure area over ten thousand (10,000) square feet.
 - d. Supplemental design and improvements standards for commercial conditional use:
 - i. All utilities, including electric, cable television, telephone, gas, water and storm and sanitary sewers, except electrical power lines exceeding 1,200 volts, shall be underground.
 - ii. Conditional use review shall include specification of plantings and landscape area. In design, every effort should be made to protect and retain existing trees, shrubbery and grasses not located in rights-of-ways, drainage ways, vision triangles, and the like. Trees should be required in road setback areas,

- particularly where the development is immediately adjacent to a residential area. A minimum of at least fifteen (15%) percent of the area within the property lines of each lot shall be devoted to landscape purposes.
- iii. Any commercial lot that abuts or is across from a residential area shall have perimeter landscape screening that will substantially screen parking areas and headlights from vehicles.
 - iv. All roads, walk, driveways, parking lots and loading areas shall be paved meeting design approved by the Town Board.
 - v. The Town Board may require cross easements where commercial lots are adjacent to allow linking of parking areas.
 - vi. Road standards for commercial development may be increased by the Town Board. An increase of these standards will be based on relevant information such as Town plan, driveway widths, speed limit, number and types of vehicles using the road, parking availability, sound engineering judgment, and other pertinent information.
3. Minimum lot area.
 - a. Minimum lot frontage of one hundred fifty (150) feet;
 - b. Minimum lot area of one (1) acre;
 - c. Minimum front yard of one hundred (100) feet (off the right-of-way, or one hundred fifty (150) feet from the center line, whichever is greater) is required.
 4. Height. No building shall be more than two and one-half (2.5) stories or thirty-five (35) feet in height, whichever is greater, with height measurements commencing at the grade level of the highest existing topography.
 5. Yards.
 - a. Side Yard. Minimum of twenty (20) feet.
 - i. If buildings or abutting lots are not constructed with a common wall or with walls contiguous to one another, a side yard of not less than twenty (20) feet shall be provided. Where no side yard is required, an alternative access to the rear yard must be provided.
 - ii. There shall be a side yard of not less than fifty (50) feet along side of any lots in the Commercial District which abuts the side lot line of a lot in the Residential or Agricultural – Residential District and is not separated therefrom by a street or alley.
 - b. Rear Yard.
 - i. There shall be rear yard of not less than twenty (20) feet in depth.
 - ii. There shall be a rear yard of not less than twenty-five (25) feet on any lot in the Commercial District which abuts the lot line of a lot in the Residential or Agricultural – Residential District.

Section H. Conservation District. The Conservation District is established to protect and preserve the natural state of certain areas such as low land swamps, marshes, wetlands, stream beds, slopes, bluffs, wooded areas, water areas and other areas of aesthetic value for the benefit of this and future generations. In this district, no building shall hereafter be erected, moved or structurally altered except to be used in conjunction with permitted uses.

1. Permitted Uses. The following uses are permitted in the Conservancy District.
 - a. Beekeeping.
 - b. Forest and game management.
 - c. Forest reserves, wilderness and wildlife preservation areas.
 - d. Grazing.
 - e. Harvesting of any wild crops such as marsh hay, ferns, wild rice, berries, tree fruits and tree seeds.

- f. Hunting, fishing, and trapping.
 - g. Public and private parks, picnic areas and similar uses.
 - h. Soil and water conservation practices, and stream bank protection, provided that such uses do not involve structures, fill, soil or peat removal, or disruption of the natural flow of any water course or altering the natural topography.
 - i. Trails for non-motorized use.
2. Conditional Uses. The following uses may be allowed as a conditional use in the Conservation District upon the approval of the Town Board, and after a Public Hearing.
 - a. Accessory uses, such as non-habitable park and recreation shelters, buildings used solely in conjunction with the raising of waterfowl, minnows and other similar animals, fowl or fish, and structures used by public or semi-public agencies or groups for research in or the rehabilitation of natural resources.
 - b. Piers, docks, boathouses.
 - c. Ponds.
 - d. Public and private campgrounds and accessory structures.
 - e. Public and private shooting ranges and accessory structures, provided that firearm discharge areas and accessory buildings be located not less than one thousand (1,000) feet from any residential dwelling other than that owned by the owner, his family, agent, employee or tenant of such business may be located.
 - f. Raising of minnows, waterfowl and other similar animals, fowl or fish.
 - g. Removal of top soil or peat.
 - h. Structures and fill accessory to permitted principal uses.
 - i. Telephone and power transmission lines.
3. Minimum lot area. The minimum lot area shall be one (1) acre.
4. Yards. Any use involving a structure shall provide front and rear yards of at least fifty (50) feet in depth and side yards of at least fifty (50) feet in width each.

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ARTICLE 4: GENERAL PROVISIONS**Section A: Jurisdiction and Compliance.**

1. Jurisdiction. The jurisdiction of this Ordinance shall include all lands within the Town of Garfield, Polk County, Wisconsin.
2. Compliance. No structure or land shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, structurally altered without full compliance with the provisions of this Ordinance and all other applicable Town, county and state regulations.

Section B: District Regulations to Be Complied With. Except as otherwise provided, the use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

Section C: Height and Area.

1. No part of a yard or other open space provided about any buildings for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required for another building.
2. Hereafter, every dwelling erected in the Town of Garfield shall provide not less than six hundred and seventy-six (676) square feet of floor area for a one-story building, nor less than one thousand (1,000) square feet of floor area for a two-story building and a minimum width of twenty-six (26) feet. The basement can be included if it has an entrance directly accessible to the outside, or at least one (1) window that is not over four (4) feet above the basement floor.
3. The permitted size of accessory buildings are as follows and shall not be more than twenty-five (25) feet in height, as measured from the finished grade to the roof peak:

Lot Area	Total Square Footage
Parcels less than 1 acre	1,200 square feet
1 acre – 3 acres	1,500 square feet
3 acres – 5 acres	2,500 square feet
5 acres – 20 acres	3,000 square feet
20 acres +	Unlimited*

*provided they are agricultural buildings

4. The regulations contained throughout this Ordinance relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:
 - a. Church, schools and other public or quasi-public may be erected to a height not exceeding sixty (60) feet or five (5) stories, provided the front, side and rear yards required in the district in which such a building or structure is to be located are each increased at least one (1) foot for each additional foot of height above the height limit otherwise established in the district.
 - b. Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, microwave radio relay or broadcasting towers, masts or aerials, wind energy systems, farm silos, barns or other farm structures and necessary mechanical accessories are hereby exempted from the height regulations in this Ordinance and may be erected in accordance with other regulations or ordinances of the Town of Garfield, Polk County, or of other jurisdictions, such as the Federal Aviation Administration.
 - c. Facilities subject to a. and b. above require a land use permit to be issued by the Zoning Administrator after the approval of the Town Board. Before issuing the permit, the

Zoning Administrator or Town Board shall investigate and determine whether any such facility, which is to exceed thirty-five (35) feet in height above ground level, will create or may create any fire protection problems. In considering a request for a permit, the Town Board may invite appropriate officials of fire or other public safety officials to appear and offer recommendations. The Town Board may attach such conditions as it deems reasonable and necessary, based upon advice of fire and public safety officials, to the granting of the permit.

