

**CHAPTER 17 - ZONING ORDINANCE**

ANY AND ALL ORDINANCES OR REGULATIONS OF THE TOWN OF FRANKFORT PREVIOUSLY ENACTED REGARDING ZONING OR RELATED TO THE PROVISION THEREOF ARE HEREBY REPEALED, REVOKED AND ABROGATED AND IN PLACE THEREOF THIS ORDINANCE IS ADOPTED.

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FIGURE 1 – DISTRICT ZONING MAP Dated July 15,2013

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## 17.01 INTRODUCTION

- 1) **Authority:** Whereas the Town Board of Frankfort, Wisconsin, has proceeded under the provisions of Section 60.61 and 60.62 of the Wisconsin Statutes and whereas these regulations are adopted under the authority granted by Sections 60.61 and 60.62 and 60.65 of the Wisconsin Statutes. Therefore, the Town Board of Frankfort, Wisconsin, does ordain as follows:
- 2) **Purpose:** The purpose of this Ordinance is to promote the comfort, health, safety, prosperity, aesthetics, and general welfare of this community and to address the following concerns:
  - a) Frankfort has developed and, in 2011 adopted an extensive comprehensive land use plan as required by the state of Wisconsin. The agricultural, natural and cultural resource portion of the comprehensive land use plan requires the town to preserve the inherent beauty, natural resources, and rural character, maintain and improve water quality, lessen soil erosion, and to maintain appropriate recreational opportunities for the community. The economic development goals are to maintain the rural quality of life, encourage small business, encourage sustainable farming, both large and small scale, and value added agriculture, and to identify practices and resources to help resolve conflicts due to development.
  - b) The town has numerous natural areas, sensitive bluffs, karst features, shoreland, and wetland areas that justify and require special land use protection.
  - c) Frankfort is concerned about, and hopes to proactively prevent, potential adverse impacts of significant reduction of water resources, unhealthy air emissions, substantial damage to township and county roads, contamination of streams, erosion of hillsides, contamination of aquifers related to karst susceptibility, damage to bluffs, streams, and wetlands.
- 3) **Intent:** It is the general intent of this Ordinance to:
  - a) regulate the use of all lands and waters in an attempt to:
    - i) preserve productive agricultural soils,
    - ii) determine appropriate lot size,
    - iii) control residential density,
    - iv) stabilize and protect property values,
    - v) further the appropriate use of land and encourage the conservation of natural resources,
    - vi) preserve and promote the beauty of the community,
    - vii) implement the community's comprehensive plan,
  - b) It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.
- 4) **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, and agreements, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- 5) **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.

- 6) **Severability:** If a court of competent jurisdiction judges any section, clause, provision or portion of this Ordinance unconstitutional, or invalid, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular structure, land or water is judged unconstitutional or invalid by a court of competent jurisdiction such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.
- 7) **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. This Ordinance shall now refer to the Town of Frankfort Comprehensive Plan and the Town of Frankfort Official Zoning map dated July 16, 2013.
- 8) **Title:** This Ordinance shall be known as, referred to, or cited as the "Town of Frankfort Zoning Ordinance."

## 17.02 GENERAL PROVISIONS

- 1) **Jurisdiction:** The jurisdiction of this Ordinance shall include all lands and waters in the Town of Frankfort, Pepin County, Wisconsin and be under the zoning jurisdiction of the Town of Frankfort Board and Plan Commission.
- 2) **Compliance:** No land or water shall hereafter be used without full compliance with the provisions of this Ordinance and all other applicable local, county and state regulations. The duty of the Zoning Administrator shall be to investigate all complaints, give notice of violations, and to administer this Ordinance. The Zoning Administrator may enter, at any reasonable time as permitted by the property owner, onto any public or private lands or waters to make observations. If the Zoning Administrator is refused entry, he/she may apply for, obtain and execute a special inspection warrant for said premises pursuant to §66.0119, Wis. Stats. The Zoning Administrator may set time limits and conditions for the correction of violations.
- 3) **Use Restrictions:** The following use restrictions and regulations shall apply:
  - a) Permitted Uses. Only those principal uses specified, their essential services and uses listed in Section 17.05 (below) shall be permitted in each district.
  - b) Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and recommendation by the Plan Commission and issuance of a conditional use permit through approval of the Town Board in accordance with Section 17.08 of this Ordinance.
  - c) The Plan Commission may permit temporary uses, such as real estate sales offices, shelters for materials, and equipment being used in the construction of a permanent structure, upon written approval of the Plan Commission
  - d) Performance Standards listed in this Ordinance shall be complied with by all uses in all districts.
- 4) **Penalties:** Any person, firm or corporation who fails to comply with, or violates, the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$50 nor more than \$1,000 and the costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate violation.
- 5) **Violations:** It shall be unlawful to build any structure or use any land or water in

violation of any of the provisions of this Ordinance. The Town Board, or the Zoning Administrator, after being authorized by the Town Board, may institute appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed, and the land returned to previous condition. Any neighboring property owner who would be specifically damaged by a violation of this ordinance may petition the Town Board to initiate appropriate action or proceedings.

- 6) **Civil Enforcement:** Appropriate actions and proceedings may be taken by Law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the Penalties described above.

### 17.03 ADMINISTRATION

- 1) **Town of Frankfort Plan Commission:** The Town Board shall have the responsibility of enforcing this ordinance. The Plan Commission shall have the following powers:
  - a) To review and recommend to the Town Board the approval, conditional approval or denial requests for conditional use permits. Town Board action is required to issue conditional use permits.
  - b) To review and approve, conditionally approve or deny requests 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 is required.
  - c) To review and recommend to the Town Board the approval, conditional approval or denial of applications for zoning changes. Town Board action is required for zoning changes.
  - d) If the use is permitted in the district, the only action required by the proposer is to sign an acknowledgement form that indicates that the proposer is aware of the Zoning Ordinance and will comply with said rules. No action by the Plan Commission or Town Board is required.
- 2) **The Zoning Administrator** shall be responsible for reviewing and administering the zoning code within the Town of Frankfort. There is herewith created the office of Zoning Administrator, which office may be a contracted or part-time position, as the Town Board in its discretion shall determine. The Zoning Administrator shall be appointed by the Town Board and shall hold office until replaced by the Town Board. The duties shall be to administer, observe, and enforce the provisions of the Town Zoning Ordinance. The Town Board shall determine compensation if required. The Zoning Administrator shall make a monthly report of activities to the Town Board. The Zoning Administrator shall:
  - a) Assist the applicant in preparing applications for driveway permits, building permits, land division; conditional use permits, zoning changes, and variances.
  - b) Advise the applicant as to the provisions of the Town Zoning Ordinance.

- c) Prepare building permits and driveway permits.
- d) Observe each project for which a building permit and driveway permit has been applied for or granted; report violations; and provide this information to the Plan Commission and/or Town Board.
- e) The Zoning Administrator may issue building permits that are within compliance with the requirements of this ordinance. Whenever there is a question other than the requirements of this ordinance, it is to be brought directly to the Plan Commission Chairman.

## 17.04 DEFINITIONS

### 1) Usage

- a) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
- b) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the work "regulations" means "these regulations."
- c) A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

### 2) Words and Terms Defined

- 1) **Abutting:** Having a common property line or district line.
- 2) **Accessory Building:** Any building except the principal building on a lot. In the case of a house and detached garage on a lot, the accessory building is the garage.
- 3) **Adult Family Home:** See Section 50.01(1) Wis. Stats.
- 4) **Airport:** Any airport, whether publicly or privately owned.
- 5) **Aquaculture:** Farming fish or aquatic plants
- 6) **Animal Unit:** has the meaning that was given in s. NR 243.03(3) as of April 27, 2004. Animal unit equivalents differ for different species and types of and sizes of livestock, as shown in Appendix A, worksheet 1 (animal units). The "animal unit" equivalents are based on Wis. Admin Code NR 243.03(5) as it exists on the day this ordinance is enacted.
- 7) **Applicant:** The owner of the land or his representative. Consent shall be required in writing from the legal owner of the premises.
- 8) **Automotive Vehicle:** A vehicle that is self-propelled except a snowmobile unless specifically referred to as a motor vehicle herein.
- 9) **Automobile Wrecking Yard / Salvage Yard:** The dismantling or wrecking of used motor vehicles or trailers or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts.
- 10) **Basement:** A story of a building that is constructed and located fully or partly underground.
- 11) **Bed and Breakfast Establishment:** Any place of lodging that provides four or

- fewer rooms for rent for more than ten nights in a 12-month period; is owner-occupied; and in which the only meal served to guests is breakfast.
- 12) **Boarding House:** A building other than a hotel where meals or lodging and meals are provided for compensation for three or more persons not members of the owner's family.
  - 13) **Bond:** Any form of security including cash deposit, surety bond, collateral, property, or instrument of credit in the amount and form satisfactory to governing body. The Plan Commission shall approve all bonds acceptable to the Town wherever a bond is required by these regulations.
  - 14) **Broadcast Facility:** An operation licensed by the Federal Communications Commission (FCC) containing one or more antennas, towers, alternative support structures, satellite dish antennas, other similar communications devices, accessory structures and cabinets, and support equipment which is used for transmitting, receiving, or relaying radio or television programming for communication, education, or entertainment,
  - 15) **Building:** Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals, machinery or materials..
  - 16) **Building Area:** Total ground coverage in square feet of all buildings and structures including garages, carports, and other attached or accessory structures.
  - 17) **Building Height:** The vertical distance from the top of the building roofs (not including antennae, cupolas, or other projections, to the top of the basement or to the first floor level, whichever is less.
  - 18) **Club:** An association of persons using a structure for a common purpose but not including groups organized primarily to render a service that is customarily carried on as a business.
  - 19) **Committee:** The Town of Frankfort Plan Commission.
  - 20) **Common Sewerage:** A legal sewage system that serves two or more dwellings units.
  - 21) **Community:** A legal entity organized under appropriate statutory authority as a body corporate, which represents a town, village, city, or county such as the case may be.
  - 22) **Community Living Arrangement:** Means any of the following facilities licensed or operated, or permitted under the authority of the Wisconsin Department of Health and Social Services: child welfare agencies under §48.60, group foster homes for children under §48.02(6) and community-based residential facilities under §50.01 of Wisconsin Statutes; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.
  - 23) **Comprehensive Plan:** The Town of Frankfort's Comprehensive Plan.
  - 24) **Conditional Use:** A use in a specific zoning district requiring a permit issued by the Town Board, following consideration and recommendation from the Plan Commission. Said use may not be appropriate generally or without restrictions throughout a zoning district, but if the use is not harmful, offensive or otherwise adverse to the environment, a permit may be granted, subject to conditions established by the Town to minimize the potential for land use conflict and/or any adverse effects on the public health, safety or general welfare.
  - 25) **Conforming Use:** Any lawful use of a building or lot that complies with the provisions of this Ordinance.

- 26) **Development Regulations:** that part of a zoning ordinance that apply to elements including setbacks, area, lot coverage, and side-yard; in other words, dimensional, or area-based zoning regulations.
- 27) **Developer:** The owner or proposed owner of land proposed for subdivision or his representative. Consent shall be required from the legal owner of the premises.
- 28) **District:** A specific area designated with reference to this code and the official zoning maps within which the regulations governing the use and erection of structures and the use of premises are uniformly applied.
- 29) **Drive-in Establishment:** A place of business in which patrons can be served while remaining in their automobiles.
- 30) **Driveway:** A minor private way used by vehicles and pedestrians for common access to a lot, small group of lots, or facilities.
- 31) **Dwelling, Single-Family:** A detached building designed for, or occupied exclusively by, one family or household.
- 32) **Dwelling, Two-Family:** A detached or semi-detached building designed for, or occupied exclusively by, two families or households.
- 33) **Dwelling, Multiple-Family:** A building or portion thereof designed for, or occupied by, three or more families or households.
- 34) **Easement:** Authorization by a property owner for the use by another and for a specified purpose, of any designated part of his/her property.
- 35) **Emergency Shelter:** Public or private enclosures designed to protect people from flood, windstorm, fire, riots, or invasions; and from aerial, radiological, biological, or chemical warfare.
- 36) **Eminent Domain:** The legal right of government to acquire or take private property for public use or benefit upon payment of just compensation to the owner.
- 37) **Essential Services:** Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, water, sanitary sewerage, storm water, drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but does not include buildings.
- 38) **Expressway:** A divided arterial street or highway, either with full or partial control of access, and with or without grade separated intersections.
- 39) **Family:** A group of people who are: related by blood or marriage; and or living together and or are depending on each other for care.
- 40) **Feedlot (Commercial):** An open lot or enclosed building in which poultry or livestock are closely confined in excess of 45 days per year for the purpose of feeding or holding five hundred (500) animal units and where such confinement does not or is not intended to provide natural pasture for animals.
- 41) **Flood Plain:** The land adjacent to a body of water, which is subject to periodic overflow therefrom.
- 42) **Floodway:** The channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.
- 43) **Floor Area:** The sum of the usable horizontal area of the several floors of a

building as measured from the exterior walls, including interior balconies and mezzanines, elevator shafts, stairwells and utility rooms, but not including basements, garages, breezeways and unenclosed porches.

