

**CODE OF ORDINANCES  
OF THE  
TOWN OF FRANKLIN  
KEWAUNEE COUNTY, WISCONSIN**

**CHAPTER 10:  
ZONING ORDINANCE**

*DATCP Certification  
June 12, 2018*

*Town Board Adoption  
July 9, 2018*

Official zoning map is on file with the Town of Franklin Zoning Administrator

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TOWN OF FRANKLIN

Ordinance No. 2018-2

**REPEALING AND RECREATING CHAPTER 10, ZONING ORDINANCE TO  
THE CODE OF ORDINANCES OF THE TOWN OF FRANKLIN  
KEWAUNEE COUNTY, WISCONSIN.**

WHEREAS, the Town Board of the Town of Franklin, Wisconsin does ordain as follows:

WHEREAS, Wis. Stat. § 60.61, 60.62, 61.35, and 62.23 allow the Town Board, by ordinance, to establish districts of such number, shape, and area, and adopt such regulations for each such district as the Town Board considers best suited to carry out the purposes of this section, including the purposes of promoting the public health, safety, and general welfare; and,

WHEREAS, the ordinance now in effect was originally passed in 2007, and subsequently amended numerous times; however, numerous new statutes have passed requiring an update of the ordinance to be consistent with state statutes; and,

WHEREAS, the Town Board formally adopted a comprehensive plan pursuant to Wis. Stat. § 66.100; the Town of Franklin Comprehensive Plan provides an integrated approach to the town's physical development and environmental sustainability; and,

WHEREAS, this ordinance implements the Town of Franklin Comprehensive Plan through zoning and is required in order for the Town of Franklin zoning ordinance to be consistent with the Town of Franklin Comprehensive Plan; and,

WHEREAS, in order for a town and its residents to participate in the farmland preservation program, a town must have a zoning ordinance certified by the Department of Agriculture, Trade and Consumer Protection (DATCP), pursuant to Wis. Stat. § 91.36, that meets criteria for farmland preservation pursuant to Wis. Stat. § 91.38; and,

WHEREAS, the Town of Franklin Plan Commission has considered the amendments to the town zoning ordinance and believes that adoption of these amendments is in the best interest of the people of the Town of Franklin, Kewaunee County, Wisconsin.

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Franklin, met in regular session, that Chapter 10, Zoning Ordinance, is hereby repealed and recreated to read as attached hereto as Appendix A (*CHAPTER 10, ZONING ORDINANCE TO THE CODE OF ORDINANCES OF THE TOWN OF FRANKLIN, KEWAUNEE COUNTY, WISCONSIN*), and shall be effective upon passage and publication as required by law.

Adopted at a regular meeting of the Town Board on the 9<sup>th</sup> day of July, 2018.

  
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Richard Wochos, Town Chairperson

ATTEST:

  
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Joan Raisleger, Town Clerk



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**APPENDIX**

Farmland Preservation Zoning DATCP Certification Materials



## **10.0100 INTRODUCTION**

### **10.0101 Title**

This Ordinance shall be known, cited and referred to as the “THE TOWN OF FRANKLIN ZONING ORDINANCE, KEWAUNEE COUNTY, WISCONSIN.”

### **10.0102 Authority**

This ordinance is adopted pursuant to authority granted by § Wis. Stats. ss. 60.62, 61.35, and 62.23(7), and all other applicable provisions of the Wisconsin Statutes.

### **10.0103 Purpose and Intent**

The purpose of this ordinance is to implement the Town’s policies by classifying and regulating the use of land and structures in accordance with the Town’s comprehensive plan in order to promote the best and highest use of property; protect property values; encourage conservation and protection of the Town’s agricultural land and natural resources; protect the character and qualities of scenic areas; preserve and improve the quality of life in the Town; and promote and protect the public health, safety, and general welfare.

### **10.0104 Jurisdiction**

This Ordinance applies to all development, structures, and land uses within the unincorporated limits of the Town of Franklin, Kewaunee County, Wisconsin.

### **10.0105 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, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

### **10.0106 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 the Wisconsin Statutes.

### **10.0107 Severability**

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

### **10.0108 Repeal**

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

### **10.0109 Effective Date**

This Ordinance shall take effect the day following the publication or posting of the adopting ordinance, as provided in ss. 60.80(3) and 66.0103 Wis. Stats.

## **10.0200 STANDARDS**

### **10.0201 Use Restrictions**

No building, structure, or land shall hereafter be occupied or used, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the Zoning District in which it is located and a Zoning/Building Permit has been issued as required in Section 10.1205 of this Ordinance.

- A. No building or other structure shall hereafter be erected or altered;
  - 1. To exceed the height or bulk;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a greater percentage of lot area;
  - 4. To have narrower or smaller Rear Yards, Front Yards, Side Yards, or other open spaces; than herein required, or in any other manner contrary to the provisions of this Ordinance.
- B. All principal structures shall be located on a lot; and only one principal structure shall be located, erected or moved onto a lot.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the Effective Date of this Ordinance shall meet at least the minimum requirements (for the Zoning District within which the lot is located) established by this Ordinance.
- D. Permitted Principal Uses, Permitted Accessory Uses, and Conditional Uses are limited to the uses indicated for the respective Zoning Districts.
- E. Conditional Uses and their Accessory Uses are considered as special uses requiring review, public hearing and approval by the Plan Commission and Town Board and issuance of a Conditional Use Permit.
- F. Where the Zoning Administrator has issued a Zoning/Building Permit pursuant to the provisions of this Ordinance, such permit shall become null and void unless work thereon is substantially underway within 12 months of the date of the issuance of such permit.
- G. Setback Averaging: A Setback less than the Setback required by this Ordinance may be permitted where there are at least five (5) main buildings existing prior to the enactment of this Ordinance and located within five hundred (500) feet of the proposed site that are also built to less than the required Setback. In such a case, the minimum Setback for the new structure shall be the average of the nearest main building on each side of the proposed site. If there is no building on one side of the proposed new site, the required Setback is used to compute the average. Such Setback shall be granted by a permit from the Zoning Administrator and shall not require a Variance.
- H. Districts adjacent to Agricultural Districts are to recognize that agriculture is the primary land use in the Town and is encouraged to continue. Furthermore,

there are certain environmental conditions that often result from normal Farm Operations which may have an impact on adjacent residential land uses. Criteria used in reviewing this situation shall consider which land use has existed for the longest period of time, and what land use existed at the time the adjacent land use was created.

**10.0202 Compliance with the Americans with Disabilities Act**

Modifications to requirements of this Ordinance may be granted by the Plan Commission for the purpose of complying with the requirements of Title II, “Public Services,” and Title III, “Public Accommodations and Commercial Facilities,” of the Americans with Disabilities Act. Such compliance may require waiving or modifications to yard/Setback requirements, parking requirements, sign requirements and site design and landscaping requirements. Modifications granted by the Plan Commission shall be limited to the minimum extent necessary to make structures and uses accessible and barrier free.

**10.0203 Height Exception**

The District height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modifications shall be in accord with the following:

- A. Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys are exempt from the height limitations of this Ordinance.
- B. Special structures such as, gas tanks, silos, grain elevators, scenery lofts manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- D. Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices and stations, may be erected to a height of 85 feet, provided all required yards are increased from the minimum requirement for that Zoning District not less than one foot for each foot the structure exceeds the District’s maximum height requirement.

**10.0204 Kewaunee County Shoreland Zoning Ordinance**

The Town recognizes that Kewaunee County has adopted a Shoreland Zoning Ordinance in compliance with Wisconsin Statutes. Accordingly, the Zoning Administrator for the Town shall refer to Kewaunee County all applicants seeking Zoning/Building Permits for structures or uses which are proposed to be located or conducted within the shoreland area subject to county regulations. If the Zoning Administrator determines that any Town Zoning/Building Permit is required for such project, a Permit will not be issued within Shoreland Zoning until approval from Kewaunee County has been granted.

### 10.0205 Erosion Control

The Town of Franklin finds that runoff from construction sites may carry a significant amount of sediment and other pollutants to the waters of this state and the waters of the Town of Franklin.

It is the purpose of this Section to preserve natural resources; to protect the quality of the waters of the state and the Town of Franklin; and to protect and promote the health, safety, and general welfare of the people of the Town of Franklin, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams, and wetlands.

Accordingly, no construction site activity shall discharge sediment and other pollutants to lakes, streams, wetlands, or adjoining properties so as to exceed or contribute to the exceeding of minimum standards set forth in applicable state or county regulations or equivalent programs including, but not limited to, Department of Safety and Professional Services (SPS) Uniform Dwelling Code and Commercial Building Code provisions contained within SPS 321; SPS 360 to SPS 365; SPS Chapter 101; and, Department of Natural Resources NR 216 of the Wisconsin Administrative Code.

### 10.0206 Site Restrictions

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town of Franklin Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which they base their conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if so desired. Thereafter the Town Board may affirm, modify or withdraw the determination of unsuitability. In addition:

- A. Private Sewer and Water. In any District where public sewerage service is not available, the width and area of all lots shall be sufficient to permit location of legal and conforming private onsite waste treatment system and an area large enough to accommodate a replacement system should the original system fail, designed in accordance with *Chapters SPS 383 and SPS 385 of the Wisconsin Administrative Code* and all County and Town ordinances.
- B. Public Access. No Zoning/Building Permit shall be issued for construction unless the main body of the lot upon which the building or structure is to be erected fronts on a public street for a distance of **at least 200 feet**. No lot shall be narrower at any point than the minimum road Frontage width required for that District.
- C. No Zoning/Building Permit shall be issued for a lot which abuts a street dedicated or reserved to only a portion of its proposed width and located on the side from which the required dedication has not been secured. *(Any new Town roads must have a proposed width of 66 feet. Existing roads where new*

*building is to occur must be dedicated to 33 feet from the centerline where improvements are proposed.)*

- D. Lots Abutting More Restrictive District boundaries shall provide Side and Rear Yards that are equal to those required in the more restrictive abutting District. The Front Yards on the less restrictive District shall be modified for a distance of not more than 60 feet from the District boundary line so as to equal the average of the Front Yards required in both Districts.
- E. A Transitional Yard shall be created and maintained around all business Districts that abut residential Districts. Transitional Yards shall be a minimum of 20 feet in width and shall screen business or manufacturing uses from adjoining lands in such a manner that:
  - 1. If the transitional yard is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such varieties as to provide adequate visual screening within no more than two (2) years and during all seasons of the year.
  - 2. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side, and all walls and fences shall be maintained in a structurally sound and attractive condition. Any wall or fence shall be no less than four (4) feet nor more than six (6) feet in height.
  - 3. All landscaping shall be maintained by the owner or operator to the satisfaction of the Town Board.
  - 4. Where the land adjacent to the transitional yard is a parking lot, the transitional yard shall be sufficiently opaque to prevent the penetration of headlight glare. Overhead lighting installed in or adjacent to a transitional yard shall not throw any rays onto adjacent residential properties.
  - 5. No signs shall be permitted on or in any part of the transitional yard.
- F. **Residential Dwelling Area Requirements:** Unless specified elsewhere in this Ordinance, the minimum building width for a residential Dwelling shall be 22 feet at its narrowest point of its first Story.
- G. **Minimum Floor Area for Residential Dwellings:** Unless specified elsewhere in this Ordinance, no Dwelling shall contain less than 980 square feet of Living Area on the first floor.

#### **10.0207 Regulation of Offensive Material and Conditions**

- A. General Regulations:
  - 1. No person or entity shall cause or permit or otherwise encourage the dumping, accumulation or escape of any material which is offensive to the public or constitutes a public nuisance as defined below.

2. The regulations in the following subsections apply to all Districts established under this Ordinance and all lands and waters within the Town of Franklin.

B. Specific Regulations:

The following acts, omissions, places, conditions and things are hereby specifically declared to be offensive and to constitute public nuisances, but such enumeration shall not be construed to exclude other nuisances coming within the definition given below or otherwise within the regulatory authority of the Town.

1. Carcasses of animals, birds, or fowl not intended for human consumption or food which is not disposed of in a sanitary manner within 24 hours after death.
2. Accumulations or storage of decayed animal or vegetable matter, offal, dead animals, trash, rubbish, garbage, or any offensive material whatsoever which was not produced on the specific property on which it is located. The abovementioned items are not to be transported to “mini dumps” as garbage pickup is available. Recyclables must be recycled by Town recycling methods or transported to a recycling station. This does not include items which are incidental to the customary Farm Operations of the landowner of the property on which it is located.
3. The escape of smoke, soot, cinders, noxious acids, odors, fumes, gases, fly ash, industrial dust or other atmospheric pollutants in such quantities as to endanger the health of or offend persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
4. Any use of property, substance or things within the Town emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia or stench, extremely repulsive to the physical senses of ordinary people which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town.
5. The pollution of any private or public well, cistern, stream, lake, canal, or other body of water by sewage, industrial lake or other substances.
6. Any natural or artificial windbreak including, but not limited to trees and shrubbery located on a lot less than ten (10) feet from an existing Lot Line or road right-of-way which interferes with the use of adjoining lots or parcels of land or lines of sight.

C. Public Nuisance. Defined, a public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure, or endanger the comfort, health, repose or safety of the public;
2. In any way render the public insecure in life or in the use of property;

3. Greatly offend the public morals or decency;
4. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, Alley, highway, navigable body of water or other public way or the use of public property.

D. Application to Farming Operations

This section is not intended to unduly or unreasonably interfere with normal and customary Farm Operations including the accumulation and spreading of manure. Note: Kewaunee County's Manure Spreading Ordinance is enforced by the LWCD of Kewaunee County.

## **10.0300 ZONING DISTRICTS**

### **10.0301 Zoning Districts Established**

For the purpose of this Ordinance, the Town of Franklin, Kewaunee County, Wisconsin, is hereby divided into the following Zoning Districts:

A-1 Exclusive Agricultural District

A-2 Exclusive Agricultural District

A-3 Exclusive Agricultural District

RS-1 Single-Family Residential District

RR Rural Residential District

B-1 Business District

C-1 Conservancy Overlay District

### **10.0302 Zoning Map**

The location and boundaries of the Districts established by this Ordinance are set forth on the zoning map entitled “Zoning Map”, for the Town of Franklin, Kewaunee County, Wisconsin and which is incorporated herein and hereby made a part of this Ordinance. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein.

### **10.0303 Interpretation of District Boundaries**

The following rules shall apply with respect to the boundaries of the various Districts as shown on the Zoning District Map.

- A. District boundary lines are the center lines of highways, streets, Alleys, and pavements; or right of way lines of railroads, toll roads, and expressways; or section, division of section, tract and Lot Lines; or such lines extended, unless otherwise indicated.
- B. In areas not subdivided into lots and blocks, wherever a District is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the maps measured at right angles from the centerline of the street or highway, and length of Frontage shall be in accordance with dimensions shown on the map from section, quarter section, or division lines, or center lines of streets and highways, or railroad rights-of- way, unless otherwise indicated.
- C. Where a District boundary line divides a lot in single ownership on the Effective Date of this Ordinance, the Town Board, after due hearing may extend the regulation for either portion of such lot.
- D. In a District in which Single-Family Dwellings are permitted, a Single-Family Dwelling and customary Accessory Buildings may be erected on any single Lot of Record at the Effective Date of the adoption of this Ordinance, August 13, 2007, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous Frontage with other lots in the same ownership. This provision shall apply even



though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the District in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

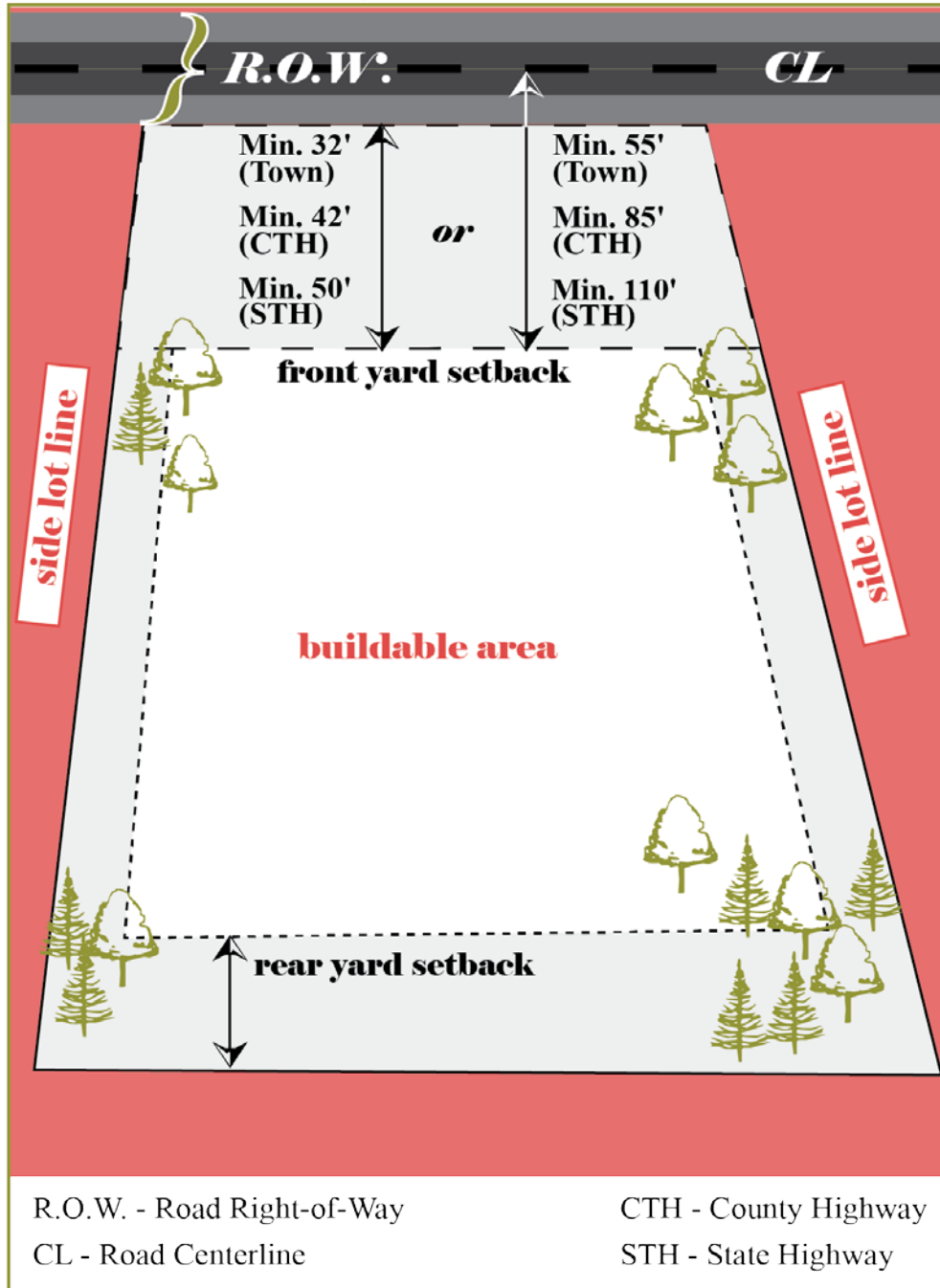
- E. If two or more lots or combinations of lots and portions of lots with continuous Frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for Lot Width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with Lot Width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.
- F. A Lot may be divided into a maximum of two Zoning Districts. The Districts must have clearly identifiable boundaries. (*Example: the South 1/2 of the E 1/2 of the NE1/4 of section 2 or measured distances approved by the Town Plan Commission.*)

**10.0304 Yard Setbacks for All Districts**

Figure 10.1: Yard Requirements Applying to All Zoning Districts in the Town of Franklin.

**Front Yard setback requirements for all zoning districts.**

*Diagram is not to scale*



## **10.0305 A-1 Exclusive Agricultural District**

### **A. Purpose and Intent of the (A-1) Exclusive Agricultural District**

The A-1 Exclusive Agricultural District applies to lands in productive Farm Operations including lands historically exhibiting high crop yield or capable of such yields; lands which have been demonstrated to be productive for dairying, Livestock raising, and grazing; other lands which are integral parts of each Farm Operations; and land used for the production of specialty crops such as mint, sod, fruits, and vegetables. As a matter of policy, it is hereby determined that the highest and best use of these lands is for agriculture.

\*\* The A-1 District, along with the A-2 and A-3 Districts, serves as a Farmland Preservation Zoning District for the Town of Franklin.

### **B. Permitted Principal Uses**

The following Principal Uses are Permitted Uses in the A-1 District:

1. Agricultural Uses (see Definitions, Section 10.1602).
2. Essential Services consistent with Wis. Stat. § 91.44.
3. Livestock Facility, less than 500 Animal Units.
4. Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place, or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use permit for that use.
5. Undeveloped natural resource and Open Space Areas.

### **C. Permitted Accessory Uses**

The following Accessory Uses are permitted in the A-1 District only when there is a permitted Principal Use present:

1. Agricultural Accessory Uses (see Definitions, Section 10.1602), except:
  - (a) Aircraft facilities, consistent with Wis. Stat. § 91.01(1), that are incidental to the Farm Operation and located on a Farm, require a Conditional Use permit under Section 10.0305(D)(3).
2. Extraction of sand or gravel for use on the farming operation
3. Roadside Stand, one per Farm, consistent with Wis. Stat. § 91.01(1).
4. Home Occupations and Office Studio, conducted within the primary Farm Residence, and that are incidental to the Farm Operation.

### **D. Conditional Uses (Also see Section 10.0400)**

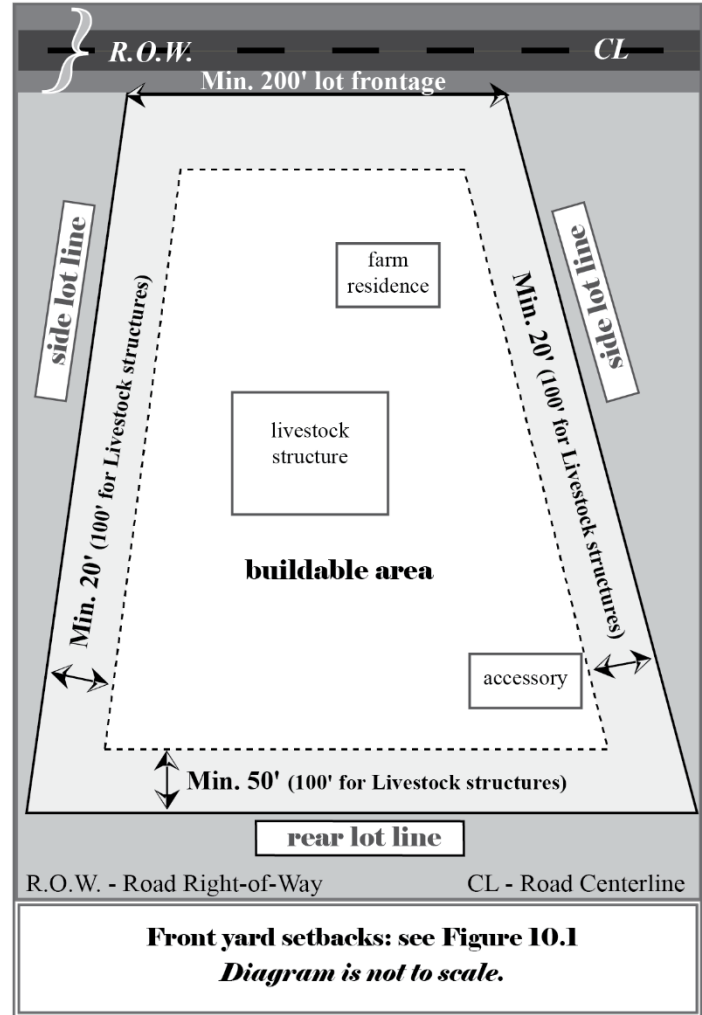
The following uses may be allowed in the A-1 District subject to the issuance of a Conditional Use permit:

1. Farm Residence, one Single-Family (see Definitions, Section 10.1602).
2. Agriculture-Related Uses (see Definitions, Section 10.1602).

