

Date: June 8, 2021

To: Town of Eagle Plan Commission and Town Board

From: Tim Schwecke, Town Planner

Subject: Potential amendments to the zoning code (Ordinance 2021-03)

Application: 2021-06; <https://s.zoninghub.com/WLVTDWB1AL>

Meeting: June 17, 2021 Special meeting/work session

As directed, I've compiled a list of issues that were raised during the public hearing for Ordinance 2021-03.

A working draft of this worksheet was sent to all of the Plan Commissioners and Town Board supervisors on or about June 1, 2021. As was agreed upon, we wanted to give everyone the opportunity to double check the list against their notes and make suggested revisions/additions to the worksheet. Commissioner Lewis submitted comments and are incorporated herein.

The intent is to use this as a worksheet to identify what changes should be made to the proposed draft. In this regard, there are a number of public comments that do not relate to any proposed change to the code. If a person recommends that a certain section be revised, but that section is not included in the proposed ordinance, such revision cannot be made at this time. It can certainly be addressed with a follow-up ordinance if that would be your intent. The same rule applies to the Plan Commission and Town Board.

As we work through the issues, the town planner, clerk, and attorney can provide additional information as may be requested.

The process for deciding what revisions should be made should be discussed at the outset of the meeting. One way is by consensus. Doing so, will allow the Town Board the opportunity to voice their concerns. The other option is by voting on each and every point. In addition to being rather drawn out, that option that would likely be limited to the Plan Commission members. Again, the Plan Commission must take the first step by considering amendments to the draft ordinance. The Town Board has the final say, but only after receiving the Commission's recommendation.

Once all of the desired changes, if any, have been identified, a Plan Commissioner would make a motion for consideration. Before making the motion, all of the changes need to be identified. Once a specific motion is made, it becomes increasingly cumbersome to offer amendments to the motion once seconded.

The Plan Commission has the authority to (1) recommend the ordinance as drafted, (2) recommend the ordinance with revisions, or (3) recommend denial of the ordinance.

Be sure to bring along your copy of the draft Ordinance 2021-03 to the meeting.

Also, as a reminder, the public hearing has been closed. The upcoming meeting is a work session for the Plan Commission and Town Board.

**Proposed Zoning Code Amendment
Specific Recommendations Relating to Ordinance 2021-03**

- June 8, 2021 -

Below is a list of specific recommendations made by the public at the public hearing conducted on March 24 and 31, 2021. The recommendations are organized based on where the subject matter appears in the zoning code. In other words, the recommendations are not organized by speaker. Further, the descriptions are not a verbatim recitation, but a summary statement. In some instances, a staff response is included by way of background information.

When reviewing this list, it is recommended that the corresponding code section be ready to review alongside the recommendation.

In addition to this summary, meeting minutes have been prepared and are available. Written comments that were submitted prior to the close of the public hearing are also available. Commissioner Lewis has submitted additional comments for consideration and are included on the last page.

1. Sec. 500.05(B)(1)

Reference should also include "flooding"

2. Sec. 500.07

Add subsection (D) to read generally as follows "Nothing in this ordinance shall apply to water control structures and dams regulated by the DNR under Chapter 31."

Staff comment: The code currently regulates dams as set forth in Appendix A and B (3.01). As I understand it, the DNR regulates dams with regard to construction, maintenance, and the like. There is not a process for consulting the jurisdiction where a new dam would be located. There needs to be a consideration of effects of a new dam on surrounding land uses.

3. Sec. 500.07 (B) and (C)

The reference to "in good faith" is too vague.

4. Sec. 500.41(A) (15)

Does the definition for antennae include amateur radio towers because they can be large and unsightly?

Staff comment: This definition is needed for the regulations relating to telecommunications. Amateur radio antennas are regulated as set forth in Appendix A and B (18.04)

5. Sec. 500.41

Add a definition for dam "any artificial structure across a watercourse which has the primary purpose of impounding or diverting water and includes all pertinent works such as a dike, canal, or powerhouse"

Staff comment: This definition would presumably only be needed if the Town wants to exempt dams as suggested in s. 500.07.

6. Sec. 500.41 (144)

Revise to include "reservoir" as follows "...navigable body of water, reservoir, or other public way..."

Staff comment: By definition, a navigable body of water would include a reservoir.

7. Sec. 500.41 (147)

Revise to include "reservoir" in the second sentence as follows ... or to other places on the shore of a lake, reservoir, or flowage ...

Staff comment: The definition mirrors state statutes. The preference is to not deviate from that precedent. The definition as described include reservoirs.

8. Sec. 500.52(B), 500.72(C); 500.104

These parts seem to contradict.

9. Sec. 500.52(H)

Insert "shall". The Plan Commission shall act on

10. Sec. 500.78 and 500.141

Meeting minutes should be posted to the Town's website within 10 days of the meeting.

Staff comment: The Town Clerk is responsible for drafting all meeting minutes along with all other prescribed duties. The 10-day rule would be difficult to accomplish; and if not met would be a source of conflict. All meeting minutes are not official until approved by the governing body. Draft minutes are sent to the Plan Commission/Town Board for their review and included in the materials for the meeting. It is the practice to post all approved minutes on the Town's website as soon as is practical.