- 44) **Freeway:** An expressway with full control of access and with fully grade-separated intersections.
- 45) **Frontage:** The side of a lot abutting on a street 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.
- 46) **Garage, Private:** A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.
- 47) **Garage, Public:** Any building or premises, other than a private or storage garage, where motor vehicles are equipped, repaired, serviced, hired, sold or stored.
- 48) **Garage, Storage:** Any building or premises used for storage only of motor vehicles.
- 49) **Greenhouse:** A structure used primarily for the cultivation of plants in which natural sunlight is allowed to enter through transparent material and temperature and humidity are controlled.
- 50) **Greenhouse, Commercial:** A structure from which plants, seedlings, seeds, trees and those items related to cultivation are sold, traded or bartered to the public.
- 51) **Home Occupation:** A gainful occupation customarily conducted within a dwelling or accessory building by the residents thereof, which is clearly secondary to the residential use and does not change the character of the structure as a residence.
- 52) **Horticulture:** Cultivation of gardens and the sale of products produced.
- 53) **Hotel:** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms.
- 54) **Household Pet:** Tame animals that have been traditionally kept in the home to include dogs, cats, rabbits, birds, hamsters, and other animals, which in their adult life do not exceed 250 pounds, or 4 feet in height at normal posture.
- 55) **Household Unit:** The body of persons who live together in one dwelling unit as a single housekeeping unit.
- 56) **Intensive Soils Survey:** The testing of soil at a particular geographic location as to its individual assets and limitations.
- 57) **Large Solar Energy System:** A solar energy system that;
  - a. Is used to generate electricity
  - b. has a DC rated nameplate of more than 100 kilowatts; and
  - c. includes on or more solar arrays totaling more than 100 kW on the same parcel
- 58) **Large Wind Energy System:** systems of larger than 300 kW or individual turbines larger than 100 kW
- 59) **Loading Area:** A completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
- 60) **Local Roads & Highways:** Serve primarily to provide direct access to adjacent



land, provide for short distance travel within the area, and provide access to the Collector, and Arterial systems. Through traffic movement on locals is generally discouraged.

- 61) **Lodging House:** A building other than a hotel where lodging only is provided for compensation for persons not members of the owner's family.
- 62) **Lot:** A parcel of land described in a recorded plat or deed.
- 63) **Lot Area:** The total area of a particular piece of real property.
- 64) **Lot, Corner:** A lot abutting on two or more streets at their intersection.
- 65) **Lot Lines and Area:** The peripheral boundaries of a lot ,and the total area lying within such boundaries.
- 66) **Lot Depth:** The mean horizontal distance between the front and rear lot lines.
- 67) **Lot Width:** The width of a parcel of land measured at the front setback.
- 68) **Meat Processing Facility:** A permanent slaughterhouse plant in a fixed location. A traditional slaughter facility is a permanent facility where producers bring their animals to be slaughtered. Some facilities may have both slaughter and processing plants at the same location.
- 69) **Mine Operator:** Any person engaged or who has applied for a permit to engage in mining operations, whether individually, jointly or through subsidiaries, agents, employees, or contractors, or any person engaged in or controlling a mining operation.
- 70) **Mine Site:** As defined in the Town of Frankfort's Non-metallic Mining License.
- 71) **Mining Operation:** The process involved in the extraction of any material from the earth, including sand, gravel and topsoil, whether by surface or underground methods including all processing facilities and related structures, waste storage and disposal areas.
- 72) **Mining Reclamation Plan:** The operator's proposal for the reclamation of the mine approved by the County Land Conservation Department prior to the issuance of the mining permit.
- 73) **Minor Structure:** Any small, movable accessory structure or construction such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four (4) feet in height.
- 74) **Motel:** A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.
- 75) **Non-conforming Structure:** A dwelling or other building existing lawfully before enactment or amendment of the current zoning ordinance and that does not conform with one or more of the development regulations in the current ordinance, defined as elements including setbacks, height, lot coverage and side-yard requirements.
- 76) **Non-conforming Use:** The use of land, dwelling or building existing lawfully before the current zoning ordinance was enacted or amended and that does not now conform to the use restrictions in the current ordinance.
- 77) **Non-Metallic Mining:** The extraction and/or processing (crushing, washing, screening, scalping, dewatering or blending) for sale or use by the operator of mineral aggregates such as stone, gravel, sand, clay, topsoil, feldspar, peat, talc, or other non-metallic materials.
- 78) **Open Meeting Law:** The Wisconsin law requiring all meetings of state and local governmental bodies to be held in forums open and accessible to the public, except in specifically provided exceptions. (See ch. 19, sub. IV, Stats.)

- 79) **Ordinance:** Any legislative action, however nominated, of a local government that has the force of law, including any amendment or repeal of any ordinance.
- 80) **Ordinary High Water Mark:** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognizable characteristic.
- 81) **Overlay Districts:** Zoning requirements that are described in the ordinance text or map, and imposed in addition to those of an underlying district. Developments within the overlay district must conform to the requirements of both districts or the more restrictive of the two. It usually is employed to deal with specific physical characteristics such as floodplains, shorelands, wetlands or steeply sloping areas, but may have other applications as well such as development within historic areas or redevelopment areas.
- 82) **Owner or property owner:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or any financial interest in the land.
- 83) **Permit:** A written building permit or certification issued by the Zoning Administrator permitting the construction, alteration and/or extension of a building under the provisions of this Ordinance.
- 84) **Performance Standards:** Criteria established by this subtitle to regulate certain uses.
- 85) **Permitted Use:** Uses listed under this heading are permitted as of right. This means that an applicant for a building permit must be given a permit if he/she meets all of the requirements of the ordinance, e.g., yards, setbacks, and so forth.
- 86) **Person:** Any individual, firm, trust, partnership, public or private association or corporation.
- 87) **Personal Wireless Service:** Providing voice and data communications in digital, analog, or other formats through technology such as cellular, broadband PCS, and wide area Specialized Mobile Radio (SMR), and as defined in the Federal Telecommunications Act of 1996.
- 88) **Principal Building or Structure:** The building of primary importance or permitted use on a parcel of land, in contrast to those that are accessory or have secondary importance.
- 89) **Principal Use:** The main use of land or structures, as distinguished from a secondary or accessory use.
- 90) **Rooming House:** A building other than a hotel where lodging only is provided for compensation from three or more persons not members of the owner's family.
- 91) **Recycling:** The process by which waste products such as metal cans, glass, newspaper, document paper, cardboard, plastic, are collected and /or reduced to raw material for the transformation into new and different products (not to include automobile salvage, wrecking, junk, demolition, toxic and hazardous/medical waste, and scrap yards).
- 92) **Right-of-way:** Land acquired by the Town for use as a public way by dedication, by Town order, by operation of law of express conveyance.
- 93) **Roadside Stand:** A structure to be used for the sale of farm products.

- 94) **Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, Tele-Vision Receive Only (TVRO) satellite receptors and satellite microwave antennas whether they be ground mounted or installed on towers or alternative support.
- 95) **Small Wind Energy System:** systems of 300 kW or less, or individual turbines of 100 kW or less.
- 96) **Service Building:** A structure housing toilet, washing, and bathing facilities and such other facilities as may be required by this ordinance.
- 97) **Setback Lines:** Lines established parallel to rights-of-way, lot lines, or water bodies for the purpose of defining limits within which buildings or structures or uses shall be constructed, maintained or confined.
- 98) **Shoreland:** Lands within the following distances from the ordinary high water mark of navigable waters: one thousand feet from a lake, pond or flowage; three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- 99) **Sign:** A structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.
- 100) **Standards:** The setbacks, vision corners, sideline requirements, height limitations, square footage requirements and other specifications as required by this ordinance.
- 101) **Standard Soils Survey:** A soils survey of Pepin County by the Soil Conservation Service, U.S. Department of Agriculture.
- 102) **Storage:** A space for storing property or goods.
- 103) **Story:** That portion of a building included between the surface of the floor next above it or the space between the floor and the ceiling next above it, if there be no floor above it. A basement or cellar having one-half or more of its height above grade is a story for purposes of height regulation.
- 104) **Story, Half:** The space under any roof except a flat roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.
- 105) **Street or Road:** All property dedicated or intended for public vehicular travel.
- 106) **Street or Road Right-Of-Way Line:** The dividing line between a lot, tract or parcel of land and an abutting street.
- 107) **Structure:** Anything constructed or erected having location on the ground.
- 108) **Structural Alteration:** Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.
- 109) **Subdivision:** A division of a lot, parcel or tract of land by the owner thereof, or the owner's agent, for the purpose of sale or building development, where the act of division creates five or more lots, parcels or building sites of ten acres or less in an area; or where five or more lots, parcels or building sites of ten acres or less in area are created by successive division within a period of five years.

- 110) **Substantial Improvement:** Other than issues relating to accidental damage, any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the present equalized assessed value of the structure before the improvement or repair is started. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components. Substantial improvement begins when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure.
- 111) **Telecommunications Facility:** A personal wireless service facility, site, or location that contains one or more antennas, towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying personal wireless service telecommunications signals.
- 112) **Telecommunications Facility Structure:** A personal wireless service telecommunications tower or alternative support structure on which personal wireless service telecommunications antennas may be mounted.
- 113) **Telecommunications tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers used for personal wireless service telecommunication.
- 114) **Temporary Structure:** A removable structure not designed for human occupancy or for the protection of goods or chattels and not forming an enclosure.
- 115) **Travel Trailer:** A vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form: (a) a unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 32 feet; (b) a unit designed to be mounted on a truck-chassis (c) a unit constructed as an integral part of a self-propelled vehicle; or (d) a canvas, folding unit mounted on wheels.
- 116) **Unnecessary Hardship:** Where special conditions affecting a particular property that are unique to the property and not self-created make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 117) **Use:** The purpose for which land or structures, or portions thereof, are occupied or maintained.
- 118) **Use, Accessory:** A use that is clearly and customarily incidental to and located on the same lot as a principal use.

- 119) **Use, Permitted:** A principal or accessory use of land or structures which is allowed as a matter of right within a particular district or districts, provided it conforms to all applicable requirements and standards of the districts.
- 120) **Use, Principal:** The primary or main use of land or structures as distinguished from an accessory use.
- 121) **Variance:** An authorization by the Board of Adjustment (BOA), based on a finding of unnecessary hardship, for the construction, modification or maintenance of a building or structure in a way that deviates from the dimensional standards or development regulations in this ordinance. Use variances cannot be granted by the BOA and are not authorized by this ordinance.
- a. **Area Variance:** Is one that does not involve a use, which is prohibited by the zoning ordinance. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density, density regulations, and yard requirements.
  - b. **Use Variance:** Is one which permits a use of land other than that which is prescribed by the zoning ordinance. It is primarily a grant to erect, alter or use a structure or land for a permitted use in a manner other than that prescribed by the ordinance. A Use Variance shall not be granted under this ordinance. A change of use will require a rezoning.
- 122) **Vision Clearance Triangle:** An unoccupied triangular space at the corner lot which is bounded by street lines and a setback line connecting points determined by measurement from the corner of each street line.
- 123) **Waste:** Refuse from places of human or animal habitation.
- 124) **Waterline:** The shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75 per cent of the length of such water line shall be on, or on the landward side of, the normal high water mark of such stream.
- 125) **Wood-fired Furnace (Outdoor):** means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.
- 126) **WPDES Permit:** A Wisconsin pollutant discharge elimination system permit issued by DNR under ch. NR 243.
- 127) **Yard:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.
- 128) **Yard, Front:** A yard extending the full width of the lot between the front lot line and the nearest part of the principal buildings excluding uncovered steps.
- 129) **Yard, Rear:** A yard extending the full width of the lot between the rear lot line and the nearest part of the principal building excluding only such projections as are permitted herein.
- 130) **Yard, Side:** A yard extending from the front yard, or from lot line, where no front yard is required, to the rear yard between side lot line and the nearest part of the principal building.

- 131) **Zoning District:** A land area in which the zoning regulations are uniform. Requirements vary from district to district, but they must be uniform within districts.
- 132) **Zoning Map:** A map showing the location of zoning districts within the town which, along with the zoning text, comprises the zoning ordinance.
- 133) **Zoning Text:** The text of the zoning regulations containing the terms and conditions of zoning within the community and setting forth zoning standards, procedures and requirements. The zoning text, along with the zoning map, constitutes the zoning ordinance.
- 134) **Zoning Permit:** A permit issued by the Zoning Administrator indicating that the submitted plans comply with the zoning ordinance and that the use or structure proposed is allowed by the ordinance.

