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## CHAPTER 1 GENERAL PROVISIONS

- 1.0 RESOLUTION TO ADOPT THE CODE OF ORDINANCES
- 1.1 ORDINANCE ADOPTING THE CODE OF ORDINANCES
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### 1.0 RESOLUTION TO ADOPT THE CODE OF ORDINANCES

Resolution No. 2008-2

#### **Resolution No.2008-2**

**WHEREAS** a code of general ordinances [or a partial code of ordinances] entitled, "Town of Frankfort Code of Ordinances", has been prepared and authorized by the town board;

**NOW, THEREFORE, BE IT RESOLVED**, that this code be presented for adoption by the town board at the next regular board meeting on May 13, 2008; and

**BE IT FURTHER RESOLVED**, that the town clerk, in accordance with the requirements of Wis. Stat. § 66.0103, shall file a copy of the proposed "Town of Frankfort Code of Ordinances" in his or her office for public inspection commencing April 25, 2008, and cause a copy of the following notice to be published in the next issue of the Courier Wedge, not less than two weeks before the board considers adoption of the code.

**Adopted this 8 day of April, 2008 by the town board of the Town of Frankfort, Pepin County, Wisconsin.**

#### **TOWN OF FRANKFORT NOTICE**

**PLEASE TAKE NOTICE** that the town board of the Town of Frankfort will consider the adoption of a new code of ordinances entitled, "Town of Frankfort Code of Ordinances" at 8 p.m. on May 13, 2008, at the town hall. This code deals with the following topics:

- Chapter 1- General Provisions**
- Chapter 2- Government and Administration**
- Chapter 3- Public Safety**
- Chapter 4- Public Works**
- Chapter 7- Licensing and Regulation**
- Chapter 10- Building Codes/Erosion**

**You are further notified that a copy of said proposed new code will be on file and open for public inspection in the office of the town clerk for a period of two weeks and on the Town Website**

**(<http://townoffrankfort.tripod.com>) commencing April 25, 2008, in accordance with Wis. Stat. § 66.0103.**

## 1.1 ORDINANCE ADOPTING THE CODE OF ORDINANCES

ORDINANCE NO. 2008-1

STATE OF WISCONSIN  
Town of Frankfort  
Pepin County

### SECTION I – PURPOSE

The purpose of this ordinance is to enact the “**Town of Frankfort Code of Ordinances**” that has been prepared and authorized by the town board.

### SECTION II – AUTHORITY

The town board of the Town of Frankfort, Pepin County, Wisconsin, has the specific authority under s. 66.0103, Wis. stats., to prepare and enact a code of its general ordinances by enacting an ordinance that incorporates the code by reference.

### SECTION III – ADOPTION OF ORDINANCE

The town board, by this ordinance, adopted on proper notice, with a quorum and roll call vote of the town board present and voting, provides the authority for the Town of Frankfort to prepare and enact a code of all of its general ordinances by enacting an ordinance that incorporates the code by reference.

### SECTION IV – ENACTMENT AND INCORPORATION OF CODE OF ORDINANCES.

The code of ordinances in book form entitled, “Town of Frankfort Code of Ordinances”, having been placed on file and open to public inspection in the office of the town clerk for a period of two weeks commencing, April 25, 2008, pursuant to s. 66.0103, Wis. stats., is hereby adopted as the general code of ordinances in and for the Town of Frankfort, Pepin County, Wisconsin. The code is incorporated in this ordinance by reference.

### SECTION XII- EFFECTIVE DATE

This Ordinance is effective on publication.

The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 13th day of May 2008.

/s/ Chairman, Brad Anderson  
/s/ Supervisor, Mike Roberts  
/s/ Supervisor, Denny Richardson

Attest: /s/ Maureen Manore, Clerk

## 1.2 REPEAL OF ORDINANCES

All ordinances heretofore adopted by the Town of Frankfort Town Board of a general nature, and relating to the subject matter herein contained, are repealed. The provisions of this code, so far as they are the same in substance as those of heretofore existing ordinances, shall be construed as a continuation of such ordinances, and not as new enactment. Any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of such repeal, shall not be affected by such repeal, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected.

No ordinance or part of any ordinance previously repealed shall be considered re-ordained or re-enacted by virtue of this code, unless specifically re-enacted. The repeal of any curative or validating ordinance shall not impair or affect any cure or validation already effected there-by.

## 1.3 AMENDMENTS

Any additions or amendments to this code, when passed in such form as to indicate the intention of the Town Board to make the same a part of this code, are incorporated in this code, so that a reference to the Town of Frankfort Code of Ordinances shall be understood as including them.