3. Airfields, airports, and heliports, consistent with Wis. Stat. § 91.01(1), that are incidental to the Farm Operation and located on a Farm, however are not open to the public.
4. Animal shelters consistent with Wis. Stat. § 91.01(1).
5. Egg production facilities.
6. Fur farms.
7. Institutional, governmental uses, and religious uses consistent with Wis. Stat. § 91.46(5) such as: colleges, universities, schools (elementary, junior high and senior high), hospitals, churches and other religious institutions, cemeteries, public parks, public recreation sites, and public golf courses.
8. Maple syrup processing plants.
9. Quarries, sand, and gravel pits and non-metallic mining consistent with Wis. Stat. § 91.46(6) subject to a reclamation plan approved under the Kewaunee County Non-Metallic Mining Ordinance.
10. Transportation, communications, pipeline, electric transmission, utility, or drainage uses consistent with Wis. Stat. § 91.46(4).
11. Tree farms and related wood processing activities.
12. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
  - (a) It is conducted on a Farm by an owner or operator of that Farm.
  - (b) It requires no buildings, structures, or improvements other than a building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use; or a Farm Residence.
  - (c) It employs no more than 4 full-time employees annually.
  - (d) It does not impair or limit the current or future agricultural use of the Farm or other Protected Farmland.
13. Wind and Solar Energy Systems consistent with Wis. Stat. §91.46(4).

E. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-1 District:

<b>Exclusive Agricultural (A-1)</b>	
<b>Lot Size:</b>	
Minimum lot area	35 acres
Minimum Lot Width at road right of way	200 ft.
<b>Yard Setbacks:</b>	
Front Yard:	<i>See Section 10.0304</i>
Minimum rear:	50 ft.
Minimum rear for Livestock Structures	100 ft.
Minimum side:	20 ft.
Minimum side for Livestock Structures	100 ft.
<b>Structure Height:</b>	
Maximum Farm Residence:	35 ft.
Other Structures	No Maximum



F. Farm Consolidation

For the purpose of Farm Consolidation, Farm Residences existing prior to August 13, 2007 and related farm structures may be separated from a larger farm parcel provided that the parcel created upon which the structures are located conforms to the Rural Residential District (RR). The remaining and larger portion of the farm parcel will be rezoned to A-3 Exclusive Agricultural.

G. A-1 District Nonconformities

Any A-1 parcels under 35 acres that existed prior to the adoption of this Ordinance are allowed to continue as A-1 Nonconforming Substandard Parcels subject to the provisions contained in Section 10.1105.

H. Rezoning Land Out of the A-1 Exclusive Agricultural District.

1. Town of Franklin may not rezone land out of the A-1 Zoning District unless the Town does all of the following prior to the rezoning:

Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

- (1) The rezoned land is better suited for a use not allowed in the A-1 Zoning District.
  - (2) The rezoning is consistent with any comprehensive plan, adopted by the local community which is in effect at the time of the rezoning.
  - (3) The rezoning is substantially consistent with the Kewaunee County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
  - (4) The rezoning will not substantially impair or limit current or future agricultural use of other Protected Farmland.
2. By March 1 of each year, the Zoning Administrator shall provide a report to the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) identifying the number of acres that the Town has rezoned out of the A-1 Zoning District during the previous calendar year and a parcel map that clearly shows the location of those acres.
  3. By March 1 of each year, the Zoning Administrator shall submit a copy of the information that it reports to DATCP under Section 10.0305 (H)(2) to Kewaunee County.

## **10.0306 A-2 Exclusive Agricultural District**

### **A. Purpose and Intent of the (A-2) Exclusive Agricultural District**

This District is designed to permit utilization of smaller land parcels in predominantly agricultural areas for small scale agricultural uses. The intent of the A-2 District is that it is to be applied to those lands with less than 35 acres and are still best suited for agricultural uses including growing of crops, pasture, hobby farming, orchards, and similar agriculture-related farming activities.

\*\* The A-2 District, along with the A-1 and A-3 Districts, serves as a Farmland Preservation Zoning District for the Town of Franklin.

### **B. Permitted Principal Uses**

The following Principal Uses are Permitted Uses in the A-2 District:

1. Agricultural Uses (see Definitions, Section 10.1602).
2. Essential Services consistent with Wis. Stat. § 91.44.
3. Livestock Facility with a limit of Animal Units (AU) as follows:
  - (a) First 10 acres: 1 AU/acre.
  - (b) 10-20 acres: 2AU/acre.
  - (c) 20-34.99 acres: 3 AU/ acre.
4. Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place, or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use permit for that use.
5. Undeveloped natural resource and Open Space Areas.

### **C. Permitted Accessory Uses**

The following Accessory Uses are permitted in the A-2 District only when there is a permitted Principal Use present:

1. Agricultural Accessory Uses (see Definitions, Section 10.1602), except:
  - (a) Aircraft facilities, consistent with Wis. Stat. § 91.01(1), that are incidental to the Farm Operation and located on a Farm, require a Conditional Use permit under Section 10.0306(D)(3).
2. Extraction of sand or gravel for use on the farming operation
3. Roadside Stand, one per Farm, consistent with Wis. Stat. § 91.01(1).
4. Home Occupations and Office Studio, conducted within the primary Farm Residence, and that are incidental to the Farm Operation.

D. Conditional Uses (Also see Section 10.0400)

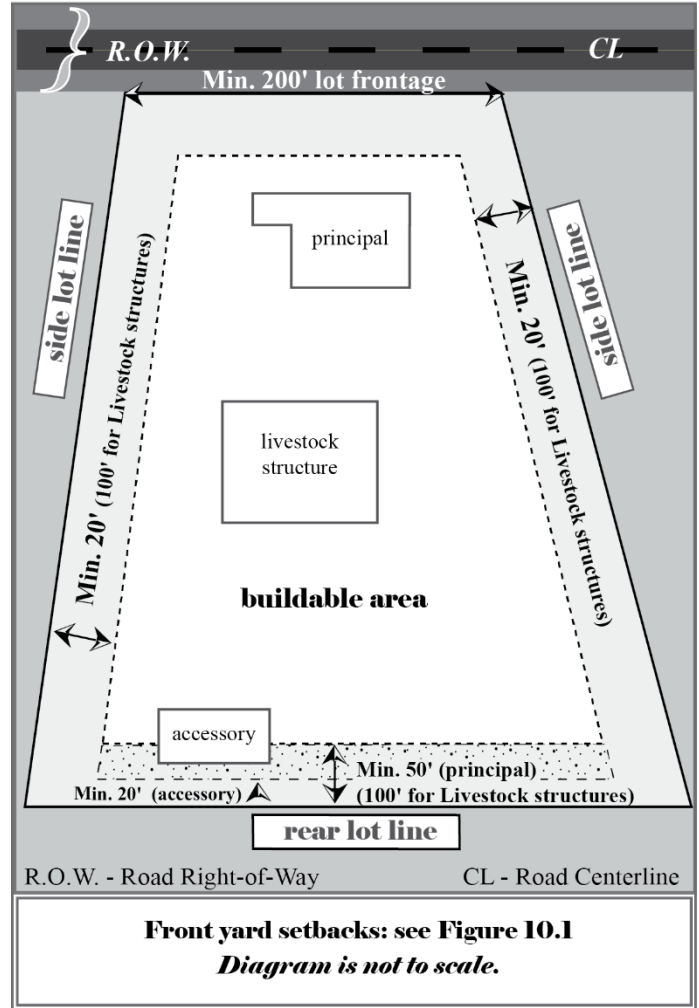
The following uses may be allowed in the A-2 District subject to the issuance of a Conditional Use permit:

1. Farm Residence, one Single-Family (see Definitions, Section 10.1602).
2. Agriculture-Related Uses (see Definitions, Section 10.1602).
3. Airfields, airports, and heliports, consistent with Wis. Stat. § 91.01(1), that are incidental to the Farm Operation and located on a Farm, however are not open to the public.
4. Institutional, governmental uses, and religious uses consistent with Wis. Stat. § 91.46(5) such as: colleges, universities, schools (elementary, junior high and senior high), hospitals, churches and other religious institutions, cemeteries, public parks, public recreation sites, and public golf courses.
5. Quarries, sand, and gravel pits and non-metallic mining consistent with Wis. Stat. § 91.46(6) subject to a reclamation plan approved under the Kewaunee County Non-Metallic Mining Ordinance.
6. Transportation, communications, pipeline, electric transmission, utility, or drainage uses consistent with Wis. Stat. § 91.46(4).
7. Wind and Solar Energy Systems consistent with Wis. Stat. §91.46(4).



E. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-2 District:

<b>Exclusive Agricultural (A-2)</b>	
<b>Lot Size:</b>	
Minimum lot area	2.5 acres to 34.99 acres
Minimum Lot Width at road right of way	200 ft.
<b>Yard Setbacks:</b>	
Front Yard:	<i>See Section 10.0304</i>
Minimum rear:	
Principal Use	50 ft.
Accessory Use	20 ft.
Minimum rear for Livestock Structures	100 ft.
Minimum side:	20 ft.
Minimum side for Livestock Structures	100 ft.
<b>Structure Height:</b>	
Maximum Height:	35 ft.



F. Rezoning Land Out of the A-2 Exclusive Agricultural District. (see Section 10.0305(H))

## 10.0307 A-3 Exclusive Agricultural District

### A. Purpose and Intent of the (A-3) Exclusive Agricultural District

The A-3 Exclusive Agricultural District applies to those parcels that are remnants of larger exclusive agriculture zoned parcels and are still best suited for agricultural uses including growing of crops, pasture, hobby farming, orchards, and similar agriculture-related farming activities. There are no existing residential structures upon parcels located within the A-3 Exclusive Agricultural District.

Parcels located within the A-3 District include parcels five (5) acres and greater, previously existing substandard A-1 parcels; parcels created as part of a previous Farm Consolidation; parcels 35 acres or more that were zoned A-3 as a result of a map amendment allowing a subdivision and rezoning of that subdivision; and parcels created exclusively for agricultural use.

There shall be no further division of A-3 parcels after the Effective Date (August 13, 2007) of adoption or amendment of this Ordinance. No additional A-3 parcels may be created out of an existing A-3 parcel.

\*\* The A-3 District, along with the A-1 and A-2 Districts, serves as a Farmland Preservation Zoning District for the Town of Franklin.

### B. Permitted Principal Uses

The following Principal Uses are Permitted Uses in the A-3 District:

1. Agricultural Uses (see Definitions, Section 10.1602).
2. Essential Services consistent with Wis. Stat. § 91.44.
3. Livestock Facility, less than 500 Animal Units.
4. Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place, or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use permit for that use.
5. Undeveloped natural resource and Open Space Areas.

### C. Permitted Accessory Uses

The following Accessory Uses are permitted in the A-3 District only when there is a permitted Principal Use present:

1. Agricultural Accessory Uses (see Definitions, Section 10.1602), except
2. Extraction of sand or gravel for use on the farming operation
3. Roadside Stand, one per Farm, consistent with Wis. Stat. § 91.01(1).

### D. Conditional Uses

The following uses may be allowed in the A-3 District subject to the issuance of a Conditional Use permit:

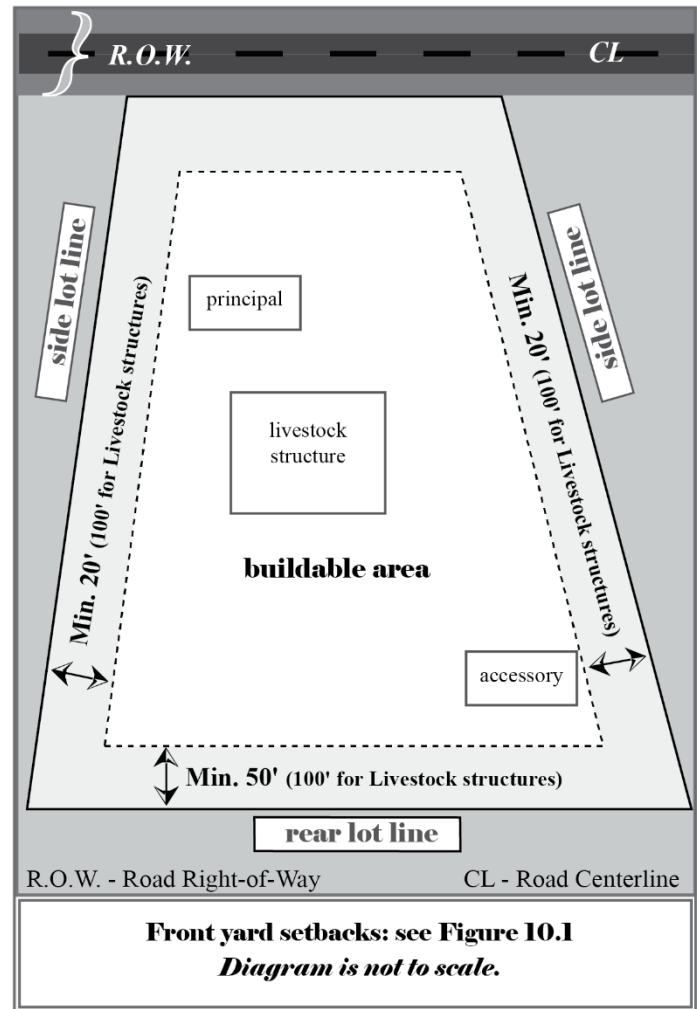
1. Agriculture-Related Uses (see Definitions, Section 10.1602).

2. Fur farms
3. Institutional, governmental uses, and religious uses consistent with Wis. Stat. § 91.46(5) such as: colleges, universities, schools (elementary, junior high and senior high), hospitals, churches and other religious institutions, cemeteries, public parks, public recreation sites, and public golf courses.
4. Quarries, sand, and gravel pits and non-metallic mining consistent with Wis. Stat. § 91.46(6) subject to a reclamation plan approved under the Kewaunee County Non-Metallic Mining Ordinance.
5. Riding academies and Stables consistent with Wis. Stat. § 91.01(1)(d).
6. Transportation, communications, pipeline, electric transmission, utility, or drainage uses consistent with Wis. Stat. § 91.46(4).
7. Wind and Solar Energy Systems consistent with Wis. Stat. §91.46(4).

E. Area, Height and Yard Requirements

Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-3 District:

<b>Exclusive Agricultural (A-3)</b>	
<b>Lot Size:</b>	
Minimum lot area	5.0 acres
Minimum Lot Width at road right of way	---
<b>Yard Setbacks:</b>	
Front Yard:	<i>See Section 10.0304</i>
Minimum rear:	50 ft.
Minimum rear for Livestock Structures	100 ft.
Minimum side:	20 ft.
Minimum side for Livestock Structures	100 ft.
<b>Structure Height:</b>	
Maximum Height	----



F. Rezoning Land Out of the A-3 Exclusive Agricultural District. (see Section 10.0305(H))

G. A-3 District Nonconformities

1. New Farm Residences constructed after the Effective Date (August 13, 2007) of adoption or amendment of this Ordinance are prohibited within the A-3 District and would be required to rezone out of the A-3 District.
2. No structure or improvement may be built on an A-3 parcel unless it is agriculture-related.
3. Any A-3 parcels under five (5) acres that existed prior to the adoption of this Ordinance are allowed to continue as A-3 Nonconforming Substandard Parcels subject to the provisions contained in Section 10.1105.

## **10.0308 RS-1 Single-Family Residential District**

### **A. Purpose and Intent of the RS-1 Single-Family Residential District**

The RS-1 Single-Family Residential District is intended to provide for Single-Family residential development. This District is intended to provide quiet, pleasant, and relatively spacious Living Area protected from traffic hazards and the intrusion of incompatible land uses on soils that are compatible for on-site disposal of sewage effluent, and in areas that do not infringe on agricultural uses.

### **B. Permitted Principal Uses**

The following uses are Permitted Uses in this District:

1. Single-Family Dwellings.
2. Community Living Arrangements with a capacity for 8 or fewer persons and foster homes subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
3. Essential Services

### **C. Permitted Accessory Uses**

The following uses are permitted in this District only when there is a principal Permitted Use present:

1. Accessory Buildings incidental to the residential use, such as gardening, tool, or storage sheds, playhouses, or gazebos.
2. Antennas.
3. Home Office/Studio.
4. Private Garages, carports, and driveways.

### **D. Conditional Uses (Also see Section 10.0400)**

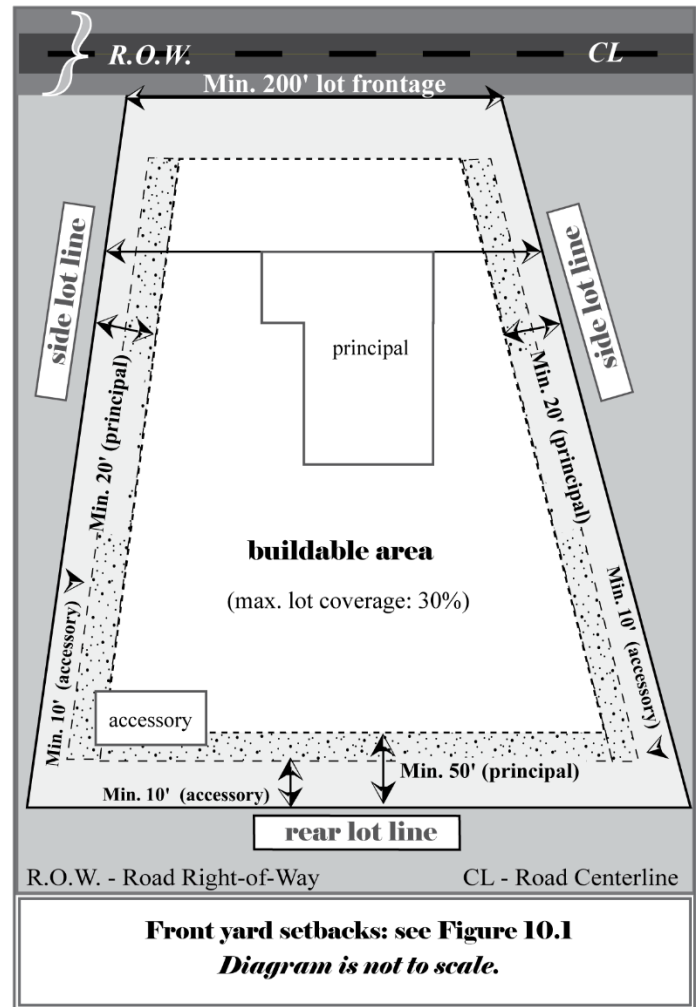
1. Bed and Breakfast - Residential.
2. Cemeteries.
3. Churches, chapels, temples, synagogues, rectories, parsonages and parish houses.
4. Community Living Arrangements with a capacity of 9 or more persons subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
5. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
6. Home Occupation.
7. Outdoor Wood Boiler.

8. Public, parochial and private, elementary, junior high and senior high schools.
9. Solar Energy Conversion Systems.
10. Two-Family Dwellings.
11. Utilities.
12. Wind Energy Systems-Small-Sized.

E. Area, Height and Yard Requirements

Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the RS-1 District:

<b>Single-Family Residential (RS-1)</b>	
<b>Lot Size:</b>	
Minimum lot area	1.0 acre
Minimum Lot Width at road right of way	200 ft.
<b>Yard Setbacks:</b>	
Front Yard:	<i>See Section 10.0304</i>
Minimum rear:	
Principal Structures	50 ft.
Accessory Structures	10 ft.
Minimum side:	
Principal Structures	20 ft.
Accessory Structures	10 ft.
<b>Structure Height:</b>	
Maximum Height	35 ft.
<b>Lot Coverage:</b>	
Maximum Lot Coverage	30%



F. Principal Dwelling Floor Area

The total minimum first Floor Area of a residential Dwelling shall be 980 square feet with a minimum width of 22 feet.

## **10.0309 RR Rural Residential District**

### **A. Purpose and Intent of the RR Residential District**

The RR District is intended to provide for a quiet, pleasant and spacious Living Area on larger lots. The RR District applies to those rural lands that have marginal utility for agricultural use because of soil type, lot configuration, and/or topography; with the intent to preserve viable agricultural lands to the greatest extent possible for Farm Operations. Residential development should be at modest densities consistent with a typical rural environment.

### **B. Permitted Principal Uses**

The following uses are Permitted Uses in this District:

1. Single-Family Dwellings.
2. Community Living Arrangements with a capacity for 8 or fewer persons and foster homes subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
3. Essential Services

### **C. Permitted Accessory Uses**

The following uses are permitted in this District only when there is a principal Permitted Use present:

1. Accessory Buildings incidental to the Principal Use, such as gardening, tool, or storage sheds, playhouses, or gazebos.
2. Day Care Center, Family.
3. Home Office/Studio.
4. Private Garages.