Section D: Use Regulations. The following use regulations and restrictions shall apply:

1. Permitted Uses. Only those permitted uses specified for a district, their essential services and the following shall be permitted in that district.
2. Unclassified or Unspecified Uses. Unclassified or unspecified uses may be permitted as conditional uses by the Town Board provided that such uses are similar in character to the permitted uses permitted in the district.
3. Conditional Uses. Provisions applicable to conditional uses generally:
 - a. Conditional uses and their accessory uses are considered as special uses requiring for their authorization, review, public hearing and approval by the Town Board in accordance with Section G of this Article excepting those existent at time of adoption of this Ordinance.
 - b. Those existing uses which are classified as “conditional uses” for the district(s) in which they are located at the time of adoption of this Ordinance require no action by the Town Board to continue as valid conditional uses, and the same shall be deemed to be “regular” conditional uses.
 - c. Proposed change for permitted use in a district to a conditional use shall require review, public hearing and approval of the Town Board in accordance with Section G of this Article.
 - d. Conditional use(s), when replaced by permitted use(s), shall terminate. In such cases(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval of the Town Board in accordance with Section G of this Article.
 - e. Conditional uses authorized by the Town Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar in type or not, without Town Board approval in accordance with Section G of this Article.

Section E: Site Regulations.

1. Site Suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town Board by reason of flooding as noted on official FEMA floodplain maps, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of the Town. The Town Board, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusions that the land is not suitable for certain uses. The applicant shall have the opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Town Board may affirm, modify, or withdraw its determination of unsuitability.
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 and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would alter the existing drainage or topography in any way as to adversely affect the abutting property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

3. **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected, or moved onto a lot. The Town Board may permit as a conditional use more than one (1) principal structure in any district where such structure is permitted as a conditional use in that district and more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Town Board may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
4. **Decks.** For the purposes of this Ordinance, decks shall be considered a part of the building or structure.
5. **Pre-existing Lots.** Where a lot has an area less than the minimum number of finished square feet per family required for the district in which it is located and was of record as such at the time of the passage of this Ordinance, such a lot may be occupied by one (1) family subject to setback, rear yard and side yard setbacks for the district.

Section F: Non-Conforming Uses. When any structure or the use of any structure or premises is a non-conforming use as defined in Article 2, such use may continue subject to the following limitations:

1. As long as no structural alterations are made, a non-conforming use of a building may be continued. Once a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming less restricted use.
2. No non-conforming use shall be expanded, enlarged or altered in any way which increases its non-conformity.
3. Only that portion of the land in actual use may be so continued.
4. If any non-conforming use is discontinued for twelve (12) consecutive months, any future use of the structure or premises must conform to this Ordinance.
5. When a non-conforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity it may be restored or rebuilt in the same location, but cannot be enlarged or expanded except as to comply with the use provisions of this Ordinance.
6. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

Section G: Conditional Uses.

1. **Purpose.** The development and execution of this Section is based upon the division of the Town of Garfield into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district(s), without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.
2. **Authority and Requirements.**
 - a. The Town Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Town Board provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Ordinance and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Town Board action, and the resulting conditional use permit shall specify the period of time for which effective, if specified, the name of permittee, the location and legal description of the affected premises. Prior to the granting of a

- conditional use permit, the Town Board and Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- b. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.
 - c. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.
3. General Procedure. In addition to the provisions of this Section, applications for a conditional use shall be processed in this manner:
- a. Applications. Application for any use listed in this Ordinance as requiring a conditional use permit may be allowed only upon application to the Town Board on forms furnished by the Zoning Administrator. Conditional use applications can include single parcels of land or groupings of parcels contiguous or non-contiguous.
 - i. The Town Board may require such other information that may be necessary to determine and provide for an enforcement of this Ordinance, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
 - ii. The applicant for a conditional use permit shall be responsible for any professional review fees, including without limitation legal and engineering fees, the Town shall occur in its consideration and action on the application. These fees shall be payable whether or not the application for conditional use is approved. The Town Board may require the applicant to submit funds at the time of submission of such application of an escrow account to cover any anticipated fees. The amount of such required escrow shall be determined at the sole discretion of the Town Board. If at any time monies in the escrow account are insufficient to pay expenses incurred by the Town for professional fees, the applicant shall deposit any required additional amounts within fifteen (15) days of written demand by the Town Clerk or the consideration and/or approval of the application for conditional use permit may be delayed and/or denied.
 - b. Notice and Hearing.
 - i. Before passing upon an application for conditional use, the Plan Commission shall hold a public hearing with notice provided.
 - ii. At least ten (10) days prior, a notice of time, place and purpose of such public hearing shall also be sent to the applicant, the members of the Town Board, and the owners of record of property in whole or part situated within one-hundred (100) feet of the boundaries of the properties affected.
 - iii. The Plan Commission shall report its recommended action to the Town Board within forty-five (45) days after a matter has been referred to it, after which the Town Board shall take formal action.
 - c. Determination. The conditions of approval or reasons for denial shall be stated in writing by the Town Board and made a permanent part of the minutes.
 - d. Recording. When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such grant shall be applicable solely to the structures, use and property so described. The variance or the conditional use shall be