## 1.4 DEFINITIONS

The following rules or meanings shall be applied in the construction and interpretation of Ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the Code's plain meaning or intent of the Ordinances:

- (1) **Acts by Agents.** When an Ordinance requires an act be done by a person, which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.
- (2) **Code and Code of Ordinances.** The words, "Codes," "Code of Ordinances" and "Municipal Code" when used in any section of this Code shall refer to this Code of Ordinances of the Town of Frankfort unless the context of the section clearly indicates otherwise.
- (3) **Computation of Time.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this section, "legal holiday" means any statewide legal holiday specified by state law.
- (4) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- (5) **Gender.** Every word in these Ordinances referring to gender shall be gender neutral.
- (6) **General Rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.

(7) **Person.** The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

(8) **Repeal.** When any Ordinance having the effect of repealing a prior Ordinance is itself repealed, such repeal shall not be construed to revive the prior Ordinance or any part thereof, unless expressly so provided.

(9) **Singular and Plural.** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referring to a plural number shall also be construed to apply to one (1) person or thing.

(10) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

(11) **Town.** The term "Town" shall mean the Town of Frankfort, Pepin County, Wisconsin.

(12) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the year 1989-90.

(13) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

**State Law Reference:** Legal Holidays, Sec. 256.17, Wis. Stats.

## **1.5 CONFLICT OF PROVISIONS/ SEVERABILITY**

If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

**Severability of Provisions.** It is the intention of the Town Board that each section, paragraph, sentence, clause, and provision of this code is separable, and if any provision shall be held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this code, nor any part thereof, other than that affected by such decision.

## **1.6 PENALTIES**

**General Penalty.** Except where a penalty is provided elsewhere in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(1) **First Offense—Penalty.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), together with the costs of prosecution.

(2) **Second Offense—Penalty.** Any person found guilty of violating any Ordinance or part of an Ordinance of this Code who shall previously have been convicted of a violation of the same Ordinance within one (1) year shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each such offense, together with costs of prosecution.

**Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

**Other Remedies.** The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

## 1.7 EFFECTIVE DATE

This code of ordinances shall take effect immediately upon passage and publication, and in accordance with state law, unless otherwise provided

## CHAPTER 2 GOVERNMENT AND ADMINISTRATION

### 2.0 GENERAL PROVISIONS AND ELECTIONS

#### 2.1 TOWN MEETINGS

#### 2.2 TOWN BOARD

#### 2.3 BOARDS AND COMMISSIONS

#### 2.4 (RESERVED FOR ETHICAL STANDARDS)

#### 2.5 (RESERVED FOR FINANCE)

#### 2.6 (RESERVED FOR SPECIAL ASSESSMENTS/CHARGES)

#### 2.7 PUBLIC RECORDS

### 2.0 GENERAL PROVISIONS AND ELECTIONS

The Town of Frankfort is a body corporate and politic, with those powers granted by law. The Town shall be designated in all actions and proceedings by its name, as the Town of Frankfort.

The Town may:

- (1) Sue and be sued.
- (2) Acquire and hold real and personal property for public use and convey and dispose of the property.
- (3) Enter into contracts necessary for the exercise of its corporate powers.

State Law Reference: Section 60.01, Wis. Stats.

#### 2.01 VILLAGE POWERS.

The Town Meeting having, by resolution, on April 13, 2004, directed the Town Board to exercise all powers relating to villages and conferred on village boards by Chapter 61, Wis. Stats., the Town shall have said powers through its Board. This is a continuing grant of powers.

State Law Reference: Sections 60.10(2)(c), 60.22(3) and Ch. 61, Wis. Stats.,

#### 2.02 TOWN BOARD

**Membership.** The Frankfort Town Board shall consist of the Town Chairperson and four (4) Supervisors. (*the Town went to a 5 member Board with Ordinance NO. 2012-3, October 9, 2012*)

Every elected Town officer shall hold the office for two 2 years. The regular term of elected Town commences on the third (3rd) Tuesday of April in the year of their election.

State Law Reference: Section 60.30, Wis. Stats.

#### 2.03 GENERAL POWERS AND DUTIES OF THE TOWN BOARD

**Charge of Town Affairs.** The Town Board shall have charge of all affairs of the Town not committed by law to another body or officer or to Town employee(s).