11. Sec. 500.104

- There should be no need to enter a property to review an application. That provision should be removed.
- It makes sense to review a property if an application has been submitted.

12. Sec. 500.106

It should be okay to determine if a property is in violation.

13. Sec. 500.112

This section should be revised "to clearly indicate that only written and published statements and recommendations of record are binding on both parties and that oral representations may be ignored."

Staff comment: This provision states that the decision-making authority of the Plan Commission/Town Board is not limited in some way because of comments made by staff or anyone else.

14. Sec. 500.113

Speaker asked if any money left in an escrow is returned to the applicant.

Staff comment: Any balance left in an escrow is returned.

15. Sec. 500.124

This section indicates the Town pays for any notice. The speaker believes applicants should pay.

Staff comment: The Town Board establishes application fees which is intended to cover the cost of providing such notice. If changes are deemed necessary, the Town Board can amend the fee schedule by resolution at any Town Board meeting.

16. Sec. 500.132

The applicant should have the ability to say if a Plan Commission member or a Town Board member has a conflict of interest.

Staff comment: The Town Attorney will respond to this suggestion.

17. Sec. 500.133

If meeting is continued, the minutes should be made available (it would be like a public notice).

18. Sec. 500.167

There is a reference to "Appendix E". That is not part of the draft ordinance.

Staff comment: As part of the reorganization, Appendix A was changed to Appendix E. Aside from the name change, there are no other proposed changes to that part of the code.

19. Sec. 500.516

Property inspections should only be done on complaint, not periodically.

20. Sec. 500.522

There should be some additional residential zoning districts because properties that are 3-5 acres are different than those that area 10, 20, 30 acres

21. Sec. 500.232

The statement that there is "generally a 3-year term unless otherwise specified in the conditional use order" is too restrictive and costly to renew.

22. Article 6 - Multiple sections

The change from "shall" to "should" is not appropriate.

Staff comment: The proposed change ("shall" to "should") was recommended by the Town Attorney.

23. Sec. 500.482

The change to the definition in subsection (3) should not be reduced to 250 cubic yards. Keep at 1,000 cubic yards.

24. Sec. 500.566 (D)

The restriction on connecting multiple buildings should be removed

25. Sec. 500.567 (C)

The restriction on connecting multiple buildings should be removed

26. Sec. 500.604(B)

Any recreational vehicle must be operable

Msc. Provisions

27. Parking

There should be some restrictions on parking for businesses which limit allowed use to employees currently working within the establishment or customers patronizing the establishment. Overnight parking, and vehicle, trailer, mobile home or camper storage is not permitted at any time.

28. Snow

Any business or establishment may only remove snow and ice to portions of their own property (not plow it across the street or somewhere else and assure that snow removal activities do not block the view of traffic to safely move in the area or enter or exit roadways.

29. Shared driveway

If a driveway is shared by two or more persons, a written and recorded agreement on the maintenance of the driveway must be present.

30. Commercial vehicles

Cars with business logos/names should be allowed in buildings.

31. Nonconforming use section (#7)

Need to be clear about when the Plan Commission makes a recommendation in the context of a continuance.

32. Conditional use violations

Final notice to the applicant should be sent by certified mail (currently by regular mail or email).

33. Application fees

General Cost of applying for a conditional use for farm properties are too much.

Appendix A (Land Use Matrix)

- (2.03)** Farm education should be allowed by right in the RR district and the AP district.
- (2.04)** Farm recreation should be allowed by right in the RR district and the AP district.
- (2.06)** Farm stores should be allowed by right in the RR district and the AP district.
- (2.08)** Petting farms should be allowed by right in the RR district and the AP district.
- (2.09)** U-cut Christmas tree operations should be allowed by right in the RR district and the AP district.
- (2.09)** U-cut Christmas tree operations should be allowed in the RR district as a conditional use.
- (2.10)** U-pick operations should be allowed by right in the RR district and the AP district.
- (2.10)** U-pick operations should be allowed in the RR district as a conditional use
- (10.04)** Commercial kennels should be allowed in the RR district and the AP district.

- (18.08) Commercial truck parking should be allowed in the RR district as a conditional use
- (18.08) Commercial truck parking should be allowed in the RR district
- (18.11) Farm building for non-farm storage should be allowed by right in RR and AP districts; currently C (Conditional).
- (19.12) Seasonal product sales should be allowed in both RR and AP, currently only in AP with a Conditional Use.

Appendix B (Use Summary)

- (2.09) Onsite parking should be required for U-cut Christmas tree operations.
- (2.09) The operator of a U-Cut Christmas tree operation should provide and enact a plan to prevent and cleanup dirt, mud and other debris from being tracked onto any adjoining roadways and clean up and remove any such trackage at least once per 24-hour period or more often if directed.
- (2.10) Onsite parking should be required for U-pick operations.
- (2.10) The operator of a U-Cut Christmas tree operation should provide and enact a plan to prevent and cleanup dirt, mud and other debris from being tracked onto any adjoining roadways and clean up and remove any such trackage at least once per 24-hour period or more often if directed.