- recorded with the Polk County Register of Deeds and a legal description of the property shall be provided to the Town. The applicant shall be responsible for the cost of recording the conditional use and/or variance.
- e. Termination. Where a conditional use does not comply with the conditions of the original approval, the conditional use shall be terminated by action of the Town Board preceded by a public hearing and notice to affected parties.
4. General Standards. Approval of a conditional use permit by the Town Board shall only be granted subject to the following provisions:
- a. No conditional use shall violate the spirit or general intent of this Ordinance.
 - b. No conditional use shall violate the spirit or general intent of the most recently adopted Town Comprehensive Plan.
 - c. No conditional use shall be allowed which would constitute a fire hazard or be contrary to the public health, safety, morals, comfort or general welfare.
 - d. No conditional use shall be allowed which would impair or diminish the uses, value and/or enjoyment of adjoining property or other property in the district.
 - e. No conditional use shall be allowed that would constitute a nuisance by reason of noise, dust, smoke, odor, or other similar factors.
 - f. No conditional use shall impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - g. No conditional use shall be allowed unless adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - h. No conditional use shall be allowed unless adequate measures have been or will be taken to ingress and egress so designed as to minimize traffic congestion on public streets.
 - i. No conditional use shall violate floodplain regulations governing the site.
 - j. No conditional use shall be allowed unless adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
 - k. The Town Board shall also apply standards set forth in other Articles of this Ordinance, which apply to particular classes of conditional uses.
5. Application of Standards. When applying the above standards to any new construction of a building or an addition to an existing building, the Town Board and Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objectives of the zoning district.
6. Additional Considerations. In addition, in reviewing a conditional use permit, the Town Board and Plan Commission shall also evaluate the effect of the proposed use upon:
- a. The maintenance of safe and healthful conditions.
 - b. The prevention and control of water pollution including sedimentation.
 - c. Existing topographic and drainage features and vegetative cover on the site.
 - d. The location of the site with respect to floodplains and floodways of rivers and streams.
 - e. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - f. The location of the site with respect to existing or future access roads.
 - g. The need of the proposed use for a shoreland location.
 - h. Its compatibility with uses on adjacent land.
 - i. The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.
7. Conditions. Prior to the granting of any conditional use, the Plan Commission may recommend and the Town Board may stipulate such conditions and restrictions upon establishment, location, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section G.4. above. In all cases in which conditional uses are granted, the Town shall require such evidence and guarantees as it may deem necessary as proof

that the conditions stipulated in connection therewith are being and will be complied with. These conditions may include, but are not limited to, specifications of:

- a. Period of time in which all or part of the use may be permitted.
 - b. Increased setbacks and yards.
 - c. Specified sewage disposal and water supply facilities.
 - d. Landscaping and planting screens.
 - e. Operation control.
 - f. Sureties.
 - g. Deed restrictions.
 - h. Location of docks, piers or other structures, signs, etc.
 - i. Location and amount of parking facilities.
 - j. Type of construction.
 - k. Type of shore cover.
 - l. Construction commencement and completion dates.
 - m. Lighting.
 - n. Fencing.
 - o. Hours of operation.
 - p. Traffic circulation.
 - q. Access restrictions.
 - r. Suitability of slopes and soils.
 - s. Any other requirements necessary to fulfill the purpose and intent of this Ordinance.
8. Site Review. In making its recommendation, the Plan Commission shall evaluate each application and may request technical assistance. The Plan Commission may view the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewage and water systems and the proposed operation/use.
9. Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Town Board, upon recommendation of the Plan Commission.
10. Validity of a Conditional Use Permit. Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Town Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Town at least thirty (30) days before the expiration of said permit.

Section H: Home Occupations.

1. Purpose. The purpose of this Section is to:
 - a. Protect residential and agricultural areas from adverse impacts of activities associated with home occupations.
 - b. Permit residents of the community an opportunity to conduct a business at their place of residence.
 - c. Establish criteria and develop standards for home occupations conducted in dwelling units and accessory structures in the following districts: Residential, Agricultural, and Agricultural-Residential.
2. Intent. The intent of this section is to provide for certain types of restricted occupational uses within the Residential, Agricultural, and Agricultural-Residential districts which:
 - a. are incidental to the use of the premises as a residence or farm;
 - b. are compatible with residential and agricultural uses;

- c. are limited in extent; and
 - d. do not detract for the residential or agricultural character of the neighborhood.
3. General Standards. The following general standards shall apply to all home occupations:
- a. The person principally responsible for the home occupation must reside at the location of the proposed home occupation.
 - b. All home occupations shall be clearly incidental and secondary to the use of a dwelling or accessory structure for residential or agricultural purposes, and the appearance of the structure shall not be altered or the occupation within the dwelling or accessory structure be conducted in such a manner which would cause the premises to differ from its residential or agricultural character by either the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises, odors or vibrations.
 - c. In no case shall any home occupation be open to the public at times earlier than 7 a.m. nor later than 10 p.m.
 - d. A home occupation shall have adequate off-street parking spaces available to compensate for additional parking needs generated.
 - e. There shall be no exterior storage of business equipment, materials, merchandise, inventory, vehicles or heavy equipment.
 - f. Home occupations shall not produce noise or objectionable odors, vibrations, glare, fumes or electrical interference detectable beyond the lot line of the parcel on which the home occupation is located.
 - g. Home occupations shall not illegally discharge any materials, fluids or gases into the sewer system or into an on-site waste disposal system nor discharge such items in violation of any applicable government code.
 - h. Garage sales, craft sales or other similar sales are permitted without special permit provided that they meet the following standards:
 - i. Sales last no longer than three days.
 - ii. Sales are held no more than twice yearly.
 - iii. Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.
 - iv. No goods purchased for resale are offered for sale.
 - v. No consignment goods may be offered for sale.
 - vi. Directional signs may not be placed in the right-of-way.
 - vii. All directional and advertising signs shall be freestanding and removed upon completion of the sale.
 - viii. All directional and advertising signs placed on private property shall have the owner's permission.
 - ix. No directional or advertising signs may be larger than four (4) feet square.
4. Minor Home Occupations. A minor home occupation is a home occupation authorized by this Section without a hearing or permit, provided said home occupation conforms to all of the following standards:
- a. Minor home occupations shall not be conducted in any building on the premises other than the principal dwelling.
 - b. No person other than a resident of the principal dwelling may be engaged or employed in a minor home occupation.
 - c. The area set aside for the home occupation shall not exceed twenty percent (20%) of the total floor area of such residence.
 - d. There shall not be conducted on the premises the selling of stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be filled on the premises. That is, the direct sale of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.