**Charge of Actions.** The Town Board has charge of any action or legal proceeding to which the Town is a party.

**Village Powers.** As authorized under Sec. 60.10(2)(c), Wis. Stats., and Chapter 2 of this code, the Town Board shall exercise powers relating to villages and conferred on village boards under Ch. 61, Wis. Stats., except those powers which conflict with statutes relating to towns and town boards.

**Pursue Certain Claims of Town.** The Town Board shall demand payment of penalties and forfeitures recoverable by the Town and damages incurred by the Town due to breach of official



bond, injury to property or other injury. If, following demand, payment is not made, the Board shall pursue appropriate legal action to recover the penalty, forfeiture or damages.

State Law Reference: Secs. 60.10((2)(c) and 60.22, Wis. Stats.

## **2.04 MISCELLANEOUS POWERS OF THE TOWN BOARD**

The Town Board may:

### **Joint Participation**

Cooperate with the state, counties and other units of government under Sec. 66.0301, Wis. Stats., including cooperative arrangements involving the acquisition, development, remodeling, construction, equipping, operation and maintenance of land, buildings and facilities for regional projects, whether or not located in the Town.

## **2.05 ELECTIONS**

### **POLLING PLACE.**

The polling place serving all wards in the Town of Frankfort shall be the Frankfort Town Hall.

### **2.06 ELECTION POLL HOURS; WORKERS.**

The voting polls in the Town of Frankfort, Pepin County, Wisconsin, shall be open from 7:00 a.m. to 8:00 p.m. for all elections.

The Town Clerk is authorized to determine the number of poll workers needed on election day.

## **2.1 TOWN MEETINGS**

### **2.101 ANNUAL TOWN MEETING AND SPECIAL TOWN ELECTIONS.**

The annual Town meeting and special Town elections shall be held at the Town Hall.

**2.102 REGULAR MEETINGS.** All meetings of the Board, including special and adjourned meetings, shall be held in the Town Hall unless specified otherwise in the minutes of the preceding meeting or by written notice posted at the regular meeting place at least three (3) hours prior to any meeting. A majority of Supervisors must consent to any change in the place of any meeting of the Board. If there is no regular business to come before the Town Board, one monthly meeting may be canceled by prior notice to the public as provided by the Wisconsin Statutes.

Regular meetings of the Frankfort Town Board shall be as scheduled and noticed by the Town Board. All meetings of the Board shall be held at the Town Hall of the Town of Frankfort

Special meetings may be called by the Chairperson or by two (2) Supervisors by notifying the Clerk no less than twenty-four (24) hours prior to the specified time of the meeting. The Clerk shall immediately notify all Supervisors of the time and place of the meeting and shall cause public notice to be posted in at least one (1) public place likely to give notice to persons prior to the time specified for the meeting as required by the Wisconsin Open Meeting Law.

### **2.103 OPEN MEETING LAW.**

All meetings of the Town Board, its committees, boards and commissions shall be open to the public and preceded by public notice as provided in §19.84, Wis. Stats.

## **2.104 ADJOURNMENTS.**

The Board may, by a majority vote of those present but not less than 3 affirmative votes, adjourn from time to time to a specific date and hour.

## **2.105 PRESIDING OFFICER AT TOWN MEETINGS.**

### **Who Presides**

If present, the Town Board Chairperson shall chair the Town meeting. If the Town Board Chairperson is absent, another Town Board Supervisor shall chair the Town meeting.

If the annual Town meeting is held in a year when the office of Town Board Chairperson is filled by election, the person holding the office on the day prior to the date of the election to fill the office shall preside at the annual Town meeting and is entitled to receive the per diem which is ordinarily paid to the presiding officer. If such person is absent or refuses to serve as the presiding officer, the presiding officer shall be, if present, the Town Board Chairperson. If the Town Board Chairperson is absent, another Town Board Supervisor shall chair the Town meeting.

**Duties.** The Town meeting chairperson shall conduct the meeting's proceedings in accordance with accepted parliamentary procedure.

**Enforcement Authority.** The Town meeting chairperson shall maintain order and decorum and may order any person to leave a Town meeting if the person has conducted himself or herself in a disorderly manner and persisted in such conduct after being directed by the chairperson to cease the conduct. If the person refuses the chairperson's order to withdraw, the Town meeting chairperson may order a constable or other law enforcement officer to take the person into custody until the meeting is adjourned.

State Law Reference: Section 60.13, Wis. Stats.