### **D. Conditional Uses (Also see Section 10.0400)**

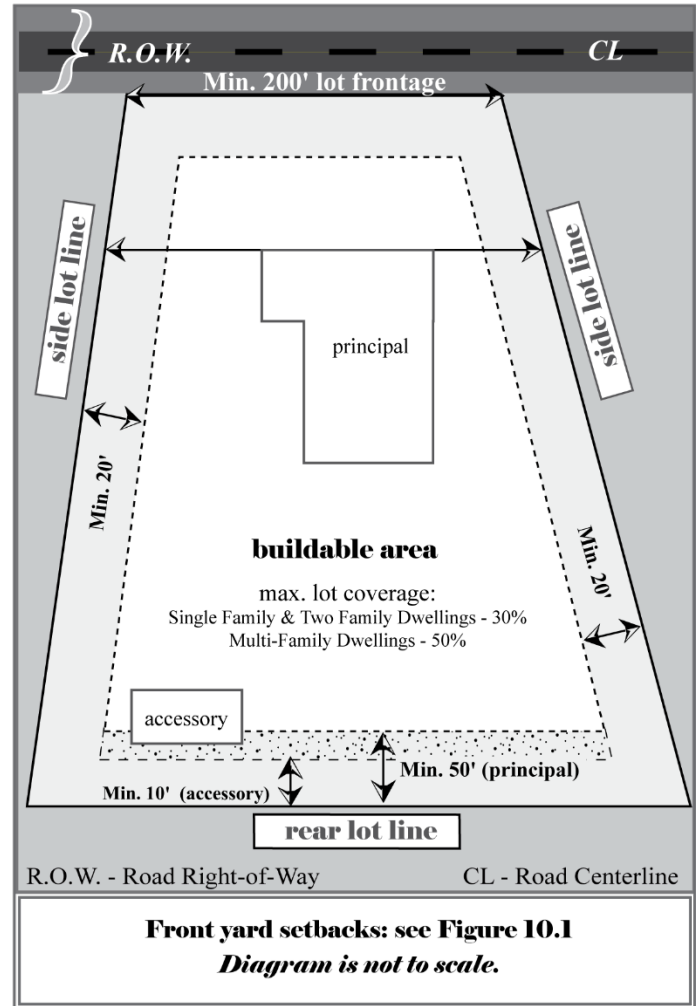
1. Two-Family Dwellings
2. Cemeteries.
3. Churches, chapels, temples, synagogues, rectories, parsonages, and parish houses.
4. Community Living Arrangements with a capacity for 9 or more persons subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes served by the program.
5. Day Care Center, Group.
6. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
7. Home Occupation.
8. Keeping of Livestock and poultry (see section 10.0309 (G)).

9. Public, parochial and private, elementary, junior high and senior high schools.
10. Solar Energy Conversion Systems (see Section 10.0607)
11. Utilities.
12. Wind Energy Systems-Small-Sized (see Section 10.0607)

E. Area, Height and Yard Requirements

Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the RR District:

<b>Rural Residential (RR)</b>	
<b>Lot Size:</b>	
Minimum lot area	1.5 acres
Minimum Lot Width at road right of way	200 ft.
<b>Yard Setbacks:</b>	
Front Yard:	<i>See Section 10.0304</i>
Minimum rear:	
Principal Structures	50 ft.
Accessory Structures	10 ft.
Minimum side:	20 ft.
<b>Structure Height:</b>	
Maximum Height	35 ft.
<b>Lot Coverage:</b>	
Single-Family/Two-Family Dwelling Maximum	30%





F. Principal Dwelling Floor Area

The total minimum first Floor Area of a residential Dwelling shall be 980 square feet with a minimum width of 22 feet.

G. Keeping of Livestock and Poultry Limitations in RR.

Lots on which such Livestock or poultry are maintained shall contain a minimum 1.5 acres up to no more than 4.99 acres.

1. Structures housing such Livestock or poultry shall be located a minimum of 25 feet from the property line. 100 feet if bordering a Rs-1 lot.
2. Appropriate confinement must be provided.
3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining Lot Line.
4. The number of Livestock or poultry permitted shall be limited as follows:
  - (a) No more than one of the following shall be kept for each acre:  
Horse, cow, hog, sheep, or similar animal, over 6 months of age. Bulls and boars are prohibited in the RR District.
  - (b) No more than 15 chickens, or ducks, or similar poultry, over 2 months of age, shall be kept for each acre. Roosters are prohibited in the RR District.
  - (c) Combinations of sub (a) and (b) shall be apportioned to the total acreage and the Zoning Administrator shall determine the total number of animals allowed.
  - (d) The keeping and raising of Furbearing Animals is prohibited.
  - (e) Must present a plan for Manure Disposal (neighbor, compost, etc.)

**10.0311 B-1 Business District**

A. Purpose and Intent of B-1 Business District

The purpose and intent of the B-1 District is to provide areas for commercial and light industrial use. It should encompass areas that already have this mixed use, as well as those areas where expansion of this mixed use is desired. It will typically be located within or near existing communities or accessible to major transportation corridors.

The B-1 District may also provide areas to accommodate certain limited manufacturing, warehousing, and other light industrial operations. It may also be used for Commercial Storage facilities, contractor and trade establishments, and similar businesses. However, such use may not be detrimental to the surrounding area, or to the Town as a whole, because of dust, surface/groundwater degradation, noise, odor, physical appearance, smoke, traffic, or other nuisance factors.

B. Permitted Uses

The following Principal Uses are Permitted Uses in the B-1 District

1. Banks and credit unions
2. Barbershops and beauty salons.
3. Bed and Breakfast – Commercial.
4. Cabinet making and woodworking.
5. Contractor or trade storage.
6. Essential Services.
7. Farm Equipment Sales and Repair.
8. Funeral homes and crematoriums.
9. Furniture repair, sales, and upholstery.
10. Gas stations and convenience stores.
11. Laundromats.
12. Metal working, welding and machine shop
13. Professional Office.
14. Real Estate agents and managers.
15. Restaurants.
16. Stores and shops for conducting retail, service, or wholesale business.
17. Trade or contractor storage.

C. Accessory Uses

The following Accessory Uses are permitted in the B-1 District only when there is a permitted Principal Use present:

1. Accessory structures or use incidental to Principal Use.
2. Off street parking and loading areas.

D. Conditional Uses (Also see Section 10.0400)

The following uses may be allowed in the B-1 District subject to the issuance of a Conditional Use permit:

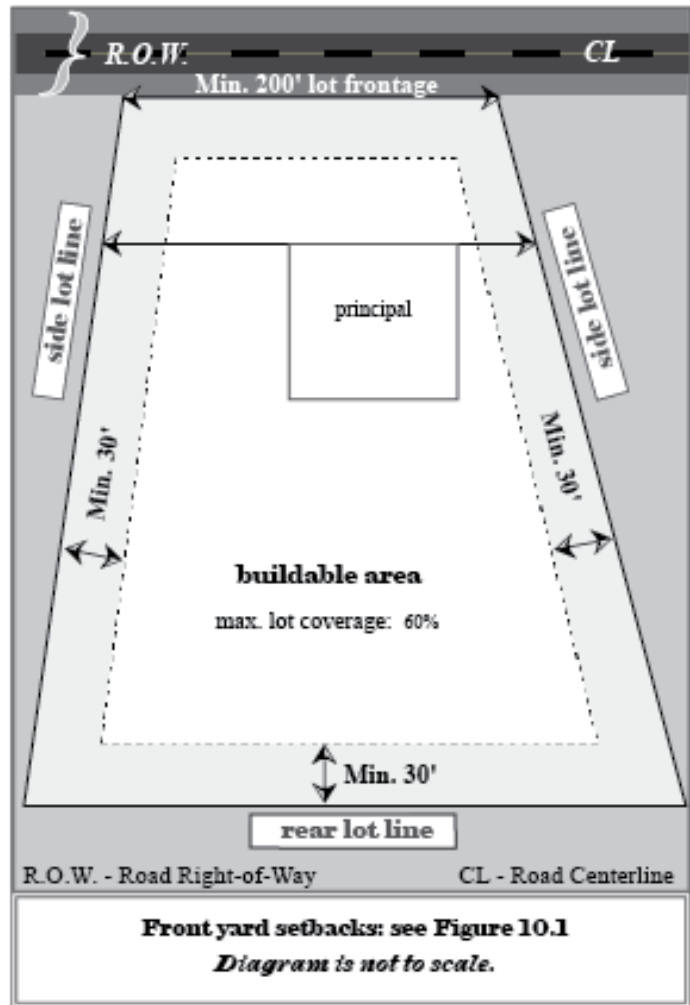
1. Animal hospital and clinics, excluding open Kennels and exercise yards.
2. Auto, truck, trailer, and other equipment sales and rentals.
3. Automotive repair shops.
4. Banquet / Dance Halls, taverns.
5. Bulk storage of agricultural products, cooperatives, feed mills, and fertilizer plants.
6. Bus Charter Service.
7. Car washes.
8. Commercial Sawmills.
9. Dairies and dairy-processing businesses, such as cheese factories.
10. Electrical, heating, and plumbing supply yards.
11. General building contractors.
12. Hotels, Motels.
13. Institutional, governmental uses, and religious uses such as: schools (elementary, junior high and senior high), fire and police stations, community centers, hospitals, churches and other religious institutions, cemeteries, public parks, public recreation sites, and public golf courses.
14. Adult entertainment businesses. (Refer to Section 10.0605 (A))
15. Junk Yards and Salvage Yards.
16. Kennels.
17. Landscaping and horticultural services.
18. Lawn and garden services.
19. Lodges and fraternal buildings, nursing and retirement homes, nursery and Day Care Centers.
20. Lumber and other building supplies and sales.
21. Manufactured Home sales and service.
22. Mini warehousing.

23. Motels.
24. Printing and duplicating shops.
25. Propane storage.
26. Recreational and utility trailer dealers.
27. Residential quarters for the owner or caretaker
28. Retail nurseries and garden stores
29. Shopping Center.
30. Signs and Billboards.
31. Theaters, except outdoor theaters.
32. Trailer and truck rentals.
33. Utilities.
34. Wind and Solar Energy Systems.

E. Area, Height and Yard Requirements

Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the B-1 District:

<b>Business (B-1)</b>	
<b>Lot Size:</b>	
Minimum lot area	2 acres
Minimum Lot Width at road right of way	200 ft.
<b>Yard Setbacks:</b>	
Front Yard:	<i>See Section 10.0304</i>
Minimum rear:	30 ft.
Minimum side:	30 ft.
<b>Structure Height:</b>	
Maximum height	35 ft.
<b>Lot Coverage:</b>	
Maximum coverage	60%



F. Plans and Specifications to be submitted to Plan Commission

To encourage a business environment that is compatible with the rural character of the Town, Zoning/Building Permits for Permitted Uses in the B-1 District shall require the review and approval of the Town of Franklin Plan Commission and the review and approval of a Site Plan in accordance with Section 10.0800 of this ordinance. The Plan Commission’s review will include the approval of the development’s general layout, building plans, ingress and egress, parking, loading, and unloading, landscaping, signs, lighting, and open space utilization.

### **10.0312 C-1 - Conservancy Overlay District**

- A. Purpose and Intent. The C-1 overlay District is intended to preserve, protect, and enhance the ponds, streams, lakes, and wetland areas of the Town. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both groundwater and surface water; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for such use.

Overlay Districts provide the possibility of superimposing certain additional requirements upon a basic Zoning District without disturbing the requirements of the basic District. The uses of the underlying standard Zoning District shall remain in force. The Conservancy Overlay District is intended to inform the public that the provisions of the Kewaunee County Shoreland Zoning Ordinance may apply in this District in addition to those of the underlying Zoning District.

The boundaries of the C-1 overlay District are based primarily on the standards of the Kewaunee County Shoreland Zoning Ordinance. The C-1 overlay District may also include buffers, significant natural areas, and conservation easements shown on approved development plans. Precise delineations may be necessary by field investigation prior to development to verify the C-1 overlay District boundaries, including sites containing farmed wetlands that are proposed for development.

- B. Permitted Uses in the C-1 District.

All uses specified in Section 16.05(3) of the Kewaunee County Shoreland Zoning Ordinance provided such uses meet the requirements of said section.

- C. Prohibited Uses in the C-1 District.

Any use not listed as a Permitted Use is prohibited (see Section 16.05(4) of the Kewaunee County Shoreland Zoning Ordinance).

## **10.0400 CONDITIONAL USE PERMITS**

### **10.0401 General Provisions**

The Town Board, after consideration of the Plan Commission recommendations, may authorize the Zoning Administrator to issue a Conditional Use Permit for Conditional Uses after review and a public hearing, provided that such Conditional Uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the values of the Town.

### **10.0402 Application**

- A. The application for a Conditional Use Permit shall be filed in duplicate with the Town Zoning Administrator on a form so prescribed by the Town. In order to secure evidence upon which to base its determination, the Plan Commission, Town Board, or Town Zoning Administrator may require, in addition to the information required for a Conditional Use Permit, the submission of plans of buildings, arrangement of operations, plat of grounds showing location of buildings, stockpiles, equipment storage, fences or screens, specification of operations, parking areas, traffic access, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of this Ordinance.
- B. No Application shall be accepted by the Town Zoning Administrator until complete as judged by the Town Zoning Administrator and until all fees established by the Town Board have been paid in full.
- C. Town Plan Commission Review and Report

For each application for a Conditional Use, the Town Plan Commission shall report to the Town Board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

### **10.0403 Standards Applicable to All Conditional Uses**

- A. In passing upon a Conditional Use Permit application, the Plan Commission may consider the following factors:
  - 1. The location, nature, and size of the proposed use with respect to other uses in the area.
  - 2. The size of the site in relation to it.
  - 3. The location of the site with respect to existing or future roads giving access to it.
  - 4. Its compatibility with existing uses on land adjacent thereto.
  - 5. Its harmony with the existing and future development of the District.
  - 6. Existing topography, drainage, soil types, and vegetative cover.

7. Its relationship to the public interest, the purpose and intent of this Ordinance and substantial justice to all parties concerned.
  8. Whether proposed use is consistent with the Town Comprehensive Plan.
- B. The applicant for a Conditional Use has the burden of showing why the Conditional Use should be approved.

**10.0404 Conditions Attached to Conditional Use Permit**

Upon consideration of the factors listed above, the Town Board may attach such conditions, in addition to those otherwise specifically listed, that it deems necessary. The conditions may include measures to minimize odor, noise and dust, landscaping, architectural design, type of construction, construction commencement and completion date, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, road dedication, certified survey maps, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional conditions may be recommended by the Plan Commission and may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

**10.0405 Notice and Public Hearing**

Upon receipt in proper form of the written recommendation referred to in Section 10.0402, the Town Plan Commission shall hold at least one (1) public hearing on the proposed Conditional Use. Notice of such public hearing specifying the time, place and matters to come before the Plan Commission shall be given as a Class 2 notice as referred to in Chapter 985 of the Wisconsin Statutes. Due notice of the hearing shall be given at least 10 days before the Public Hearing to parties of interest.

Parties of interest shall be defined as the applicant, adjacent property owners, and owners of property within 200 feet of the proposed Conditional Use.

Failure to give any notice to any property owner shall not invalidate the action taken by the Town Plan Commission.

**10.0406 Conditional Use Permit Fee**

The applicant, upon filing of his application, shall pay a fee to the Zoning Administrator in accordance with Section 10.1505 of this Ordinance.

- A. Expiration. All Conditional Use Permits shall expire 12 months from the date of issuance where no action has commenced to establish the authorized use as determined by the Town Board. If a time limit has been imposed as a condition for the Permit, the Permit shall expire at the end of the time limit.
- B. Amendments. Changes subsequent to the initial issuance of a Conditional Use Permit which would result in a need to change the initial conditions shall require an Amendment to the Conditional Use Permit. The process for amending a Conditional Use Permit shall generally follow the procedures for granting a Conditional Use Permit as set forth in Section 10.0400.



- C. Revocation of a Conditional Use Permit. Should a Permit applicant, his or her heirs or assigns, fail to comply with the conditions of the Permit issued by the Town Board, or should the use, or characteristics of the use be changed without prior approval by the Town Board, the Conditional Use Permit may be revoked. The process for revoking a Permit shall generally follow the procedures for granting a Conditional Use Permit as set forth in Section 10.0400.

## **10.0500 PARKING, LOADING, DRIVEWAYS, AND ACCESS**

### **10.0501 Parking Standards**

- A. Parking areas may be located in any yard space for commercial uses and in any yard but the Front Yard for other uses, but shall not be closer than ten (10) feet to any street line. No parking space or area shall be permitted within five (5) feet of a property line in a Side Yard.
- B. Each parking space shall not be less than two hundred (200) square feet, exclusive of the space required for ingress and egress. Minimum width of the parking space shall be ten (10) feet.
- C. Where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory.
- D. All off-street parking areas for more than ten (10) vehicles shall be graded and surfaced so as to be dust free and properly drained and shall have the aisles and spaces clearly marked.
- E. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately from the hours of sunset to sunrise when the use is in operation. Adequate shielding shall be provided by commercial uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
- F. Where a Zoning/Building Permit has been issued prior to the Effective Date of this ordinance, and provided that construction is begun within six (6) months of such Effective Date and diligently prosecuted to completion, parking and loading facilities in the amounts required for the issuance of said Zoning/Building Permit may be provided in lieu of any different amounts required by this ordinance.
- G. When the intensity of use of any building, structure, or premises shall be increased through the addition of Dwelling Units, floor units, Floor Areas, seating capacity or other units of measurement specified herein for the required parking or loading facilities as required herein shall be provided for such increase in intensity to use and for at least fifty (50) percent of any existing deficiency in parking or loading facilities.
- H. None of the off-street facilities as required in this Ordinance shall be required for any existing building or use, unless said building or use shall be enlarged,

in which case the provisions of this ordinance shall apply only to the enlarged portion of the building or use.

I. Required Number of Parking Stalls

Table 10.1: Land Use and Minimum Parking Stalls Required, Town of Franklin.

Use	Minimum Parking Required
Single-Family Dwellings and Manufactured Homes	Two (2) spaces for each Dwelling Unit
Multiple-family Dwellings	One and a half (1.5) spaces for each Dwelling Unit
Motels, Hotels	One (1) space for each guest room plus one (1) space for each three (3) employees
Hospitals, clubs, lodges, dormitories, and lodging and Boarding Houses	One (1) space for each two (2) beds plus one (1) space for each three (3) employees
Sanitariums, institutions, rest and Nursing Homes	One (1) space for each five (5) beds plus one (1) space for each three (3) employees
Medical and dental clinics	Five (5) spaces for each doctor
Churches, theaters, auditoriums, community center, vocational and night schools, and other places of public assembly	One (1) space for each five (5) seats
Colleges, secondary and elementary schools	One (1) space for each two (2) employees plus one (1) space for each 10 students of 16 years of age or more
Restaurants, bars, places of entertainment, repair shops, and retail and service stores	One (1) space for each 150 square feet of Floor Area and one (1) space for each two (2) employees
Manufacturing and processing plants, laboratories, and warehouses	One (1) space for each two (2) employees
Financial institutions, and business, government, and Professional Offices	One (1) space for each 300 square feet of Floor Area and one (1) space for each two (2) employees
Funeral Homes	One (1) space for each four (4) seats
Bowling alleys	Five (5) spaces for each alley
Lodges and clubs	One (1) space for each five (5) members
Automobile repair garages	One (1) space for each regular employee plus one (1) space for each 250 square feet of Floor Area used for repair work

Gasoline filling stations	Three (3) spaces for each grease rack or similar facility plus one (1) space for each attendant
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Uses Not Listed: In the case of structures or uses not mentioned, the provision for a use which is essentially similar in nature shall apply.

**10.0502 Restrictions on Parking of Equipment**

Parking of farm, construction, or building equipment and parking of trucks, tractors, and semi-trailers shall be restricted as follows:

- A. Parking in residential and conservancy Districts. No truck tractor, semi-trailer, commercial or construction vehicle, machinery, equipment or truck with dual rear axles shall be stored on lots in residential or conservancy Districts. Agricultural vehicles and machinery stored on an operating farm in any of the aforementioned Districts are exempt from this restriction.
- B. Parking in agricultural and business Districts. Vehicles and machinery used in conjunction with a business or industry may be stored, inside or outside, on the premises provided that when stored outside, they do not block a public right-of-way or obscure clear vision on roadways.
- C. Storage of junked vehicles. No more than three (3) disassembled, dismantled, junked, wrecked, inoperable, or unlicensed vehicles shall be stored or allowed to remain in the open upon private property in the Town of Franklin within 10 days after receiving written notice from the Zoning Administrator to remove or enclose such vehicle unless:
  - 1. The vehicle is being held as a part of an automotive sales or repair business enterprise located within a District zoned for that purpose; or
  - 2. The vehicle is in use on the premises as a lawful, unlicensed use; or
  - 3. Due to individual hardship, a Variance has been granted by the Zoning Board of Appeals to store such vehicle. The Zoning Board of Appeals shall not grant such Variances for a period of more than one year.

**10.0503 Parking of Recreational Vehicles**

No motorhome, travel trailer, recreational vehicle, boat, snowmobile, or other recreational type vehicle shall be stored on any property in any residential District except as provided herein:

- A. One boat and its trailer, or snowmobile and its trailer, travel trailer, or other recreational vehicle may be stored in the yard. If more than one recreational vehicle is stored in the yard, all vehicles, with the exception of one, shall be shielded from view by an opaque screen. The screen may consist of any combination of opaque fencing, vegetation, natural features, or structures.
- B. Storage of recreational vehicles shall be limited to recreational vehicles owned and used by the property owner.
- C. Any number of personal recreational vehicles may be stored within the lot within a fully enclosed structure.

- D. In the A-1 Exclusive Agricultural District, Conditional Use permits to commercially store recreational vehicles shall be reviewed pursuant to Section 10.0400 of this Ordinance.

**10.0504 Traffic Visibility**

No obstructions such as structures, parking, or permanent vegetation shall be permitted in any District between the heights of two and one-half (2.5) feet and ten (10) feet above the plane through the mean centerline within the triangular space formed by any two existing or proposed intersecting street or Alley right-of-way lines and a line joining points on such lines located a minimum of 100 feet from their intersection.

In the Case of Arterial Streets intersection with other arterial streets or railways, the corner cutoff distances establishing the triangular Vision Clearance space shall be increased in 125 feet.

**10.0505 Loading Requirements**

In all Districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

**10.0506 Driveways**

All driveways installed, altered, changed, replaced, or extended after the Effective Date of this Ordinance shall meet the following requirements:

- A. Islands between driveway openings shall be provided, with a minimum of 12 feet between all driveways and six (6) feet at all Lot Lines.
- B. Openings for vehicular ingress and egress shall not be less than 24 feet at the street line nor more than 35 feet.
- C. Driveway approaches shall be so constructed so as not to restrict the natural flow of water. Property owners shall be financially responsible for providing the proper size culvert necessary for driveways if needed as determined by the Zoning Administrator.
- D. Vehicular entrances and exits to drive-in theaters; banks; and restaurants; Motels; funeral homes; vehicular sales, service, washing, and repair stations; garages, or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
- E. Permits. All driveways shall require a permit from the Town. Applications for a driveway permit shall be made on forms provided by the Zoning Administrator or Town Clerk and shall contain or have attached thereto the following information:
  - 1. Name, address, and telephone number of the applicant. Location of proposed driveway and existing or proposed use served by the driveway.

2. A scale drawing indicating the location and dimensions of such driveway.
3. Additional information as may be required by the Zoning Administrator or Plan Commission.