- e. Parties for the purpose of selling merchandise or taking orders shall be not be held more than four (4) times each month.
 - f. Permitted home occupations include, but are not limited to, the following:
 - i. Dressmaking, sewing and tailoring;
 - ii. Painting, sculpturing or writing;
 - iii. Telephone answering or marketing;
 - iv. Home crafts for sale off-site;
 - v. Tutoring;
 - vi. Home cooking and preserving for sale off-site; computer programming, data entry or other data processing services; secretarial services;
 - vii. Accounting and bookkeeping services.
5. Major Home Occupations. A major home occupation is any proposed or existing home occupation that does not meet the standards for a minor home occupation and may only be allowed in the Residential, Agricultural, and Agricultural-Residential districts.
- a. A major home occupation may only be authorized as a conditional use by the Town Board following the provisions of Article 3 of this Ordinance. Conditional use permits for major home occupations shall not be granted when it appears to the Town Board that the proposed home occupation will constitute a fire hazard to neighboring property owners, will adversely affect neighboring property values, or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, noise, odors or other circumstances.
 - b. In order to guarantee that a major home occupation, once authorized, will not become a nuisance to the neighbors or otherwise violate these guidelines, the Town Board may impose reasonable conditions necessary to protect the public health, safety and welfare.
 - c. Conditional use permits for major home occupations granted by this Section shall be temporary in nature and shall be granted to a designated person who resides at the location of the home occupation. They are not transferable from person to person or from address to address.
 - d. Applications for major home occupation conditional use permits shall be filed with the Zoning Administrator with an application fee provided in the Fee Schedule, made payable to the Town Treasurer. The application shall be forwarded to the Plan Commission for public hearing. All hearings shall be posted as Class 2 notices, and at public meetings of the Town of Garfield. Legal notice shall be given to adjoining landowners as required for other conditional uses.
 - e. In addition to the specific conditions imposed by the Town Board, all major home occupations shall also meet the following standards:
 - i. Major home occupations must be conducted within the principal dwelling or permitted accessory structure.
 - ii. Major home occupations may not be located within five hundred (500) feet of any property boundary line.
 - iii. Interior or exterior business signs shall be limited to one sign not to exceed six (6) square feet that conforms to all other sign regulations otherwise provided in this Ordinance.
 - iv. No more than two (2) persons other than a resident of the principal dwelling may be employed or engaged in a major home occupation.
 - v. The area set aside for the major home occupation shall not exceed twenty (20%) percent of the total floor area of the principal dwelling. Where an accessory structure is used, the total floor area dedicated to the home occupation, including any area used in the dwelling, shall be limited to one thousand (1,000) square feet. The Town Board shall determine an appropriate maximum square footage for the specific proposed home occupation as part of its review.

- vi. Only merchandise directly incidental to a service provided may be displayed or sold within the dwelling or structure used for a major home occupation.
6. General Provisions.
 - a. Inspections. There may be one (1) annual inspection each year of any authorized home occupation by the Zoning Administrator or his/her designee. In addition, the Zoning Administrator or his/her designee shall have the right at any time, upon reasonable request, to enter and inspect the premises for safety and compliance purposes.
 - b. Transfers. Should a home occupation permit holder (conditional use permit holder) die or move to a new location, the existing permit shall be automatically terminated, except that, in the case of death, should a surviving spouse or child residing at the same residence desire to continue the home occupation, the Town Board may authorize continuation of that permit upon written request without further hearing.
 - c. Revocation. Conditional use permits for a major home occupation, once granted, may be revoked by the Town Board, for cause, after hearing before the Town Board. All such revocations shall be administered in accordance with Section G of this Article.
 - d. Abatement. Any non-conforming home occupation shall be discontinued or comply with all applicable provisions of this Section within one (1) year after the home occupation first became non-conforming.
 - e. Penalties. Penalties for failure to apply for an applicable permit or failure to comply with the provisions of this Ordinance or the conditions of such permit shall be as prescribed in the Town's Fee Schedule.

Section I: Off-Street Parking. This Section sets forth, minimum requirements for off-street parking arrangements for the uses listed.

1. General Standards.
 - a. In a Commercial District, whenever a lot abuts upon a public or private alley, sufficient loading space shall be provided on the lot or adjacent thereto in connection with any business use so that the alley shall at all times be free and unobstructed to the passage of traffic.
 - b. One off-street parking space shall be two hundred (200) square feet of area, exclusive of adequate ingress and egress driveways to connect with a public thoroughfare. A single stall in any garage may replace any single required parking space.
 - c. No building of which off-street parking space is required may added to, structurally altered or converted in use so as to encroach upon or reduce the parking space below the required minimum.
 - d. No parking spaces required under this section may be used for another purpose. However, open spaces required for setback and side yards may be used for such parking spaces or approaches hereto, except that on corner lots there shall be no parking in the vision clearance triangle.
 - e. All parking spaces shall be graded and drained so as to prevent the accumulation of surface water. All parking spaces in the commercial district and residential parking lots in the residential and agricultural districts containing three (3) or more parking spaces shall be provided with a dust free surface.
 - f. Parking lots containing five (5) or more parking spaces which are located in the Residential Districts or adjacent to residential lots, shall be screened along with the side of such lots which abut the lots lines of residential lots by a solid wall, fence or evergreen planting of equivalent capacity or other equally effective means, built or maintained at a minimum height of four (4) feet. If parking lots so located lighted, the lights shall be so shielded as to prevent undesirable glare or illumination of adjoining residential property.

2. Number of Spaces Required. The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth:

Use	Minimum Spaces Required
Bowling alleys	Five (5) spaces for each alley
Buildings combining business and residential use	One (1) space for each three hundred (300) square feet of area devoted to business use + one (1) per family, which accommodations are provided on the premises
Dwelling, single family	Two (2) spaces per dwelling
Dwelling, multi-family	Two (2) spaces per family for which accommodations are provided in the building + one (1) more space per building
Establishments offering curb service to customers who remain in their vehicles	Five (5) spaces for each person employed to serve such customers
Funeral homes and mortuaries	One (1) space for each fifty (50) feet of space devoted to parlors
Motels, lodging houses and dormitories	One (1) space for each guestroom
Public parks and playgrounds	One (1) space for each four (4) persons designed to be accommodated
Restaurants, taverns and similar places for eating and for refreshments, except curb service establishments	One (1) space for each fifty (50) feet of floor space devoted to the use of the patrons
Retail or local business places, banks, offices and professional offices and personal service shops	One (1) space for each two hundred (200) square feet ground floor area + one (1) additional space for each two hundred (200) square feet of upper floor area
Roadside stands	Three (3) spaces at the place of business off the right-of-way of the highway
Service stations	Shall provide parking for all vehicles used directly in the conduct of the business + two (2) spaces for each gas pump + three (3) spaces for each grease rack
Theatres, churches, auditoriums, lodges or fraternity halls and similar places of public assemblage	One (1) space for each seven (7) seats

3. Uses Not Named. Any use not specifically named shall be assigned to the most appropriate classification by the Zoning Administrator subject to review by the Town Board or appeal to the Board of Appeals.
4. Handicapped Parking Requirements. In addition to any other requirements relating to parking spaces contained in this Ordinance, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

Section J: Road Setbacks.