## **2.2 TOWN BOARD**

### **2.201 AUTHORITY.**

The Town Board shall have all powers of the Town not specifically given to some other body or officer. Except as otherwise provided by law, the Town Board has power over property, finances, highways, streets, utilities and the public service; may act for the government and good order of the Town, for its commercial benefit and for the health, safety, welfare and convenience of the public; and may carry its powers into effect by license, regulations, suppression, borrowing, taxation, special assessment, appropriation, imposition of forfeitures and other necessary or convenient means. The Town Board may appoint such officials from time to time as may be deemed necessary for the benefit of the community. In addition, the Board shall have the powers enumerated in §60.22, Wis. Stats., and may exercise the powers enumerated in §60.23, Wis. Stats. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

### **2.202 TOWN CLERK POWERS AND DUTIES.**

The Town Clerk shall have such powers and perform such duties as prescribed by State law and directed by the Town Board. See §60.33, Wis. Stats.

### **2.203 PAYMENT OF ROUTINE BILLS.**

The Town Clerk is hereby authorized to pay employee wages, payroll withholding, utility bills and other bills of routine nature without prior Board approval. All such bills so paid will be reviewed by the Board at its next regular meeting.

### **2.204 TREASURER.**

The Town Treasurer shall have such powers and perform such duties as prescribed by State law and directed by the Town Board. See §60.34, Wis. Stats. It shall be the duty of the Treasurer to keep, or cause to be kept, accurate and detailed records of the licensing of dogs in the Town of Frankfort and to serve as the municipal dog listing official, pursuant to §§174.06(2) and 174.065(1), Wis. Stats. (Am. 9/9/98)

### **2.205 TOWN BOARD CHAIRPERSON POWERS AND DUTIES**

**General Powers and Duties.** The Town Board Chairperson shall:

- (1) Preside at Board meetings. Preside over meetings of the Town Board.
- (2) Preside at Town meetings. Preside over Town meetings as provided under Sec.60.13, Wis. Stats.
- (3) Sign documents
- (4) Sign all ordinances, resolutions, bylaws, orders, regulations, commissions, licenses and permits adopted or authorized by the Town Board unless the Town Board, by ordinance, authorizes another officer to sign specific types of documents in lieu of the Chairperson. The Board, by ordinance, may authorize use of a facsimile signature.
- (5) Sign all drafts, order checks and transfer orders as provided under Sec. 66.0607 Wis.Stats.
- (6) Assure administration of Statutes. Supervise the administration of the Wisconsin Statutes relating to the Town and Town operations to see that they are faithfully executed.
- (7) Act, on behalf of the Board, to:
  - a. See that Town orders and Ordinances are obeyed.
  - b. See that peace and order are maintained in the Town.
  - c. Obtain necessary assistance, if available, in case of emergency, except as provided under Chapter 166, Wis. Stats.
- (8) Direct, as appropriate, the solicitation of bids and quotations for the Town's purchase of equipment, materials and services and submit the bids and quotations to the Town Board for approval. Although the Town Board may direct the Chairperson to solicit bids and quotations, the final decision as to which bid to accept or the decision to enter into a contract shall be made by the entire Board.
- (9) Represent, or designate another officer to represent, the Town at meetings of, and hearings before, governmental bodies on matters affecting the Town.

**Administer Oaths.** The Chairperson may administer oaths and affidavits on all matters pertaining to the affairs of the Town.

**Other Responsibilities.** In addition to the powers and duties under this Section, the Chairperson has the following responsibilities:

- (1) Under Sec. 167.10, Wis. Stats., enforce regulation of fireworks.
- (2) Perform the Town Chair's duties related to stray animals and lost goods under Ch. 170, Wis. Stats.

- (3) Perform the Town Chairperson's duties related to animals that have caused damage in the Town under Ch. 173, Wis. Stats.
- (4) If applicable, cause actions to be commenced for recovery forfeitures for violations of Town Ordinances that can be recovered in municipal court under Sec. 778.11, Wis. Stats.
- (5) If applicable, notify the district attorney of forfeitures that may not be recovered in municipal court under Sec. 778.12, Wis. Stats.
- (6) Approve bonds furnished by contractors for public works under Sec. 779.14(1), Wis. Stats.