#### **10.0507 Street and Highway Access**

- A. No direct private access shall be permitted to the existing or proposed right-of-way of expressways, state trunk highways, or any controlled access arterial street without permission from the highway agency having access control jurisdiction. Access barriers, fencing, ditching, landscaping, or other topographic barriers shall be erected to prevent unauthorized vehicular ingress and egress to the above specified streets or highways.
- B. Driveways on arterial streets shall be located a minimum of 100 feet from a street intersection unless the Lot Width is less than 100 feet, in which case the Plan Commission shall determine the driveway location. Said Setback shall be measured from the intersection of the rights-of-way of the two streets.
- C. Driveways on collector or land access streets shall be located a minimum of 100 feet from a street intersection unless the Lot Width is less than 100 feet, in which case the Plan Commission shall determine the driveway location. Said Setback shall be measured from the intersection from the rights-of-way of the two streets.
- D. Residential driveways on Corner Lots shall be located on the least heavily traveled street.
- E. Temporary access to the above rights-of-way may be granted by the Plan Commission after review and recommendation by the highway agency having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required by the reviewing agencies, Plan Commission, or Town Board.

### **10.0600 SUPPLEMENTARY USES**

#### **10.0601 Fences and Hedges**

- A. Definition - For the purposes of this Ordinance, a fence is herein defined as an enclosing barrier consisting of vegetation, wood, stone, metal, brick, cement, or other material. The term "fence" shall be construed to include planting, such as hedges.
- B. Location - Fences may be located on Lot Lines if the adjoining property owner(s) approves in writing. Such written approval must be filed with the Zoning Administrator prior to construction erection, or planting of the fence. No fence or other structure consisting in whole or in part of barbed wire, rods or bands or other material dangerous to life and limb, shall be erected along or within four (4) feet of any public streets, sidewalks, or Alleys in the Town not to supersede Wis. Stats., Chapter 90.
- C. Construction and Maintenance - Fences shall be constructed in a workmanlike manner and of substantial material reasonably suited for its intended purpose.

Any such fence which is, or has become dangerous to the Town health or welfare, is a public nuisance, and the Town may commence property proceedings for the abatement thereof. Electric fences shall not be permitted except for agricultural purposes. Barbed wire fences shall only be permitted for agricultural uses and by Conditional Use for industrial or commercial security uses. No fence shall have sharp or pointed pickets dangerous to life or limb. Hedges and other plantings shall be continuously trimmed and all parts thereof confined to the property on which planted, and shall not interfere with or obstruct overhead utilities such as power lines, telephone lines or cable lines.

- D. Residential Fences - No fence or hedges exceeding two and one-half (2-1/2) feet in height shall be allowed within the building Setback limits adjacent to a street right-of-way, except in Rear Yard Setback where there is no access to a street right-of-way, the maximum height may be six (6) feet. The maximum height of fences or any other boundary line shall not be more than six (6) feet in height, except the hedges may be permitted to grow to their natural height. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited. The most attractive side of a fence shall face adjoining property.
- E. Commercial, Agricultural, Industrial Fences – Solid wall fences used for light industrial, commercial, agricultural purposes shall have a maximum height of eight (8) feet, except within the required front or corner Setback areas wherein such height shall be limited to two and one-half (2-1/2) feet. Arms or extensions which project from the fence must project into the lot proper.
- F. Fences Required for Certain Swimming Pools - All permanent in-ground private swimming pools located in residential zoned Districts shall be completely enclosed by a fence of not less than four (4) feet in height. Said fence shall have intermediate rails or an ornamental pattern such that an object larger than nine (9) inches in diameter cannot pass through.

**10.0602 Junkyards, Salvage Yards, Solid Waste Recycling, Storage or Transfer Facility**

- A. Conditional Use - Junk or Salvage Yards, solid waste recycling, storage or transfer facilities, shall be a Conditional Use and shall only be permitted in the B-1 Business District.
- B. Procedure - Except as otherwise provided in this Section, the procedure for securing, granting and revoking a Conditional Use permit under this Section shall be as set forth in Section 10.0400 of this Ordinance.
- C. Fees - Each application shall be accompanied by a fee as established by the Town Board, and in addition thereto the applicant shall pay the reasonable cost of a review of the operational and restoration plans by the Town.
- D. Operational Plan - The application shall be accompanied by a detailed description of the proposed method of operation; the manner in which materials will be stored; the equipment proposed to be used; the method of disposition of end products; the manner in which adjoining property owners

will be protected; the house of operation; the Town highways proposed to be used; the gross weight of equipment to be used in hauling in and hauling out of any of the product; and other similar information as the Plan Commission may require.

- E. Restoration Plan - The application for the operation of a Conditional Use under this Section shall be accompanied by a proposed restoration plan and illustrative drawing showing the manner in which the site will be restored.
- F. State Licenses - Any permit issued under this Section shall be subject to revocation if all or any necessary state licenses or permits have been withdrawn or revoked.
- G. Bond - No permit shall be issued until the applicant furnishes a performance bond in such amount and on such conditions as shall be fixed by the Town Board.
- H. Term of Permit - The permit shall be in effect for one year, subject to termination by the Town Board after notice of hearing for violations of the Plan of Operations or Restoration Plan, and may be renewed by the Town Board if the operations are in reasonable compliance with the terms of the existing permit.
- I. Inspection - The Zoning Administrator shall inspect the operations at least semi-annually to ensure compliance, and the reasonable fees of such inspection, as fixed by the Town Board at the time of granting the permit, shall be paid by the applicant.
- J. Fencing
  - 1. Junk or salvage materials pits shall be enclosed by a suitable fence or planting screen so that the materials are not visible from other property in the vicinity of the junkyard, nor from a public right-of-way such as roads, streets, highways and waterways. The fence or planting screen shall be a minimum of eight (8) feet in height and shall be kept in good repair.
  - 2. Junk or salvage materials shall not be piled higher than the height of the fence.
  - 3. For fire protection, an unobstructed fire break shall be maintained, one rod in width and completely surrounding the salvage or junkyard.

#### **10.0603 Automobile and Other Junkyards**

- A. The provisions of the 1987-88 revised Wisconsin Statutes Section 84.31 as amended regarding regulation of junkyards excluding any penalty provisions and excluding provisions applicable only to the Wisconsin Department of Transportation are hereby adopted and incorporated in this Ordinance by reference.
- B. The provisions of the 1987-88 Wisconsin Statutes Section 175.25 as amended regarding storage of junk automobiles excluding any penalty provisions are

hereby adopted and incorporated in this Ordinance by reference to the extent such provisions apply to towns. The Town Plan Commission shall issue permits according to law for the accumulation and storage of junk automobiles or parts thereof located within 750 feet of the centerline of any county trunk, state trunk or federal highway or within 500 feet of the centerline of any Town road.

- C. Any automobile junkyards and any other type of junkyards within the limits of the Town of Franklin shall be screened from public view by a solid fence completely surrounding such junkyard at least eight (8) feet in height and made of a permanent weather resistant type of material such as weather resistant treated wood, metal or plastic. Such fence shall be properly maintained so as to retain its integrity and as to be reasonably aesthetic.
- D. No junk automobiles or parts thereof or other junk shall be stored outside the confines of the screening fence required in subsection three (3) above nor shall junk automobiles or parts thereof or other junk be piled up higher than the height of the screening fence or otherwise stored so as still to be visible to public view despite the existence of the screening fence.
- E. The owner or operator of any property used as an automobile junkyard or any other type of junkyard shall undertake rodent control measures so as to prevent the infestation of rodents in any such junkyards. The rodent control measures taken shall be documented by any professional pest control company or by the owner or operator of the junkyard and shall be consistent with the then prevailing rodent control practices followed by professional pest control businesses in the area.

#### **10.0604 Quarries and Mines**

- A. Applicability - The following regulations shall apply to mining operations on activities for the extraction from the earth of mineral aggregates such as stone, sand and gravel; nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc; and other natural material; and to related operations or activities such as excavation, grading or dredging; and related processes such as crushing, screening, scalping, dewatering and blending.
- B. Exempt Activities - These regulations do not apply to the following activities:
  - 1. Excavations or grading by a person solely for domestic use at his or her residence.
  - 2. Excavations or grading conducted for highway construction purposes within the highway right-of-way.
  - 3. Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
  - 4. Excavations for building construction purposes.
- C. Initial Permit - The application for a Conditional Use permit shall be submitted to the Town Zoning Administrator on forms provided by the Town of Franklin. The application shall be signed and dated by the applicant and shall be



accompanied by information which shall include but not be limited to the following:

1. General Information – The name and address of the operator.
2. Lease(s) – A signed copy of the lease(s) or a letter(s) signed by the owner(s) of record which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this Ordinance. The expiration date of the lease of agreement shall clearly be indicated thereon.
3. Legal Description – A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.
4. General Map – Two copies of a general map which shall be drawn at a scale of no less than one inch equals 200 feet and shall include the following:
  - (a) Property boundaries of the operator's owned or leased land and the location of other owners' property boundaries at the point where they abut the boundary of the project site.
  - (b) Topography of affected lands at intervals no larger than ten feet.
  - (c) Location and names of all streams and roads, on or within 300 feet of the project site.
  - (d) Location of all structures on or adjacent to the site and the purpose for which each structure and the adjoining land is used.
  - (e) Boundaries of previous excavations on the site.
  - (f) Location and description of mining site boundary stakes and permanent reference point. Boundary stakes may not be required for projects which are to be completed in six months or less.
5. Operation Plan – All horizontal and vertical measurements shall be referenced to a permanent reference point. The operation plan shall include two copies of maps, information about the site, a description of the proposed mining operation, methods and procedures to be used in mining the site and a proposed timetable for completion of various stages of the operation as follows:
  - (a) Observed or estimated depth to groundwater.
  - (b) Type of mining and processing.
  - (c) Estimated total volume of materials to be extracted.
  - (d) A timetable for the commencement and cessation of mining operations, and if seasonal operations are intended, the months of operation shall be identified.

- (e) Measures to be taken to screen the operation from view of surrounding land uses or a written explanation of why such measures are not needed.
  - (f) Plan view drawing and a description of the sequential stages of mining. The drawing shall show the location of the stage boundary stakes, the location and extent of the mining site to include but not be limited to mining refuse dumps, sediment and/or wash ponds, and sediment.
  - (g) Two copies of a plan showing temporary erosion control measures to be used during excavation.
    - (1) Temporary stabilization measures shall describe how such things as haul roads and stockpiles will be dealt with to minimize erosion and contamination of surface and groundwater.
    - (2) Temporary stabilization measures may be ordered by field directive by the Zoning Administrator or his designee to correct situations which arise out of the operation of a project site.
    - (3) Temporary stabilization may include but need not be limited to the following: Silt fencing, bale check dams, sod strips, rock riprap, hard surfacing through the use of concrete or blacktop slope or highwall reduction, temporary seeding, erosion mat placement, mulching and sediment basin construction.
  - (h) Proposed truck and machinery access to the site.
  - (i) Types and location of temporary or permanent buildings and structures to be erected on the site.
  - (j) Approximate number of trucks and other types of machinery to be used at the site.
  - (k) Reclamation Plan – A reclamation plan for the nonmetallic mining site as required and approved under the Kewaunee County Non-Metallic Mining Ordinance.
    - (1) Restoration of the Site - In the A-1, A-2, and A-3 Exclusive Agricultural Districts it is required that the site be restored for and to permitted agricultural uses only.
6. Other Information – The Town Plan Commission and the Town Board may require the submittal of such other information as may be necessary to determine the nature of the mining operation and proposed reclamation.
- D. Conditions – These conditions shall apply to the Permit in addition to those established under Section 10.0400.

1. No fixed machinery shall be erected or maintained within 200 feet of any property or street right-of-way.
2. No excavation shall take place within 100 feet of any property line or 100 feet of an existing or platted street right-of-way.
3. Screening, sifting, washing, crushing or other forms of processing shall be conducted upon the premises shall be at least 500 feet from any residential zone.

E. Standards Applied to all Permits:

1. Right of Access – The filing of an application shall grant the Town the right of access onto the site and Contiguous lands owned or leased by the applicant for any purposes relative to this Ordinance.
2. Boundary Staking – All excavation and phase boundaries shall be staked or otherwise marked and other operators shall notify the department that the site is staked at least two work days prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the Town. Stakes may be removed after reclamation is completed and accepted. Painted wood lath may be used for operations of one year or less. Staking may be waived with department approval if an operation boundary is the same as an existing fence line or other easily identifiable feature.
3. Permit Period – Permits shall be granted for a specified period of time not to exceed two (2) years based on the nature of the operation.
4. Limits of Operation – Projects shall be limited to approved dimensions and depths.
5. Conflicts with other Regulations – It is the responsibility of the applicant to obtain any local, state and federal permits or approvals.
6. Compliance with Reclamation – The operator shall comply with progressive and final reclamation plans for the site.
7. Notification of Commencement and Cessation – The operator shall notify the department, in writing, at least fifteen (1) work days prior to initial mining operations and at least thirty (30) work days prior to final completion of project reclamation. All stages within a site shall also comply with the notification requirements above. When a stage is complete, the operator shall notify the Town for approval of the reclamation before entering the next stage.
8. Other Standards – The Town may apply such other requirements as are necessary to ensure progressive and final reclamation in a manner consistent with this Ordinance and to limit environmental pollution.

F. Renewal of Permit

1. Requests for permit renewal must be submitted in writing to the Town Zoning Administrator prior to the 60 days expiration date of the existing permit.
2. Permit renewals may be granted by the Town Zoning Administrator for not more than the duration of the initial permit.
3. No permit renewal shall be granted unless the project is in reasonable compliance with the terms of the existing permit.
4. Permit renewals may be conditioned upon correction of any unanticipated environmental pollution occurring during the original permit.

G. Project Site Modification or Enlargement and Transfer of Permit

1. Site Modification – An operator may apply, in writing, to the Town Zoning Administrator, for a modification or cancellation of a permit or for a change in the reclamation plan for a project site. This application shall identify the area to be removed as affected by a change on the operation and reclamation plans.
2. Transfer of Permit – When one operator succeeds to the interest of another in an uncompleted site, the Town Zoning Administrator shall release the first operator of the responsibilities imposed by the permit only if:
  - (a) Both operators are in compliance with the requirements and standards of this Ordinance.
  - (b) The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.
3. Site Enlargement – Any proposed enlargement may be approved by the Town Zoning Administrator subject to the Plan Commission's evaluation of the revised reclamation plan.

H. Fees

1. The application for a permit shall be accompanied by a permit fee established by the Town Board.
2. The Applicant shall furnish the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The form and type of such sureties shall be approved by the Town's Attorney.

**10.0605 Commercial Uses**

A. Adult Entertainment Businesses

In recognition of the protection afforded to the citizens under the 1st and 14th Amendments of the Constitution of the United States, the purpose of this section is to regulate the location of specifically defined activities and materials consistent with the Town's interest in the present and future character of its development, and this section is not intended to inhibit any person's freedom of speech or the freedom of the press. For that reason, commercial establishments dealing in adult entertainment activities and materials may be permitted as a Conditional Use in the B-1 District.

1. The Conditional Uses allowed by this section are subject to the following provisions:
  - (a) No permit may be granted where the proposed establishment is within 1,000 feet of any church, funeral parlor, historic district or site listed in the State or National Register of Historic Places, hospital, library, museum, park, playground, restaurant, school, or any other private or public building or premises likely to be utilized by persons under the age of 18 years.
  - (b) No permit may be granted if the proposed establishment is within 1,000 feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
  - (c) No permit may be granted where the proposed establishment is within 1,000 feet of any area zoned residential in the same or a Contiguous town or municipality.
  - (d) The applicant must provide the name and address of the owners and occupants of all property within 1,000 feet of the proposed establishment.
  - (e) Billboards, window displays, temporary signs, portable signs, and towers are prohibited on the premises. No flashing or traveling lights may be located on or visible from the exterior of the structure in which the establishment is located. No sign may depict specified anatomical areas or specified sexual activity.
  - (f) All access points to the establishment and all windows or other openings must be constructed, covered, located, or screened in a manner that prevents viewing the interior of the establishment from any public or semipublic area.
  - (g) Adequate parking must be provided in a lighted area.
  - (h) The hours of operation for such establishments are limited to the same hours of operations for bars and taverns within the community in which the District is located.
  - (i) If a protest signed by 51 percent or more of the adult residents and property owners within 500 feet of the proposed establishment is filed with the Zoning Administrator, a unanimous vote of the Plan Commission is required to issue a Conditional Use permit.

2. For purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment, to the nearest property line of the above listed uses.

B. Home Occupation

The use of a Dwelling Unit or accessory structure for a Home Occupation shall be clearly secondary to the residential use of the property and shall not change the property's residential character. The following shall apply:

1. Home Occupations are allowed as an Accessory Use in the A-1 and A-2 Exclusive Agricultural Districts provided that the Home Occupation is incidental to the Farm Operation and conducted within the Farm Residence.
2. Home Occupations are allowed as a Conditional Use in the RS-1 and RR Zoning Districts.
3. A maximum of two Home Occupations shall be permitted per lot or building site. In no instance shall there be more than two home-based enterprises on a lot or building site, whether those enterprises are home offices/studios and/or Home Occupations.
4. The Home Occupation shall be conducted by resident(s) of the Dwelling Unit on the property. Other persons may be employed by the business but no more than one non-resident shall work on the premises.
5. Home Occupations may be conducted in any Dwelling Unit or Accessory Building. The total Floor Area dedicated to Home Occupations, whether located within the Dwelling Unit and/or an Accessory Building, shall be no more than 25% of the Floor Area of the Dwelling Unit.
6. Home Occupations shall not include the conduct of any retail or wholesale business on the premises, except for the sale of products or services produced or normally used by the Home Occupation.
7. Home Occupations shall not include the operation of any machinery, tools, appliances, or other operational activity that would create a nuisance due to noise, dust, odors, or vibration, or be otherwise incompatible with the surrounding area.
8. Home Occupations shall not involve any outdoor storage or display of any articles offered for sale or produced on the premises in conjunction with the Home Occupation, nor any outdoor storage or display of any products, materials, equipment, or machinery used in conjunction with the Home Occupation.
9. A maximum of one on-site vehicle bearing business insignia and one trailer used in conjunction with the Home Occupation may be stored outdoors, provided that the vehicle and/or trailer are screened from rights-of-way and neighboring properties.

10. In addition to parking required for the Dwelling Unit, one Off-Street Parking Space shall be provided for each 150 square feet of Floor Area used for the Home Occupation.
11. Deliveries to or shipments from the property of products, materials, equipment, or machinery used in conjunction with the Home Occupation shall not exceed five per week.
12. A maximum of one on-premise advertising sign, not to be illuminated and not to exceed 3 square feet in area, shall be permitted for a Home Occupation. Such signs shall be authorized through issuance of a sign permit in compliance with the requirements of this ordinance. No off-premise advertising signs shall be permitted.
13. Sanitary facilities shall be provided per county and state sanitary code requirements.
14. Uses subject to regulations found elsewhere in this ordinance shall also comply with those regulations.

C. Home Office/Studio

The use of a Dwelling Unit or accessory structure for a Home Office/Studio shall be clearly secondary to the residential use of the property and shall not change the property's residential character. The following shall apply:

1. Home offices/studios are allowed as an Accessory Use in the RS-1 and RR Districts.
2. A maximum of two home offices/studios shall be permitted per lot or building site. In no instance shall there be more than two home-based enterprises on a lot or building site, whether those enterprises are home offices/studios and/or Home Occupations.
3. The Home Office/Studio business shall be conducted by resident(s) of the Dwelling Unit. Other persons may be employed by the business but shall not work on the premises.
4. Home offices/studios may be conducted in any Dwelling Unit or Accessory Building. The total Floor Area dedicated to home offices/studios, whether located within the Dwelling Unit and/or in an Accessory Building, shall be no more than 25% of the Floor Area of the Dwelling Unit.
5. Home offices/studios shall not include the conduct of any retail or wholesale business on the premises, nor any other activity requiring visits by members of the public.
6. Home offices/studios shall not include the operation of any machinery, tools, appliances, or other operational activity that would create a nuisance due to noise, dust, odors, or vibration, or be otherwise incompatible with the surrounding area.

7. Home offices/studios shall not involve any outdoor storage or display of any products, materials, equipment, or machinery used in conjunction with the Home Office/Studio.
8. Any on-site vehicles bearing business insignia or trailers used in conjunction with the Home Office/Studio shall be stored indoors.
9. No parking in addition to that required for the Dwelling Unit shall be required.
10. Deliveries to or shipments from the property of products, materials, equipment, or machinery used in conjunction with a Home Office/Studio shall not exceed two per week.
11. No off-premise nor on-premise advertising signs shall be permitted.
12. Sanitary facilities shall be provided per county and state sanitary code requirements
13. Uses subject to regulations found elsewhere in this ordinance shall also comply with those regulations

#### **10.0606 Communications Uses**

##### **A. Mobile Tower Siting Regulations**

###### **1. Purpose.**

The purpose of this ordinance is to regulate by Conditional Use permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation - the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation - collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

###### **2. Authority.**

The Town Board has the specific authority under s. 62.23(7) and 66.0404, Wis. Stats., to adopt and enforce this section.

###### **3. Definitions.**

All definitions contained in s. 66.0404(1), Wis. Stats., are hereby incorporated by reference.

###### **4. Siting and Construction of Any New Mobile Service Support Structure and Facilities.**

###### **(a) Application Process**

- (1) A Conditional Use permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile



service support structure and facilities is a Conditional Use in the Town obtainable with this permit.

- (2) A Conditional Use application must be completed by any applicant and submitted to the Zoning Administrator. The application must contain the following information:
  - a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
  - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- (3) A Conditional Use application will be provided by the Zoning Administrator upon request to any applicant.
- (4) If an applicant submits to the Town an application for a Conditional Use permit, per Section 10.0402, to engage in an activity described in this section, which contains all of the

information required under this section, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90 day period:
  - a. Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this section, zoning ordinances.
  - b. Following a Public Hearing (10.0405), make a final decision whether to approve or disapprove the application.
  - c. Notify the applicant, in writing, of its final decision.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 10.0606(4)(a)(2)(f).
- (7) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning regulation does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.

## 5. Class 1 Collocation

### (a) Application Process

- (1) A Conditional Use permit is required for a class 1 collocation. A class 1 collocation is a Conditional Use in the Town obtainable with this permit.

- (2) A Conditional Use application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
  - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- (3) A permit application will be provided by the Zoning Administrator upon request to any applicant.
- (4) If an applicant submits to the Town an application for a Conditional Use permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If the Town does not believe that the application

is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90 day period:
    - a. Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this section, zoning ordinances.
    - b. Following a Public Hearing (10.0405), make a final decision whether to approve or disapprove the application.
    - c. Notify the applicant, in writing, of its final decision.
    - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - (6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 10.0606(5)(a)(2)(f).
  - (7) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
  - (8) The fee for the permit is listed in the most recent fee schedule adopted by the Town Board.
6. Class 2 Collocation.
- (a) Application Process
    - (1) A Conditional Use permit is required for a class 2 collocation. A class 2 collocation is a Permitted Use in the

Town but still requires the issuance of the Conditional Use permit.