1. Purpose. The purpose of this Section is to promote the public safety, welfare and convenience on public roads by establishing setbacks from road rights-of-way.

2. Jurisdiction.
 - a. The jurisdiction of this Section shall include lands abutting all arterials, major collectors, minor collectors, and local roads.
 - b. The functional/jurisdictional classification of existing roads are shown on the Road Classifications map as part of the Town of Garfield Road, Driveway, Erosion Control and Stormwater Management Ordinance.
 - c. Where a road is located on a town boundary, this Section does not apply on the portion of the road located outside of the Town of Garfield.
 - d. The Zoning Administrator will require approval from WisDOT for setbacks, roads connection and driveway access to state and federal highways and on land that is adjoining state and federal highways. WisDOT may require additional standards not identified in this Section.
 - e. The Zoning Administrator will require approval from the Polk County Highway Department for setbacks, roadway connection and driveway access to county highways and on land that is adjoining county highways. The County Highway Commissioner may require additional standards not identified in this Section.
3. Placement and Alteration of Structures.
 - a. No new building, sign, or part thereof, shall be placed between the setback lines established by this Ordinance and the road, except as provided in Section J.4. below.
 - b. No building structure, sign, or part thereof, except those complying with the above regulations, which exists within the setback lines on the effective date of this Ordinance or any amendment thereto shall be altered or enlarged or reconstructed within such setback lines after having been destroyed by fire, storm or other catastrophe to the extent of fifty percent (50%) or more of its actual current value.
4. Structures permitted within setback lines. The following kinds of structures and signs may be placed between the setback line and the road:
 - a. Open fences.
 - b. Telephone, telegraph and power transmission poles and lines, and microwave radio relay structures, together with all appurtenances thereto that are readily removable as a unit, including public utility equipment housings or structures, may be constructed within the setback lines, and additions to and replacements of any such existing poles, lines and structures may be made, provided the owner files with the Town Building Inspector/Zoning Administrator and agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Ordinance at his/her own expense, when necessary for the improvement of the road.
 - c. Wells and septic tanks and other similar structures.
 - d. Access or service highways constructed according to plans as approved by the jurisdiction having authority of the road.
 - e. This Section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided however, that no building or structure, trees or shrubbery shall be so located, maintained or permitted to grow so that the view across the sector at the intersection, as provided in Section J.5., shall be obstructed.
 - f. Where buildings are proposed to be erected or moved between buildings existing at the time of the adoption of this Ordinance and having setback lines less than those established by this Section, which existing buildings are located not more than one hundred fifty (150) feet apart, the Zoning Administrator may issue a permit for such proposed building, providing that the setback of such building shall not be less than the average of the setbacks of the nearest adjoining existing buildings on either side of the locations of the proposed building.

5. Setback Requirements. Road setbacks shall meet the following requirements:

Road Classification*	Setback from Right-of-Way
Arterial	100 feet
Major Collector	50 feet
Minor Collector	50 feet
Local Road	50 feet

*as shown on the official Town of Garfield Road Classification map

6. Vision Triangles. In each quadrant of every public road intersection there shall be a visual clearance triangle bounded by the road centerlines a line connection point on them three hundred (300) feet from an Arterial intersection and two hundred (200) feet from a Major Collector, Minor Collector, or Local Road intersection.
7. Access Driveways. Access to highways from abutting properties shall comply with the Town of Garfield Road, Driveway, Erosion Control and Stormwater Management Ordinance.

Section K: Mobile Homes.

1. All mobile homes located in the Town of Garfield shall be subject to the following requirements:
 - a. Shall not be located except on a parcel of land of at least ten (10) acres.
 - b. Shall be a minimum of six hundred and seventy-six (676) square feet.
 - c. Shall have its hitch and all wheels and axles removed and be mounted on and anchored to, a permanent foundation or piers that are spaced six (6) feet or less apart and extended below the frost line.
 - d. The area beneath the mobile home, if not a continuous foundation, must be completely enclosed with a skirting material.
 - e. Other than in designated areas such as campgrounds, or as provided elsewhere in this Ordinance, a mobile home or travel trailer will not be allowed on any lot for more than fourteen (14) days within any sixty (60) consecutive days. Travel trailers may be stored by owner on his/her lot if the lot has a principal structure and if the travel trailer is not used for permanent sleeping purposes.
 - f. Any mobile home is considered attached to the land and subject to taxation as an improvement to real estate.
 - g. All mobile homes which are abandoned, burned or otherwise destroyed or substantially damaged must be removed from the lot or site on which they are located within six (6) months after abandonment, burning, destruction or substantial damage occurred.
2. Pre-built, pre-fabricated or modular homes, which shall be mounted on a continuous permanent foundation, are not considered "mobile homes" and are permitted in any district that would permit on-site construction of a home, subject to all provisions and restrictions applicable to such a home, as if it were constructed on-site.

Section L: Adult Establishments.

1. Purpose. To create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate with the Town so as not to suppress their existence.
2. Definitions.
 - a. Adult Bookstore. An establishment which, as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized

- by their emphasis on matters depicting, describing or relating to specific anatomical areas or specified sexual activities.
- b. Adult Cabaret. A nightclub, dance hall, bar, restaurant or similar commercial establishment that regularly features:
 - i. Persons who appear in a state of nudity or semi-nudity; or
 - ii. Live performances that are characterized by specified sexual activities; or
 - iii. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or nudity.
 - c. Adult Entertainment. Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
 - d. Adult Establishment. Includes adult bookstores, adult motion-picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
 - e. Adult Motion-Picture Theater. Any establishment for the presentation of motion pictures that 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 for observation by patrons therein.
 - f. Adult Novelty Store. Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - g. Sexually-Oriented Business. An adult bookstore, adult establishment, adult motion-picture theater, adult novelty store, adult cabaret, a business featuring adult entertainment or other business classified as an adult establishment.
 - h. Specified Anatomical Areas:
 - i. Less than completely and opaquely covered human genitals or pubic region.
 - ii. Human male genitals in a discernibly turgid state, even if opaquely covered.
 - iii. Less than completely and opaquely covered nipples or areolas of the human female breast.
 - i. Specified Sexual Activities. Simulate or actual:
 - i. Showing of human genitals in a state of sexual stimulation or arousal; or
 - ii. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - iii. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
 - j. Substantial. Forty (40%) percent or more of a business stock-in-trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty-percent threshold, that entity shall provide all necessary records, receipts and documentation to the Town upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.
3. Location.
 - a. No adult establishment shall be located:
 - i. Within any zoning district other than Commercial.
 - ii. Within 1,320 feet of an existing adult establishment.