## 2.3 BOARDS AND COMMISSIONS

### 2.301 PLAN COMMISSION.

*(ORDINANCE 2014 – 2, May 13, 2014)(Amended NO. 2016-1, March 2016)*

The Town Board of the Town of Frankfort, Pepin County, Wisconsin, does ordain as follows:

- 1) **Title:** This ordinance is entitled the “Town of Frankfort Plan Commission Ordinance”. The ordinance supersedes the previous Plan Commission Ordinance 2.301.
- 2) **Purpose:** The purpose of this ordinance is to establish a Town of Frankfort Plan Commission and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the Town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement.
- 3) **Authority; Establishment:** The Town Board of the Town of Frankfort, having been authorized by the Town meeting under sec. 60.10(2)(c), Wis. Stats., to exercise village powers, hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a seven (7) member Plan Commission under secs. 61.35 and 62.23, Wis. Stats. The Plan Commission shall be considered the “Town Planning Agency” under secs. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.
- 4) **Membership:** The Plan Commission consists of one (1) member of the Town Board, who may be the Town Board Chairperson or a Supervisor, and ~~six (6)~~ four (4) citizen members, who are not otherwise Town Board Supervisors, and who shall be Town residents of recognized experience and qualifications. *(2016-1)*
- 5) **Appointments:** The Town Board Chairperson shall appoint members of the Plan Commission, subject to confirmation by the Town Board, during the month of April, to fill any expiring term. The Town Board Chairperson shall also select the Chairperson of the Plan Commission, subject to confirmation by the Town Board. The Town Board Chairperson may appoint himself or herself or another Town Board member to the Plan Commission and may designate the Town Board member, or a citizen member as Chairperson of the Plan Commission. The Town Board Chair is not eligible to be the Planning Commission Chair. The Plan Commission shall recommend candidates for the Town Board Chair’s consideration. In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board members elected. Any citizen appointed to the

Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under secs. 19.01 and 60.31, Wis. Stats.

- 6) **Terms of Office:** The citizen members initially appointed to the Plan Commission shall be appointed for staggered terms. (2016-1) The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified, except:
  - a) Town Board Member or Chairperson. The Plan Commission member who is a Town Board member or Town Board Chairperson, including a person designated the Plan Commission Chairperson, shall serve for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with his or her term on the Town Board, except an initial appointment made after April 30 shall be for a term that expires two (2) years from the previous April 30. (2016-1)
- 7) **Vacancies:** A person who is appointed to fill a vacancy on the Plan Commission shall serve for the remainder of the term. A member of the Plan Commission may be removed only by a majority vote of the Town Board.
- 8) **Compensation; Expenses:** The Town Board of the Town of Frankfort hereby sets a per diem allowance of \$25.00 per meeting for citizen and Town Board members of the Plan Commission, as allowed under sec. 66.0501(2), Wis. Stats. In addition, the Town Board may reimburse reasonable costs and expenses, as allowed under sec. 60.321, Wis. Stats.
- 9) **Experts & Staff:** The Plan Commission may, under sec. 62.23(1), Wis. Stats., recommend to the Town Board the employment of experts and staff, and may review and recommend to the Board proposed payments under any contract with an expert/consultant.
- 10) **Rules; Records:** The Plan Commission, under sec. 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under secs. 19.21-19.39, Wis. Stats.
- 11) **Chairperson & Officers:**
  - a) Chairperson: The Plan Commission Chairperson shall be appointed and serve a term as provided in sections 5 and 6 of this ordinance. The Chairperson shall, subject to Town ordinances and Commission rules:
    - i) provide leadership to the Commission;
    - ii) set Commission meeting and hearing dates;
    - iii) provide notice of Commission meetings and hearings and coordinate the agendas, personally or by his or her designee;
    - iv) preside at Commission meetings and hearings; and
    - v) ensure that the laws are followed.
  - b) Vice Chairperson: The Plan Commission may elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., a Vice Chairperson to act in the place of the Chairperson when the Chairperson is absent or incapacitated for any cause.
  - c) Secretary: The Plan Commission shall elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., one of its members to serve as Secretary, or, with the approval of the Town Board, designate the Town Clerk or other Town officer or employee as Secretary.