## 17.05 ZONING DISTRICTS

- 1) **Establishment:** For the purpose of this ordinance the Town of Frankfort is hereby divided into the following Zoning Districts:
  - a) Agricultural District (AG)
  - b) Agricultural Residential District (AR)
  - c) Rural Residential District (RR)
  - d) Lowland Conservancy Overlay District (C-1)
  - e) Steep Slope Overlay District (C-2)
- 2) **Zoning Map and District Boundaries:** The boundaries of such districts are hereby established as shown as the underlay on a map entitled "Official Zoning Map, Town of Frankfort, Wisconsin", as adopted on July 31, 2013 with this ordinance. Such map accompanies and is made a part of this Ordinance. Such boundaries shall be construed to follow: town and corporate limit lines, U.S. Public Land Survey Lines; lot or property lines; topographic lines; center lines of streets, roads, highways, alleys, easements, and railroad right-of-way lines or such lines extended; unless otherwise noted on the Zoning Map and as in existence on the date of the enactment of this ordinance. Said map shall be kept on file in the office of the Town Clerk and a copy attached hereto is correct only as of the day of passage of this Ordinance. The Town Clerk shall keep a revised version of said map reflecting any and all changes of zoning boundaries.
- 3) **General District Regulations:** The following regulations apply in all zoning districts:
  - a) **Erection of More than One Principal Structure on a Lot:** In any district no more than one permitted or conditional use principal structure may be erected on a single lot except in the AG and AR districts where the requirements of those districts shall be met for each structure as though it were on an individual lot.
  - b) **Exceptions to Height Regulations:** The height limitations contained in the requirements for permitted and conditional uses do not apply to spires, belfries, cupolas, antennas, water tanks, fire towers, wind generators, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
  - c) **Structures to Have Access:** Every residential building hereafter erected or moved

shall be on a lot with access to a public street and all structures shall be so located on lots as to provide safe access for servicing, fire protection, and required off-street parking. All driveways must be in compliance with the Town of Frankfort Highway Access Ordinance.

- d) Parking and Storage of Certain Vehicles: Owners of automotive vehicle or trailers and/or farm machinery which remain inoperable for a period of one year or longer will be encouraged to park or store said vehicles in such a way as to present the least possible visual nuisance to occupants of neighboring properties.
- e) A setback less than the setback required by this Ordinance may be permitted where there are at least five (5) existing main buildings existing as of the original effective date of this Ordinance within five hundred (500) feet of the proposed site that are built to less than the required setback. This can occur on one or several adjacent properties. In such case, the setback shall be the average of the nearest principal building on each side of the proposed site or if there is no building on one side, the average of the setback for the main building on one side and the required setback. Such setback may be granted by a permit from the Plan Commission and shall not require a special exception or variance.
- f) Sufficient space for loading or unloading of vehicles shall be provided off the highway in connection with any use so that the highway shall at all times are free and unobstructed to the passage of traffic.
- g) Where a lot has an area less than the minimum number of square feet (or acres) per family or household required for the district in which it is located and was of record as of the original effective date of this Ordinance, such lot may be occupied by one (1) family or household. Any more households located on said lot would be a non-conforming use and would be regulated under section 17.11.
- h) Vacation of Public Streets and Right-of-Ways shall cause the land vacated to be placed in the same district as the abutting side to which the vacated land reverts.
- i) The Town of Frankfort recognizes that agriculture is a necessary land use, plays a major role in our Town's economy, and should be encouraged. Persons living in Agricultural Districts, or adjacent to them, should be aware that certain environmental conditions take place as a normal part of farm operation, and may cause odors, dust, noise, etc. Town officials reviewing possible conflicts resulting from differing land uses shall consider which land use existed at the time the adjacent land use was created.
- j) No overhead power, telephone or telegraph lines shall be erected within one-half mile of any boundary of the site of any airport, landing field, or landing and takeoff strip.

### **17.05(1) AGRICULTURAL DISTRICT (AG)**

- 1) Purpose:** This district is created to establish areas within which agricultural uses, commercial uses serving agriculture, limited industrial uses, and limited residential uses may be located. The purpose of the AG District is to:
  - a) Preserve those areas best suited for farming and agricultural uses both large and small in scale
  - b) Protect the agricultural economic base of the Town
  - c) Encourage sustainable farming and value added agriculture
  - d) Encourage people to maintain the rural quality of life the Town presently enjoys

- e) Minimize residential sprawl and its associated public expense
- f) Minimize land use conflicts between residential and farm use

These are consistent with the goals and objectives of the Town's Comprehensive Plan. The intent of the AG District is that it is to be applied to those rural lands that have large-scale agricultural potential because of parcel size, the best soil types for farming, lack of karst potential to protect groundwater, and suitable topography (lack of steep slopes/bluffs and woodlands), and access to appropriate infrastructure.

**2) Site Design Criteria:** In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures, the town of Frankfort promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners are encouraged to take advantage of existing driveways and access roads as a means to improve safety and efficiency of thoroughfares.

**3) Permitted Principal Uses** (*amended g*) 6-2020)

- a) General agriculture to include:
  - i) Apiculture – Bee Keeping
  - ii) Aquaculture – Fish Farming
  - iii) Dairying
  - iv) Floriculture – Flower Farming
  - v) Grazing
  - vi) Livestock facilities with less than 500 animal units as defined under this ordinance.
  - vii) Orchards
  - viii) Viticulture - Grapes
  - ix) Horticulture
  - x) Plant nurseries and tree farms
  - xi) Raising of grains, beans or other row crops, grass, hay, seed crops, and herbs
  - xii) Raising of tree fruits, nuts and berries
  - xiii) Sod farming
  - xiv) Vegetable raising
  - xv) Forest and game management
  - xvi) Greenhouses and storage facilities limited to 10 acres
  - xvii) Nature trails and walks
  - xviii) Private stables
  - xix) Maple Syrup gathering and processing
  - xx) Commercial uses and buildings associated with agriculture uses
- b) Governmental uses such as Town Halls, garages, and recycling collection centers
- c) Non-metallic mining as defined, when the property owner uses the product for his or her own use (not for industrial or commercial sale) on the same parcel or adjoining parcels under the same ownership less than 1 acre in size



- d) Single family housing
- e) Two-family housing as the principal structure
- f) Additional dwelling provided the resident, or residents of said dwelling, either owns, operates, or is employed on said farm. The parcel shall consist of at least 35 contiguous acres. Farm drainage systems, grade stabilization ponds and watershed structures and erosion control devices meeting all County, State and Federal minimum regulations.
- g) Essential services located within public rights-of-way and services to supply individual sites including power transmission lines not exceeding 69kV.
- h) Public parks and playgrounds
- i) Family childcare centers as per DCF 250.03(9) Admin. Code.
- j) Community living arrangements with a capacity for eight (8) or fewer persons (See 59.69(15) (c) WI. Stats.)

#### 4) Permitted Accessory Uses

- a) Private storage of licensed motor vehicles and agricultural equipment
- b) Roadside sales of agricultural products primarily produced on the premises
- c) Sales of agricultural related products such as feed, seed, fertilizer, herbicides and pesticides by a farmer to supplement farm income and customarily carried on as part of the farm operation
- d) One (1) manufactured home, in addition to other permitted dwellings, when the manufactured home is occupied by family members providing health care to or needing health care from residents of the primary permitted dwellings or by farm employees.
- e) Professional office
- f) Contracting business without outside storage
- g) Private recreational uses including, but not limited to, swimming, tennis, horticulture and playground facilities
- h) Private garages
- i) Seasonal dwellings (cabin)
  - i) If the cabin is to have a well it must have an on-site waste disposal system.
- j) Outdoor wood burning furnaces – See Supplementary uses
- k) Water pumping windmills
- l) Small wind energy system
- m) Solar arrays (less than 100 kW) Principal structure setbacks and rules shall apply
- n) Commercial repair garages

#### 5) Conditional Uses *(amended ff/ffi) 6-2020)*

The Town Board may allow the following uses as a conditional use upon the approval:

- a) Broadcasting towers: radio and television structures
- b) Cellular Communication Towers and auxiliary equipment sheds
- c) Radio and television stations
- d) Livestock facilities with 500 or more animal units are subject to the following minimum standards:
  - i) Wisconsin Admin. Code Chapter ATCP 51 Livestock Facility Siting (See Sec.13.3.2)
  - ii) Wisconsin Admin. Code Chapter NR 243 Animal Feeding Operations

- e) Asphalt mixing plants governmentally owned and operated or private temporary plants serving public projects
- f) Meat Processing Facilities
- g) Non-metallic mining for commercial or industrial purposes after all requirements of the Town's Non-Metallic Mining Operator's License Ordinance has been met, and further subject to all applicable supplementary conditions and performance standards sited in this ordinance.
- h) Agricultural-related businesses which includes but not limited to:
  - i) Veterinary services and animal hospitals
  - ii) Livestock sales facilities
  - iii) Farm machinery dealers and repair services
  - iv) Seed, fertilizer and chemical dealers
  - v) Industries which process agricultural products largely produced on nearby farms
- i) Buildings for the repair or storage of road maintenance equipment
- j) Bed and Breakfast establishments pursuant to Chapter DHS 197 Wis. Admin. Code
- k) Churches, schools, chapels, temples, synagogues, seminaries, cemeteries, hermitages and monasteries with normal accessory buildings for education & living quarters
- l) Sawmills when on location for more than 90 days
- m) Commercial kennels up to 25 animals
- n) Private airstrips and pads (FAA regulated)
- o) Large Wind energy system
- p) Large solar arrays (greater than 100 kW)
- q) Roller-skating, ice-skating rinks, swimming pools, health fitness centers, for public use or conducted as a business
- r) Trail riding or courses for motorized vehicles
- s) Horse boarding facility and riding clubs
- t) Public or private facility to include but not limited to tennis courts, golf courses, archery ranges, rifle ranges, skeet and trap shooting, hunting and fishing clubs
- u) Multi-family dwellings greater than 2 units
- v) Medical, correctional, and charitable institutions
- w) Public and private recycling centers up to 1 acre in size
- x) Contractors storage yards up to ½ acre in size
- y) Open sales lots for the purpose of buying and selling automobiles, trucks, motorcycles, boats, trailers, recreational vehicles, mobile or manufactured homes and similar products
- z) Public and private transportation terminals and public airports
  - aa)Automotive and general machinery repair services and fabrication
  - bb)Public and private campgrounds, recreational and educational camps
  - cc)Hotels, motels and tourist rooming houses
  - dd)Warehouse, mini-warehouse for public storage
  - ee)Wineries, distilleries and tasting rooms for products
- ff) Essential services located outside of public rights-of way, including power transmission lines
  - i. Power transmission lines that exceed 69 kV, whether located within or outside of public rights-of-way

**6) Requirements for Permitted and Conditional Uses**

- a) Minimum Lot Area ..... 35 acres
- b) Maximum Building Height
  - i) Residential (Measured from the 1<sup>st</sup> floor) ..... 35 ft.
  - ii) Agricultural structures including commodity storage structures ..... 70 ft.
- c) Minimum Side Yard:
  - i) Principal Buildings ..... 40 ft.
  - ii) Accessory Buildings ..... 30 ft.
- d) Minimum Front Yard Setback:
  - i) From Centerline of Town Roads ..... 75 ft.
  - ii) From Centerline of County Roads ..... 100 ft.
- e) Minimum Rear Yard Setback ..... 50 ft.
- f) Minimum Lot Width at Building Line ..... 200 ft.
- g) When an accessory structure is attached to the principal structure, they should be considered as one
- h) Setbacks for non-metallic mining to follow the Town’s Nonmetallic Mining Operator's License Ordinance and the Supplementary Use section.
- i) Livestock facilities to follow the setbacks as listed in the Supplementary Use section.

**17.05(2) AGRICULTURAL/RESIDENTIAL DISTRICT (AR).**

- 1) Purpose:** This district is created to establish areas within which agricultural uses, commercial uses serving agriculture, and residential uses may be located. The purpose of the AR District is to provide a mixture of low-density, diverse, residential and agricultural land uses, to:
- a) Preserve the Town’s inherent beauty, natural resources and rural character
  - b) Retain farms and family farming as a way of life and economic contributor to our community
  - c) Encourage small scale farming operations
  - d) Maintain and improve water quality in the Town and surrounding area
  - e) Maintain appropriate recreational opportunities for the community
  - f) Lessen soil erosion.

This district is designed to permit utilization of relatively small land parcels in predominantly agricultural areas for smaller scale agricultural operations and compatible rural residential use. The intent of the AR District is that it is to be applied to those rural lands that have marginal capacity for industrial or large-scale agricultural use because of parcel size, soil type, parcel configuration, woodlands and/or medium to steep slopes, bluffs, wetlands, and lack of adequate infrastructure.