- (2) A Conditional Use application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
- (3) A permit application will be provided by the Zoning Administrator upon request to any applicant.
- (4) A class 2 collocation is subject to the same requirements for the issuance of a Zoning/Building Permit to which any other type of commercial development or land use development is subject (see Section 10.1205).
- (5) If an applicant submits to the Town an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (6) Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45 day period:
  - a. Following a Public Hearing (10.0405), make a final decision whether to approve or disapprove the application.
  - b. Notify the applicant, in writing, of its final decision.
  - c. If the application is approved, issue the applicant the relevant permit.

- d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- e. The fee for the permit is listed in the most recent fee schedule adopted by the Town Board.

7. Penalty Provisions

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this section shall, upon conviction, pay a forfeiture of not less than \$500 nor more than \$3,000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall constitute a separate offense. In addition to such forfeiture, a violator may also be required to reimburse the Town for the costs of prosecution, including reasonable attorney fees. A person who fails to pay any forfeitures, costs and assessments imposed by the Court, shall, upon being found in contempt of Court, be subject to imprisonment for not to exceed thirty (30) days. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

B. Antennas

The Town of Franklin recognizes that the development of various antennas, including Satellite Dish Antennas, and their increased use poses questions of regulation not often addressed in local zoning ordinances. In developing antenna regulations, the interest of the antenna owner in the use of the device must be balanced with the interest of adjoining property owners and the general public. To protect the health and safety of all citizens, as well as the aesthetic values embodied in this Ordinance, the following regulations shall apply to all terrestrial and Satellite Dish Antennas, with the exception of satellite antennas with a diameter of 2 feet or less:

- 1. Terrestrial antennas and Satellite Dish Antennas may be located in the side or Rear Yard or on the roof of the principal structure in all Zoning Districts.
- 2. All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the District in which they are located, except as provided in Section 10.0203 of this Ordinance.
- 3. Ground-mounted Satellite Dish Antennas shall not exceed 15 feet in height.
- 4. All free standing terrestrial antennas shall be located not less than one foot from a Lot Line for each one foot of height above the surrounding grade.
- 5. Roof mounted antennas may be mounted one foot above the roofline for each one foot from the nearest Lot Line.

6. All Satellite Dish Antennas shall be located not less than 5 feet from a side or rear Lot Line.
7. All antennas, including Satellite Dish Antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.
8. All antennas, including Satellite Dish Antennas, shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
9. Not more than one terrestrial and one Satellite Dish Antenna per Dwelling Unit shall be permitted on a lot or parcel in a residential Zoning District.
10. Satellite Dish Antennas shall be located and designed to reduce their visual impact on surrounding properties.
11. Portable or trailer-mounted antennas are not permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed 2 days at any one location.
12. In the event the property owner of a parcel of land located in a residential District determines and documents that the placement of an antenna in a side or Rear Yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a Variance to allow for the installation of the antenna in a Front Yard location. The procedure for issuing the Variance shall follow the procedure set forth in Section 10.1306 of this Ordinance.

#### **10.0607 Wind and Solar Energy Systems**

The Town Board, after consideration of the Plan Commission recommendations, may authorize the Zoning Administrator to issue a Conditional Use Permit for the following Conditional Uses after review and a Public Hearing (see 10.0400):

##### **A. Wind Energy Systems-Wind Farms**

Wind Farms, consistent with Wis. Stat. §91.46(4), are permitted only in the A-1 District as a Conditional Use provided that the following shall apply:

Section 66.0401 Wis. Stats. limits the authority of the Town to place restrictions on a wind energy system “unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.

- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.”

Therefore the Town should consider the above when establishing the conditions for the Conditional Use permit for a Wind Farm.

1. Density of wind towers shall not exceed one per 40 acres
2. The period and time of construction must be approved by the Plan Commission.
3. The Town Board may establish separate fees to cover the costs of hearings, attorney’s fees, engineering fees and other cost necessary to process the Conditional Use permit and may establish impact fees.
4. The applicant shall address how the construction of proposed project will affect wells within in a one mile radius of the proposed construction.
5. The applicant must address the impact of the project on radio and television reception within a one-mile radius of the proposed project construction.
6. The applicant must address pre and post construction noise levels within a one-mile radius of the proposed project construction and develop a plan to ameliorate objectionable noise levels may not exceed the standards as shown in 10.1006 of this ordinance.
7. The applicant must show the proposed pattern and location of the wind generation facilities.
8. The applicant must show how the public roads will be effected during construction, and post construction and ensure that roads will be restored to pre-construction conditions, if the roads are damaged.
9. The applicant must document receipt of all necessary state, county, and federal permits and any conditions imposed by those permits.
10. The applicant must demonstrate that the project will not adversely affect avian bird populations.
11. The applicant must address the removal and repair of wind generation facilities.
12. The applicant must address clean up during and after constructions.
13. The applicant must address erosion control and storm water management.
14. The applicant must address the removal and replacement of trees, shrubbery, and ground cover during and after construction.



15. The applicant must address the adequacy of emergency services during and after construction.
16. The applicant must provide a terrorism protection plan.
17. The applicant must provide a natural hazards protection plan.
18. Any storage facility or other building associated with the wind generation facility shall meet the Setback requirements for principal building in the District in which it is located. A storage building shall not be classified as an accessory structure.
19. Parking. When a wind generation facility is regularly staffed, a parking space for each such on site staff person shall be provided.
20. Signs and advertising. The use of any portion of a wind generation tower and its appurtenances for signs other than warning or equipment information signs is prohibited.
21. New or modified towers shall be certified by a registered professional engineer to be in accordance with structural standards for the industry.
22. Tower Appearance and Illumination
  - (a) For towers not regulated by the Wisconsin Division of Aeronautics or the Federal Aviation Administration, a surface paint or finish shall be used that reduces the visibility of the tower.
  - (b) Towers shall not be illuminated and shall not display strobe lights except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower. However, such lights shall be directional and shall not produce glare into residential areas.
  - (c) A photo simulation that illustrates the appearance of the site once the facility has been constructed. Photos shall be taken from any adjoining street and from any adjacent residential Zoning Districts from which the facility will be visible.
23. Interference with Public Safety Telecommunications
 

No new or existing wind generation facility shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.
24. The applicant must present a plan for the connection of the wind generation facility to the existing power grid.
25. The applicant must identify and address the cumulative and secondary impacts of the proposed and existing wind generation facilities in the Town and adjacent towns.

26. The applicant must present a plan to identify and address post construction impacts.

27. Landscaping and Building Materials

Landscaping shall be installed or existing vegetation shall be maintained for the purpose of screening the base of towers and their associated buildings. Building materials shall blend with the surrounding environment. The following regulations shall apply:

- (a) All plants shall meet the minimum standards of the most recent issue of the American Standard for Nursery Stock, by the American Association of Nurserymen, Inc.

28. Abandonment

Abandoned or unused towers or portions of towers shall be removed within six (6) months of the cessation of operations at the site. In the event that a tower is not removed within six (6) months of cessation of operations at a site, the tower may be removed by the Town and the costs of removal assessed against the property. The replacement of portions of a tower previously removed requires the issuance of a new Conditional Use permit

29. Reporting Reserved

30. Modification Reserved

31. Unanticipated Impacts Reserved

B. Wind Energy Systems-Farm -Sized

Farm-Sized Wind Energy System are permitted as Conditional Use in all Districts, except residential Districts where they are not allowed.

Section 66.0401 Wis. Stats. limits the authority of the Town to place restrictions on a wind energy system “unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.”

Therefore the Town should consider the above when establishing the conditions for the Conditional Use permit for Farm -Sized Wind Energy Systems.

C. Wind Energy Systems-Home Sized

Home-Sized Wind Energy Systems are permitted in all Zoning Districts as a Conditional Use.

Section 66.0401 Wis. Stats. limits the authority of the Town to place restrictions on a wind energy system “unless the restriction satisfies one of the following conditions:

1. Serves to preserve or protect the public health or safety.
2. Does not significantly increase the cost of the system or significantly decrease its efficiency.
3. Allows for an alternative system of comparable cost and efficiency.”

The Town should consider the above when establishing the conditions for the Conditional Use permit for Home-Sized Wind Energy Systems.

D. Solar Energy Conversion Systems

Commonly referred to as “active” or “passive” solar collection and heating systems and including all systems as defined by Section 13.48(2)(h) Wis. Stats. when such systems are erected as an accessory structure may be allowed in any District.

1. Application: Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures.
2. Construction: Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building and zoning codes.
3. Location and Height: Solar energy conversion systems shall meet all Setback and yard requirements for the District in which they are located. Solar energy conversion systems shall conform to all height requirements of this ordinance unless otherwise provided in the Conditional Use permit issued pursuant to this section.

**10.0608 Natural Resources Features (*Reserved*)**

**10.0609 Recreational Uses (*Reserved*)**

**10.0610 Agricultural Uses**

A. Livestock Facilities, 500 or More Animal Units.

1. A license issued by the Town of Franklin is required for new or expanded Livestock Facilities that will have 500 or more Animal Units in the A-1 or A-3 Exclusive Agricultural Districts. (Refer to *Chapter 9: Livestock Facility Siting and Licensing of the Town of Franklin Code of Ordinances*)

**10.0700 RESERVED**

## **10.0800 SITE PLAN REVIEW**

### **10.0801 Purpose and Intent**

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall be issued any permit for new construction or additions without first obtaining the approval of the Plan Commission of a site plan as set forth in this Section.

The Town Plan Commission shall insure that such construction is in accord with the official map, subdivision ordinance, and comprehensive plan of the Town and other applicable codes and ordinances of the Town.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading in the case of commercial and light industrial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

### **10.0802 Exceptions**

Residential development having four or fewer Dwelling Units on a Lot of Record are exempt from the site plan review, except as specifically required elsewhere in this Ordinance.

### **10.0803 Fee**

All site plans submitted to the Town of Franklin for review and approval shall be accompanied by a review fee as established from time to time by the Town Board.

### **10.0804 Principles**

To implement and define criteria for the purposes set forth in Section 10.0801, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

- A. No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- B. No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.
- C. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- D. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

- E. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
- F. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.

**10.0805 Site Plan Materials**

Four copies of the site plan shall be submitted to the Zoning Administrator who shall transit all applications and their accompanying plan to the Plan Commission for their review. Plan data to be submitted with all review applications shall include the following:

- A. Site plan drawn to a recognized engineering scale not less than one (1) inch equals 50 feet.
- B. Name of project noted.
- C. Owner's and/or developer's name and address noted.
- D. Architect and/or engineer's name and address noted.
- E. Date of plan submittal.
- F. Scale of drawing noted on plan.
- G. North arrow shown.
- H. Existing and proposed topography shown at a contour interval not less than two (2) feet.
- I. The characteristics of soils related to contemplated specific uses.
- J. Total number of parking spaces noted including location and dimension.
- K. Dimensions of lot.
- L. The type, size, and location of all structures with all building dimensions shown including Setbacks.
- M. Indicate height of building(s).
- N. Existing and proposed street names indicated.
- O. Indicate existing and proposed rights-of-way and widths.
- P. Locate existing and general location of proposed sanitary disposal systems.
- Q. Locate any proposed storm water management facilities, including detention/retention areas.
- R. Locate existing trees and wetlands.
- S. Note location, extent, and type of proposed plantings.
- T. Note location of pedestrian sidewalks and walkways.
- U. A graphic outline of any development staging which is planned is required to be shown on the site plan.

- V. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
- W. A certified survey may be required by the Plan Commission.

**10.0806 Review and Findings**

The Plan Commission shall review the referred plans at the first regular Plan Commission meeting following their submittal. The Plan Commission shall render a decision no later than the following regular Plan Commission meeting. The Plan Commission shall not approve any plans unless they find after viewing the application that the structure or use, as planned, will not violate the intent and purpose of this Ordinance. The Plan Commission will approve said plans only after determining the proposed building or buildings will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety.

**10.0807 Sureties**

The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission shall require appropriate sureties to guarantee that requirements will be completed on schedule. Failure to complete required improvements within specified time limits shall constitute a zoning violation, and the Zoning Administrator shall initiate the appropriate action to correct the violation pursuant to Section 10.1500 of this ordinance.

## **10.0900 SIGNS**

### **10.0901 Purpose and Intent**

The intent of this Section is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, and express the identity of individual proprietors and the Town as a whole.

### **10.0902 Compliance**

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without conforming with the provisions of this Ordinance. No signs, with the exception of official signs, shall be placed within the public right of way. No signs shall be located within the Vision Clearance triangle of any intersection.

### **10.0903 Signs Permitted in All Districts Without a Permit**

The following signs are permitted in all Zoning Districts without a permit, subject to the following regulations:

- A. Real Estate Signs not to exceed 8 square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located. One real estate sign shall be allowed per parcel.
- B. Name and Warning Signs not to exceed 2 square feet located on the premises.
- C. Home Occupation and Professional Home Office Signs located on premise not to exceed six (6) square feet in area.
- D. Election Campaign Signs provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected prior to the first day of the "election campaign period" as defined in Section 12.04 of the Wisconsin Statutes, and shall be removed within 4 days following the election. Election campaign signs may not be placed within the public right-of-way.
- E. Rummage Sale and Garage Sale Signs provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within 24 hours following the sale.
- F. Bulletin Boards for public, charitable or religious institutions not to exceed 32 square feet in area located on the premises.
- G. Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- H. Official Signs, such as traffic control, parking restrictions, information, and notices.
- I. Farm Identification Signs placed on premise showing the name of the owner or corporate affiliation or memberships not to exceed 32-square feet in area.

**10.0904 Signs Permitted in All Residential Districts With a Permit**

The following signs are permitted in any residential District and are subject to the following regulations:

- A. Permanent Real Estate Signs placed at the entrance to a subdivision or development shall contain only the name of the subdivision or development, shall meet all the yard requirements of the District in which it is located, and shall be placed as to not impede visibility. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses.
- B. Temporary Development Signs for the purpose of designating a new building or development, or for the promotion of a subdivision may be permitted for a limited period of time provided that the sign shall not exceed 48 square feet in area and shall meet all the yard requirements of the District in which it is located. The Plan Commission shall specify the period of time the sign may remain based on the size of the development allowing a reasonable time to market the development.

**10.0905 Signs Permitted in All Agricultural Districts With a Permit**

The following signs may be permitted in all Agricultural Districts and are subject to the following regulations:

- A. Wall Signs affixed to or painted on farm buildings advertising farm products produced on and/or sold on the premises, or displaying the owner's name shall not exceed a total of 200 square feet.
- B. Ground Signs advertising farm products produced on and/or sold on the premises shall not exceed 15 feet in height above the ground surface, shall meet all yard requirements for the District in which they are located, and shall not exceed a total of 100 square feet on one side or 200 square feet on all sides for any one premises.
- C. Directional Signs indicating the name of a business or other establishment, and the direction and distance to the establishment. No directional sign shall exceed 12 square feet in area. The location and the number of directional signs permitted shall be determined by the Plan Commission on a case-by-case basis.

**10.0906 Signs Permitted in the Business District With a Permit**

Signs are permitted in the B-1 Business District subject to the following restrictions:

- A. Wall Signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface and shall not extend above the roofline of the building. Wall signage shall be allocated at a maximum of 1.5 square foot of signage allowed for each linear foot of building length.
- B. Projecting Signs fastened to, suspended from, or supported by structures shall not exceed 20 square feet in area for any one premises; shall not extend more than 6 feet into any required yard; shall not extend into any public right-of-way; shall not be less than 10 feet from all side Lot Lines; shall not exceed a



height of 20 feet above the mean centerline street grade; shall not be less than 10 feet from all side Lot Lines; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an Alley.

- C. Ground Signs shall not exceed 6 feet in height above the mean centerline street grade, shall meet all yard requirements for the District in which it is located, shall not exceed 32 square feet on one side nor 64 square feet on all sides for any one lot.
- D. Marquee, Awning, or Canopy Signs affixed flat to the surface of the marquee, awning, or canopy are permitted providing that the sign does not extend vertically or horizontally beyond the limits of said marquee, awning, or canopy. A marquee, awning, or canopy may extend to within one foot of the vertical plane formed by the curb. A name sign not exceeding 2 square feet in area located immediately in front of the entrance to an establishment may be suspended from a canopy provided that the name sign shall be at least 10 feet above the sidewalk.
- E. Window Signs, except for painted signs and decals, shall be placed only on the inside of commercial buildings. Window signs shall not be subject to the limitation on number of signs.
- F. Pole Signs shall meet the height requirements for the Zoning District in which they are located; shall not be less than 10 feet above a sidewalk and 15 feet above a parking lot, driveway, or other area used by motor vehicles; and shall not exceed 32 square feet on one side or 64 square feet on both sides. Pole signs shall be set back a minimum of 20 feet from the front or rear property boundary line; may not be placed in any right-of-way or easement; and may not be located closer than 500 feet to another pole sign.
- G. Combinations of any of the above signs, excluding window signs, shall meet all the requirements of the individual sign. The total number of signs on any premises shall be limited as follows:

Floor Area	Maximum Number of Signs Permitted
0 - 5,000 sq. ft	2
5,001 - 20,000 sq. ft	3
20,001 - 50,000 sq. ft	4
More than 50,000 sq. ft	5

**10.0907 Reserved**

**10.0908 Portable Signs**

The Zoning Administrator may permit the Temporary Use of a portable sign for advertising purposes in any District provided that the portable sign will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Portable sign permits shall not be granted for a period of more than 30 days in any 365-day period. The permit required in Section 10.0915 shall be required for portable signs.

**10.0909 Facing**

No sign except those permitted in Sections 10.0903 and 10.0904 shall be permitted to face a residence within 100 feet of such residence.

**10.0910 Lighting and Color**

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility. Signs may be illuminated but non-flashing. Signs shall not be revolving or animated, however, copy on time and temperature devices may be cyclical. Signs in residential districts may be illuminated only with Plan Commission approval.

**10.0911 Construction and Maintenance Standards**

- A. Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area.
- B. Protection of the Public. The temporary occupancy of a side walk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- C. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
- D. Supporting Members or Braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other non-corrosive incombustible material. Every means or device used for attaching any sign shall extend through the walls of the building should the Zoning Administrator determine that the safe and permanent support of such sign so requires and shall be securely anchored by wall plates and nuts to the inside of the walls in accordance with instructions given by the Zoning Administrator. Small flat signs containing less than 10 square feet of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Zoning Administrator.
- E. No Signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Town, as necessity therefore may require.

- F. All signs shall comply with the provisions of Chapter SPS 316 Electrical of the Wisconsin Administrative Code and the Wisconsin State Electrical Code.

**10.0912 Nonconforming Signs**

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the size or location does not conform to this Ordinance and shall be subject to the Nonconforming Use provisions of Section 10.1100 of this Ordinance.

**10.0913 Prohibited Signs**

The following signs shall be prohibited within the Town of Franklin:

- A. Roof signs.
- B. Flashing or Animated Signs or signs with intermittent intensity of illumination, except for a sign indicating the time, date, and temperature.
- C. Signs Which Obstruct any door, fire escape, stairway, or any opening intended to provide ingress and egress to or from any building or structure.
- D. Any Sign Which May Obstruct or impair the view in any direction at the intersection of two streets through its placement or illumination.
- E. Signs Which Advertise Activities that are illegal under Federal or State laws or regulations, or County or Town ordinances or resolutions.
- F. Billboards

**10.0914 Flags**

Flags shall be allowed as follows:

- A. Flags of the United States, the state, the Town, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, shall not be subject to regulation, provided that such a flag shall not exceed 60 square feet in area and shall not be flown from a pole the top of which is more than 35 feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a sign and shall be subject to regulation as such.
- B. Businesses will be allowed one flag, not to exceed 15 square feet, identifying the business with text or a logo.

**10.0915 Sign Permit**

Applications for a sign permit shall be made on forms provided by the Zoning Administrator or Town Clerk and shall contain or have attached thereto the following information:

- A. Name, Address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- B. Name of Person, firm, corporation, or association erecting the sign.

- C. Written Consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
- D. A Scale Drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- E. A Scale Drawing indicating the location and position of such sign in relation to nearby buildings or structures.
- F. Copies of any other permit required and issued for said sign, including the written approval by the Electrical Inspector, in the case of illuminated signs, who shall examine the plans and specifications, re-inspecting all wiring and connections to determine if the sign complies with the Town Electrical Ordinance.
- G. Additional Information as may be required by the Zoning Administrator or Plan Commission.
- H. Sign Permit Applications shall be filed with the Zoning Administrator, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 30 days of receipt from the applicant unless the time is extended by written agreement with the applicant. A sign permit shall become null and void, if work authorized under the permit has not been completed within 6 months of the date of issuance.
- I. Bond. Every applicant for a sign permit shall, before the permit is granted, execute a cash bond or other appropriate surety in a sum fixed by the Town Board upon recommendation of the Plan Commission and Zoning Administrator, but not to exceed \$25,000. The form of the cash bond or other surety shall be approved by the Town Attorney, indemnifying the Town against all loss, cost of damages, or expense incurred or sustained by or recovered against the Town by reason of the erection, construction, or maintenance of the sign. A liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin and conforming to the requirements of this Section may be permitted by the Town Attorney in lieu of a bond.

**10.0916 Measuring Signs**

In calculating the area of a sign to determine whether it meets the requirement of this Ordinance, the Zoning Administrator shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregularly shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign. For signs located on slopes, height shall be measured from the average finished grade

## **10.1000 PERFORMANCE STANDARDS**

### **10.1001 Compliance**

This Ordinance permits specific uses in specific Districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their Lot Lines or District. All structures, land, air, and waters shall hereafter, in addition to their use and site regulations, shall comply with the following performance standards.

### **10.1002 Air Pollution**

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding state or federal air pollution standards.

### **10.1003 Fire and Explosive Hazards**

All activities involving the manufacturing, utilization, processing, or storage of flammable or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, or stored only within completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing systems. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 50,000 gallons.

### **10.1004 Glare and Heat**

No activity shall emit glare or heat that is visible or measurable outside its Lot Lines except activities which may emit sky-reflected glare, which shall not be visible outside their District. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their Lot Lines.

### **10.1005 Water Quality Protection**

- A. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- B. In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards set forth in Chapter NR 102 of the Wisconsin Administrative Code.

**10.1006 Noise**

- A. No activity in a business District shall produce a sound level outside the District boundary that exceeds the following sound level measured by a sound level meter and associated octave level filter:

<b>Octave Band Frequency (cycles per second)</b>	<b>Sound Level (decibels)</b>
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
above 4,800	39

- B. No activity in any other Districts shall produce a sound level outside its Lot Lines that exceeds the following:

<b>Octave Band Frequency (cycles per second)</b>	<b>Sound Level (decibels)</b>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
above 4,800	32

- C. All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character, or shrillness.