- 12) **Commission Members as Local Public Officials:** All members of the Plan Commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, sec. 19.01, Wis. Stats., in accordance with, but not limited to, the provisions of the Wisconsin Statutes on: Public Records, secs. 19.21-19.39; Code of Ethics for Local Government Officials, secs. 19.42, 19.58 & 19.59; Open Meetings, secs. 19.81-19.89; Misconduct in Office, sec. 946.12; and Private Interests in Public Contracts, sec. 946.13. Commission members shall further perform their duties in a fair and rational manner and avoid arbitrary actions.
- 13) **General & Miscellaneous Powers:** The Plan Commission, under sec. 62.23(4), Wis. Stats., shall have the power necessary to:
- a) enable it to perform its functions and promote Town planning.
  - b) make reports and recommendations relating to the plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
  - c) recommend to the Town Board programs for public improvements and the financing of such improvements.
  - d) receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
  - e) perform these duties as listed, the Plan Commission has the right to enter upon land, make examinations and surveys, and place and maintain necessary monuments and markers thereon. However, entry shall not be made upon private land without the permission of the landowner or tenant, except to the extent that the private land is held open to the general public. If such permission has been refused, entry shall be made only under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.
- 14) **Town Master Planning & Comprehensive Planning; General Authority & Requirements:**
- a) On August 24, 2011 the Town Board adopted a comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., which contains the elements specified in sec. 66.1001(2), Wis. Stats, and follows the procedures in sec. 66.1001(4), Wis. Stats.
  - b) The Plan Commission prepared an amendment to the comprehensive plan, adopted by the Town Board on July 9, 2013 following procedures outlined in sec. 66.1001(4), Wis Stats.
  - c) The Plan Commission will be responsible for reviewing the comprehensive plan for consistency, community change and accuracy and be prepared to make plan amendments as required. It is mandatory to formally review the plan every ten (10) years.
- 15) **Procedure for Plan Commission Adoption & Recommendation of a Town Comprehensive Plan update or Amendment:** The Plan Commission, in order to ensure that the requirements of sec. 66.1001(4), Wis. Stats, are met, shall proceed as follows:
- a) Public participation verification: Prior to beginning work on a comprehensive plan amendment, the Plan Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every stage of preparation of the comprehensive plan amendment. These written procedures shall include open discussion, communication programs, information services, and noticed public meetings. These written procedures shall further provide for wide distribution of proposed or alternative elements of a comprehensive plan and shall provide an opportunity for written

comments to be submitted by members of the public to the Town Board and for the Town Board to respond to such written comments.

- b) Resolution: The Plan Commission, under sec. 66.1001(4)(b), Wis. Stats., shall recommend its proposed comprehensive plan update or amendment to the Town Board by adopting a resolution by a majority vote of the entire Plan Commission. The vote shall be recorded in the minutes of the Plan Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the comprehensive plan. The resolution adopting a comprehensive plan or amendments shall further recite that the requirements of the comprehensive planning law have been met, under sec. 66.1001, Wis. Stats., namely that:
  - i) the Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the comprehensive plan update or amendment;
  - ii) the plan contains the nine (9) specified elements and meets the requirements of those elements;
  - iii) the (specified) maps and (specified) other descriptive materials relate to the plan;
  - iv) the plan has been adopted by a majority vote of the entire Plan Commission, which the clerk or secretary is directed to record in the minutes; and
  - v) the Plan Commission clerk or secretary is directed to send a copy of the comprehensive plan adopted by the Commission to the governmental units specified in sec. 66.1001(4), Wis. Stats., and sub. (C) of this section.
- c) Transmittal: One copy of the comprehensive plan or amendment adopted by the Plan Commission for recommendation to the Town Board shall be sent to:
  - i) Every governmental body that is located in whole or in part within the boundaries of the Town, including any school district, Town sanitary district, public inland lake protection and rehabilitation district or other special district.
  - ii) The clerk of every city, village, town, county and regional planning commission that is adjacent to the Town.
  - iii) The Wisconsin Land Council.
  - iv) The Department of Administration.
  - v) The regional planning commission in which the Town is located.
  - vi) The public library that serves the area in which the Town is located.

**16) Plan Implementation & Administration:**

- a) Ordinance development. If directed by resolution or motion of the Town Board, the Plan Commission shall prepare the following:
  - i) Zoning: A proposed Town zoning ordinance under village powers, secs. 60.22(3), 61.35 and 62.23(7), Wis. Stats; a Town construction site erosion control and storm water management zoning ordinance under sec. 60.627(6), Wis Stats; a Town exclusive agricultural zoning ordinance under subch. V of ch. 91, Wis. Stats; and any other zoning ordinance within the Town's authority.
  - ii) Official map: A proposed official map ordinance under sec. 62.23 (6), Wis. Stats.
  - iii) Subdivisions: A proposed Town subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
  - iv) Other: Any other ordinance specified by the Town Board (*Note: e.g., historic preservation, design review, site plan review*).
- b) Ordinance amendment: The Plan Commission, on its own motion, or at the direction of the Town Board by its resolution or motion, may prepare proposed amendments to the Town's ordinances relating to comprehensive planning and land use.