- iii. Within 1,320 feet of any lot with a residential dwelling.
 - iv. Within 2,640 of any preexisting school, daycare or church.
 - v. Within 1,320 of any preexisting establishment licensed to sell or dispense fermented malt beverages of intoxicating liquor.
 - b. For purposes of this section, distances are to be measured in straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another adult establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages of intoxicating liquor.
- 4. Hours of Operation.
 - a. No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:00 a.m. and 12:00 noon on Saturdays, or on Sundays.
 - b. All adult establishments shall be open to inspection at all reasonable times by the Polk County's Sheriff's Department and the code enforcement officer.
- 5. Regulation of Sexually-Oriented Business.
 - a. The sale, use or consumption of alcoholic beverages on the premises of a sexually-oriented business is prohibited.
 - b. It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually-oriented business at any time the sexually-oriented business is open for business.
 - c. It shall be the duty of the operator of each sexually-oriented business to ensure that an attendant is stationed at each public entrance to the sexually-oriented business at all times during such sexually-oriented businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually-oriented business. 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:
 - i. A valid operator's, commercial operator's or chauffer's driver's license; or
 - ii. Personal identification card issued by a state agency reflecting that such person is eighteen (18) years of age or older.
 - d. No person shall cause another to commit a violation of this Section, not shall any person permit such violation to occur on any premises under his/her control, tenancy, management or ownership.
- 6. Violations and Penalties.
 - a. Violation of the use provisions of this Section is declared to be a public nuisance, and shall be subject to abatement procedures.
 - b. Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to a forfeiture of not less than \$200 and not more than \$500 per violation. A separate offense and violation shall be deemed committed on each day which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcoholic beverage license under Section 125.12 of the Wisconsin Statutes.

ARTICLE 5: ADMINISTRATION AND ENFORCEMENT**Section A: Zoning Administrator.**

1. There is hereby created the office of Town Zoning Administrator, herein referred to as Zoning Administrator. Appointment of this office shall be made by the Town Board.
2. The Zoning Administrator shall:
 - a. Advise Applicants. Advise applicants for permits as to the provisions of this Ordinance and assist them in preparing applications.
 - b. Issue Permits. Issue permits as provided in this Article.
 - c. Keep Records. Keep records of all permits issued, inspections made, work approved, legal nonconforming uses, conditional uses and/or variances granted by the Town Board or Board of Appeals and other official actions.
 - d. Determine District Boundaries. Determine questions of the exact location of district boundaries. Wherever there is a dispute over the exact boundary of a district, the Zoning Administrator shall decide the matter. The person contesting the matter shall be given reasonable opportunity to present his/her case to the Zoning Administrator and to submit his/her own technical evidence, if he/she so desires. The Board of Appeals may review decisions of the Zoning Administrator as an appeal.
 - e. Make on-site investigations related to the enforcement of Town Ordinances.
 - f. Access to Premises for Inspection Purposes. Have access to any structure or premises for the purpose of performing his/her duties. This power shall be exercised at a reasonable hour and after a 24-hour notice.
 - g. Issuance of building and land use permits, as in Section B.

Section B: Building and Land Use Permits.

1. Applications for building and land use permits shall be submitted to the Zoning Administrator.
2. No construction, alteration or addition to any building or structure shall commence before a building permit, land use permit or any other zoning permit, which may be required by this or any other ordinance, has been issued.
3. A road damage deposit shall be collected, in compliance with Ordinance 5-2004.
4. The Zoning Administrator shall review the application to determine:
 - a. That the parcel was created in compliance with Town and County ordinances;
 - b. That the proposed land use is a “permitted use” or a “conditional use”;
 - c. Compliance with all applicable setback and highway access regulations, or an attached variance, granted by the Board of Appeals;
 - d. If a copy of a Polk County Sanitary Permit is attached;
 - e. If a copy of a Polk County Land Use Permit (required whenever the parcel in question is subject to County Shoreland Protection Zoning Ordinance) is attached;
 - f. Inclusion of a rural address/fire number;
 - g. Inclusion of applicable fee(s) prescribed by the Town Fee Schedule.
 - h. If all applicable requirements are deemed to be satisfied, the Zoning Administrator shall issue a building or land use permit. The Polk County Zoning Administrator shall be sent a copy of the application.
5. Building permits issued without compliance to this Article shall have no legal effect.
6. Procedures in case of violations.
 - a. In the case of a violation of this Ordinance, the Zoning Administrator shall notify the person responsible for such violation, including the nature of the violation and ordering the action necessary to correct it.
 - b. The Zoning Administrator shall also report all violations to the Town Board.

Section C: Zoning and Sanitary Permits

1. A permit issued by the Zoning Administrator and/or the Polk County Zoning Administrator shall be secured prior to:
 - a. The erection, addition or alteration of any building, structure or portion thereof. A permit for such activity shall be known as a Building Permit and shall be issued by the Zoning Administrator subject to the requirements contained in Town Building Inspection and Issuance of Building Permits Ordinance.
 - b. The construction on, or use of, any land subject to the Polk County Shoreland Protection Ordinance must first receive a Polk County Sanitary Permit and Land Use Permit.
 - c. The construction or structural alteration of any private sewage system. This permit shall be known as a Sanitary Permit and shall be issued by the Polk County Zoning Administrator.
2. Application for permits shall be made to the office of the Zoning Administrator upon forms furnished by the Zoning Administrator.
3. All applications shall contain the following information:
 - a. Name and address of the applicant and the owner of the property.
 - b. Legal description of the property, volume and page of the records of the Polk County Register of Deeds at which is located the recorded legal description of the parcel in the form of a plat or survey map, deed or similar instrument and type of proposed use. Where the Zoning Administrator has any doubt as to the location of the project in relation to any boundary, he/she may require the applicant to provide a certified survey map (CSM). Such maps are not required when an existing structure is remodeled or repaired and does not expand the physical dimensions of the structure.
 - c. A sketch of the dimensions of the lot and location of any buildings from the lot lines, centerline of abutting watercourse and water marks at the day of the sketch.
 - d. Where a private water or sewage system is to be installed, the application shall contain the following information in addition to that required above:
 - i. Type of proposed installation.
 - ii. Name and person in charge of installation and any State license held by such person.
 - iii. Type of occupancy, number of occupants or patrons and estimated water consumption.
 - iv. Size and location of the proposed sewage disposal system.
 - v. A sketch showing the following:
 1. Location of lakes and wetlands within one thousand (1,000) feet and wells, streams, buildings, privies and sanitation systems within three hundred (300) feet of the proposed sewage disposal site.
 2. The location of all percolation test holes and report of each test and soil boring as taken by a certified soil tester.
 3. Depth to groundwater or bedrock if less than six (6) feet.
 4. Slope in feet per one hundred or contour lines at two (2) foot intervals in the area of the proposed absorption field and well.
 - e. When the application concerns land subject to floodplain zoning, the plans shall include detailed information on the elevation of the lot and the location of existing or proposed fill or storage materials. This shall be in addition to that required above.
 - f. Applications which are found to involve slopes in excess of 12%, by the Zoning Administrator on the basis of slope indications on the application, sketch or observations made in the course of field inspection, shall be approved only if the proposed construction is in compliance with erosion control conditions as detailed in the Town Road, Driveway, Erosion Control and Stormwater Maintenance Ordinance. The Zoning

Administrator may attach reasonable erosion prevention conditions to a permit approved for issuance.