**10.1007 Odors**

No non-agricultural activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter NR 154 of the Wisconsin Administrative Code and amendments thereto.

**10.1008 Radioactivity and Electrical Disturbances**

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

**10.1009 Vibration**

No activity shall emit vibrations which are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (cycles per second)	Displacement (inches)	Displacement (inches)
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and Over	.0002	.0001

**10.1010 Lighting**

No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spill over on operators of motor vehicles, pedestrians, and uses of land in abutting lots or public rights-of-way. These requirements shall not apply to lighting placed in a public right-of-way for public safety. Accent lighting and low voltage lighting (12 volts or less) are exempt from these requirements.

- A. Orientation. No exterior lighting fixture shall be oriented so that the lighting element (or a transparent shield) is visible from a property in a residential District. Light rays shall not be directed into street rights-of-way or upward into the atmosphere. The use of shielded luminaires, or luminaires with cutoff optics, and careful fixture placement is encouraged to facilitate compliance with this requirement.
- B. Minimum Lighting Standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 foot-candles, exclusive of approved anti-vandal lighting.
- C. Intensity of Illumination. The intensity of illumination, measured at the property line, shall not exceed 0.5 foot-candles.
- D. Flashing, Flickering, and other Distracting Lighting which may distract motorists is prohibited.
- E. Nonconforming Lighting. All lighting fixtures approved prior to the adoption of this Ordinance not meeting the above criteria shall be treated and regulated as legal Nonconforming Uses under Section 10.1100.

## **10.1100 NONCONFORMING USES AND STRUCTURES**

### **10.1101 Purpose and Intent**

The purpose and intent of this Section is to provide for the regulation of non-conforming buildings, structures, land and other uses and to specify those circumstances and conditions under which such non-conforming buildings, structures, land and uses shall be permitted to continue. Any non-conforming building, structure, land or other use which existed lawfully at the time of the adoption of this Ordinance (August 13, 2007) is subject to the regulations which follow.

### **10.1102 Existing Structures: Dimensional Nonconformance**

Buildings which were constructed prior to the Effective Date of this Ordinance (August 13, 2007) or amendment of this Ordinance, which are conforming to the Ordinance as to use, but do not conform as to dimensional rules (Setbacks, height, yard spaces, separations, etc.) are subject to the following requirements.

- A. Repairs and improvements of a maintenance nature are allowed.
- B. Alterations, additions and expansions which change the exterior dimensions of the structure or building and which conform to the dimensional rules of this Ordinance are allowed.
- C. Alterations, additions and expansions which change the exterior dimensions of the structure or building, and which do not conform to this Ordinance, but which do not increase the dimensional nonconformity beyond that which existed before the work commenced are allowed.
- D. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.

### **10.1103 Existing Uses and Structures: Use Nonconformance**

Land uses or uses of structures which were established prior to the date of this ordinance (August 13, 2007), which are nonconforming as to use may be continued provided that:

- A. If a Nonconforming Use is discontinued or terminated for a period of 12 months, any future use of that use or structure shall conform to this Ordinance.
- B. A Nonconforming Use may be changed to another Nonconforming Use by the Zoning Board of Appeals. A Nonconforming Use which is changed to a conforming use shall not revert back to a Nonconforming Use or structure.

### **10.1104 Existing Structures and Uses: Other Standards and Requirements**

Restoration of Certain Nonconforming Structures. In accordance with Wis. Stat. § 60.61(5m), a nonconforming structure that is damaged or destroyed by fire, flood, ice, infestation, mold, snow, vandalism, or violent wind may be restored to the size, location, and use that it had immediately before the damage or destruction occurred. The size of the nonconforming structure may be enlarged, but only to the extent necessary for the structure to comply with applicable state and federal requirements.

### **10.1105 Nonconforming Lots of Record**



Any unimproved nonconforming Lot of Record in the Kewaunee County Register of Deeds Office prior to the Effective Date of this Ordinance may be developed even though it does not meet the minimum lot size and Lot Width requirements of this ordinance if the proposed use is a principal or Accessory Use in the District in which it is located.

Permits approved under this section on nonconforming lots of record shall be required to meet the Setback and other yard requirements of this ordinance. A Zoning/Building Permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a Variance is issued by the Town Board of Appeals.

## **10.1200 ADMINISTRATION AND ENFORCEMENT**

### **10.1201 Purpose**

This Section of the Ordinance shall set forth the requirements to adequately provide and develop the proper administration and enforcement of this Ordinance.

### **10.1202 Administrative Authority**

- A. This Ordinance shall provide for the position of Zoning Administrator and Zoning Board of Appeals.
- B. This article shall provide the authority and necessary requirements for issuance of Zoning/Building Permits, appeals, fees, and violations and penalties.

### **10.1203 Zoning Administrator**

- A. A Zoning Administrator designated by the Town Board shall administer and enforce this Ordinance. They may be provided with the assistance of such other persons as the Town Board may direct. The Zoning Administrator shall be appointed for a two-year term and serves at the pleasure of the Town Board. The Zoning Administrator shall have the following duties:
  - 1. Issue all Zoning/Building Permits and make and maintain records thereof.
  - 2. Issue all rezoning certificates and make and maintain records thereof.
  - 3. Conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this Ordinance.
  - 4. Provide and maintain a public information bureau relative to all matters arising out of this Ordinance.
  - 5. Forward to the Plan Commission all applications for Conditional Uses and amendments to this Ordinance that are initially filed with the Office of the Zoning Administrator.
  - 6. Forward to the Zoning Board of Appeals applications for appeals, Variances, or other matters on which the Zoning Board of Appeals is required to pass under this Ordinance.
  - 7. Maintain permanent and current records of this Ordinance including, but not limited to: all maps, amendments, Conditional Uses, Variances, appeals and applications thereof.
  - 8. Initiate, direct and review, from time to time, a study of the provisions of this Ordinance, and to make reports of his recommendations to the Town Board and Plan Commission.

### **10.1204 Town Plan Commission**

- A. The Town Plan Commission shall perform the duties of the Town Plan Commission as set forth in Section 62.23 of the Wisconsin Statutes and in accordance with the Town ordinance that established the Plan Commission.

- B. In addition to the duties in 10.1204 the Plan Commission shall have the powers to carry out the following duties under this ordinance.
1. To review all applications for Conditional Use Permits and report said findings and recommendations to the Town Board in accordance to the provisions of this Ordinance.
  2. To review all zoning changes and amendment requests to this Ordinance and report said findings and recommendations to the Town Board.
  3. To receive from the Zoning Administrator recommendations as related to the effectiveness of this Ordinance and report his/her conclusions and recommendations to the Town Board.
  4. To hear and grant applications for Temporary Uses in any District, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the Plan Commission and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.
  5. To review and approve site plans for commercial and light industrial uses.
  6. To hold Public Hearings as directed by the Town Board and as required under this Ordinance.

**10.1205 Zoning/Building Permit**

- A. No building, or addition thereto, constructed after August 13, 2007, and no addition to a previously existing building shall be occupied, and no land, vacant on the Effective Date of this Ordinance, shall be used for any purpose until a Zoning/Building Permit has been issued by the Town Zoning Administrator. No change in a use shall be made until a Zoning/Building Permit has been issued by the Town Zoning Administrator. The application for a Zoning/Building Permit shall include information as lawfully may be required by the Town Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. Every Zoning/Building Permit shall state that the use complies with provisions of this Ordinance.

**10.1206 Application for Zoning/Building Permit**

- A. Application for said Zoning/Building Permit shall be made in writing to the Franklin Town Zoning Administrator by the land owner or his/her authorized agent.
- B. Each Zoning/Building Permit applied for shall be granted or denied within a 10 day period from the date of application. Reason for denial of a

Zoning/Building Permit will be forwarded in writing by the Town Zoning Administrator to the applicant.

- C. All applications for Zoning/Building Permits shall be accompanied by the following:
1. A plat in duplicate, drawn at a minimum scale of 1 inch to 100 feet showing the ground area, height and bulk of building or structure, the Building Lines in relation to Lot Lines, the use to be made of the building, structure, or land; and such other information as may be required by Board of Appeals and Zoning Administrator for the proper enforcement of this Ordinance.
  2. For new residential Dwellings, the applicant or their agent shall include a copy of the sanitary permit issued by the Kewaunee County Zoning Administrator for the installation of an on-site soil absorption sanitary sewage disposal system or other approved waste disposal system. A Zoning/Building Permit for a new home in the Town of Franklin will be issued only after a sanitary permit has been issued by Kewaunee County.
  3. The applicant, upon filing of the Zoning Administrator, shall pay a fee to the Zoning Administrator per Section 10.1505 of this Ordinance.

## **10.1300 ZONING BOARD OF APPEALS**

### **10.1301 Establishment**

There is hereby established a Zoning Board of Appeals for the Town of Franklin for the purpose of hearing appeals and applications, and granting Variances and exceptions to the provisions of this Zoning Ordinance.

### **10.1302 Board Membership**

- A. The Zoning Board of Appeals shall consists of five (5) appointed by the Franklin Town Chairman and subject to confirmation by the Franklin Town Board.
- B. The term shall be for three (3) years, except that of those first appointed: one (1) shall serve for one (1) years; and two (2) for two (2) years; and two (2) for three (3) years.
- C. Not more than one (1) member of the Town Board shall be a member of the Zoning Board of Appeals.
- D. The members serve at the pleasure of the Town Board.
- E. Two Alternate Members shall be appointed by the Town Chairperson for a term of three (3) years. The first alternate shall act, with full power, only when a member of the Zoning Board of Appeals refuses to vote because of conflict or potential conflict of interest or when a member is absent. The second alternate shall act only when the first alternate so refused or is absent or when more than one member of the Zoning Board of Appeals so refuses or is absent.
- F. All Board of Appeals members shall reside in the Town.

- G. The Chairman shall be designated by the Town Chairman.
- H. The Secretary shall be appointed by the Board of Appeals.
- I. The Zoning Administrator shall attend meetings for the purpose of providing technical assistance when requested by the Board of Appeals.
- J. Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within 10 days of receiving notice of their appointment.
- K. Vacancies shall be filled for the unexpired term of members. The Town Chairman shall appoint personnel to fill the vacancies, subject to approval by the Town Board of Franklin.

**10.1303 Organization**

The Zoning Board of Appeals shall adopt its own rules and procedures, not in conflict with this Ordinance or with the applicable Wisconsin State Statutes, and select or appoint such officers as it deems necessary.

- A. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson of the Board, and at such times as the Zoning Board of Appeals may determine.
- B. All hearings conducted shall be open to the public. Any person may appear and testify at a hearing either in person or by a duly authorized agency or attorney.
- C. Notice of the time and place of such public hearing shall be published as provided by the State Law on Planning and Zoning and applicable to the Town of Franklin.
- D. The Chairperson, or in his absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
- E. The Zoning 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 also keep records of its hearings and other official actions.
- F. All official proceedings regarding the action of the Zoning Board of Appeals shall be a matter of public record and placed on file with the Zoning Board of Appeals.
- G. All decisions and findings of the Zoning Board of Appeals on appeals, or upon application for a Variance, shall be by the concurring vote of two (2) members of the Zoning Board of Appeals.

**10.1304 Powers**

The Zoning Board of Appeals shall have the following powers:

- A. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator.

- B. Variances. To hear and grant appeals for Variances that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in Unnecessary Hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured.
- C. Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the Zoning Districts after the Plan Commission has made a review and recommendation.
- D. Substitutions. To hear and grant applications for substitution of more restrictive Nonconforming Uses for existing Nonconforming Uses provided no Structural Alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board of Appeals permits such a substitution, the use may not thereafter be changed without application.
- E. Permits. The Board of Appeals may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issuance of a permit.
- F. Assistance. The Board of Appeals may request assistance from other Town officers, departments, commissions, and boards.
- G. Oaths. The Chairperson may administer oaths and compel the attendance of witnesses.

**10.1305 Appeals**

A. Application

An appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation, or by any office, department, board, or bureau aggrieved by a decision of the Zoning Administrator.

Such an appeal shall be made within 30 days after the decision or the action complained of, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all of the paper(s) constituting a record upon which the action appealed from was taken. Such appeals shall include the following information:

1. Name and address of the appellant or applicant and all abutting and opposite property owners of record, and owners within two hundred (200) feet.
2. All adjoining property owners shall be notified (by first class mail) of the appeal.
3. A plat of survey at a minimum scale of one (1) inch to 100 feet prepared by a registered land surveyor showing all of the information required by this Ordinance for a Zoning/Building Permit.
4. Additional information required by the Zoning Board of Appeals.
5. Fee receipt from the Zoning Administrator per Section 10.1505 of this Ordinance or cost of legal notice publication, whichever is greater.

B. Findings on Appeals

An appeal shall terminate all further proceedings on action unless the Zoning Administrator certifies to the Zoning Board of Appeals, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed unless otherwise by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record or notice from the Zoning Administrator on due cause.

C. Hearings on Appeals

The Zoning Board of Appeals shall select a reasonable time and place for the hearing of the appeal, give public notice thereof at least ten (10) days prior to the hearing by publication of a Class 2 notice under Chapter 985 of the Wisconsin Statutes, and shall give due notice to the parties in interest, the Zoning Administrator and the Town Board. At the hearing, the appellant or applicant shall appear in person, by agent, or by attorney.

D. Decisions on Appeals

1. The Zoning Board of Appeals shall decide all appeals within thirty (30) days after the final hearing and shall transmit a signed copy of the Board of Appeals decision to the appellant, Zoning Administrator and Town Board.
2. The Zoning Board of Appeals may affirm or may reverse wholly or in part, or modify the order, requirement, decision or determination, that, in its opinion, ought to be done and to that end, shall have all powers of the officer to whom the appeal is taken. The Board of Appeals shall maintain records of all actions relative to appeals.

E. Review by Court of Record of Appeals

Any person or persons, or any board, taxpayer, department, or bureau of the Town of Franklin aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, as authorized under the provisions of the Wisconsin State Statutes, Chapter 62.23 (7)(e).

**10.1306 Variances**

A. Application

An application for a Variance shall be filed with the Zoning Administrator and shall include the following information:

1. Name and address of the applicant and all abutting and opposite property owners of record, and owners within two hundred (200) feet.
2. The Zoning Administrator (at his or her discretion) may require that a plat of survey drawn at a minimum scale of one (1) inch to one hundred (100) feet and prepared by a registered land surveyor - showing all of the information required by this Ordinance for a Zoning/Building Permit, be submitted.
3. Additional information required by the Zoning Board of Appeals.

4. Fee receipt from the Zoning Administrator per Section 10.1505 of this Ordinance or the cost of legal notice publication, whichever is greater.

B. Hearings

The Zoning Board of Appeals shall select a reasonable time and place for hearing of the Variance, give notice thereof at least ten (10) days prior to the hearing by publication of a Class 2 notice under Chapter 985 of the Wisconsin Statutes, and shall give due notice to the parties in interest, the Zoning Administrator and the Town Board.

C. Standards for a Variance. No Variance to the provisions of this Ordinance shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

1. Preservation of Intent. No Variance shall be granted that is not consistent with the purpose and intent of the regulations for the District in which the development is located. No Variance shall have the effect of permitting a use in any District that is not a stated Principal Use, Accessory Use, or Conditional Use in that particular District.
2. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties of uses in the same District and the granting of the Variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
3. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance. No Variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a Variance.
4. Preservation of Property Rights. The Variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same District and same vicinity.
5. Absence of Detriment. No Variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
6. Impairment of Air and Light. The proposed Variance shall not impair an adequate supply of light and air to adjacent property.
7. Increase in Traffic Congestion. The proposed Variance shall not substantially increase the congestion of the public streets.
8. Public Endangerment. The proposed Variance shall not increase the danger of fire, or endanger public health and safety, or substantially diminish or impair property values within the neighborhood.

D. Decisions on Variances



1. The Zoning Board of Appeals shall decide on application for Variances within thirty (30) days after the final hearing and shall transmit a signed copy of the Board of Appeals decision to the appellant, Zoning Administrator and Town Board.

E. Review by Court of Record of Variance

Any person or persons, or any board, taxpayer, department, bureau or commission of the Town of Franklin aggrieved by any decision of the Board of Appeals may, within 30 days of the Board of Appeals decision, seek review by a court of record of such decision, as authorized under the provisions of the Wisconsin State Statutes, Chapter 62.23 (7)(e).

**10.1307 Conditions**

Conditions may be placed upon any Zoning/Building Permit ordered or authorized by this Board.

**10.1308 Variances or Substitutions**

Variances or substitutions granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.

## **10.1400 ZONING TEXT AND MAP AMENDMENT PROCEDURES**

### **10.1401 Authority**

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may, by Ordinance, change the District boundaries or amend, change or supplement the regulations established by this Ordinance when the amendment is consistent with the purposes and intent of this Ordinance.

### **10.1402 Initiation**

A change or amendment may be initiated by the Town Board, Town Plan Commission, or by a petition of one or more of the owners or an agent of property within the area proposed to be changed.

### **10.1403 Application**

An application for an amendment shall be filed with the Zoning Administrator. Said application shall be reviewed by the Plan Commission with a written recommendation submitted thereon to the Town Board for final action. Applications for any change to the District boundaries or amendments to the regulations shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:

- A. Plot Plan drawn to scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent Zoning Districts, and the location and current use of all properties within five hundred (500) feet of the area proposed to be rezoned.
- B. Owner's Names and Addresses of all properties lying within five hundred (500) feet of the area proposed to be rezoned.
- C. Additional Information required by the Plan Commission or Town Board.
- D. Fee Receipt from the Zoning Administrator in the minimum amount per Section 10.1505 of this Ordinance or the cost of legal notice publication whichever is greater.

### **10.1404 Findings and Recommendations**

- A. The Town Plan Commission shall make written findings of fact and shall submit the same together with its recommendations to the Town Board.
- B. Where the purpose and effect of the proposed map or text amendment is to change the zoning classification of particular property, the Plan Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:
  1. Existing uses or property within the general area of the property in question.
  2. Zoning classification of property within the general area of the property in question.
  3. Suitability of the property in question to the uses permitted under the existing zoning classification.

4. Trend of development, if any in the general area of the property in question, including changes if any, which have taken place in its present zoning classification.
  5. The Plan Commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant.
  6. The Plan Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.
- C. Revisions and Amendments to the A-1, A-2, and A-3 Exclusive Agricultural Districts
1. Pursuant to Section 91.77 (1) of the Wisconsin Statutes, the Town may approve petitions for rezoning areas zoned for exclusive agricultural use only after findings are made based upon consideration of the following:
    - (a) Adequate public facilities to accommodate the proposed development either exist or will be provided within a reasonable time.
    - (b) Provision of public facilities to accommodate the proposed development will not place an unreasonable burden on the ability of the Town, County, or other local unit of government to provide them.
    - (c) The land proposed for rezoning is suitable for development and development will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.
  2. The Town Board shall notify Kewaunee County and the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) of any change in the A-1, A-2, and A-3 Exclusive Agricultural Districts.

### **10.1405 Hearings**

The Town Clerk shall notify all property owners within five hundred (500) feet of the land in question and after publishing a Class 2 notice under Chapter 985 of the Wisconsin Statutes, listing the time, place, and the changes or amendments proposed, the Town Plan Commission shall hold a public hearing upon each recommendation. The Town Board shall also give at least ten (10) days prior written notice to the Clerk of the municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.

**10.1406 Town Board Action**

The Town Board shall not act upon a proposed amendment to this Ordinance until it shall have received a written report and recommendation from the Plan Commission on the proposed amendment.

The Town Board may grant or deny any application for an amendment, provided however, that in the event of a written protest against any proposed amendment to this Ordinance, be duly signed and acknowledged by the owners of 20 percent or more either in the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent, extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street Frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of the full Town Board membership.

If an application for a proposed amendment is not acted upon finally by the Town Board within 90 days of the date upon which such application is received by the Town Board, it shall be deemed to have been denied.

**10.1407 Reversion of Map Amendments**

The Town Board may reverse a map amendment if certain actions are not taken by the applicant.

The adopted rezoning may be conditioned on an automatic reversion of the zoning to the previous zoning, if in one year from the date of approval of the map amendment by the Town Board substantial work has not commenced on the use for which the rezoning was granted.

The adopted rezoning may be conditioned on the proper recording of the lot subject to the rezoning amendment with the Kewaunee County Register of Deeds within 30 days of the date of approval date of the map amendment by the Town Board.

## **10.1500 VIOLATIONS, PENALTIES, AND PERMIT FEES**

### **10.1501 Violation**

It shall be unlawful to construct, erect, reconstruct, alter, convert, or maintain any building or structure, or to develop or use any land, water or air in violation of any of the provisions of this Ordinance. In case of any violation, the Town Board, the Plan Commission, the Zoning Administrator, the Zoning Board of Appeals, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

### **10.1502 Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

### **10.1503 Penalties for Violation**

- A. General Penalty. Any person who violates any of the provisions of this Ordinance shall upon conviction for such violation, be subject to a penalty, which shall be as follows:
  1. First Offense Penalty. Any person who is convicted of a violation of any provision of this Ordinance shall be subject to forfeiture not less than \$50.00 nor more than \$1,000.00, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until said forfeiture and costs are paid, but not exceeding 30 days. The amount of forfeiture pursuant to any bail bond schedule adopted by the Town of Franklin for a violation pursuant to this subsection of this Ordinance shall be \$50.00.
  2. Second Offense Penalty. Any person found guilty of violating any provision of this Ordinance who has previously been convicted of a violation of the same Ordinance, shall upon conviction thereof, forfeit not less than \$100.00 nor more than \$1,500.00 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such said forfeiture and costs of prosecution are paid, but not to exceed six (6) months. Each separate day a violation continues shall be considered a separate offense. The amount of forfeiture pursuant to any bail bond schedule adopted by the Town of Franklin for a violation of this Ordinance pursuant to this subsection of this Ordinance shall be \$100.00
  3. A "person" shall include a corporation, partnership, limited liability company or other entity. Any officer or registered agent of a corporation, any partner of a partnership and any member of a limited liability company or other entity may be directly and individually cited hereunder for a violation. The owner of the premises may also be cited

for a violation hereunder even though not directly involved in the violation.

- B. Execution Against Defendant's Property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.
- C. Imprisonment. No violation of this Ordinance of the Town shall be construed to be a misdemeanor nor shall imprisonment be imposed as a punishment for a violation of any ordinance of the Town except in the event of a failure of the defendant to pay the forfeiture imposed by the court, any other provision of the ordinances of the Town to the contrary. This Section shall not be construed to authorize imprisonment of a defendant for failure to pay forfeiture or costs solely because the defendant is indigent and cannot forthwith pay his fine in full.
- D. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- E. Nothing herein contained shall prevent the Town of Franklin from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **10.1504 Abatement of Violation**

Any person, firm, partnership, limited liability company, corporation or other entity who violates, disobeys, neglects, omits, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, remove the building, structure or part thereof or discontinue the use thereof which violates the terms of this Ordinance. Such removal may be performed by a Town agency or by contract arrangements with private persons, and the cost of such removal shall become a lien upon the property, collectible as are other taxes.