- c) Non-regulatory programs: The Plan Commission, on its own motion, or at the direction of the Town Board by resolution or motion, may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements, and capital improvement planning.
- d) Program administration: The Plan Commission shall, pursuant to Town ordinances, have the following powers:
  - i) Zoning conditional use permits: The zoning administrator shall refer applications for conditional use permits under Town zoning to the Plan Commission for review and recommendation to the Town Board as provided under the Town zoning ordinance.
  - ii) Subdivision review: Proposed plats under ch. 236, Wis. Stats, [and proposed subdivisions or other land divisions under any Town subdivision ordinance under sec. 236.45, Wis. Stats. and the Town ordinances] shall be referred to the Plan Commission for review and recommendation to the Town Board.
- e) Consistency: When the Plan Commission considers any action that is subject to the consistency requirement in sec. 66.1001(3), Wis. Stats., the action of the Plan Commission shall be consistent with the comprehensive plan. If any such action being considered would not be consistent with the comprehensive plan, the Plan Commission may use this as information to consider when updating or amending the comprehensive plan.

**17) Referrals to the Plan Commission:**

- a) Required referrals under sec. 62.23(5), Wis. Stats: The following shall be referred to the Plan Commission for report:
  - i) The location and architectural design of any public building.
  - ii) The location of any statue or other memorial.
  - iii) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any
    - (1) road, alley or other public way;
    - (2) park or playground;
    - (3) airport;
    - (4) area for parking vehicles; or
    - (5) other memorial or public grounds.
  - iv) The location, extension, abandonment or authorization for any publicly or privately owned public utility.
  - v) All plats under the Town's jurisdiction under ch. 236, Wis. Stats., including divisions under a Town subdivision or other land division ordinance adopted under sec. 236.45, Wis. Stats.
  - vi) The location, character and extent or acquisition, leasing or sale of lands for:
    - (1) public or semi-public housing or
    - (2) vacation camps for children.
  - vii) The amendment or repeal of any ordinance adopted under sec. 62.23, Wis. Stats., including ordinances relating to:
    - (1) the Town Plan Commission;
    - (2) the Town master plan or the Town comprehensive plan under sec. 66.1001, Wis. Stats.;
    - (3) a Town official map; and
    - (4) Town zoning under village powers.



- b) Required referrals under sections of the Wisconsin Statutes other than sec. 62.23(5), Wis. Stats: The following shall be referred to the Plan Commission for report:
  - i) An application for initial licensure of a child welfare agency or group home under sec. 48.68(3), Wis. Stats.
  - ii) An application for initial licensure of a community-based residential facility under sec. 50.03(4), Wis. Stats.
  - iii) Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the Town, as a pedestrian mall under sec. 66.0905, Wis. Stats.
  - iv) Matters relating to the establishment or termination of an architectural conservancy district under sec 66.1007, Wis. Stats.
  - v) Matters relating to the establishment of a reinvestment neighborhood required to be referred under sec. 66.1107, Wis. Stats.
  - vi) Matters relating to the establishment or termination of a business improvement district required to be referred under sec, 66.1109, Wis. Stats.
  - vii) A proposed housing project under sec. 66.1211(3), Wis. Stats.
  - viii) Matters relating to urban redevelopment and renewal in the Town required to be referred under subch. XIII of ch. 66, Wis. Stats.
  - ix) The adoption or amendment of a Town subdivision or other land division ordinance under sec. 236.45(4), Wis. Stats.
  - x) Any other matter required by the Wisconsin Statutes to be referred to the Plan Commission.
- c) Required referrals under this ordinance: In addition to referrals required by the Wisconsin Statutes, the following matters shall be referred to the Plan Commission for report:
  - i) Any proposal, under sec. 59.69, Wis. Stats., for the town to approve general county zoning so that it takes effect in the town, or to remain under general county zoning.
  - ii) Proposed regulations or amendments relating to historic preservation under sec. 60.64, Wis. Stats.
  - iii) A proposed driveway access ordinance or amendment.
  - iv) A proposed Town official map ordinance under sec. 62.23(6), Wis. Stats., or any other proposed Town ordinance under sec. 62.23, Wis. Stats., not specifically required by the Wisconsin Statutes to be referred to the commission.
  - v) A proposed Town zoning ordinance or amendment adopted under authority separate from or supplemental to sec. 62.23, Wis. Stats., including a Town construction site erosion control and storm water management zoning ordinance under sec. 60.627(6), Wis Stats., and a Town exclusive agricultural zoning ordinance under subch. V of ch. 91, Wis. Stats.
  - vi) An application for a conditional use permit under the Town zoning ordinance
  - vii) A proposed site plan
  - viii) A proposed extraterritorial zoning ordinance or a proposed amendment to an existing ordinance under sec. 62.23(7a), Wis. Stats.
  - ix) A proposed boundary change pursuant to an approved cooperative plan agreement under sec. 66.0307, Wis. Stats., or a proposed boundary agreement under sec. 66.0225, Wis. Stats., or other authority.
  - x) A proposed zoning ordinance or amendment pursuant to an agreement in an approved cooperative plan under sec. 66.0307(7m), Wis. Stats.
  - xi) Any proposed plan, element of a plan or amendment to such plan or element developed by the regional planning commission and sent to the Town for review or adoption.