- g. Permits or conditional use permits issued on the basis of approved plans and applications authorize on the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use arrangement or construction at variance with that authorized shall be deemed a violation of this Article.
4. Fees.
 - a. Schedule. Whenever an applicant files an application for any permit, including building permits, or review in this Article, the applicant shall pay a fee in accordance with a schedule that shall be adopted and amended from time to time, as necessary by the Town Board, in the Fee Schedule.
 - b. Temporary Occupancy Permits. Any other provisions to the contrary notwithstanding, no person shall place, occupy or use a mobile dwelling unit for residential purposes, temporary or permanent, on any parcel not having a legal and occupied principal structure other than in areas specifically zoned and approved for such occupancy. However, the owner of a parcel who holds a valid zoning and sanitary permit for construction of a principal structure may apply for and obtain approval for temporary placement and occupancy of a mobile dwelling unit during construction on condition of connecting such unit to and use of a legal sanitary system. All Town-approved applications will be contingent upon filing by the applicant of a deed restriction by which the property owner agrees to abide by all Town and County conditions and to obey time deadlines for removal of the unit unless the deadlines are extended by the Zoning Administrator. All residential occupancy of the mobile dwelling unit shall cease, and, except as provided in Article 4, Section K.1.f., the mobile dwelling unit shall be removed from the property when the principal structure is capable of occupancy.

Section D: Plan Commission. Refer to the Town of Garfield Plan Commission Ordinance.

Section E: Board of Appeals

1. Authorization and Composition.
 - a. The Town Board Chairman exercising village powers under Wis. Stats. 60.10(2)(c), shall appoint under authority of Wis. Stats. 61.35 and 62.23, a Board of Appeals consisting of the following:
 - i. Chairman;
 - ii. Four (4) regular members; and
 - iii. First and second alternates, who shall vote only in the absence of regular members.
 - b. The members will serve 5-year (5), staggered terms.
 - c. All appointments shall be subject to confirmation by the Town Board.
2. Procedural Rules.
 - a. The Board of Appeals shall select its own vice chairman and meet at the call of the chairman, vice chairman or at such other times as the Town Board may determine, at a fixed time and place.
 - b. All meetings of the Board of Appeals shall be open to the public.
 - c. All meetings of the Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator as a public record.
 - d. In the case of all appeals, the Board of Appeals shall solicit and weigh information and comments from the Town Board, Plan Commission and Zoning Administrator.

3. Powers. In addition to the powers enumerated in this Ordinance, the Board of Appeals shall have the following powers:
 - a. Adopt such rules as it considers desirable for the conduct of business, subject to the provisions of this Section and relevant State Statutes.
 - b. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator, Plan Commission, Town Board or other Town official(s) in the enforcement or administration of this Ordinance.
 - c. Grant variances subject to Section F of this Article.
 - d. If, after hearing the evidence, the Board of Appeals makes a finding that there was an error, the Board of Appeals may order the error corrected.
4. Procedures.
 - a. Appeals from Actions of Administrative Officials.
 - i. Appeals to the Board of Appeals may be taken by any person aggrieved or by the officer, department, board, commission or committee of the Town affected by the decision of the Zoning Administrator or Town Board.
 - ii. Such appeal shall be taken within sixty (60) days, as provided by the rules of the Board of Appeals, by filing with the officer for whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the ground thereof.
 - iii. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
 - b. Stay Appeals from Administrative Actions.
 - i. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would in his/her opinion, cause imminent peril to life and property.
 - ii. In such cases, proceedings shall not be stayed otherwise than by a restraining order from the Board of Appeals or a court of law.
 - c. Hearings on Appeals, Variances, or Conditional Uses.
 - i. Upon the filing with the Board of Appeals of an appeal from a decision of the Zoning Administrator or Town Board, an appeal from a determination on an application for a conditional use, a variance, or other matters within its powers as set forth above, the Board of Appeals shall hold a public hearing.
 - ii. The Board of Appeals shall fix a reasonable time for the hearing and publish a Class 2 notice under Wis. Stats. Chapter 985, as well as giving due notice by mail to all the parties in interest, including adjacent landowners.
 - iii. When the matter concerns shoreland or floodplain regulations, the Board of Appeals shall submit to the Polk County Zoning Administrator, a copy of the notice and application for the proposed variance sufficiently in advance so that the County will receive at least ten (10) days notice of the hearing.
 - iv. At the hearing, any party may appear in person or by agent or attorney and present written and oral evidence for the record.
 - d. Decisions of Appeals, Variances or Conditional Uses.
 - i. The Board of Appeals shall arrive at a decision based on such appeal, variance or conditional use within sixty (60) days.
 - ii. In passing upon an appeal the Board of Appeals may, so long as such action is in conformity with the provisions of this Article, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from and it shall make its decision in writing setting forth the findings of fact and the reasons for its decision.

- iii. A copy of all decisions granting variances or conditional uses affecting any provision of the shoreland or floodplain regulations shall be forwarded to the Polk County Zoning Administrator within ten (10) days of such action.

Section F: Conditions for Granting Variances. The Board of Appeals has the power to grant variances from the strict terms of this Ordinance, where owing to special conditions, a literal enforcement of this Ordinance will result in undue hardship. In granting a variance, the Board of Appeals may prescribe appropriate conditions and safeguards which are in uniformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. In addition, the granting of a variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district.
2. Be contrary to the public interest.
3. Be granted for hardship based solely on an economic gain or loss.
4. Be granted for a hardship which is self-created.
5. Damage the rights or property values of other persons in the area.
6. Allow actions without the appropriate amendments to this Ordinance or its associated map(s).
7. Allow any alteration of a historic structure, including its use, which would preclude its continued designation as an historic structure.
8. Permit a lower degree of flood protection than the flood protection elevation (a point two (2) feet above the regional flood level) for the area or permit standards lower than those required by State law or Polk County ordinances.