#### **10.1505 Permit Fees**

All persons, firms, or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Zoning Administrator to help defray the cost of administration, investigation, advertising, and processing of permits, licenses, and Variances. The permits for which a fee is required are the Zoning/Building Permit, Conditional Use Permit, Sign Permit, Quarry Permit, Planned Unit Development Review, and Mine, Junk Yard and Salvage Yard Permit. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or Variance. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate, except where specifically listed in this Ordinance.

#### **10.1506 Double Fee**

A double fee will be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from

full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

## **10.1600 DEFINITIONS**

### **10.1601 Construction of Language**

In interpreting the various contents of the Ordinance, the following rules of construction shall apply:

- A. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  - 1. “And” indicates that all connected words or provisions shall apply.
  - 2. “And/or” indicates that the connected words or provisions may apply singly or in any combination.
  - 3. “Or” indicates that the connected words or provisions may apply singly or in any combination.
  - 4. “Either . . . or” indicates that the connected words or provisions shall apply singly but not in combination.
- B. In case of conflict between the text and a diagram or graphic, the text controls.
- C. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or less, the next "integral foot" below shall be taken.
- D. All references to departments, committees, commissions, boards, or other public agencies are to those of the Town, unless otherwise indicated.
- E. All references to public officials are to those of the Town, and include designated deputies of such officials, unless otherwise indicated.
- F. The term “building” includes the word “structure.” A “building” or “structure” includes any part thereof.
- G. The term “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- H. The term “Dwelling” includes the word “residence” and the word “lot” includes the words “plat” or “parcel.”
- I. All references to “Title”, “Chapter”, or “Section” shall refer to this Zoning Ordinance unless another meaning is clear from the context of the reference.
- J. The words “shall,” “will,” and “must” are always mandatory and not discretionary. The word “should” indicates that which is recommended but not required; and the word “may” is permissive.
- K. The present tense includes the past and future tenses, and the future tense includes the past.
- L. The singular number includes the plural, and the plural number includes the singular.

- M. Sections and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section.
- N. Any words not herein defined shall be presumed to have their customary dictionary definitions.

**10.1602 Words Defined**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

ACCESSORY BUILDING - a building, or any portion of a building, that is subordinate to the principal building and that is used for a purpose incidental to the Permitted Use of the principal building or the premises. It shall be limited to not greater than 75% of the size of the main building.

ACCESSORY USE – any use that is subordinate to the Principal Use and that is incidental to the Principal Use.

AGRICULTURAL ACCESSORY USE – means any of the following land uses on a Farm:

- A. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
  - 1. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
  - 2. A facility used to keep Livestock on the farm.
  - 3. A facility used to store or process inputs primarily for agricultural uses on the farm.
  - 4. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
  - 5. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
  - 6. A manure digester, biofuel facility, or other facility that produces energy primarily for use on the farm and that primarily uses materials grown or produced on the farm.
  - 7. A waste storage or processing facility used to store or process animal waste produced solely from Livestock kept on the farm.
- B. An activity or business operation that is an integral part of, or incidental to, an agricultural use.

AGRICULTURAL USES - any of the following activities conducted for the purpose of producing an income or livelihood:

- A. Aquaculture.
- B. Beekeeping.



- C. Crop or forage production.
- D. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- E. Floriculture.
- F. Forest management.
- G. Fur farming.
- H. Keeping Livestock.
- I. Nursery, sod, or Christmas tree production.

AGRICULTURE-RELATED USES - a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:

- A. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services (e.g., seed, fertilizer, and farm chemical sales) directly to farms.
- B. Storing, processing or handling raw agricultural commodities obtained directly from farms. Examples include feed mills and grain elevators.
- C. Slaughtering Livestock.
- D. Marketing Livestock to or from farms.
- E. Processing agricultural by-products or waste received directly from farms.

ALLEY - a public or private right-of-way primarily designed to serve as secondary access to abutting properties.

ANIMAL UNIT - the value used to establish the maximum number of animals permitted on a tract of land in the A-1, A-2, and A-3 Zoning Districts. Animal Units are calculated by multiplying the number of animals of a particular type by the appropriate Animal Unit Factor for that type of animal. The Animal Unit Factor for each type of Livestock is set by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published at Wis. Admin. Code ch. NR 243.05.

ASSISTED LIVING FACILITIES - facilities for persons who need some level of care monitoring services but choose to live in a setting without 24-hour access to nursing services. Assisted Living Facilities (i.e., Community Based Residential Facilities, Residential Care Apartment Complex, and Adult Family Homes) are regulated by the Wisconsin Department of Health and Family Services.

ADULT FAMILY HOME - a place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.

COMMUNITY BASED RESIDENTIAL FACILITY - a place where 5 or more unrelated people live together in a community setting. Services provided include room and board, supervision, support services, and may include up to 3 hours of nursing care per week.

RESIDENTIAL CARE APARTMENT COMPLEX - a place where 5 or more adults reside that consists of independent apartments, each of which has: an individual

lockable entrance and exit, a kitchen, including a stove, individual bathroom, sleeping and Living Areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services. Residential Care Apartment Complex does not include a Nursing Home or a community-based residential facility.

AUTOMOBILE WRECKING YARD - Any premises on which more than three automotive vehicles, not in running or operating condition, are stored in the open.

BANQUET HALL / DANCE HALL - a facility/room used for hosting a party, reception, or other social event.

BASEMENT - A Story partly underground, which, if occupied for living purposes, shall be counted as a Story for the purposes of height measurement.

BED AND BREAKFAST-RESIDENTIAL - means any place of lodging that: (a) Provides four or fewer rooms for rent to no more than a total of 10 tourists or transients; (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; (c) Is the owner's personal residence; (d) Is occupied by the owner at the time of rental; (e) Was originally built and occupied as a Single-Family residence, or prior to use as a place of lodging, was converted to use and occupied as a Single-Family residence and; (f) Has had completed as of May 1, 1990, any structural additions to the dimensions of the original structure, including renovation, except that a structural addition, including renovation to the structure may after May 1, 1990, be made within the dimensions of the original structure.

BED AND BREAKFAST-COMMERCIAL - means any place of lodging that: (a) Provides eight or fewer rooms for rent to no more than a total of 20 tourists or transients; (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; (c) Is the owner's personal residence; (d) Is occupied by the owner at the time of rental; (e) Was originally built and occupied as a Single-Family residence, or prior to use as a place of lodging, was converted to use and occupied as a place of lodging; and (f) Has had completed as of May 1, 1990, any structural additions to the dimensions of the original structure, including renovation, except that a structural addition, including renovation to the structure may after May 1, 1990, be made within the dimensions of the original structure

BILLBOARD - A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

BOARDING HOUSE - A building other than a Hotel where meals, or lodging and meals, are furnished for compensation for 4 (four) or more persons, not members of a family.

**BUILDABLE AREA** - the ground area of a lot which is defined by the minimum Setback and spacing requirements within which construction of a permitted building and any attached Accessory Buildings is permitted by this ordinance.

**BUILDING** - Building - any structure built, used, designed or intended for the support, shelter, protection, or enclosure of persons, animals, or property of any kind, and which is permanently affixed to the land.

**BUILDING HEIGHT** - The vertical distance from the average curb level in front of the lot or the finished grade at the Building Line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of gambrel, hip, or pitch roof.

**BUILDING LINE** - a line measured across the width of the lot at that point where the main structure, including any overhang, is in accordance with Setback provisions.

**CAMPGROUNDS OR SITES** - A tract of land with or without buildings or other equipment on which one or more cabins are located or where temporary accommodations are provided for two or more automobile trailers or house cars or tents open to the public, free or for a fee.

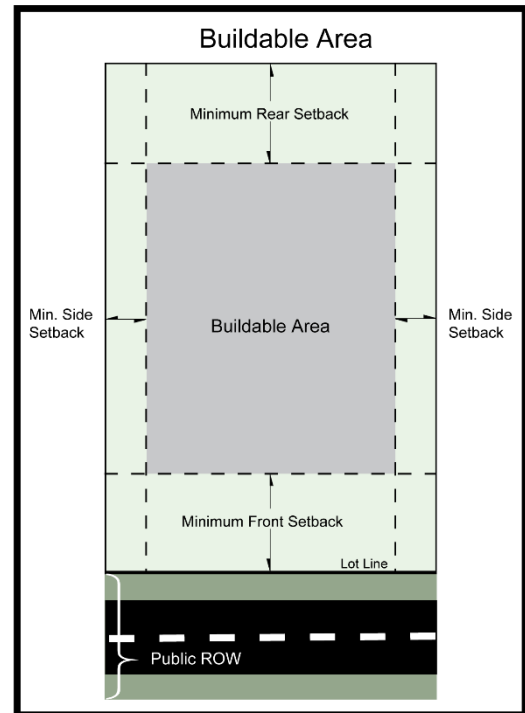
**COMMERCIAL STORAGE** – storage facilities that are rented or sometimes leased to individuals, usually storing household goods; or to small businesses, usually storing equipment, excess inventory, or archived records.

**COMMON OWNERSHIP** - means ownership by the same person or persons or by a legal entity that is owned, in whole or in part, by the same person or persons. For the purposes of this ordinance, ownership by one member of a married couple is deemed to be Common Ownership by the married couple.

**COMMUNITY LIVING ARRANGEMENT** - a facility licensed and operated under the authority of the State of Wisconsin including Group Homes for children, foster homes, treatment foster homes, Adult Family Homes, and Community Based Residential Facilities, but not including Nursing Homes or day care facilities.

**CONDITIONAL USE** - means a use that is not permitted by right. Rather, its allowance is subject to the discretionary judgment of the Town Plan Commission, as described in Section 10.0400, Conditional Use Permits.

**CONTIGUOUS** - means adjacent to or sharing a common boundary. A lot, parcel, or tract is Contiguous with another lot, parcel, or tract if they have all, part, or any point of any boundary line in common. Lots, parcels, or tracts that are separated by a



pipeline, private road, public road, railroad, right-of-way, river, section line, stream, transportation easement, transmission line, or transmission right-of-way are Contiguous.

DAY CARE CENTER, GROUP - An establishment licensed as a Day Care Center by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes for the care and supervision of six (6) or more children under seven (7) years old for more than four (4) and less than twenty-four (24) hours a day for more than ten (10) days a month.

DAY CARE HOME, FAMILY - A Dwelling licensed as a Day Care Center by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes for the care and supervision of one (1) to five (5) children under seven (7) years old for more than four (4) and less than twenty-four (24) hours a day for more than ten (10) days a month.

DISTRICT, ZONING - divisions of the Town, each area being accurately defined to boundaries and locations on the official zoning map and in the zoning ordinance, for which the regulations and requirements governing use, lot, and bulk of buildings and premises are uniform.

DWELLING - a building, or portion thereof, including a Mobile Home, designed or used exclusively for residential occupancy, including Single-Family Dwellings, Two-Family Dwellings, and Multi-Family Dwellings, but not including Hotels and Motels.

DWELLING, MULTI-FAMILY - a building used and designed as a residence for three (3) or more families.

DWELLING, SINGLE-FAMILY - a building designed to be occupied exclusively by one (1) Family.

DWELLING, TWO-FAMILY - a building designed to be occupied exclusively by two (2) families.

DWELLING UNIT - one (1) or more rooms which are arranged, designed for use as living quarters.

EFFECTIVE DATE - the date on which provisions of an agreement, contract, policy, ordinance, etc. take effect, which may be a past, present or future date. This may be different from the date upon which the event actually occurs or is recorded.

ESSENTIAL SERVICES - electric, telephone, gas, or water service, including the overhead, surface, or underground distribution or transmission systems necessary to supply the service. It includes the conduits, pipes, poles, towers, wires, and similar devices necessary to supply these services, but does not include any buildings necessary to supply these services. It does not include wind energy systems, communications facilities, or any structure or use listed as a permitted, accessory, or conditional structure or use in any other District.

FAMILY - Two or more persons, each related to the other by blood, marriage, or legal adoption. A Family may include, in addition, thereto, not more than two roomers, boarders or permanent guests, whether or not gratuitous.

FARM - all land under Common Ownership that is primarily devoted to agricultural use. For purposes of this ordinance, land is deemed to be primarily devoted to agricultural use if:

- A. A majority of the land area is in agricultural use, or
- B. The land produces at least \$6,000 in annual Gross Farm Revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use. (s. 71.613(1)(d) Wis. Stats.)

FARM CONSOLIDATION - means the joining together of all or part of two or more Farm Operations, which were in existence before the adoption or amendment of this ordinance, into a single Farm Operation.

FARM OPERATION - means an activity conducted primarily for the production of one or more agricultural products or commodities, for home use or for sale, in a quantity sufficient to contribute to the operator's support.

FARM RESIDENCE – meaning any of the following structures that is located on a Farm:

- A. A single-family residence that is occupied by any of the following:
- B. An owner or operator of the Farm.
- C. A parent or child of an owner or operator of the Farm.
- D. An individual who earns more than 50 percent of his or her gross income from the Farm.

FEEDLOT - An animal confinement facility or dairy Farm used or designed for the feeding or holding animals.

FLOOR AREA - (For determining off-street parking and loading requirements). Shall mean the sum of the gross horizontal areas of the several floors of the building or portion thereof, devoted to such use, including accessory storage areas, located within selling or working space, such as counters, racks or closets, and any Basement Floor Area devoted to retailing activities, to the production or processing of goods, or to business or Professional Offices. However, "Floor Area" for the purposes of measurement for Off-Street Parking Spaces shall not include: Floor Area devoted primarily to storage purposes (except as otherwise noted herein); Floor Area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or Basement Floor Area other than area devoted to retailing activities, to the production or processing of goods, or to business or Professional Offices.

FORESTATION - Planting trees or shrubs on burned over land, cut over land or land that was never covered by forest, consisting of 5 (five) or more acres.

FRONTAGE - All the property abutting one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

FRONTAGE, ZONING LOT - The length of all the property of such zoning lot fronting on a street, measured between side Lot Lines.

FURBEARING ANIMALS – means a mammal whose fur has commercial value (e.g., badger, beaver, fisher, fox, mink, muskrat, opossum, otter, raccoon, skunk, weasel, etc.).

GAME FARMS – See Shooting Preserves.

GARAGE, PRIVATE - An Accessory Building or space for the storage of motor vehicles for the use of the occupants of a lot on which such building is located.

GARAGE, PUBLIC - Any building or premises, other than a private or Storage Garage, where motor-driven vehicles are equipped, repaired, services, hired, sold or stored.

GARAGE, STORAGE - Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold. No commercial motor vehicle exceeding two tons capacity shall be stored in any Storage Garage.

GROSS FARM REVENUE - means the gross receipts from all agricultural uses, less the cost or other basis of Livestock and other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross Farm Revenue includes receipts accruing to a renter, but does not include rent paid to the land owner.

GROUP HOME - any facility operated by a person required to be licensed by the State of Wisconsin under § 48.625, Wis. Stats., for the care and maintenance of 5 to 8 residents under 18 years of age.

HOLDING TANK - Tank for holding effluent per Town specifications.

HOME BUSINESS - a business, profession, occupation, or trade conducted for gain or support in conjunction with a residence. Examples of businesses that may be allowed as home businesses include Trade or Contractors Establishments (such as plumbing, heating and air conditioning, excavating, carpentry and woodworking, painting, and electrical), veterinary offices, Kennels, and automotive and farm implement repair shops.

HOME OCCUPATION - A gainful occupation conducted by members of the Family within his or her place of residence, where the space used is incidental to residential use. A household occupation includes such things as babysitting, dressmaking, canning, laundering and crafts, offices for commercial loggers, offices for building tradesmen, accountants, home beauty shops, lawyers, real estate agents and insurance agents. Includes home based, off-site sales (e.g., candles, cosmetics, cookware, etc.).

HOME OFFICE/STUDIO - Means a business, profession, occupations, trades conducted for gain or support in conjunction as an Accessory Use to a residence in a manner that meets the requirements of Section 10.0605 C. of this Ordinance. Examples of uses that may be allowed as Home Office/Studio include businesses that where transactions with customers are conducted entirely by telephone, facsimile machine, and computer or business where the home serves only as the office or storage facility and all services or work is performed off-site

HOTEL - A building in which lodging, with or without a meal, is offered transient guests for compensation and in which there are more than five (5) sleeping rooms with or without cooking facilities in any individual room or apartment.

HUNTING AND FISHING CABINS - buildings used only during hunting and fishing seasons as a base for hunting, fishing, and outdoor recreation and not permanently occupied for residential use.

JUNK (OR SALVAGE) YARD - An area where junk, waste, or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, bottles, used automobiles, used machinery, used building material and similar materials. A salvage dealer license is required under Wis. Stat. § 218.205.

KENNEL - The term Kennel as used in this Ordinance shall mean any lot or premises wherein or whereon more than 3 dogs over 6 months of age are either permanently or temporarily kept, boarded, bred or sold.

LIMITED FORESTATION - Planting trees or shrubs on burned over or cut over land or land that was never covered by forest, consisting of 5 (five) or less acres.

LIVESTOCK - means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids (e.g., llamas, alpacas), ratites (e.g., ostrich, emu), and farm-raised fish.

LIVESTOCK FACILITY - A Feedlot or facility, other than a pasture or winter grazing area, where animals used in the production of food, fiber, or other animal products are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period. "Livestock Facility" does not include an aquaculture facility. A Livestock Facility includes all of the tax parcels of land on which the facility is located. (Also refer to *Chapter 9: Livestock Facility Siting and Licensing of the Town of Franklin Code of Ordinances*)

LIVING AREA - The total area bounded by the exterior walls of a building at the floor levels, but not including Basement, utility rooms, garages, porches, breezeways, and unfinished attics.

LODGING HOUSE - A building other than a Hotel or Motel where lodging only is provided for compensation for more than two persons not members of the Family.

LOT - a parcel of land abutting on a public road or other officially approved means of access, having a width and depth sufficient to provide the space necessary for one (1) principal building and its Accessory Buildings together with the open spaces required by this ordinance.

LOT COVERAGE – The maximum portion of a lot that may be covered with buildings, structures, pavement, and other impervious surfaces.

LOT, CORNER – a lot abutting on two or more roads at their intersection, provided that the interior angle of such intersection is less than 135 degrees.

LOT, DEPTH OF – the mean horizontal distance between the front Lot Line and the rear Lot Line of a lot, measured within the lot boundaries.

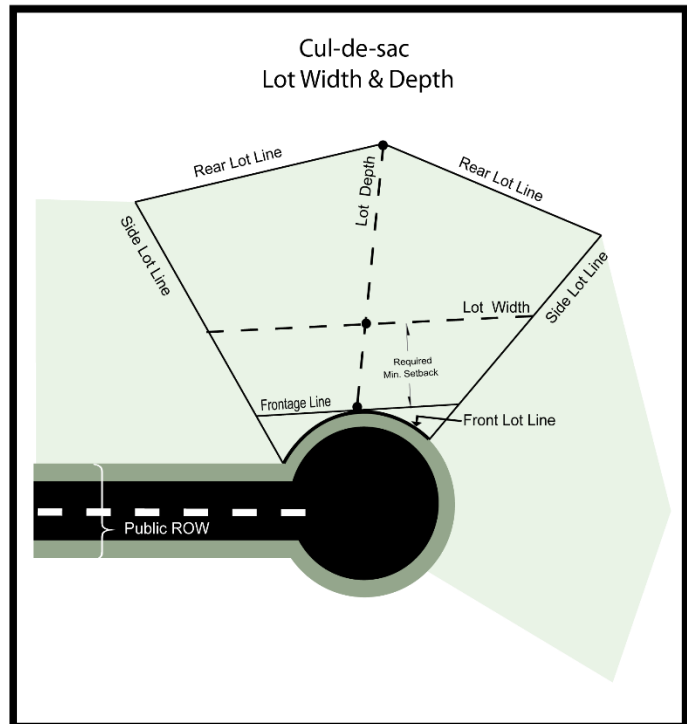
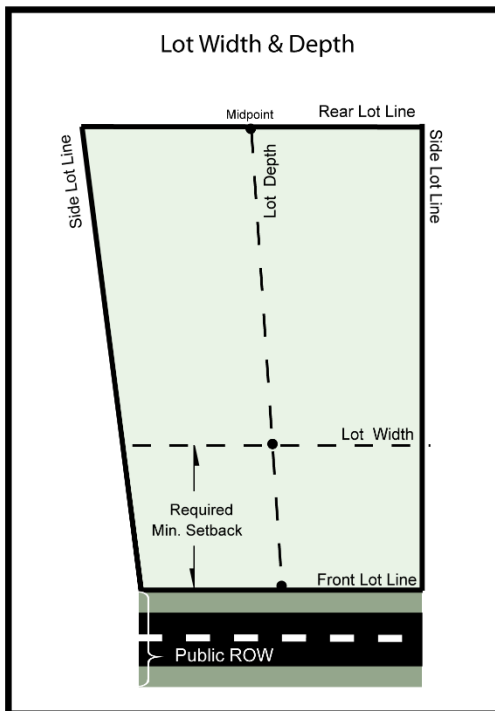
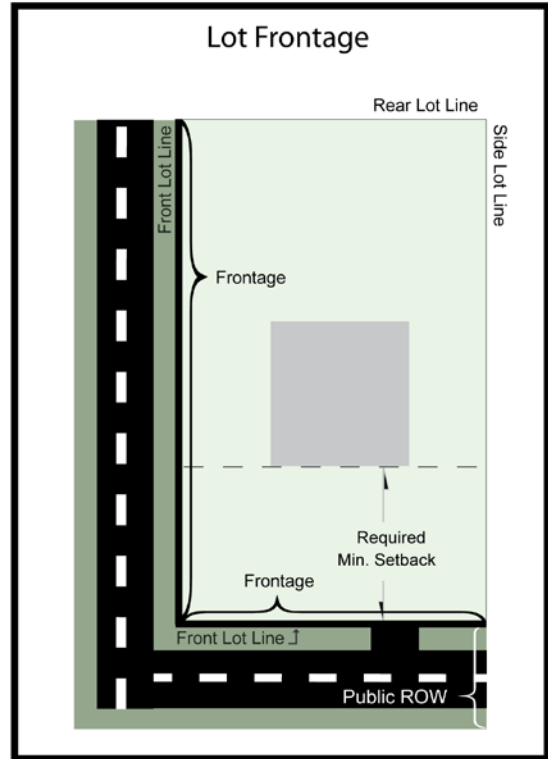
**LOT, FRONTAGE** – The side of a lot abutting on a road or way, and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a Corner Lot.