- 2) Site Design Criteria:** In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures, the town of Frankfort promotes innovative and flexible site design. Whenever possible, property owners are encouraged to place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing

natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and efficiency of County thoroughfares.

**3) Permitted Principal Uses** (amended h) 6-2020)

- a) General Agriculture to include:
  - i) Apiculture –Bee Keeping
  - ii) Aquaculture – Fish Farming
  - iii) Dairying
  - iv) Floriculture – Flower Farming
  - v) Grazing
  - vi) Livestock facilities with less than 5 animal units/acre to a maximum of 300 animal units
  - vii) Orchards
  - viii) Horticulture - Gardens
  - ix) Viticulture - Grapes
  - x) Plant nurseries and tree farms
  - xi) Poultry raising up to 200 birds per acre or a maximum of 10,000 birds
  - xii) Raising of grains, beans or other row crops, grass, hay, seed crops, and herbs
  - xiii) Raising of tree fruits, nuts and berries
  - xiv) Sod farming
  - xv) Vegetable raising
  - xvi) Forest and game management
  - xvii) Greenhouses and storage facilities
  - xviii) Nature trails and walks
  - xix) Private stables
  - xx) Maple Syrup gathering and processing
  - xxi) Commercial uses and buildings associated with agriculture uses
- b) Non-metallic mining as defined, when the property owner uses the product for his or her own use (not for industrial or commercial sale) on the same parcel or adjoining parcels under the same ownership not exceeding 1 acre in size.
- c) Single family housing
- d) Two-family housing as the principal structure
- e) Contracting businesses that do not involve outside storage or operations
- f) Additional dwelling provided the resident, or residents of said dwelling, either owns, operates, or is employed on said farm. The parcel shall consist of at least 10 contiguous acres.
- g) Farm drainage systems, grade stabilization ponds and watershed structures and erosion control devices meeting all County, State and Federal minimum regulations.
- h) Essential services located within public rights-of-way and services to supply individual sites including power transmission lines not exceeding 69kV.
- i) Public parks and playgrounds
- j) Family childcare centers as per DCF 250.03(9) Admin. Code.
- k) Community living arrangements with a capacity for eight (8) or fewer persons (See 59.69(15) (c) WI. Stats.)

#### 4) Permitted Accessory Uses

- a) Private storage of licensed motor vehicles and agricultural equipment and supplies
- b) Private garages
- c) Roadside sales of agricultural products primarily produced on the premises
- d) Sales of agricultural related products such as, but not limited to, meat, eggs, milk, feed, seed, fertilizer, herbicides and pesticides by a farmer to supplement farm income and customarily carried on as part of the farm operation
- e) Professional office
- f) Seasonal dwellings (cabin)
  - i) if the cabin has a well it must have an on-site waste disposal system.
- g) Private recreational uses including, but not limited to, swimming, tennis, horticulture and playground facilities
- h) Outdoor wood burning furnaces – See Supplementary uses
- i) Water pumping windmills
- j) Small wind energy system
- k) Solar arrays (less than 100 kW)
- l) Commercial repair garages

#### 5) Conditional Uses *(amended bb/bbi) 6-2020)*

The Town Board may allow the following uses, and related structures, as a conditional use upon approval:

- a) Agricultural-related businesses which includes but not limited to:
  - i) Veterinary services and animal hospitals
  - ii) Livestock sales facilities
  - iii) Farm machinery dealers and repair services
  - iv) Seed, fertilizer and chemical dealers
  - v) Industries which process agricultural products largely produced on nearby farms
- b) One (1) manufactured home, in addition to other permitted dwellings, when the manufactured home is occupied by family members providing health care to or needing health care from one or more residents of the permitted dwellings and for part-time farm help when established upon land used as a farm.
- c) Commercial kennels up to 25 animals
- d) Bed and breakfast establishments pursuant to Chapter DHS 197 Wis. Admin. Code
- e) Meat Processing Facilities
- f) Churches, schools, chapels, temples, synagogues, seminaries, cemeteries, hermitages and monasteries with normal accessory buildings for education & living quarters
- g) Buildings for the repair or storage of road maintenance equipment.
- h) Commercial sawmills when on location for more than 90 days
- i) Private airstrips and pads (FAA regulated)
- j) Large wind energy system
- k) Large solar energy system (greater than 100 kW)
- l) Roller-skating, ice-skating rinks, swimming pools, health fitness centers; for public use or conducted as a business
- m) Trail riding or courses for motorized vehicles

- n) Horse boarding facility and riding clubs
- o) Public or private club and fraternity to include but not limited to tennis courts, golf courses, archery ranges, rifle ranges, skeet and trap shooting, hunting and fishing clubs
- p) Multi-family dwellings greater than 2 units
- q) Medical, correctional, and charitable institutions
- r) Public and private recycling centers up to 1 acre in size
- s) Contractor storage yards if less than ½ acre in size
- t) Open sales lots for the purpose of buying and selling automobiles, trucks, motorcycles, boats, trailers, recreational vehicles, mobile or manufactured homes and similar products if less than ½ acre in size
- u) Public and private transportation terminals and public airports
- v) Radio and television stations – towers allowed to a height limit of 100 feet
- w) Automotive and general machinery repair services and fabrication
- x) Public and private campgrounds, recreational and educational camps
- y) Hotels, motels and tourist rooming houses
- z) Warehouse, mini-warehouse for public storage up to 1 acre in size
- aa) Wineries, distilleries and tasting rooms for products
- bb) Essential services located outside of public rights-of-way, including power transmission lines
  - i. Power Transmission lines that exceed 69 kV, whether located within or outside of public rights-of-ways.

**6) Requirements for Permitted and Conditional Uses**

- a) Minimum Lot Area .....10 acres
- b) Maximum Building Height
  - i) Residential (Measured from the 1<sup>st</sup> floor).....35 ft.
  - ii).Agricultural structures including commodity storage structures .....70 ft.
- c) Minimum Side Yard:
  - i) Principal Buildings.....40 ft.
  - ii).Accessory Buildings .....30 ft.
- d) Minimum Front Yard Setback:
  - i) From Centerline of Town Roads .....75 ft.
  - ii).From Centerline of County Roads .....100 ft.
- e) Minimum Rear Yard Setback .....50 ft.
- f) Minimum Lot Width at Building Line .....200 ft.
- g) When an accessory structure is attached to the principal structure, they should be considered as one

**17.05(3) RURAL RESIDENTIAL DISTRICT (RR)**

**1) Purpose:** This District is created to allow low-density residential development in areas that have been developed and are not suitable for agricultural or timber production, where residential development will not adversely affect agricultural or timber production or natural resource areas and where natural topographic features including scenic views particularly lend themselves to residential living and furtherance of the goals of the Town’s Comprehensive Plan. The purpose of the RR district is to:

- a) Encourage residential development that maintains the character of the community.
- b) Maintain the rural living standards that have supported the existing housing and home values.
- c) Encourage a diverse range of housing stock.

**2) Site Design Criteria:** In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures, the town of Frankfort promotes innovative and flexible site design. Whenever possible, property owners are encouraged to place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners are encouraged to take advantage of existing driveways and access roads as a means to improve safety and efficiency of thoroughfares.

**3) Permitted Principal Uses** (*amended c) 6-2020*)

- a) General Agriculture to include:
  - i) Apiculture –Bee Keeping
  - ii) Aquaculture – Fish Farming
  - iii) Floriculture – Flower Farming
  - iv) Grazing
  - v) Livestock facilities with less than 2 animal units/acre to a maximum of 100 animal units
  - vi) Orchards
  - vii) Horticulture - Gardens
  - viii) Viticulture - Grapes
  - ix) Plant nurseries and tree farms
  - x) Raising of grains, beans or other row crops, grass, hay, seed crops, and herbs
  - xi) Raising of tree fruits, nuts and berries
  - xii) Vegetable raising
  - xiii) Forest and game management
  - xiv) Greenhouses and storage facilities
  - xv) Nature trails and walks
  - xvi) Private stables
  - xvii) Maple Syrup gathering and processing
  - xviii) Commercial uses and buildings associated with agriculture uses
- b) Single family housing
- c) Essential services located within public rights-of-way and services to supply individual sites including power transmission lines not exceeding 69kV.
- d) Public parks and playgrounds
- e) Family childcare centers as per DCF 250.03(9) Admin. Code.

**4) Permitted Accessory Uses**

- a) Private recreational uses including, but not limited to, swimming, tennis, horticulture and playground facilities
- b) Private garages
- c) Private recreational structures to include but not limited to swimming pools,

tennis courts, playground equipment and playhouses.

- d) Greenhouses and storage sheds
- e) Outdoor wood burning furnaces – See Supplementary uses
- f) Water pumping windmills
- g) Small wind energy system
- h) Solar arrays (less than or equal to 40 kW)

**Conditional Uses** (amended v) 6-2020)

- a) The Town Board may allow the following uses, and related structures, as a conditional use upon the approval:
  - i) Bed and Breakfast
  - ii) Churches, chapels, temples, synagogues, cemeteries, hermitages and monasteries with normal accessory buildings for education & living quarters
  - iii) Commercial outdoor recreational activities
  - iv) Duplexes
  - v) Essential services located outside of public rights-of-ways, including power transmission lines
    - i) Power transmission lines that exceed 69kV, whether located within or outside of public rights-of-way
  - vi) Land disturbance (grading) activity exceeding one thousand (1,000) cubic yards or more of material
  - vii) Solar arrays (greater than 40 kW) Large Wind energy system
  - viii) Public and private schools
  - ix) Residential health care facilities
  - x) The raising, breeding or housing of livestock that exceeds two (2) animal units/acre.
  - xi) Horse boarding facility and riding clubs
  - xii) Public or private club and fraternity to include but not limited to tennis courts, golf courses, archery ranges, rifle ranges, skeet and trap shooting, hunting and fishing clubs
  - xiii) Public and private campgrounds, recreational and educational camps

**6) Requirements for Permitted and Conditional Uses**

- a) Minimum Lot Area .....2 acres
- b) Maximum Building Height measured from the 1<sup>st</sup> floor..... 35 ft.
- c) Minimum Side Yard:
  - i) Principal Buildings ..... 20 ft.
  - ii) Accessory Buildings ..... 15 ft.
- d) Minimum Front Yard Setback:
  - i) From Centerline of Town Roads ..... 70 ft.
  - ii) From Centerline of County Roads ..... 100 ft.
- e) Minimum Rear Yard Setback ..... 30 ft.
- f) Minimum Lot Width at Building Line ..... 150 ft.
- g) When an accessory structure is attached to the principal structure, they should be considered as one
- h) Solar arrays when not fixed to a structure ..... 30 ft.



## 17.05(4) LOWLAND CONSERVANCY OVERLAY DISTRICT C-1

- 1) **Purpose and Intent:** The purpose of the Lowland Conservancy Overlay District (LCOD) is to provide a means of obtaining the goals and objectives of the Comprehensive Plan. The LCOD is designed to protect the public health, safety, and general welfare of the citizens of the community; private and public property from the hazards of flood water inundation or high ground water; and to protect the community from costs which are incurred when development occurs in lowland areas. The intent of this district is to conserve areas of which are subject to flood hazard for open space uses, agricultural uses, recreational uses and other uses which do not require construction of extensive buildings in lowland areas. Because this district is an overlay district, any area affected by it will also be a part of another zoning district. The boundaries of the C-1 District are as shown on the Pepin County Flood Zone Map prepared by FEMA/WDNR. If there is any question as to the underlying zoning district, the Plan Commission should be consulted. Within this overlay district only the following shall be allowed as permitted or conditional uses. Requirements for permitted and conditional uses shall be the same as for the underlying zoning district. All uses proposed in the C-1 District must first satisfy the requirements of Chapter 20 of the Pepin County Code of Ordinances – Floodplain Zoning Code.
- 2) **Permitted Uses:** The following uses of land are permitted in this district.
  - a) Agricultural uses to include crop and pasture land, not including the erection of buildings or structures.
  - b) Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops.
  - c) Forestry and the management of forests
  - d) Wildlife preserves
  - e) The management of wildlife, including waterfowl, fish, and other similar lowland animals, and nonresidential buildings used solely in conjunction with such activities.
  - f) Hunting, fishing, trapping, piers, docks, and boathouses.
  - g) Hiking trails and bridle paths.
  - h) Preservation of areas of scenic, historic, or scientific value.
  - i) Watershed conservation areas.
  - j) Parking areas for recreational uses

The following uses may involve filling, flooding, draining, dredging, tiling and excavating but only to the extent specifically provided below:

- k) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
- l) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction and

maintenance.