Section G: Impact Studies and Reports.

1. Purpose. In the administration of this Ordinance, the various boards and commissions which are assigned decision-making responsibilities hereunder will find themselves occasionally confronting proposed land use changes which have unusually significant consequences or which arouse unusually high levels of citizen interest. In such cases, the unit responsible for making the decision may find that the procedures specified in the sections of this Article which govern the case do not allow for a full and complete examination and articulation of the environmental and other impacts of the proposed change in use. This situation is to be expected since the procedures set forth herein are generally tailored to the more average or routine cases and are designed to balance, in such cases, the need of the boards and commissions for information against the burdens which a more complete procedure would impose upon landowners. The purpose of this subsection is to provide a special procedure for the handling of more complex cases or applications.
2. Coverage. This section shall apply to:
 - a. Proposed amendments to the Town land use regulations governed by the Town Zoning Ordinance.
 - b. Proposed conditional uses governed by the general zoning provisions of this Ordinance.
 - c. Variances and appeals governed by this Article.
 - d. Proposed minor or major subdivisions to which the suitability standards of the subdivision regulations or the Town Subdivision Ordinance are being applied.
3. Determination that Impact Studies are Needed. The board or commission which has before it a matter listed in this subsection may, for reasons stated in a written determination, decide that the particular application, petition or matter raises unusually significant questions of impact (environmental or other) or that an unusually high level of citizen interest has been evidenced in the proposed use, change or amendment, or both. Such decisions shall be followed by adoption by the board or committee of a resolution in which it will set forth the impact questions on which it requires research, data and input from affected or interested persons. The listing of impact questions can include items of date which this Ordinance already enables the Board or Commission to obtain or it may include additional items of information which are relevant to the

impact questions specified in the resolution. The resolution may also assign responsibility for the acquisition of data on the specific impact questions to County agencies or officials, to officials or agencies in other units of government who have or may be willing to assist or to the developer or applicant. The resolution may set a date for the return of the requested data and information and it may specify the format in which the data is to be presented.

4. Hearings. Following the return to the board or commission of the data called for in the resolution adopted under (reference) above, the board or commission shall cause the information to be compiled in the form of an impact report.

Section H: Amendments.

1. Authority. The Town Board, the Plan Commission, the Board of Appeals, and other government bodies and any private petitioners may apply for an amendment to the text of this Ordinance or to the district boundaries and map(s) incorporation herein. Such changes shall be reviewed by the Plan Commission prior to Town Board action.
2. Initiation and Petitions.
 - a. A change or amendment may be initiated by the Town Board, the Plan Commission or by a petition of one (1) or more owners of property within the area proposed to be changed.
 - b. Petitions for any change to the district boundaries and map(s) or amendments to the text of this Ordinance shall be submitted on forms supplied by the Zoning Administrator, addressed to the Town Board and Plan Commission, and shall:
 - i. Include a full description of the premises to be rezoned or the portions of the text of regulations to be amended;
 - ii. Specify the proposed use or change;
 - iii. List the reasons justifying the petition;
 - iv. List the names and mailing addresses of all owners or occupants of land within two thousand (2,000) feet of any land whose district or use will be changed, if the petition for action were taken; and
 - v. Be accompanied by a fee, included in the Town's Fee Schedule, to cover the cost of the hearing.
 - c. The Plan Commission shall hold a public hearing, after due notice to interested parties, and review all proposed amendments and shall recommend that the petition be granted as requested, modified or denied. The recommendations shall be made in writing to the Town Board.
 - d. The Town Board shall then review the recommendation of the Plan Commission and make its determination.
3. Expiration of Permits.
 - a. Permits for land use changes or construction shall expire twelve (12) months from the date of issuance, where no action has been taken to accomplish such changes or commence building activity.
 - b. Permits for exterior construction shall expire twenty-four (24) months after issuance. (Work must be completed within twenty-four (24) months)
 - c. Permits for interior construction shall expire thirty (30) months after issuance. (Work must be completed within thirty (30) months)

Section I: Violations and Penalties.

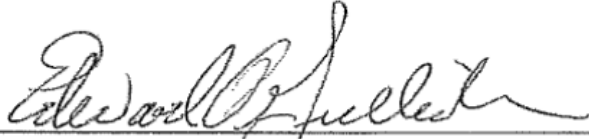
1. Violations.
 - a. No building or structure shall be erected, constructed, placed, moved or structurally altered nor any use of land, premises, building or structure established or changed in violation of this Ordinance.

- b. No person shall fail to comply with any standard of this Article or with any condition or qualification placed upon the issuance of a permit, approval or variance granted in due course of this Ordinance.
2. Remedial Action.
 - a. The Zoning Administrator is responsible for inspecting and investigating compliance of land use activities in compliance with this Ordinance.
 - b. If upon such inspection or investigation the Zoning Administrator becomes aware of a condition, which he/she concludes is or is likely to become a violation, the parties in violation shall be notified and informed of the appropriate action required to comply with this Ordinance.
 - c. Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Town Board, Zoning Administrator or the Town Attorney may institute appropriate legal action or proceedings.
 3. Penalties.
 - a. Where a conditional use or a variance has been approved subject to specified conditions and where such conditions are not complied with, the Town Board, Plan Commission or the Board of Appeals shall conduct a hearing similar to those followed in considering the granting of a conditional use or variance. Finding of non-compliance with the conditions originally imposed shall be the grounds for revocation.
 - b. The Town Board may, upon the recommendation of the Plan Commission or Board of Appeals, order an assessor's plat pursuant to Wis. Stats. 70.27, whenever the conditions specified in that section are found to be present.
 - c. The Zoning Administrator, Plan Commission or Board of Appeals shall require creation and recording of correction instruments correcting errors in distances, angles, directions, bearings, chords, block or lot numbers, street names or other details of a recorded map or plat at the expense of the subdivider or affected property owners.
 - d. No provision of this Article shall be construed to bar action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the laws of Wisconsin.

Section J: Severability. If a court competent jurisdiction determines that any section, clause, provision or portion of this Ordinance is unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected by any such determination.


Section K: Effective Date. This Ordinance shall become effective after public hearing, adoption by the Polk County Board of Supervisors, adoption by the Town Board, and publication as required by law.

Effective February 1st, 2011



Edward O. Gullickson, Chairman

ATTEST



Sue Knutson, Clerk