Multiple agritourism uses Signage for roadside stands, Christmas tree farms, pick your own strawberry or similar operation should comply with the Town's sign ordinance and may not be placed within the right-of-way of the road.

- (6.01) A campground should not be located in a dam inundation area.
- (6.01) A campground located in a floodplain should have at least one access route that is at an elevation above which any flooding can occur to ensure safe ingress and egress in an emergency.
- (6.01) A campground with more than 15 spaces should be required to have an emergency shelter for campers during a severe weather event.
- (18.08) Commercial truck parking should be revised to allow 4; currently 1.
- (18.08) Commercial truck parking should also be revised to allow 3 semi-trucks; currently 1.
- (18.15) Limiting a home occupation to 2 customers per day is not realistic.
- (18.15) The limitation of 2 cars per day for a home occupation is too restrictive.
- (18.15) Home occupations should be allowed in accessory buildings.
- (18.15) Home occupations should allow workers who are not the people who live in the dwelling
- (18.15) The limitation of 2 cars per day for a home occupation is too restrictive.

- (18.17) Remove the part requiring removal of loafing shed after 6 months if there are no livestock on site.
- (18.17) The livestock limitation doesn't take into account foals. How are they to be counted?

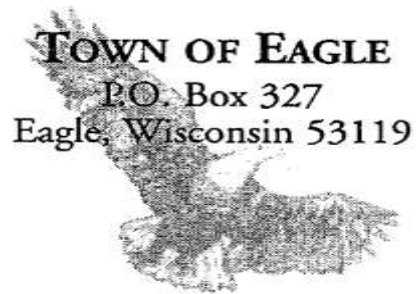
Comments submitted by Commissioner Lewis:

Only additional specific requests that I heard that you didn't capture were:

- 500.482 (could be coupled with your #23), a request for a definition of "ground".
- App B, 18.11 and/or matrix: A request to allow non-Farm storage in Farm Buildings as Permitted by right in RR & AP.
- App B, 18.17: Statement that this does not allow the ability to sell a foal or any birds, & I think that was a request.

More general requests that you touched on, but are overarching decisions, so for a more broad ranging discussion are:

- reconciling RR provisions for large vs small lots, and whether to split the district.
- clarification of CU constraints, and my recommendation of another meeting of the TB/PC with John Macy to get the latest status and get the newer people caught up.
- the issue of "should" vs "shall" for Town responsibilities
- availability & timeliness of minutes, which also goes to posting of meetings to some extent
- getting ordinances on-line
- concerns about fees and costs



Planning & Zoning Commission
Held Jointly with the Town Board in-person and via Zoom
March 31, 2021
Approved Minutes

Chairman Malek called the meeting to order at 6:00 P.M. and led the Pledge of Allegiance.

Present: Chairman Malek; Supervisors Mommaerts, Muth, Suhm, and West. Commissioners Kwiatkowski, Lewis, Mann, and Roberts were present. Staff present: Town Planner Schwecke and Town Clerk Pepper. Also, present: Jenny Benjamin, Erica Brewer Mallory, Richard Harthun, Ryan Hajewski, Tony Kinsetter, Diane Knauer, Wendy Konichek, Ted Kucharski, Linda Ludwig, Randy Mielke, Pamela Meyer, Richard Moeller, Judy Rozinski, Jillian Rupinski, JR Rupinski, Brent Rush, Molly Schneider, Amy Schultz, Sandra Shorr, Heather Stear, Donna Surdyk, and Maryann Ziebert. Also: David, Deb, Amy, Marc, Markus, and three (3) other unidentified participants.

Proposed revisions to the Town's zoning regulations (Chapter 500) (application 2021-06) –

Chairman Malek stated that per the Town Attorney, the Town conducted the public hearing per state statute and has extended the public hearing to allow for additional opportunities. This opportunity is for those who were not able to come online since very few participated and we wanted to be sure that everyone was able to. Chairman Malek reminded everyone that public comments will be reviewed by the Planning & Zoning Commission and Town Board at a special meeting, with a date yet to be determined.

A motion was made by Supervisor West, seconded by Commissioner Lewis to reopen the public hearing at 6:07 P.M. Upon voice vote, motion carried.

Clerk Pepper read an email from Dani Hajewski, S69 W39784 CTH N. She asked the Board to consider restoring conditional uses affecting Agri-tourism, commercial vehicle parking, farm education, and farm stands in the RR district.

Clerk Pepper read an email from Eagle Spring Lake Management District Chairman Pete Jensen. He asked for various changes with regards to dams, flooding, and reservoirs. He commented on restrictions on parking for businesses, shared driveway maintenance, campgrounds, recreational vehicles, off-road parking for u-cut/u-pick operations, and signage for the same.

Clerk Pepper read an email from Marc and Amy Otto, W358 S8409 STH 59. They feel their RR property off a state highway is different than a three (3) to five (5) acre RR parcel in a subdivision. They disagree with the one size fits all approach. They commented on the cost for conditional uses and farm stands, and commercial truck parking.