- m) The maintenance, repair or reconstruction of existing Town and County highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

3) **Conditional Uses** (*amended d) 6-2020*)

A conditional use in this district is to permit the following uses only after a public hearing and approval of the Town Board. The Plan Commission reviews the application and related information concerning the proposed conditional use and may recommend approval of the conditional use to the Town Board only after finding that there is a high likelihood that the proposed use will not create problems of use or area incompatibility with nearby lots or parcels of land and the occupants, that the proposed use is consistent with the Town's Comprehensive Plan, and that the proposed use can be undertaken in a manner consistent with conditions established to effectively ensure that no such problems will be created. Conditional uses that may be allowed in the district are: .

- a) Dams, reservoirs, or ponds, water storage and primary facilities.
- b) Parks and recreation areas.
- c) Power plants deriving their power from the flow of water, and transmission lines and other facilities accessory thereto.
- d) Essential services such as, but not restricted to, telephone, telegraph, and electric transmission lines, as well as any buildings or structures associated with public utility facilities.
- e) Relocation of any watercourse.
- f) Filling, drainage or dredging of wetlands, provided that it conforms to all local, state or federal laws.
- g) Removal of topsoil or peat.
- h) Camping grounds open to the public.
- i) Golf courses both public and private.
- j) Hunting and fishing clubs for permitted and approved conditional uses provided that the area will not be adversely impacted.

**17.05(5) STEEP SLOPE OVERLAY DISTRICT C-2**

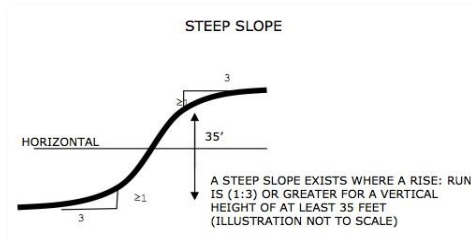
- 1) **Purpose and Intent of the Steep Slope Overlay District (SSOD) (C-2):** The purpose of the C-2 District is to provide a means of obtaining the goals and objectives of the Comprehensive Plan to protect and preserve steep slopes in their original form.. The purpose of this district is to provide for the reasonable use of steep slopes while ensuring development will not induce soil erosion, require excessive grading, increase slope instability, or create sewage disposal problems and shall be in conformance with the following objectives:
  - a) Guard against property damage and personal injury.
  - b) Minimize the potential for erosion, slope failure, stream siltation, increased runoff, flooding and contamination of surface waters caused by the adverse effects of site preparation and construction on steep slopes.
  - c) Conserve existing woodlands for air and water quality benefits.
  - d) Permit land uses by right that are compatible with protection of steep slope areas, and encourage the use of steep slope areas for natural open space and

conservation uses.

- e) Require development to avoid steep slope areas.
  - f) Regulate expansion of land use or development that existed on steep slope areas prior to enactment of these requirements.
  - g) Protect adjoining properties from harmful consequences of development permitted under these requirements.
- 2) Because this district is an overlay district, any area affected by it will also be a part of another zoning district. The general boundaries of the C-2 District are all areas within the steep slope areas as shown on the steep slope map (Figure X). The actual limits of the steep slope zone are described below. If there is any question as to the underlying zoning district, the Plan Commission should be consulted. A 30% slope area is defined as an average slope equal to or greater than 3 feet horizontal to 1 foot vertical with a minimum rise/fall of 35 vertical feet. The setback from the steep slope zone shall be 50 feet on both the top and bottom of the slope zone. The SSOD covers the entire Town of Frankfort.

3) **Permitted Uses:** The following uses are permitted uses in this District:

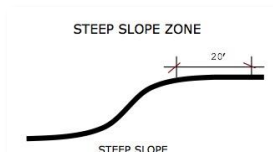
- a) Forest and woodland crop management. See clear-cutting provision below.
- b) Farming and related agricultural uses when conducted in accordance with Soil Conservation Service Standards. (See clear cutting provisions below)
- c) Installation of soil and water conservation structures.
- d) Parks and recreational areas; arboretums, and botanical gardens.
- e) Forest preservation, wildlife reservations, and conservation projects.
- f) Other recreation activities that do not require a structure or earth movement.



4) **Conditional Use** (amended h) 6-2020)

A conditional use in this district is to permit the following uses only after a public hearing and approval of the Town Board. The Plan Commission reviews the application and related information concerning the proposed conditional use and may recommend approval of the conditional use to the Town Board only after finding that there is a high likelihood that the proposed use will not create problems of use or area incompatibility with nearby lots or parcels of land and the occupants, that the proposed use is consistent with the Town's Comprehensive Plan, and that the proposed use can be undertaken in a manner consistent with conditions established to effectively ensure that no such problems will be created. Conditional uses that may be allowed in the district are:

- a) Hunting and fishing clubs, including trap and skeet shooting facilities, target ranges and gun clubs when such activities are located a minimum of 200 feet from the boundaries of the property involved.
- b) Horse stables, riding clubs, and fairgrounds.
- c) Private and public golf courses and country clubs when tree removal and grading are not involved.



- d) Stream course changing, waterway construction or enlargement, dams, and changing of natural drainage ways.
  - e) Ski hills, ski trails when grading and tree removal is not involved.
  - f) Recreation camps.
  - g) Public or private campgrounds.
  - h) Essential services such as, but not restricted to, telephone, telegraph, and electric transmission lines, as well as any buildings or structures associated with public utility facilities.
- 5) **Clear-cutting:** Clear-cutting as defined in this ordinance within the SSOD is prohibited with the following exception: Clear-cutting is permitted as a forestry practice to correct a serious disease, insect damage, blow-down condition, or as a forestry practice to enhance other species provided that the need for such action is certified by a licensed, professional forester and provided that it is carried out in accordance with an approved forest management plan and supervised by a licensed, professional forester. The size of the clear cutting shall be limited to 5-acre parcels unless otherwise required in a DNR approved forest management plan.

## 17.06 SUPPLEMENTARY USES

### 17.06 (1) HOME OCCUPATION and COTTAGE INDUSTRY

- 1) **Purpose and Intent:** The purpose of this Section is to provide for limited commercial or light manufacturing activity, in conjunction with an existing residential use, when conducted in a manner that will not create nuisances or adversely affect surrounding land uses. The Town of Frankfort wishes to encourage development of low impact home occupations and cottage industries, to help diversify our local economy (which is currently largely based on agriculture and residents commuting to jobs in other communities). Residents using their homes as a place of livelihood can produce or supplement personal and family income, and possibly provide commercial services in remote areas where conventional commercial zoning is unavailable or inappropriate. It is not the intent of this section to take precedence over the purpose and development standards of the zoning district in which a particular home occupation use occurs. This section does not support commercial activities that could adversely impact the neighboring property values, or the rural or residential character of an area, or general quality of life.
- 2) **Applicability:** This Section applies when the zoning alone does not support business activity in conjunction with a residence, either directly or an accessory use. For example, this section would apply to a proposed home office (lawyer's, realtor's, etc.) in a residential zoning district such as "Ag Residential" (AR). It would not apply to a commercial use, such as a small retail shop or office, in conjunction with a residence located in a zoning district zoned "Agriculture" (AG), since the zoning already supports the business activity, or it is listed as a conditional use.
- 3) **Definitions:** Home occupations shall be divided into two categories of uses, minor home occupations and major home occupation-cottage industries. The following

definitions for each category are representative of level of activity and potential impact to neighboring uses.

- a) Minor Home Occupation. Limited commercial or light manufacturing activity conducted in conjunction with and accessory to a legal residential dwelling unit, that is inherently unobtrusive and unlikely to alter the character of the neighborhood or adversely impact surrounding land uses.
  - i) Minor home occupations typically include uses that involve infrequent or no visits by clients or customers, need infrequent delivery or shipment of goods, and utilize only a small area of the residence to conduct operations. Such occupations could include, but are not necessarily limited to, the following:
    - (1) Artists and sculptors
    - (2) Dressmaking, sewing, tailoring
    - (3) Home Crafts for sale off-site
    - (4) Home office uses including financial services, architectural/drafting/engineering services, data/word processing, billing services, internet or tele-marketing.
    - (5) Individual tutoring and instrument instruction
    - (6) Preserving and home cooking for sale off-site, including catering
    - (7) State licensed, large and small family day care homes (land use regulated by State law)
    - (8) Small residential care facility
- b) Major Home Occupation-Cottage Industry. Limited commercial or light manufacturing activity conducted in conjunction with a legal residential dwelling unit or accessory building, that is larger and/or more intensive in nature than minor home occupations, yet operates subject to performance standards that reduce or eliminates undesirable affects to surrounding uses.
  - i) Major home occupations include uses which may include one or more of the following characteristics: require regular visits by clients or customers; need frequent delivery or shipment of goods; conduct regular operations or store materials outside of the residence; have a tendency to create noise, odors, or glare; employ two or more individuals who reside off premises; and, have the potential to increase in size and intensity. Such occupations could include, but are not limited to, the following:
    - (1) Beauty and barber shops
    - (2) Commercial firewood operation
    - (3) Micro-brewery
    - (4) Organized classes with multiple students
    - (5) Photography studio
    - (6) Small medical, dental, or counseling clinic
    - (7) Small engine or appliance repairs
    - (8) Upholstering
    - (9) Vehicle repair and painting
    - (10) Welding and metal fabrication
    - (11) Woodworking, including cabinet making
    - (12) Contracting businesses

**4) Permit/Notification Requirements:**

- a) If the use requires a permit, it shall follow the regulations set forth as a conditional use.
- b) Uses permitted without a Conditional Use Permit (CUP): Many home occupation uses are allowed as an accessory use of a residence without the need of a CUP. These are typically uses that could have little or no effect on the surrounding area.
  - i) Minor home occupations or cottage industries that meet the definitions described above do not need an CUP.
  - ii) Major home occupations or cottage industries will require a CUP. A CUP application form is available from the Town Clerk.

**5) Approval Process:** As outlined in section 17.08 of this ordinance.

**6) Standards Applicable to Conditional Uses for HO**

- a) In evaluating a CUP application, the Plan Commission shall consider the following factors:
  - i) The location, nature, and size of the proposed use.
  - ii) The size of the site in relation to the proposed use.
  - iii) The location of the site with respect to existing or future roads giving, access and any necessary on-site parking..
  - iv) The compatibility of the proposed use on land that on abutting and nearby land.
  - v) Its compatibility with the future land use map and Comprehensive Plan.
  - vi) Existing topography, drainage, soils types, and vegetative cover.
  - vii) Its relationship to the public interest, the purpose and intent of this Ordinance and substantial justice to all parties concerned.

**7) General Provisions:** The following general provisions shall apply to home occupation and cottage industry uses:

- a) The home occupation activity shall be clearly incidental and secondary to the use of the property as a primary residence.
- b) The home occupation use shall be owned and conducted by at least one individual residing on the property.
- c) The home occupation use shall not adversely affect the residential character of an area.
- d) The home occupation use shall comply with any applicable standards and permit requirements of the State of Wisconsin, and the local fire protection authority.
- e) If conflicts occur between this Section and other written provisions of the Zoning Ordinance, the most restrictive shall apply.
- f) All home occupation uses shall be subject to the same standards as provided in the underlying zoning district of this Ordinance.
- g) Large and small family day care homes, and small residential care facilities, that are licensed by the State Department of Social Services shall qualify as a minor home occupation use (local land use treatment regulated by State law).
- h) The CUP for a Major Home Occupation shall expire when the property is sold, leased, or the operator of the business no longer lives in the residence.

**8) Specific Performance Standards:**

- a) Minor home occupations may be allowed in all zoning districts in conjunction with a dwelling unit that exists legally.
- b) Minor home occupations shall be conducted generally within a residence or permitted accessory structure, excepting outside play areas related to family day care homes.
- c) Home occupation uses shall not produce excessive noise or obnoxious odors, vibrations, glare, fumes, or electrical interference detectable to normal human sensory perception outside the structure, including transmittal through vertical or horizontal party walls. Traffic shall be controlled to limit neighborhood conflict due to congestion or parking.
- d) Home occupation uses that utilize areas outside a building for storage or to conduct all or part of regular business operations, shall be situated and/or screened by fencing or landscaping, in a manner not to create a visual nuisance to surrounding properties.
- e) Home occupation use or combination of home occupations on a single site shall control traffic use to avoid neighborhood conflict by congestion or parking. This provision shall apply to vehicles used by customers, clients, and shipping/delivery services.
- f) Major home occupation uses shall be allowed in all zoning districts on parcels larger than five acre in size, in conjunction with a dwelling unit that exists legally.

- 9) **Pre-existing uses:** Home occupation uses that existed prior to adoption of this section are subject to the provisions of Nonconforming Uses (Section 17.11).