**LOT LINES AND AREA** – the peripheral boundaries of a parcel of land including the road right-of-way lines and the total area lying within such boundaries.

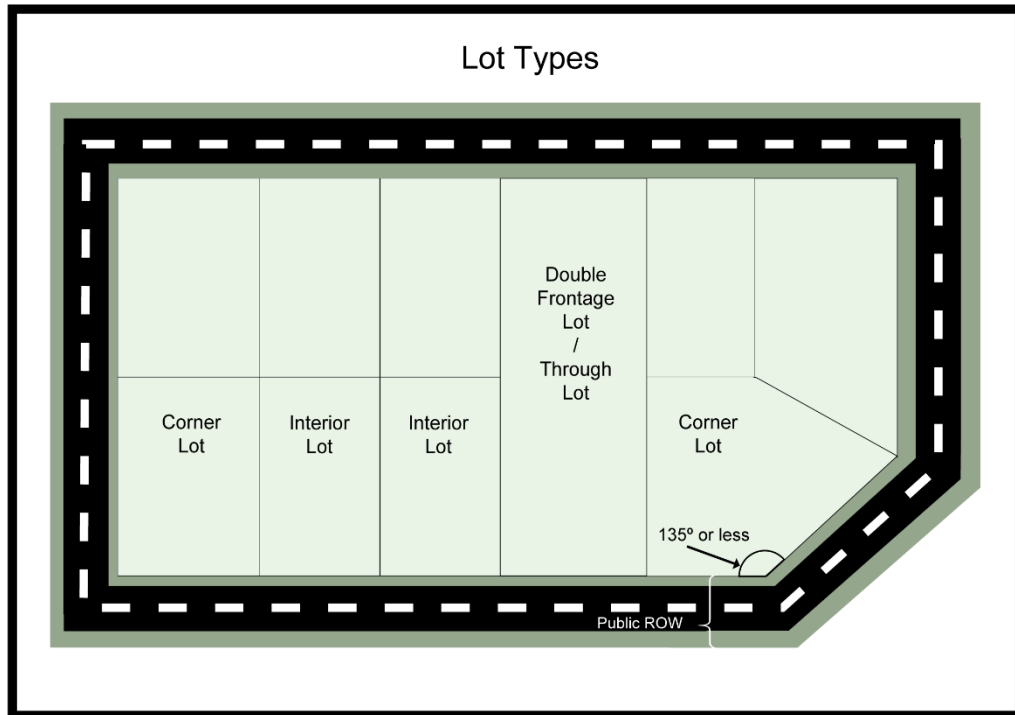
**LOT, THROUGH** - A lot having a pair of opposite Lot Lines along two (2) more or less parallel public streets, and which is not a Corner Lot. On a "through lot" both street lines shall be deemed front Lot Lines.

**LOT, WIDTH OF** – the horizontal distance between the side Lot Lines, measured at the rear line of the required Front Yard.

**LOT OF RECORD** - a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Kewaunee County; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the adoption of this Ordinance, and certified survey maps approved and recorded in the Register of Deeds Office of Kewaunee County.







**MANUFACTURED HOME** - means a structure, transportable in one or more sections built on a permanent chassis and designed to be used as a Dwelling Unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in it, and is certified and labeled as a Manufactured Home under 42 U.S.C. §§ 5401-5426.

**MANUFACTURED HOME SALES LOT** - An area for display and inspection of Manufactured Homes not to be used for Dwelling.

**MINI-WAREHOUSE** - shall mean a structure or group of structures for the dead storage of customer's residential goods and wares where individual stalls or lockers are rented for storage.

**MOBILE HOME** - means a structure, transportable in one or more sections built on a chassis and designed to be used as a Dwelling Unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in it, and built prior to the enactment of the Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976.

**MOTEL** - establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot and designed for use by transient guests; and where there is no permanent occupancy of any unit except by the owner, his agent or his employees.

**NONCONFORMING USE** - means a land use that does not comply with this Zoning Ordinance, but which lawfully existed prior to the adoption or subsequent amendment of this ordinance.

NURSING HOME – a place which provides 24-hour services including board and room to three (3) or more unrelated residents who because of their mental or physical condition require nursing care or personal care in excess of seven (7) hours a week, unless the facility has been designated as a Community Based Residential Facility. Nursing Homes shall be licensed under Chapter 50 of the Wisconsin State Statutes.

OPEN SPACE AREA OR OPEN SPACE PARCEL - means a tract of land on which no structures, other than hunting blinds or small sheds, have been constructed or may be approved for construction.

OUTDOOR WOOD BOILER - a variant of the classic wood stove adapted for set-up outdoors while still transferring the heat to interior buildings.

PARKING SPACE, OFF-STREET - For the purpose of this Ordinance, an Off-Street Parking Space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or Alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or Alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an Off-Street Parking Space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriated to the circumstances of the case, and in accordance with all the ordinances and regulations of the Town.

PERMITTED USE - means a use permitted by right, provided all requirements of this Ordinance are met.

PRELIMINARY PLAT - A map indicating the proposed layout of a development and related information that is submitted for preliminary review.

PRINCIPAL USE - the building of primary importance or Permitted Use on a parcel of land, in contrast to those which are accessory or of secondary importance. On agricultural zoned property the principal building may include barns and structures essential to the operation of a Farm.

PROFESSIONAL OFFICE - means the office of an architect, author, dentist, doctor, lawyer, minister, musician, professional engineer, or other recognized professional practitioner. When established in a residential District, a Professional Office shall be incidental to the residential occupation, not more than 25 percent of the Floor Area of any one Story of a Dwelling Unit shall be occupied by such office and only one unlighted name plate not exceeding three square feet in area, containing the name and profession of the occupant of the premises shall be exhibited.

PROPERTY ENHANCEMENT – means an increase in the market value of property that is the result of an improvement.

PROPERTY MAINTENANCE - the preservation of an asset, or of a condition of property, by upkeep and necessary repairs.

PROTECTED FARMLAND - means land that is any of the following:

1. Located in the A-1, A-2, and A-3 Zoning Districts certified under ch. 91, Wis. Stats.
2. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under Wis. Stat. § 93.73.
4. Otherwise legally protected from nonagricultural development.

PUBLIC AIRPORT - Any airport which complies with the definition contained in Section 114.002(7) Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

PUBLIC HUNTING & FISHING GROUNDS - land purchased or held in compliance with applicable state and federal government statutes and regulations for preservation or development of wildlife and/or wildlife habitat, and open to the public for hunting and fishing pursuant to such statutes and regulations.

REASONABLE ACCOMMODATION - a deviation from the strict requirements of this ordinance which is necessary to provide equal housing opportunity for a disabled person or persons. An accommodation is reasonable if it does not cause an administrative burden, fiscal burden, or undue hardship on the Town and does not undermine the basic purpose of this ordinance.

RECREATION VEHICLE - any unit other than a mobile or Manufactured Home, whether self-propelled, mounted on, or towed by another vehicle, that is used for recreational purposes. It includes, but is not limited to, an all-terrain vehicle, boat, camper, folding tent trailer, motor home, park trailer, snowmobile, travel trailer, or truck camper.

ROAD - a right-of-way that is dedicated to, intended to, subject to a public easement for, or that provides a roadway for general vehicular circulation and is the principal means of vehicular access to abutting properties, regardless of whether it has been developed. A road may include space for drainage, pedestrian walkways, sidewalks, and utilities.

ROADSIDE STAND - A structure not permanently fixed to the ground and that is readily removable in its entirety, covered or uncovered and not wholly enclosed, and used solely for the sale of Farm products produced on the premises. No such Roadside Stand shall be more than 300 square feet in ground area and there shall not be more than one Roadside Stand on any one lot.

SALVAGE YARD - see "Junkyard"

SATELLITE DISH ANTENNA - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs, and satellite microwave antennas.

SEASONAL COTTAGE - Dwelling occupied less than 181 days per year.

**SETBACK** - the distance from a Lot Line or other specified line to a structure or other specified point on a lot as measured perpendicularly to the Lot Line or other specified line.

**SHOOTING PRESERVE** - Land developed for wildlife and stocked with game with the intention of charging a fee for hunting and complying with state or other governmental regulations.

**SIGN** - means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**SIGN, AWNING** - Any sign or other graphic material attached or inscribed on an awning.

**SIGN, DIRECTIONAL** - A non-commercial sign limited to directional messages (e.g. enter, exit, drive through lane, or no smoking). Logos or business names will be permitted as needed to complete the directional message.

**SIGN, GROUND** - Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

**SIGN, POLE** - A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is 6 feet or more above grade.

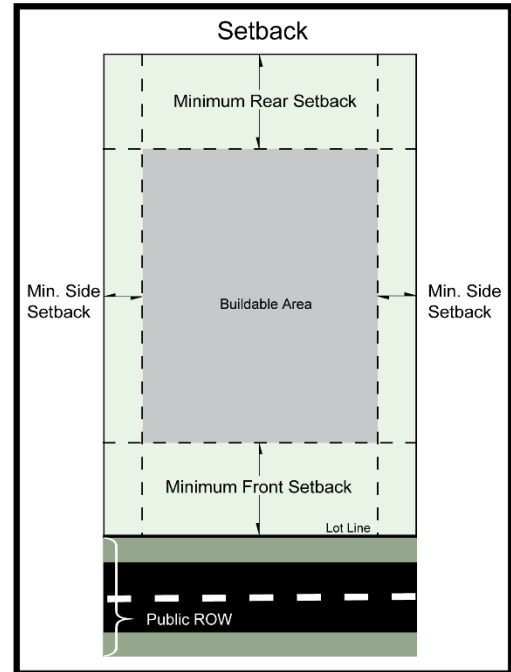
**SIGN, PORTABLE** - Any sign, other than a mobile sign, designated or constructed in such a manner that it can be moved or relocated without any structural support changes.

**SIGN, PROJECTING** - Any sign which projects from and is supported by a wall of a building with the display surface of the sign perpendicular to the building wall.

**SIGN, ROOF** - A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

**SIGN, TEMPORARY** - A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a period of 30 days or less.

**SIGN, WALL** - A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure.



SIGN, WINDOW - Any sign printed, attached, glued, or otherwise affixed to or behind a window and visible to the public.

SOLAR ENERGY SYSTEM - means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

SOLID WASTE RECYCLING FACILITY - As defined in s.NR 500.03, Wis. Adm. Code.

SOLID WASTE STORAGE FACILITY - As defined in s.NR 500.03, Wis. Adm. Code.

SOLID WASTE TRANSFER FACILITY - As defined in s.NR 500.03, Wis. Adm. Code.

SOLID WASTE DISPOSAL SITE AND FACILITIES - Commercial or municipal establishments such as sanitary landfills, dumps and incinerator sites, excluding however, auto Junk Yards and scrap metal Salvage Yards.

STABLE - An Accessory Building in which horses or domestic Livestock are kept.

STORY - The portion of a building included between the surface of a floor and surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it A Basement or cellar having one half or more of its height above grade shall be deemed a Story for purposes of height regulations.

STREET - All property dedicated or intended for public or private street purposes or subject to public easements therefore and 21 feet or more in width.

STRUCTURAL ALTERATIONS - means any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls.

STRUCTURE - means anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.

SUBSTANDARD PARCEL - means a lot which is recorded with the Register of Deeds prior to the adoption or amendment of this Ordinance, and is located in a zone requiring greater area, width, or other characteristics.

SURVEY AND PLANS - means surveys and plans as referred to in this ordinance and as relating to the construction of highways, shall be considered as accepted by the County or Town Board if County or Town funds have been used in the improvement carried out according to such plans.

TEMPORARY USE - A use established for a limited duration with the requirement to discontinue such use upon the expiration of the time period.

TOWN - The Town of Franklin, Kewaunee County, Wisconsin.

TRADE OR CONTRACTORS ESTABLISHMENT – Uses such as plumbers, plasterers electricians, heating and air condition contractors, excavators, carpenters, painting contractors, wastewater treatment system contractors, electricians, well drillers, and similar uses.

TRAFFIC LANE - means a strip of roadway intended to accommodate a single lane of moving vehicles.

UNNECESSARY HARDSHIP - That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, Lot Width, Setbacks, yard requirements, or Building Height) unnecessarily burdensome or unreasonable in light of the purpose of the Ordinance. Unnecessary Hardship is present only where, in the absence of a Variance, no feasible use can be made of the property.

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

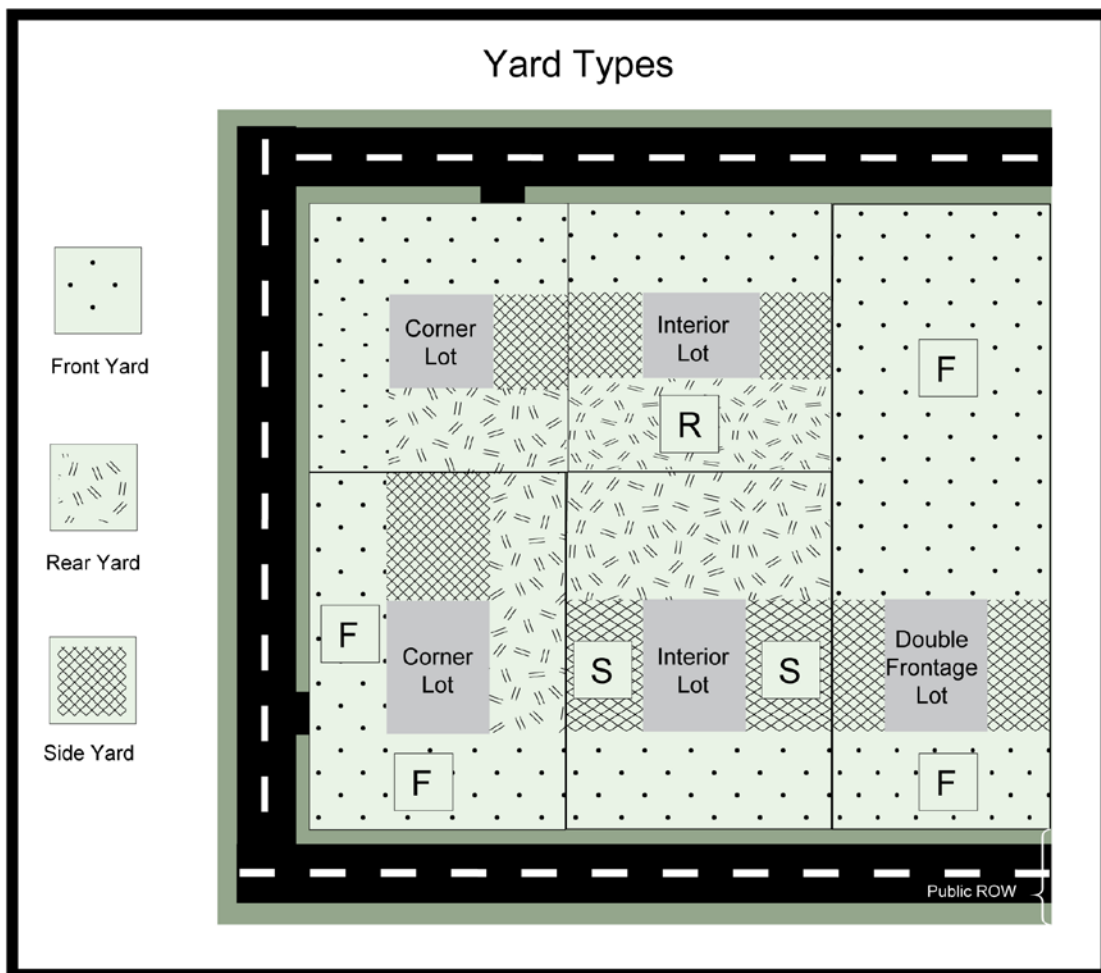
VARIANCE - An authorization granted by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with or contrary to the dimensional standards contained in this Ordinance.

VISION CLEARANCE - An unoccupied triangular space at the intersection of two or more streets or highways which is bounded by the street lines or highway right-of-way lines and a Setback line connecting points specified by measurement from the corner on each street or highway line.

WIND GENERATING EQUIPMENT - is the conversion of wind energy into a useful form of energy, such as using wind turbines to make electricity, windmills for mechanical power, wind pumps for water pumping or drainage.

YARD-related definitions:

1. Yard - an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation.
2. Yard, Front - means a yard extending the full width of a lot between the existing or proposed road right-of-way line and the nearest part of any structure. Corner Lots shall have two such yards.
3. Yard, Rear - means a yard extending the full width of a lot between the rear Lot Line and the nearest part of any structure. This yard shall be opposite the Front Yard or one of the Front Yards on a Corner Lot.
4. Yard, Side - means a yard extending from the Front Yard to the Rear Yard and from a side Lot Line to the nearest part of any structure.







**APPENDIX:**

**FARMLAND PRESERVATION ZONING  
DATCP CERTIFICATION MATERIALS**

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State of Wisconsin  
Governor Scott Walker

**Department of Agriculture, Trade and Consumer Protection**  
Sheila E. Harsdorf, Secretary

Tom Konop, Planning Commission Chair  
Town of Franklin

June 13, 2018

Dear Tom:

**Re: Certification of the Town of Franklin, Kewaunee County Farmland Preservation Zoning Ordinance**

Attached is a department order certifying the Town of Franklin, Kewaunee County Farmland Preservation Ordinance under s. 91.36, Wis. Stats. Please forward the resolution adopting the ordinance materials to [DATCPWorkinglands@wisconsin.gov](mailto:DATCPWorkinglands@wisconsin.gov) to complete the certification process.

We look forward to working with you in the future on farmland preservation in the Town of Franklin. If you have any questions, feel free to contact me.

Sincerely,

*Alison Volk*

Alison Volk  
Land Management Section  
608-224-4634

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**STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

<b>TOWN OF FRANKLIN, KEWAUNEE COUNTY FARMLAND PRESERVATION ZONING ORDINANCE (TEXT AND MAP).</b>	<b>DARM Docket No. 061-27250-O-18 F-0618  ORDER CERTIFYING ORDINANCE THROUGH DECEMBER 31, 2027</b>
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**INTRODUCTION**

The Town of Franklin in Kewaunee County has asked the Department of Agriculture, Trade and Consumer Protection (“DATCP”) to certify a farmland preservation ordinance, pursuant to s. 91.36, Wis. Stats. DATCP has considered the request and adopts the following decision:

**FINDINGS OF FACT**

(1) DATCP is an agency of the State of Wisconsin, and is responsible for administering Wisconsin’s farmland preservation law under ch. 91, Wis. Stats., as repealed and recreated by 2009 Wis. Act 28.

(2) The Town of Franklin is a town in the State of Wisconsin. The Town of Franklin is a political subdivision that is authorized to adopt a farmland preservation zoning ordinance under s. 91.30, Wis. Stats.

(3) Under s. 91.36, Wis. Stats., DATCP may certify a farmland preservation zoning ordinance or ordinance amendment for compliance with statutory standards. Certification allows farmers covered by the ordinance to claim farmland preservation tax credits under subch. IX of ch. 71, Wis. Stats.

(4) A political subdivision may ask DATCP to certify a farmland preservation zoning ordinance or ordinance amendment. The political subdivision must submit an application under s. 91.40, Wis. Stats. As part of the application, the political subdivision must certify that the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. Among other things, the ordinance or amendment must be consistent with the *county’s* certified farmland preservation *plan*.

(5) DATCP may certify a farmland preservation zoning ordinance or amendment if the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. DATCP may certify based on the representations contained in the political subdivision’s application, but DATCP may conduct its own review and verification as it deems appropriate.

(6) DATCP may make its certification contingent upon the political subdivision’s adoption of the certified ordinance or amendment, in the form certified. DATCP may also withdraw its certification at any time if, as a result of subsequent changes to the ordinance or the county’s certified farmland preservation plan, the ordinance no longer meets minimum certification standards under s. 91.38, Wis. Stats.

(7) Kewaunee County has a certified farmland preservation plan. This plan is currently

certified through December 31, 2026.

(8) On May 23, 2018, DATCP received an application from the Town of Franklin, in which the Town asked DATCP to certify the Town's farmland preservation ordinance. The Town of Franklin submitted the application in the form required under s. 91.40, Wis. Stats. The application included the representations required under ss. 91.40(3) and (4), Wis. Stats.

(9) The farmland preservation zoning ordinance is part of the general Town of Franklin Zoning Ordinance, and is intertwined with other provisions of that zoning code. The ordinance includes an ordinance text, together with an ordinance map.

(10) On May 25, 2018, DATCP confirmed by letter that the Town of Franklin certification application was complete, and that DATCP would proceed to review the complete application.

(11) DATCP may certify a farmland preservation ordinance for a period of time specified in the certification order. Certification of an ordinance may not exceed 10 years. See s. 91.36(2)(b), Wis. Stats.

### **CONCLUSIONS OF LAW**

(1) Based on the representations made by the Town of Franklin in its application for certification of a farmland preservation ordinance, DATCP concludes as follows:

(a) The proposed Town of Franklin farmland preservation ordinance, consisting of a proposed ordinance text dated May 23, 2018, and map dated May 31, 2018, meet certification requirements under s. 91.38, Wis. Stats.

(b) DATCP may certify the proposed ordinance pursuant to s. 91.36, Wis. Stats.

(2) Pursuant to s. 91.36(2)(b), Wis. Stats., DATCP should certify the proposed ordinance through December 31, 2027.

(3) Pursuant to s. 91.36(7), Wis. Stats., the effective date of the certification should be the date on which the certified and adopted ordinance takes effect.

### **ORDER**

NOW, THEREFORE, IT IS ORDERED THAT:

(1) The proposed Town of Franklin farmland preservation ordinance, consisting of the proposed ordinance text dated May 23, 2018, and map dated May 31, 2018, are hereby certified under s. 91.36, Wis. Stats.

(2) The certified farmland preservation zoning district for the Town of Franklin are the A-1: Exclusive Agricultural, A-2 Exclusive Agricultural and A-3: Exclusive Agricultural zoning districts.

(3) This certification is contingent upon the Town of Franklin adopting the ordinance, in the form certified, before December 31, 2018.

(4) This certification takes effect on the date on which the certified and adopted ordinance takes effect.

(5) This certification expires at the end of the day on December 31, 2027.

Dated this 12th day of June, 2018

STATE OF WISCONSIN,  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Sheila Harsdorf  
Sheila E. Harsdorf, Secretary

Parties for purposes of review under s. 227.53, Wis. Stats.:

**Town of Franklin**

Copies to:

Tom Konop, Planning Commission Chair  
Town of Franklin

Brandon Robinson, Community Assistance Planner  
Bay-Lake Regional Planning Commission

Prepared by:



**Bay-Lake Regional Planning Commission**  
425 South Adams Street, Suite 201  
Green Bay, WI 54301  
920 448 2820  
[www.baylakerpc.org](http://www.baylakerpc.org)