Chairman Malek explained that his eyes have been opened with the various comments that have been received so far on the code. Maybe we need some de-regulation with some of the larger parcels of land, especially those on a highway rather than in a subdivision. For example, with the Benjamins, I know that we passed to allow u-cut for thirty-five (35) acres in RR.

Wendy Konichek, S101 W34628 CTH LO commented on “shall” versus “should”, Agri-tourism, commercial kennels, and seasonal product sales to be permitted in RR, and changes to commercial truck parking, farm building for non-farm storage, home occupation, and household livestock.

Jillian Rupinski, W377 S10669 Betts Road spoke against permissions to enter property with an application. She commented on conflicts of interest, public notice, “shall” versus “should”, property inspections, change in topography, commercial truck parking, Agri-tourism, and home occupations.

Judy Rozinski, S102 W35520 CTH LO commented that laws are in place for a reason. People have lost sight of how to be neighborly. She commented on ACT 67, questioned if people ever felt threatened by their neighbors, commented on “shall” in terms of enforcement, and commented that the RR district should have more opportunities.

Sandy Shorr, S108 W37605 Draper Rd spoke on misinformation on social media, some reaching toxic and bullying levels. She commented that most people want rules and regulations but are afraid of being bullied and ridiculed. She spoke on code violations, intentional and unintentional, and the court of public opinion.

Diane Knauer, W345 S6950 STH 59 spoke on good faith being open to interpretation, upfront fees and fees returned, “shall” versus “should” and a reference to appendix E which was not in the draft. She referred to 500.104, Permission to enter subject property. If you go to 500.52(B), it points to state statute 62.23(4) where the state gives the Town the authority to do just that. In addition, looking for other violations while on the property is a step in the process of reviewing an application.

Chairman Malek explained that the Town will hold a special meeting to discuss the residents concerns with the Town Planner.

Supervisor Muth stated that the zoning code change in 2016 had to be done by the end of the year for the farmers to benefit from it. It was a state requirement for the AP district.

Supervisor Suhm commented that the comprehensive plan should be considered when making changes to the code. It is about preserving the agricultural land. She stated that Agri-tourism needs to be readdressed.

Chairman Malek stated that this is not an easy process and could take several meetings.

Ted Kucharski, W391 S10533 Meadow Lane questioned the definition of Agri-tourism. Planner Schwecke replied that it is the name of a category of uses.

Planner Schwecke explained that he is looking forward to working this out, looking for balance and compromising on points.

Molly Schneider, W370 S11035 Shearer Rd questioned if there will be another public hearing.

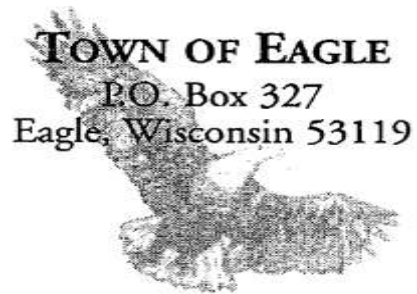
Planner Schwecke replied that the process is to take public comment, work through the comments, draw up a final draft for the Planning & Zoning Commission to recommend approval to the Town Board and for the Town Board to take final action. Then it goes to the Waukesha County Board for their approval.

A motion was made by Commissioner Kwiatkowski to close the public hearing at 7:09 P.M. Upon voice vote, motion carried. A motion was made by Supervisor Muth, second by Supervisor West to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

A motion was made by Supervisor West, seconded by Commissioner Mann to adjourn the Planning & Zoning Commission Meeting at 7:10 P.M.

A motion was made by Supervisor Suhm, seconded by Supervisor Muth to adjourn the Town Board Meeting at 7:10 P.M.

Lynn M. Pepper, Eagle Town Clerk



Planning & Zoning Commission
Held Jointly with the Town Board in-person and via Zoom
March 24, 2021
Approved Minutes

Chairman Malek called the meeting to order at 6:00 P.M. and led the Pledge of Allegiance.

Present: Chairman Malek; Supervisors Mommaerts, Muth, Suhm, and West. Commissioners Kwiatkowski, Lewis, Mann, and Roberts were present. Staff present: Town Planner Schwecke and Town Clerk Pepper. Also, present: Dawn Behr, Adam Benjamin, Jenny Benjamin, Andrea Berg, David Berg, Erica Brewer Mallory, Diana Brown, Alli Chase, Don Clemons, Jevon Cliffgard, Laura Clemons, John Davis, Debbie Domagalski, Duane Domagalski, Tony Fohey, JoAnn Gilbert, Gregory Himebauch, Kevin Kinart, Amy Kinosian, Carole Klumb, Diane Knauer, Bill Koch, Wendy Konichek, Ryan Hajewski, Dave Harding, Zach Mallory, Pamela Meyer, Megan McGough, Ann Mielke, Randy Mielke, Rhonda Molitor, Ron Molitor, Scott O'Brien, Edward Rauls, Judith Rauls, Judy Rozinski, Jillian Rupinski, JR Rupinski, Molly Schneider, Nick Schreiber, Wendy Schreiber, Jenny Schroeffer, Amy Schultz, Kendra Skorstad, Nathan Troug, Steve Wilton, and Nathan Wolff. Danah, David, Deb, Don, Marc, Michelle, and six other unidentified participants.