**17.06 (2) NON-METALLIC MINING**

1. **Findings on Non-Metallic Mining:** The Town of Frankfort has made the following findings regarding the mining, processing and transportation of construction and industrial minerals:
- a. The town has primarily smaller scale agricultural and rural residential. Frankfort does not contain any industrial or manufacturing areas other than one existing, industrial scale sand mine.
  - b. Frankfort possesses areas containing construction minerals that are mined for repairing and maintaining roads throughout the region, and providing bedding and other materials for farming and construction.
  - c. Frankfort is concerned that adding the mining and processing of large-scale industrial minerals to the already existing limited mining of construction minerals would create a highly industrialized town, contrary to the goals and purposes contained in the town's comprehensive land use plan.
  - d. The Town recognizes that the land use operations for mining and processing industrial minerals are very different than the land use operations for mining and processing construction minerals. The industrial mineral mining land use operations are larger-scaled, consume more appropriated water, require more concentrated heavy truck hauling traffic to single destinations.
  - e. The Town recognizes that non-metallic mining engages in a one-time, permanent removal/extraction of a resource from land in a manner that will permanently

change the landscape. This is different from harvesting an annual crop or a renewable crop such as timber. The nature of this one-time extraction process requires the need for soil and landscape “reclamation” of what is left by altering the land again to comply with State reclamation requirements. The original form of the landscape, and the functions that go with that form, are permanently changed.

- f. The Town lacks transportation infrastructure in the form of State highways or heavy rail that would service a heavy industrial use.
- g. The Town is mostly made up of challenging hilly terrain containing existing residential and small farming operations that were cast in a time without county road setback regulations all making the Town layout problematic for development of facilities where large amounts of non-metallic minerals are collected, processed and shipped out of the area.
- h. The Frankfort Town Board determines that large-scale mining and processing of industrial minerals are incompatible with:
  - i. the town’s comprehensive land use plan,
  - ii. the non-industrial character of this town,
  - iii. the need to protect the sensitive natural features prevalent throughout this town,
  - iv. concerns about unhealthy exposure to ambient air emissions of mining industrial minerals,
  - v. the need to protect sensitive streams, karst areas and water resources in this town,
  - vi. and the need to protect agricultural and residential areas.

2. **Purpose and Intent:** The regulations in this section are intended to
- a. protect natural landscapes from damage caused by excavation and non-metallic mining activity, protect water resources including aquifers, streams, and other surface waters from cumulative, mining related, adverse effects of contamination and appropriation,
  - b. minimize soil erosion and to protect soils vulnerable to erosion,
  - c. to preserve areas suitable for large scale agricultural and farming activities,
  - d. protect existing and planned recreational areas,
  - e. to protect residents from risk of unhealthy air emissions caused by or attributable to large scale non-metallic mining activities,
  - f. to preserve agricultural, open space and residential communities from proximity to such activities,
  - g. to avoid or minimize local road and bridge damage and avoid or delay the need to repair or upgrade public infrastructure because of damage from high volume and heavy truck traffic hauling industrial minerals or other freight and
  - h. to minimize land use conflicts.

**3. Non-Metallic Mining Performance Standards and Requirements**

- a) To apply for a conditional use permit, the applicant must have met the requirements of the Town of Frankfort’s Non-metallic Mining Operator’s License Ordinance
- b) The total mine site for any individual mine shall not be greater than 50 acres. No single owner or mine operator may have contiguous mines sites based on



property lines.

- c) Non-metallic material processing that involves water and chemicals is only allowed when there is appropriate mitigation of off site and underground migration of the chemicals used in the processing as required by the Town Board and its consultants at the expense of the applicant.
- d) Non-metallic material loading facilities are not allowed absent of appropriate infrastructure improvements as required by the Town Board, and its consultants, at the expense of the applicant.
- e) No blasting shall occur within 1,200 feet of an existing residential dwelling without adequate protective measures put into place by the applicant and approved by the Town Board and its consultants at the expense of the applicant.
- f) No blasting shall occur within 600 feet of an existing animal structure where animals are present without adequate protective measures put into place by the applicant and approved by the Town Board and its consultants at the expense of the applicant.
- g) A Conditional use permit issued under this section of this ordinance terminates when industrial mining or processing has been essentially discontinued for 24 consecutive months. The mere intent to continue use of the mine shall not constitute use.
- h) The mine site shall not be within 1,200 feet of an existing well unless the well is fully cased below the bottom of the deepest excavation. If said casing is required, the mine operator will be fully responsible for the cost of materials and installation and any required re-drilling as well as for obtaining the well owner's written permission to do so if said casing is required. If the well owner denies in writing permission to do said work, the operator may be within 1,200 feet if other setbacks may allow.
- i) Non-metallic mining of materials for personal use is permitted in the AG and AR districts; see the requirements in those sections.
- j) Non-metallic mining operations, requiring a town license, are only allowed in the AG District.

### **17.06 (3) OUTDOOR WOOD FIRED FURNACE**

- 1) Purpose and Intent:** The intent of this section is to ensure that odors and smoke are mitigated to the fullest extent possible, and pollution effects and fire hazards are minimized.
- 2) Permitted use:** Outdoor wood burning furnaces are a permitted accessory use in all districts.
- 3) Performance Standards for Outdoor wood fired furnace**
  - a) Shall follow the requirements of the Local Fire Official Standards.
  - b) The outdoor wood-fired furnace shall be located at least 200 feet from any residence that is not on the same property as the outdoor wood-fired furnace.
  - c) If there is a residence within 200 feet to 500 feet of the wood-fired furnace that is not on the same property, then the outdoor wood-fired furnace shall have an attached permanent stack extending higher than the roofline of the structure being served.

- d) The outdoor wood-fired furnace shall comply with all applicable laws including, but not limited to local, state, or federal ordinances that prohibit creating a human health hazard or a public nuisance.
- e) The user shall refrain from burning materials other than those recommended by the manufacturer.

## **17.06 (4) LIVESTOCK FACILITIES**

- 1) Findings on Livestock Facilities:** The Town of Frankfort has made the following findings regarding livestock facilities:
  - a) The Town recognizes from engineering studies that the land use operations for small-scale agriculture are very different than the land use operations for large-scale animal feeding operations (500 animal units or more). Large-scale feeding operations consume significantly more appropriated water, require more concentrated heavy truck hauling traffic, require additional land for feeding and manure management, discharge more animal waste and associated chemicals, and consume more resources than small scale livestock. It is the goal of Frankfort to encourage small-scale farm operations and residential growth in the AR and RR districts and minimize residential uses in the AG district.
  - b) The Town is mostly made up of challenging hilly terrain containing existing residential and small farming operations that were cast in a time without road setback regulations. This makes the Town layout problematic for development of facilities where large amounts of animals are fed, collected, processed and shipped in and out of the area. Because it has been proven that large-scale operations generate more traffic, due to the above stated facts, large-scale animal operations near AR and RR districts will have an adverse effect on the safety of Frankfort residents.
  - c) Several geological studies have shown that there is a likely probability of karst formations in large portions of the underlying bedrock in Frankfort. Considerable scientific research demonstrates that surface water that has been impacted by farm operations can enter the groundwater much faster in Karst areas causing increased levels of nitrates, bacteria and toxic chemicals in the groundwater. Allowing large-scale animal operations in areas that have potential karst formations would have an adverse effect on the health of Frankfort residents.
  - d) Test that have been administered by Pepin County have shown that nitrate levels and other farm related chemicals have tested above recommended health safety levels in groundwater samples in Frankfort aquifers.
- 2) Purpose and Intent:** The purpose of this ordinance is to comply with requirements of Sec. 93.90 of WI. Statutes and chapter ATCP 51, WI. Adm. Code (ATCP 51), and to establish standards and authority to protect the public health and safety of the people of the Town of Frankfort. This section sets forth the procedures for obtaining a permit for the siting of new or expanded livestock facilities.
- 3) Definitions:** Definitions relating to livestock facilities in ATCP 51 are hereby incorporated by reference without reproducing them in full in this section.

#### 4) Conditional Use:

- a) A conditional use permit is required for new or expanded livestock facilities that will have 500 or more animal units in the (AG) District. Livestock facilities in excess of 300 AU are not allowed in the AR or RR Districts.

#### 5) Permit Standards: The standards for issuing a permit are as follows:

- a) The state livestock facility siting standards adopted under ATCP 51, Wis. Adm. Code, inclusive of all appendices and worksheets and any future amendments to this chapter, except as may be noted in this section of the ordinance, are incorporated by reference in this ordinance, without reproducing them in full.
- b) The following setbacks shall apply to livestock structures:
  - i) Property lines
    - (1) Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units.
    - (2) The setback requirements do not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirements, except that a structure may not be expanded closer to the property line.
  - ii) Public road right-of-way: Except as provided for waste storage structures, livestock structures must be located a minimum of:
    - (1) 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and
    - (2) 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.
    - (3) The setback requirements do not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirements, except that a structure may not be expanded closer to the right-of-way.
  - iii) Waste Storage Structure:
    - (1) A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.
    - (2) A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:
      - (a) Located on the same tax parcel as a waste storage structure in existence before the effective date of this ordinance
      - (b) No larger than the existing structure
      - (c) No further than 50 ft. from the existing structure
      - (d) No closer to the road or property line than the existing structure
- c) This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.
  - i) Well separation distances in accordance with the state well code NR 811 and NR 812
  - ii) New or altered livestock structures are located from existing wells in accordance with NR 811 and NR 812, regardless of whether the livestock

facility operator owns the land on which the wells are located.

d) Floodplains:

- i) must satisfy the requirements of Chapter 20 of the Pepin County Code of Ordinances – Floodplain Zoning Code.

**6) Application:** A livestock operator must complete the application form and worksheets prescribed by ATCP 51, including any authorized local modifications. The application form and worksheets demonstrate compliance with standards in ATCP 51 and this ordinance. The operator must file three (3) duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

**7) Application Fee:** A non-refundable application fee of \$1,000.00 payable to the Town of Frankfort shall accompany an application for the purpose of offsetting the town costs to review and process the application.

**8) Application Procedures:** Pursuant to ATCP 51.30 (5), within 45 days after the zoning administrator receives an application, he/she shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the zoning administrator shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility. Upon determination of completeness, a public hearing will be held for those livestock facilities that are proposed in the AG district.

**9) Criteria for Issuance of a permit:** A permit may be issued if the application for the proposed livestock facility complies with this section, and is complete, and contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this section.

a) A permit shall be denied if any of the following apply:

- i) The application, on its face, fails to meet the standards for approval in the previous paragraph,
- ii) The Town Board finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this ordinance.
- iii) Other grounds authorized by s. 93.90, Statutes that warrant disapproving the proposed livestock facility.

**10) Transferability of Permit:** A permit and the privileges granted by this permit run with the land and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the approval.

**11) Expiration of Permit:** Frankfort may withdraw a local approval granted under ATCP 51 unless the livestock operator does all of the following within 2 years after local approval is granted:

- a) Begins populating the approved livestock facility.

- b) Begins construction on every new or expanded livestock housing structure, and every new or expanded waste storage structure, proposed in the application for local approval.

**12) Compliance Monitoring:** Frankfort shall monitor compliance with the ordinance as follows:

- a) Upon notice to the livestock facility owner, the zoning administrator shall have the right to personally view the permitted facility at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
- b) If the livestock facility owner refuses the zoning administrator the right to view the permitted facility, the zoning administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
- c) If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The town board shall schedule a hearing within ten days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.
- d) The Zoning Administrator is authorized to issue Certificate of Noncompliance, Stop Work Orders, revoke permits and seek penalties or injunctions against any person who violates this Ordinance. The Zoning Administrator shall provide written notification as to the reasons for the revocation and indicate a reasonable time in which to correct the matter.
- e) A permit revocation or stop work order shall remain in effect until retracted by the Town Board, or court of general jurisdiction.
- f) The Zoning Administrator is authorized to refer violations or enforcement actions to the Town's Counsel. The department may request the Town's Counsel to obtain a cease and desist order, or any other form of injunctive relief as needed.
- g) The Zoning Administrator shall retract a Stop Work Order, a Certificate of Noncompliance, or the revocation of a permit upon compliance with this ordinance.

**13) Terms of Modification:** A permit and the privileges granted by a permit issued under this ordinance are conditioned on the livestock operator's compliance with the standards in this ordinance, and the commitments made in the application for a permit. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the town of Frankfort shall not withhold authorization for those changes.

**14) Appeals of Livestock Facilities Requiring a conditional use permit**

- a) In addition to other appeal rights provided by law, Sec. 93.90(5), Wis. Stats. provide that any "aggrieved person" may request review by the Livestock Facility Siting Review Board of any decision by the Board of Adjustment in connection with a permit application. An "aggrieved person" may challenge the decision on the grounds that the Board of Adjustment incorrectly applied the standards under

this ordinance or violated Sec. 93.90, Wis. Stats.

- b) An “aggrieved person” under this section as defined in Sec. 93.90(5) of Wis. Stats., means a person who applied to the Board of Adjustment for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.
- c) Any appeal to the State Livestock Facility Siting Review Board shall comply with Sec. 93.90 of Wis. Stats., and the administrative rules of said board.