Proposed revisions to the Town's zoning regulations (Chapter 500) (application 2021-06) – Town Planner Schwecke explained that the purpose of tonight's public hearing is to review and accept public comments on the proposed revisions to the Town's zoning code. The current code was recreated in 2016. In 2017, ACT 67 was adopted which changed the nature of dealing with conditional uses across the state. Prior to ACT 67, conditional uses were reviewed on a case-by-case basis. After, it must be treated like a permitted use. Ordinance 2018-06 was passed which removed many conditional uses on a temporary basis. The passing of Ordinance 2018-07 removed Planned Unit Developments (PUDs) as a conditional use. A steering committee was formed to consider these proposed amendments. The Planning & Zoning Commission and Town Board reviewed and discussed these over the course of three (3) plus years which is where we are today. The proposed amendments will not modify the zoning map. If the Planning & Zoning Commission is so inclined to recommend to the Town Board to adopt or modify and adopt the proposed ordinance amendment, please know that it is not effective until the County Board approves it.

Commissioner Lewis repeated that ACT 67 changed the nature of conditional uses. The town used to be able to put conditions on it when it was being proposed. When ACT 67 came in, we can no longer put conditions on other than what is already written into the code. She offered an example of a helicopter pad, to try to illustrate the difficulty of trying to anticipate and define all conditions and situations in advance.

Chairman Malek explained that the guidelines for tonight are that you state your concerns. This is not a question/answer format. The Planning & Zoning Commission will listen and will take notes. There should be no repetitive comments. If your comments are the same as another, state ditto. Public comments will

be discussed at a later date. When you are called on, please state your name and address. You will be given three (3) minutes to speak. This meeting has an earlier start time in anticipation of a high turnout. If the meeting runs late, it may be adjourned to a later date. Tonight's meeting is a hybrid meeting, meaning both in-person and on Zoom in the effort to allow more people to attend safely. We will be taking public comment starting with the in-person people at the rear of the room and moving forward. Then we will move on to the Zoom participants.

JR Rupinski, W377 S10669 Betts Road commented on the notice of the public hearing and spoke against changing the word "shall" to "should" throughout the document. He spoke against removing Agri-tourism and conditional uses from the RR district. He commented on the rented water pump, the charges from the Town Planner, and alleged harassment.

Jenny Benjamin, S102 W36682 CTH LO spoke against removing Agri-tourism, commercial truck parking, and any other conditional uses that were removed from the RR district.

Molly Schneider, W370 S11035 Shearer Road suggested creating additional residential districts because properties that are three (3) to five (5) acres in size are different than those that are ten (10), twenty (20) or thirty (30) acres in size. She spoke against allowing conditional uses that were in the RR district to now only allowing them in the AP district. She spoke against changing the word "shall" to "should" throughout the document. She commented on topography, ground definition, renewal costs, final notices, and when recommendations are made for non-conforming uses.

Dave Berg, S108 W38989 STH 67 commented on ACT 6, who it is supposed to protect and from whom, and asked when will the public be able to get their questions answered.

Andrea Berg, S108 W38989 STH 67 spoke against the removal of Agri-tourism and in support of income potential in the community. She supported reasonable measures so not to impede on the neighbors.

Chairman Malek stated that this is the point of conducting a public hearing. To hear what the people agree or disagree with. From what he can see, Agri-tourism is a topic that needs to be revisited. As far as Christmas tree farms, Chairman Malek stated that he thought that this board had previously agreed to allow u-cut on thirty-five (35) acres in the RR district. This will also need to be revisited.

Don Clemons, S107 W36991 Annice Lane commented that he understands people's desires to do what they want if it does not impede on safety or privacy or the enjoyment of their neighbors. He asked if this matter could be tabled for more public input.

Chairman Malek responded that the action to be taken to tonight is to either continue to public hearing or close the public hearing.

Laura Clemons, S107 W36991 Annice Lane asked if the Town received any written comments from the public and if they would be read aloud.

Ryan Hajewski, S69 W39784 CTH N spoke against the removal of Agri-tourism to only the AP district. He spoke on the definition of "Farm" and how Winterhorse Park and Horsepower Healing Center do not fit the definition, even though they are farms. He spoke in favor of allowing cars with logos parked in buildings.

Randy Mielke, S93 W35258 Westwind Dr commented on ordinances not being available that are referenced in the code, meeting minutes, staff comments, applicant's expenses, "shall" vs. "should", and the code not taking effect until Waukesha County approves it.

In response to Chairman Malek, Planner Schwecke explained that the "shall" were changed to "should" on the recommendation of the Town Attorney.

Amy Schultz, S104 W38627 CTH NN commented that all prior comments were valid. The Town Attorney changing this is not right.

Rhonda Molitor, W369 S10500 Shearer Rd questioned what the proposed changes to the zoning code will do to the number of horses you can have.

Chairman Malek replied that the changes will do nothing to the regulation of horses. Recently, for those who reside in Waukesha County Zoning, the County wanted to only allow one (1) horse per three (3) acres. Supervisor Mommaerts, Muth, and himself went to their meeting, during COVID, and advocated for our Eagle residents who would be affected by it. It took six (6) months, and they decided to do an overlay for Eagle, allowing for one (1) horse per acre, with a minimum of three (3) acres. So, three (3) horses for three (3) acres; five (5) horses for five (5) acres; or ten (10) horses for ten (10) acres.

Erica Brewer Mallory, W367 S9594 South Rd commented on previous zoning code changes, special committee meetings, appointments, legal non-conforming uses and potential court costs, household livestock, hobby kennels versus hobby horses, raising additional birds versus hobby kennels, home occupations with only two (2) cars, and ill-perceived state laws.

Commissioner Lewis commented that the group heard a lot of excellent comments tonight. If anyone could not make the meeting tonight, perhaps drop off the comments to the Town Clerk or send her an email. Everyone's comments will be discussed at a later meeting.

Chairman Malek stated that he would also like to encourage those who were unable to comment tonight or those who were unable to connect tonight to email, mail, drop-off, your comments to the Town Clerk. You can also use the drop box outside.

Amy Kinoshian, W369 S10516 Shearer Rd suggested using the word "must" instead of the word "shall".

Diane Knauer, W345 S6950 STH 59 suggested that for the next meeting, those speaking or giving their written comments, please reference what section of the code you are referencing so everyone can follow along.

A motion was made by Commissioner Lewis, seconded by Commissioner Mann to adjourn the public hearing to Wednesday, March 31, 2021 at 6:00 P.M. Upon voice vote, motion carried.
A motion was made by Supervisor West, seconded by Supervisor Suhm to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Clerk Pepper stated that written comments may be submitted by email to clerk@townofeaglewi.us, by mail to PO Box 327, Eagle, in-person at the Town Hall Office or it can be placed in the Town Hall drop box outside.

A motion was made by Commissioner Roberts, seconded by Commissioner Lewis to adjourn the Planning & Zoning Commission Meeting at 7:35 P.M.

A motion was made by Supervisor Muth, seconded by Supervisor West to adjourn the Town Board Meeting at 7:35 P.M.

Lynn M. Pepper, Eagle Town Clerk

Randy Mielke
S93W35258 Westwind Dr
Eagle, WI 53119

21-MAR-2021

Eagle Town Board
820 E Main St
Eagle, WI 53119

To the Town Board and Planning Commission,

Here are my written comments to be read into and entered into the record for the Public Hearing of 24-MAR-2021 to consider an ordinance to revise and amend Chapter 500 of the code of the Town of Eagle entitled "Town Zoning."

01) None of the referenced ordinances in 500.12 is available on the town's website. The only ordinances that are available are shown to the below right. All of the ordinances should be available, not just some of them. For comparison, please see the link to the village website where everything is available. When data is hidden or hard to find it creates a negative perception

§500.12 Additional local regulations

In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations in the municipal code of the Town of Eagle, including the following and any amendments thereto:

- (1) Land Division and Development Control Code, Chapter 480 of the municipal code.
- (2) Stormwater Management ordinance (2007-06),
- (3) Erosion Control ordinance (2007-09),
- (4) Outdoor Solid Fuel Heating Device ordinance (2011-01),
- (5) High Capacity Well ordinance (2002-03),
- (6) Sewage Sludge disposal ordinance (16-1),
- (7) Ordinance to Regulate Outdoor Noise at Commercial Establishments (1993-06),
- (8) Residential Property Maintenance ordinance (2002-27),
- (9) Non-metallic Mining Reclamation ordinance (2001-04A),
- (10) Ordinance to Preserve Historic Sites, Structures and Districts (1994-05), and
- (11) Impact Fee ordinance (2007-03),

In all cases, the strictest of the applicable provisions shall apply.

Amendment(s): Revised by Ordinance 2021-03

Ordinances

Ordinances by Year/Number:

2020-05 Prepayment of Town Costs Amended

2020-04 Text Amendment Zoning Code

2020-03 Skatrud Rezone

2020-02 Impact Fees Amendment

2020-01 Comprehensive Plan Amendment

2019-03 Building Without a Permit

2019-02 Outdoor Furnace

Frequently Requested Ordinances:

2017-04 Firearms

<https://eagle.municipalcodeonline.com/book?type=ordinances#name=Preface>

Wherever meeting minutes are prescribed in the document the ordinance should include text that indicates they shall be posted on the town website within 10 business days of the meeting or other action that requires minutes to be kept and disseminated.

§500.141 Meeting minutes

The plan commission shall keep minutes of its proceedings. The commission may amend previously adopted minutes provided such revision is based on substantive evidence.

§500.78 Meeting minutes

The zoning board of appeals shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.^[1] The board may amend previously adopted minutes provided such revision is based on substantive evidence.

Editorial notes:

[1] See s. 62.23(7)(e)(3), Wis. Stats.