## **17.06 (5) TELECOMMUNICATION, RADIO AND TELEVISION BROADCAST FACILITIES**

All proposed Telecommunication, Radio, and Television Broadcast facilities, or other technology that requires towers in excess of 200 feet, shall require a permit from Pepin County under Chapter 22 of the Pepin County Code of Ordinances.

## **17.06 (6) WIND ENERGY SYSTEMS**

1. **Large Wind Energy Systems:** Rules for systems of larger than 300 kW or individual turbines larger than 100 kW include the following:
  - a. Systems must follow all submittal and rule requirements of the Wind Siting Rules in Public Service Commission (PSC) 128.
  - b. An owner must provide written notice of a planned wind system to specific parties as outlined in PSC 128 at least 90 days before filing an application.
  - c. Systems must be set back from the property line 1.1 times the maximum blade tip height. Systems near occupied community buildings or nonparticipating residences must be set back either 1,250 feet or 3.1 times the maximum blade tip height, whichever is less.
  - d. Systems should be operated so that noise does not exceed 50 dB during daytime hours or 45 dB during nighttime hours measured at the property line.
2. **Small Wind Energy Systems:** Rules for systems of 300 kW or less, or individual systems 100 kW or less, include the following:
  - a. An owner must provide written notice of a planned wind system to specific parties as outlined in PSC 128 at least 60 days before filing an application.
  - b. Systems must be set back from property lines the distance of the maximum blade tip height.
  - c. Systems should be operated so that noise does not exceed 50 dB during daytime hours or 45 dB during nighttime hours as measured at the property line.

## **17.07 PERFORMANCE STANDARDS**

- 1) **Purpose and Intent:** The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. Those standards shall include protection of significant or unique natural features whose loss could diminish the scenic, ecological or economic benefits to the Town as outlined in the Town’s Comprehensive Plan.

2) **Applicability:** The Plan Commission shall determine whether a proposed use will conform to these performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, and other issues as listed.

3) **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 premises or district. No structure, land, or water shall hereafter be used except in compliance with the district regulations and with the following performance standards:

a) **Particulate Matter and Air Contaminants:** The operation of facilities shall not directly or indirectly discharge air contaminants into the atmosphere air contaminates, (including smoke, sulfur compounds, dust, soot, carbon, noxious acids, gases, mist, odors, or particulate matter, or other air contaminants or combinations) which exceed any local, state, or federal air quality standards.. Particulate matter shall not be discharged into the atmosphere in excess of the standards of the Federal Clean Air Act, or the State of Wisconsin DNR.

b) **Fire and Explosive Hazards:** All activities involving the manufacturing, utilization, processing, or storage of flammable and 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, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

<b>Closed Cup Flash Point</b>	<b>Gallons</b>
(a) Over 187° F.	400,000
(b) 105° F. to 187° F.	200,000
(c) Below 105° F.	100,000

c) **Glare :** Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential use or zone and from public thoroughfare. Direct or sky- reflected glare, when from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The lights shall be hooded or controlled in some manner so as not to light adjacent property or the public right-of-way. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public thoroughfare shall not exceed one (1) foot candle (meter reading) as measured from the center line of said thoroughfare. Any light or combination of lights which cast light directly on neighboring dwelling shall not exceed four (4) foot candles (meter reading) as measured from said dwelling.

d) **Liquid or Solid Wastes:** No activity shall discharge at any point onto any land or into any water any materials of such nature, quantity, noxiousness, toxicity, or temperature which can contaminate, pollute, or harm the quantity or quality of

any water supply, can cause the emission of dangerous elements, or can injure or damage persons or property without first making separate arrangements with the Town and any other regulatory agency with jurisdiction, to mitigate the risk of harm to air, soil, water, and vegetation

- e) **Noise:** No activity shall produce a sound level that exceeds 65 decibels measured by a sound level meter at the property line as an average for more than five minutes in duration during any single day. 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.
- f) **Odors:** No 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 Wis. admin. Code chapter NR 429, Wisconsin Administrative Code. Agriculture odors associated with normal agricultural activities are exempted from this section.
- g) **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.
- h) **Vibration:** No activity in the AR or RR district shall emit vibrations that are discernible without instruments outside its premises. Periodic vibrations, that are discernible outside the premises, are allowed in the AG district, but cannot occur on a continuous basis.
- i) **Water Quality Protection:** 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 would be likely to 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. In addition, no activity shall discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in the Wis Admin. Code NR 102 and NR 103.
- j) **Soil Erosion & Sediment Control:** The purpose of this performance standard is to minimize soil erosion and sedimentation, and excessive or accelerated soil erosion caused by activities of man including agricultural production, timber harvesting, mining, and the development of land. It establishes standards for practices to protect water and soil resources, and to prevent or minimize nonpoint source pollution.
  - i) No land occupier/landowner or other person may cause or conduct any activity on the land that causes accelerated soil erosion or sediment damage. Accelerated soil erosion means much more rapid than normal or geological erosion, and which is caused by activities of humans on the land.
  - ii) Each land occupier, owner or developer, engaged in agricultural, timber harvesting, construction, or other land disturbing activity, shall work with the Pepin County Land Conservation Department in adopting “Best Management Practices” and shall consider developing a conservation plan to minimize soil erosion.
  - iii) It shall be the responsibility of the owner of any lot or parcel of land developed



for any use, including agriculture to provide for adequate drainage and sediment control. Whenever possible, the property owner shall utilize the existing natural surface drainage. Whenever the available evidence indicates that the natural surface drainage is inadequate, the property owner shall provide the parcel with an adequate surface drainage system that is consistent and integrated with the drainage pattern of adjacent properties. On-site detention may be required where necessary to prevent harm to adjoining properties.

iv) No land shall be developed and no use shall be permitted that results in water runoff causing flooding, significant erosion, or deposit of significant sediment on adjacent properties.

k) **Signs:**

- i) Off-Premise Ground Signs (signs located in a place other than the owner's property) shall require a conditional use permit from the Plan Commission. Such signs shall not be located within fifty (50) feet of the existing or proposed right-of-way of any county highway or any town road measured horizontally along a line perpendicular to the center of the highway; shall not be located within one thousand (1,000) feet of any other off-premise ground sign located on the same side of the road.
- ii) Existing Signs: Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure.
- iii) Lighting of Signs: Illuminated signs are permitted when the lighting is continuous. No blinking lights or group of lights shall be allowed as part of a sign after the effective date of this ordinance. Illuminated signs must meet the standards in the Performance Standards section.

## 17.08 CONDITIONAL USE PERMITS

1) **General Provisions:** Any land use described in a zoning district section, or elsewhere in this ordinance as being a conditional use must receive a conditional use permit (CUP). A CUP shall be issued upon satisfaction of the requirements listed herein, in addition to all other requirements of this Ordinance. Each specific use shall be considered as an individual case.

2) **Required Information:** Anyone who requests a CUP shall submit a CUP Application Form to the Town Zoning Administrator. The Zoning Administrator, in collaboration with the Plan Commission, has the right to waive any of the application requirements if sufficient information is available to make an informed decision.

3) **CUP Application Form and Sketch Map**

- a) The CUP Application requires the following form information and attachments as specified below and an application fee.
  - i) The name, address and phone number of the owner of the property and that of the applicant.
  - ii) The location and size of the property and the type of land use that is being requested.

- iii) The names and addresses of all landowners within a 1000' foot radius of the outer edges of the parcel being utilized including those parcels within this radius of neighboring counties and other municipalities
  - iv) A statement of intended use.
  - v) The name, address and phone numbers of the surveyor who will be doing the survey work.
  - vi) The name, address and phone numbers of the engineer who will perform the public improvements design (if any).
  - vii) The present use of the land.
  - viii) Existing zoning and other land use controls on parcels within 1000-foot radius of the outer edges of the proposed land use.
  - ix) Description of parcel location including fire number and roads bordering property.
  - x) Existing and proposed zoning of parcel.
  - xi) Parcel number
  - xii) Aerial photo of parcel and land within 1,000 feet of its border.
  - xiii) Sketch map as specified below.
- b) Sketch Map Specifications: As part of all CUP Applications, the applicant shall submit to the Zoning Administrator a sketch map no smaller in scale than 1 inch = 200 feet or other appropriate larger scale. More than one attached sheet may be used. A reduced copy no more than 11"x17" shall also be provided. Each submission shall include all contiguously owned land except the sketch map need not show more than 20 times the area of the intended certified survey. The sketch map shall show all of the following:
- i) A north arrow, the date, the scale, and a reference to a section corner.
  - ii) Existing topography showing contours in 2ft intervals to a distance 50 feet beyond all property boundaries.
  - iii) Lengths and angles of existing and proposed property lines.
  - iv) Location of adjacent properties within 1,000 feet.
  - v) The approximate dimensions and areas of the parcels, lots, outlots, and easements.
  - vi) The location and type of existing and proposed buildings, fences, and structures and their uses.
  - vii) The location and name of all existing drainage ditches, water wells, sewerage systems, water courses, lakes, navigable waters, ponds, dry wells, drain fields, pipes, culverts, tile lines, and parks and other features pertinent to the land division.
  - viii) The location of existing and proposed roads, highways, developments, navigable rivers, trails, and driveways and distances to the nearest adjoining highways, roads, or driveways on all sides of the proposed site.
  - ix) Zoning classification and other land use controls of adjacent properties within 1,000 feet.
  - x) The location of general land cover types, such as woodlands, wetlands, agricultural, etc.
  - xi) The location of any slopes of 30% or greater that are equal to or in excess of 35 vertical feet.
  - xii) The setback of building lines required by any approving agency.
  - xiii) The uses of the land adjacent to the property and any existing roads,

easements and restrictions of record, public accesses to navigable water, dedicated areas and utilities on/or adjacent to the land.

- xiv) Any floodplain limits
- xv) The entire area contiguous to the plat owned or controlled by the owner or applicant.
- xvi) Owner's names of adjacent properties within 1,000 feet.
- xvii) Based on the request of the Plan Commission, an A.L.T.A. survey may be required.

**4) Submittal Process:** The applicant shall submit the completed CUP Application Form to the Zoning Administrator for review of completeness. When the Zoning Administrator determines the application is complete, the applicant shall submit the application fee to the Town Treasurer. The applicant shall submit 8 copies of the CUP Application Form and attachments, and the fee payment receipt to the Town Clerk. The Town Clerk shall establish the Plan Commission meeting date upon which the Plan Commission will conduct a public hearing on the application. The Town Clerk will notify by mail all landowners of parcels within 1,000 ft. of the property in question and post a class 2 notice of the public hearing. The applicant shall provide all addresses and stamped envelopes. The Town Clerk shall notify all Plan Commission members of the meeting and provide copies of the CUP Application Form and attachments to them.

**5) Approval Process:** The Plan Commission shall hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the Committee shall be given as a Class 2 notice as referred to in Chapter 985.07 of the Wisconsin State Statutes. If no additional information is deemed necessary, the Plan Commission will make a recommendation to approve, approve with conditions, or reject the application to the Town Board. Written reasons shall be documented in the minutes for rejection or the imposition of conditions. The applicant shall attend the meeting and present the proposed CUP Application to the Plan Commission. Failure of the applicant or its designee to attend the hearing or to provide a complete CUP Application is grounds for the Plan Commission to recommend denial of the CUP. Based upon Town Board approval, the Town Clerk will issue a written CUP. The Town Board has the discretion to require a review of the required operational conditions and to set a renewal period during which the applicant must return to the Town Board for a review of how the conditional use is working and whether to extend the approval of the permit following Plan Commission review and recommendations to the Town Board. The permit approval and its extension cannot be unreasonably withheld.

**6) Standards Applicable to All Conditional Uses:** In evaluating a CUP application, the Plan Commission shall consider the following factors:

- a) The location, nature, and size of the proposed use.
- b) The location of the use with respect to existing or future roads giving access to it.
- c) Its compatibility with existing uses on land adjacent thereto.
- d) Its compatibility with any future land use maps and the Comprehensive Plan.
- e) Existing topography, drainage, soils types, and vegetative cover.
- f) Its relationship to the public interest, the purpose and intent of this Ordinance and fairness to all parties concerned.

**7) Standards Applicable to Conditional Uses within the AG, or AR, Districts:**

When evaluating a CUP for an AG or AR parcel the the Town Board and the Plan Commission shall also consider the following factors:

- a) The potential for conflict with large or small-scale agricultural use.
- b) The need of the proposed use for a location in an agricultural area.
- c) The availability of alternative locations.
- d) Compatibility with existing or permitted uses on adjacent lands.
- e) The productivity of the lands involved and effects of the use proposed on the productivity of the land.
- f) The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
- g) The need for public services created by the proposed use.
- h) The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable financial burden.
- i) The effect of the proposed use on water or air quality, soil erosion, and rare or irreplaceable natural resources.