This section should be modified to clearly indicate that only written and published statements and recommendations of record are binding on both parties and that oral representations may be ignored

§500.112 Nature of staff comments

Statements and recommendations that are made by the zoning administrator, town staff and officials, and other representatives prior to or during the application review process shall not be binding on the decision-making body responsible for making the final decision.

This section should be modified to say that the applicants will be responsible for the costs associated with town actions related to their applications

§500.124 Cost to provide notice

The town shall pay the costs related to the provision of notice required under this division, unless otherwise specified by the town board.

The ordinances have had the word "shall" stricken and replaced by the word "should" in 56 places. In every single instance this will result in the actions being made optional and not transparent. All of these strike throughs should be removed and the document should stay as it was originally written. This again speaks to transparency and good government rather than backroom shenanigans. Here is one of the 56 examples

- (6) Staff report preparation and distribution.** The zoning administrator ~~shall~~ should prepare a written staff report as described in this division and provide a copy of it to each member of the plan commission and town board, and the applicant, prior to the meeting at which the matter will be considered. The zoning administrator shall ~~also provide a copy to interested people upon request and any other interested person upon request.~~

Not a comment, but a question. Are all Town of Eagle Ordinances subject to county approval?

§500.164 Effective date of adopted ordinance

An adopted ordinance shall take effect only after the county board approves the amendment.

Regards,
Randy Mielke

From: Dani Hajewski <painter_dani@yahoo.com>
Sent: Thursday, March 25, 2021 5:48 PM
To: Lynn Pepper <clerk@townofeaglewi.us>
Subject: Public Hearing Comment

To Whom It May Concern,

Hi, my name is Dani Hajewski and I live at S69W39784 County Road N in the town of Eagle.

I'd like to thank the board for allowing write in comments and extending the Public Hearing for the zoning changes.

I want to express support for Adam and Jenny Benjamin's U-Cut Christmas Tree Farm, as that is something my family would very much enjoy and I know would be an asset to the community.

I think it's a deep and natural human need to grow our own food, be industrious, provide goods and services to our neighbors and keep our animals, trucks and tools nearby so we can live sustainably and be good stewards of our land and property. This, to me, is the definition of our inalienable rights also known as "life, liberty and the pursuit of happiness." My American Dream, if you will.

Please consider restoring conditional uses affecting agri-tourism, U-Pick and U-Cut operations, commercial vehicle parking, farm education, and farm stands in Rural Residential.

Thank you very much.

Sincerely Dani Hajewski

Sent from Yahoo Mail on Android

From: p.jensen@eagleweather.com <p.jensen@eagleweather.com>
Sent: Friday, March 26, 2021 2:08 PM
To: Lynn Pepper <clerk@townofeaglewi.us>
Cc: Don Malek <malekd@townofeaglewi.us>; Chris Mommaerts
<mommaertsc@townofeaglewi.us>
Subject: Re: Zoning Ordinance Comments

Please enter my comments below into the record on the proposed Town of Eagle Zoning Ordinance changes.

Comments of Peter R. Jensen

500.05 (B)(1) Amend to read:

secure safety from fire, flooding, panic, and other dangers;

Justification: The town has had negative legal experiences with properties flooding either due to overland flooding, flash flooding or possibly riverine flooding. The specific term "flooding" should be added and emphasized in the mix of hazards.

500.07 Compliance

Amend to add:

(D) Nothing in this ordinance will apply to water control structures and dams regulated by the Department of Natural Resources under State Stats Chapter 31.

Justification: The DNR has more comprehensive rules and regulations on the regulation of dams and flowages as is best able to handle such unique situations.

500.41 A (15) Question: Does this include antenna towers used by Amateur Radio Operators? These can be very large and unsightly structures that may not have highly detailed engineering to assure their safety. These towers are not restricted to mobile communications but in many cases are used for point to point communications.

Amend definitions to add:

Dam: any artificial barrier in or across a watercourse which has the primary purpose of impounding or diverting water and includes all appurtenant works, such as a dike, canal or powerhouse. (From WI DNR definition)

(144) Amend to read:

...navigable body of water, reservoir, or other public way...

(147) Amend to read:

...or to other places on the shore of a lake, reservoir, or flowage...

I am not sure where this goes but there should be some restrictions on parking for businesses which limit allowed use to employees currently working within the establishment or customers patronizing the establishment. Overnight parking, and vehicle, trailer, mobile home or camper storage is not permitted at any time.

Likewise, any business or establishment may only remove snow and ice to portions of their own property (not plow it across the street or somewhere

else and assure that snow removal activities do not block the view of traffic to safety move in the area or enter or exit roadways.

Also, if a driveway is shared by two or more persons, a written and recorded agreement on the maintenance of the driveway must be present.

One area of concern I have is with campgrounds. Campgrounds may not be located in any flood zone including the inundation zone identified by a Dam Failure Analysis that has been approved by the Wisconsin DNR. And there must be at least one access route to the campground that is at an elevation above which any flooding can occur to ensure safe ingress and egress in an emergency.

Campgrounds with more than 15 spaces should be required to provide safe room space for campground occupants meeting the design requirements of FEMA to ensure the safety of campground occupants during severe weather events.

500.604(B)

Add the requirement that the recreational vehicle must be operable (otherwise you can have a hulk of a vehicle that may have a tag on it but is so broken down that it cannot move and becomes an eyesore and dangerous).

Discussion was held at the last hearing on Christmas Tree Farms and I believe pick your own strawberry operations. Should any of these be allowed off road parking must be provided for all employees and occupants. In addition, the operator must provide and enact a plan to prevent and cleanup dirt, mud, gravel and other debris from being tracked onto any adjoining roadways and clean up and remove any such trackage at least once per 24-hour period or more often if directed.

Any signage for roadside stands, Christmas tree farms, pick your own strawberry or similar operations must comply with the Town's sign ordinance may not be placed within the right of way of the road.

Peter R Jensen
W345S10489 County Road E
Mukwonago, WI 53149
414-791-5751

This email has been checked for viruses by Avast antivirus software.
www.avast.com

From: Amy Otto <amy1224@prodigy.net>
Sent: Tuesday, March 30, 2021 1:25 PM
To: Lynn Pepper <clerk@townofeaglewi.us>
Subject: Comment regarding zoning meeting

Please submit our response to the town board regarding the zoning changes and regulations, I tried to comment online but it has closed.

This email is from Marc and Amy Otto, W358 S8409 State Road 59, in regards to the upcoming zoning changes, we wanted to put our input into the upcoming changes. We currently have been living in Eagle for almost 4 years. We have a small hobby farm off of Hwy 59. We have very much enjoyed having our bees onsite, horses, and chickens. We moved out of Mukwonago to this area to be able to spread out, have some animals, and enjoy the rural living Eagle offers.

Some of the concerns we have regarding the zoning changes for all properties zoned "rural residential" is that living on a 3-5 acre parcel in a subdivision or more populated area, is different than living off of a major Hwy, where the speed limit is 55 miles an hour out in front of our house, we have farm fields on 3 sides of us and can barely see our surrounding neighbors. We purposely picked a property like this in the hopes that we wouldn't bother anyone if we parked a commercial vehicle on the property, had honey bees, horses, or wanted to do a farm stand. We disagree with the one size fits all approach to zoning for all "rural residential" properties, however, we do understand that there needs to be rules and regulations to "keep the peace" with neighbors, and that some of the things people might want to do on their properties could be a disturbance to others around them.

We would also like for you to consider the cost of applying for conditional permits (if allowed) on farm properties. For a small scale "farm stand", such as something we would be interested in doing, the cost to apply for a conditional permit is more than what we would actually make selling fresh veggies from our garden. Being able to sell farm products off of our property helps us offset the cost of the farm operation, to a point. We certainly do it more for enjoyment than the money, we would like this to be considered when setting prices for conditional permits for our smaller farms in the area.

I would like to see some discussion in the future on how to allow the rural farm properties some opportunities to have some of the regulations opened up and allow things like commercial truck parking & farm stands. We currently have a couple that comes out on their motor cycle from the city to purchase honey from us, all the way to Eagle, then they always make a stop in the village for lunch or dinner. Some of us have some really great products to offer and enjoy showing off "our Eagle". It all works together, bring people out here for great farm products, they stop in the village for gas or lunch and then they have had a great experience out here that keeps us all "Eagle proud!"

Thank you for taking the time to read this and consider our input.

Marc and Amy Otto
W358 S8409 State Road 59
Eagle, WI 53119

Norm, Linda and Wendy Konichek
S101 W34628 County Road LO
Eagle, WI 53119

Comments to the Town of Eagle Board and Town of Eagle Planning and Zoning commission for the Public Hearing 3-31-21.

Chapter 500 Town Zoning

Keep the word shall in all the places should is recommended to replace it.

Land Use Matrix

2. Agri-Tourism

- 2.03 Farm Education – Permitted in both RR and AP. Currently C in AP
- 2.04 Farm Recreation – Permitted in both RR and AP. Currently C in AP
- 2.06 Farm Store - Permitted in both RR and AP. Currently C in AP
- 2.08 Petting farm - Permitted in both RR and AP. Currently C in AP
- 2.09 U cut Christmas Trees - Permitted in both RR and AP. Currently C in AP
- 2.10 U pick operation - Permitted in both RR and AP. Currently C in AP

10. General Services

- 10.04 Commercial Kennel – Permitted in both RR and AP. Currently C in AP.

18. Accessory Uses

- 18.08 Commercial Truck Parking – Change number of vehicles to 4. Currently allows 1
Allow up to 3 semi-trucks. Currently allows 1.
- 18.11 Farm Building for non-farm storage – Change to P for both RR & AP. Currently C.
- 18.15 Home Occupation – Allow to operate in a separate building.
 - Allow onsite workers who are not the people who live in the dwelling.
 - Allow multiple vehicles to access the property (Currently allow 2)
- 18.17 Household Livestock – Remove the requirement “In the event that no livestock are kept for six months or more, loafing shed must be removed.

19. Temporary Uses

- 19.12 Seasonal Product Sales – Permitted in both RR and AP. Currently C in AP