**8) Standards Applicable to Conditional Uses for excess animal units in AR and RR areas:** In evaluating a CUP for an AR or RR parcel, the Town Board and the Plan Commission shall also consider the following factors:

- a) Support (lack of concern/complaints) from surrounding landowners.
- b) Adequate facilities for housing and feeding animals.
- c) Adequate manure removal/distribution plan.
- d) Favorable past animal management performance and/or managerial plan.
- e) Compatibility with existing or permitted uses of adjacent lands.
- f) Water Retention Plan that meets or exceeds DNR guidelines for water retention plan if required.
- g) The availability of alternative locations.
- h) The need for public services created by the proposed use.
- i) The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
- j) The effect of the proposed use on water or air quality, soil erosion, and rare or irreplaceable natural resources.

**9) Conditions Attached to CUP:** Upon consideration of the factors listed above, the Plan Commission may recommend to the Town Board attaching such conditions, in addition to those otherwise specifically listed, that it deems necessary in furthering the purposes of this Ordinance. Violation of any of these conditions shall be deemed a violation of this Ordinance.

**10) CUP Fee:** The applicant, upon filing of the application, shall pay a fee to the Treasurer in accordance with the Fee Schedule established by the Town Board.

## **17.09 GENERAL CRITERIA FOR EVALUATING CONDITIONAL USE PERMITS, CHANGES TO ZONING DISTRICTS AND VARIANCE REQUESTS**

The Plan Commission, Town Board and Board of Adjustment may consider any of the following criteria where relevant to proceedings where conditional use permits, zoning district changes or variance requests are being considered. The criteria set forth here are in addition to, and not in limitation of, any specific criteria created elsewhere in this ordinance. The following criteria are not all inclusive.

### **1) Site Design and Physical Characteristics**

- a) Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.
- b) Availability of water, sewer, county highway, rail and other services and the utility requirements of the proposed site.
- c) Where public sewers are not available, the percolation characteristics of the soil.
- d) Adequacy of the proposed internal traffic circulation system, including safety consideration.
- e) Access to sites from the internal traffic circulation system.
- f) The costs of providing various public services.
- g) Appearance --how the area will look?

### **2) Site Location Relative to the Public Road Network**

- a) Convenient access to a public road network --safety of access points.
- b) Visibility from the proposed road and the need for visibility.
- c) Proper classification of road to service proposed land use.
- d) Location to provide access primarily by right-hand turning movements.

### **3) Land Use**

- a) Compatibility with existing or proposed uses in the area.
- b) Relation to the comprehensive plan and any existing land use plan of relevance in the area.
- c) Relation to existing or proposed development at nearby locations.

### **4) Traffic Generation**

- a) Amount of daily and peak-hour traffic to be generated, related to site size, with traffic classified as to use of and effect on local roads.
- b) Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.
- c) Expected composition of site-generated traffic by vehicle types.
- d) Damage to public roads caused by traffic generated by the site's activities.
- e) Effect of site-generated traffic on the operation of the area.
- f) Safety and convenience to future users.

### **5) Community Effect**

- a) Consistency with the comprehensive plan's goals and objectives.
- b) Immediate and long-range effect on local tax base and on public financing of municipal services that would have to be enhanced or added.
- c) Impact to local jobs.

- d) Access to market or service area.
- e) Relation to scenic or recreation values.
- f) Preservation of natural amenities such as bluffs, steep slopes or scenic views.
- g) Relation to the public interest, the purpose and intent of this Ordinance, and substantial justice to all parties concerned.

## **6) Other Relevant Factors**

## **7) Performance Standards in Section 17.07 of this Ordinance**

## **8) Additional impacts**

### **17.10 BOARD OF ADJUSTMENT**

- 1) Establishment:** There is hereby established a Board of Adjustment (BOA) for the Town for the purpose of hearing appeals and granting variances to the provisions of this ordinance.
- 2) Membership:** The Board of Adjustment shall consist of three (3) members and, at a minimum, 1 alternate appointed by the Town Chairman and confirmed by the Town Board.
  - a) Terms shall be for staggered three-year periods (Initially, for 1, 2 and 3 years).
  - b) The Board of Adjustment shall designate one member as chairperson.
  - c) The alternate member(s) shall be appointed by the Town Chairman for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of conflict of interest.
  - d) All members shall be a resident of the Town.
  - e) Not more than one town board supervisor may be a member of the BOA.
  - f) Not more than one plan commission member may be a member of the BOA.
  - g) The Zoning Administrator may not be a member of the BOA
  - h) The BOA may designate one member as secretary, or ask the Town Clerk to serve in this capacity.
  - i) All members in accordance with Section 19.01 of the Wisconsin Statutes shall take official Oaths within ten (10) days of receiving notice of their appointment.
  - j) Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.
  - k) Compensation shall be as determined by the Town Board.
  - l) The Zoning Administrator shall attend meetings for the purpose of providing technical assistance when requested by the BOA.
  - m) Meetings shall be held at the call of the Chairperson and shall be open to the public when required by the state's open meeting law.
  - n) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, or if absent, or failing to vote indicating such fact, the reasons for the Board's determination, and its finding of facts. The Secretary shall keep records of the Board's examinations and other official actions, all of which shall be immediately filed with the Town Clerk and shall be a public record.
  - o) Conflict of Interest: Any member who has any interest in a matter before the

Board shall not vote thereon and shall not vote at any meeting or hearing at which said matter is under consideration.

- 3) **Organization:** The BOA shall organize and adopt rules of procedure for its own governance in accordance with State law and the provisions of this Ordinance.
- 4) **Powers:** The BOA shall have the following powers:
  - a) **Errors:** To hear and decide appeals where it is alleged there is error in any order, requirement or final decision made by the Town Board or its delegates in the enforcement of codes, regulations or ordinances under their jurisdiction.
  - b) **Variations:** To hear and decide applications for variations that are not contrary to the public interest. The BOA must determine whether denying the variance sought will unreasonably prevent the property owner from using the property for a permitted purpose, or render conformity with the requirements of this ordinance unnecessarily burdensome. Citizens may seek a variance for relief from the dimensional requirements of this ordinance such as size, setback, height or density. The BOA is prohibited from granting use variations. Any hardship alleged must be unique to the property and cannot be self-created. The burden of demonstrating unnecessary hardship is that of the property owner.
  - c) **Interpretations:** To hear and decide application for interpretations of the codes, regulations, ordinances and the boundaries of the zoning districts after the Plan Commission has made a review and recommendations.
  - d) **Permits:** The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may direct the issue of a permit.
  - e) **Assistance:** The Board may request assistance from other town and county officials, departments, commissions, boards, the town Zoning Administrator and town engineer.
  - f) **Oaths:** The Chairman shall administer oaths and may compel the attendance of witnesses.
- 5) **Appeals and Applications:** Appeals from the decision of the Zoning Administrator concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by an officer, department, committee, board, or bureau of the Town. Such appeals shall be filed with the Town Clerk within sixty (60) days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner of, or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following:
  - a) Name and Address of the appellant or applicant and all abutting and opposite property owners of record, and owners within one thousand (1000) feet.
  - b) Plat of Survey prepared by a registered land surveyor.
  - c) Additional Information required by the Town Plan Commission, BOA, or Zoning Administrator.
  - d) Fee Receipt from the Town Treasurer for the BOA process in the amount established in the Town of Frankfort Fee Schedule.
- 6) **Hearings:** The Board of Adjustment shall hold a public hearing within thirty (30) days of receiving written application for the hearing, give public notice thereof at

least ten (10) days prior to the hearing by publication of a Class 3 notice under Chapter 985.07 of the Wisconsin Statutes, and shall give due notice to the parties in interest, the Zoning Administrator and the Town Plan Commission. At the hearing the appellant or applicant shall appear in person, by agent, or by attorney.

- 7) Findings:** No variance to the provisions of this Ordinance shall be granted by the BOA unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.
  - a) **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 or 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.
  - b) **Absence of Detriment:** That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
  - c) **Findings of Fact:** The decision of the Board shall be accompanied by findings of fact and conclusions of law.
  
- 8) Decision:** The Board of Adjustment shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the decision to the appellant or applicant, Zoning Administrator and Town Plan Commission. Conditions may be placed upon any Building Permit ordered or authorized by the BOA. Variances granted or building permits directed by the BOA shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
  
- 9) Review by Court of Record:** Any person or persons aggrieved by any decision of the BOA may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within sixty (60) days after the filing of the decision in the office of the Town Clerk.



## 17.11 NONCONFORMING USES, STRUCTURES, AND LOTS

- 1) **Existing Nonconforming Uses:** The lawful nonconforming use of a dwelling, land, or building existing lawfully before the current zoning ordinance was enacted or amended and which does not now conform to the use restrictions in the current ordinance may be continued although the use does not conform with the provisions of this Ordinance; however
  - a) The Town acknowledges that some parcels will be in Districts that do not meet the minimum lot size requirement at the time when this Ordinance was originally adopted. This was done to avoid creating multiple zoning districts within small areas. These parcels shall enjoy all rights of the District without additional non-conforming limitations as described below.
  - b) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with all of the following:
    - i) The owner must make a reasonable effort to comply with this ordinance
    - ii) If the changes do not make the non-conformance worse. For example, if the structure is within the front setback, no alterations will be allowed to make the setback less than what currently exists.
  - c) Substitution of new equipment may be permitted by the BOA if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- 2) **Licenses:** This Ordinance is not intended to negate licenses (or their respective uses) that are issued by governmental agencies and are current as of the effective date of this Ordinance.
- 3) **Abolishment or Replacement:**
  - a) Nonconforming use: If a nonconforming use is discontinued or terminated for a period of twenty-four (24) consecutive months, any future use of the land, or water shall conform to the provisions of this Ordinance. When a nonconforming use is damaged by fire, explosion, flood, tornado, high winds or other calamity, it may be restored to original use with every reasonable attempt being made to meet existing zoning regulations.
  - b) Nonconforming structure: When a nonconforming structure is damaged by fire, explosion, flood, tornado, high winds or other calamity, it may be restored to original condition with every reasonable attempt being made to meet existing zoning regulations.
- 4) **Existing Nonconforming Structures:** The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the regulations of this Ordinance.
- 5) **Changes and Substitutions:** Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the BOA has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the previous use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the this ordinance.

## 17.12 CHANGES AND AMENDMENTS

- 1) **Authority:** Whenever the public necessity, 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 Comprehensive Plan. Such change or amendment shall require the review and recommendation of the Plan Commission.

- 2) **Initiation:** A change or amendment may be proposed by the Town Board, 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.
- 3) **Petitions:** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Zoning Administrator, list the reasons justifying the petition, and have attached the following:
  - a) The names and addresses of the petitioner or petitioners, and their signatures to the petition.
  - b) A legal description of the area proposed to be rezoned or amended.
  - c) The present district classification of the area and the proposed district classifications.
  - d) Proposed use of the land (a statement of the type, extent, area, etc.) and location of buildings.
  - e) Statement of conditions warranting change in zoning district or uses, to insure compatibility with the Comprehensive Plan.
  - f) Map, plot plan or survey drawing of property to be rezoned or amended showing location, dimensions, zoning of adjacent properties, existing uses and buildings of adjacent properties.
  - g) Any other information and material requested by the Zoning Administer or Plan Commission. Such information may include topography, geographical and geological features, existing and proposed utilities, traffic flow patterns, soils analysis, soil percolation tests, water table, floodplain, proposed development plan and other relevant materials.
- 4) **Recommendations:** The Plan Commission shall review all proposed changes and amendments within the limits of the Town and shall recommend in writing to the Town Board that the petition be granted as requested, modified, or denied.
- 5) **Hearings:** The Town Clerk shall notify all property owners within one thousand (1000) feet of the land in question and after publishing a Class 2 notice under Chapter 985.07 of the Wisconsin Statutes, listing the time, place, and the changes or amendments proposed. The Plan Commission and Town Board 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 (1000) feet of any land to be affected by the proposed change or amendment.
- 6) **Town Board's Action:** Following such hearings and after careful consideration of the Town Plan Commission recommendations, the Town Board shall vote on the passage of the proposed change or amendment.
- 7) **Protest to Proposed Change:** A proposed amendment, supplement or change to the town zoning ordinance must be adopted by not less than a 2/3 vote if a three member board, or a 4/5 vote if a 5 member board of the Town Board; if a protest against the proposed amendment, supplement or change is presented to the Town Board prior to or at the public hearing and:
  - a) The protest is signed and acknowledged by the owners of at least 50% of the area proposed to be altered; or
  - b) The protest is signed and acknowledged by the abutting owners of at least 50% of the total perimeter of the area proposed to be altered that is included within 300 feet of the parcel or parcels to be rezoned.