- xii) Any proposed contract, under sec. 66.0309, Wis. Stats., for the provision of information, or the preparation of a comprehensive plan, an element of a plan or an implementation measure, between the Town and the regional planning commission, another unit of government, a consultant or any other person or organization.
  - xiii) A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under sec. 66.0435, Wis. Stats.
  - xiv) A proposed agreement, or proposed modification to such agreement, to establish an airport affected area, under sec. 66.1009, Wis. Stats.
  - xv) A proposed town airport zoning ordinance under sec. 114.136(2), Wis. Stats.
  - xvi) A proposal to create environmental remediation tax incremental financing in the town under sec. 66.1106, Wis. Stats.
  - xvii) A proposed county agricultural preservation plan or amendment, under subch. IV of ch. 91, Wis. Stats., referred by the county to the Town, or proposed Town agricultural preservation plan or amendment.
  - xviii) Any other matter required by any Town ordinance or Town Board resolution or motion to be referred to the Plan Commission.
- d) Discretionary referrals: The Town Board, or other town officer or body with final approval authority or referral authorization under the Town ordinances, may refer any of the following to the Plan Commission for report:
- i) A proposed county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment to such plan.
  - ii) A proposed county zoning ordinance or amendment.
  - iii) A proposed county subdivision or other land division ordinance under sec. 236.45, Wis. Stats., or amendment.
  - iv) An appeal or permit application under the county zoning ordinance to the county zoning board of adjustment, county planning body or other county body.
  - v) A proposed intergovernmental cooperation agreement, under sec. 66.0301, Wis. Stats., or other statute, affecting land use, or a municipal revenue sharing agreement under sec. 66.0305, Wis. Stats.
  - vi) A proposed plat or other land division under the county subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
  - vii) A proposed county plan, under sec. 236.46, Wis. Stats., or the proposed amendment or repeal of the ordinance adopting such plan, for a system of town arterial thoroughfares and minor streets, and the platting of lots surrounded by them.
  - viii) Any other matter deemed advisable for referral to the Plan Commission for report.
- e) Referral period: No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Plan Commission until the Commission has made its report, or thirty (30) days, or such longer period as stipulated by the Town Board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. For matters subject to required or discretionary referral under the Town's ordinances, but not required to be referred under the Wisconsin Statutes, the Town Board may set a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

## **2.4 (RESERVED FOR) ETHICAL STANDARDS**

## **2.5 (RESERVED FOR) FINANCE**

## **2.6 (RESERVED FOR) SPECIAL ASSESSMENTS/CHARGES**

### **2.7- PUBLIC RECORDS** (*ORDINANCE 2015-1 July 14, 2015*)

#### **PUBLIC POLICY AND PURPOSE**

It is declared to be the public policy of the Town of Frankfort that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Providing citizens with information on the affairs of government is an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.

The goal is to provide access to records that assist the public in becoming an informed electorate. This public records ordinance therefore serves a basic tenet of our democratic system by providing opportunity for public oversight of government.

#### **2.71 - DEFINITIONS.**

- (1) AUTHORITY.** Any of the following having custody of a record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the above.
- (2) RECORD.** Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept an authority. Record includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films recordings, tapes (including computer tapes) and computer printouts. Record does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library.
- (3) REQUESTER.** Any person who requests inspection or copies of a record.

#### **2.72 - LEGAL CUSTODIAN**

The clerk of the Town of Frankfort has been designated under § 19.33 Wis. Stats as the legal custodian of the records for the Town of Frankfort, except that legal officials are the custodians of their own records of office and chairpersons of committees of elected officials are custodians of the records of the committee.

#### **2.73 - PUBLIC ACCESS TO RECORDS**

- (1)** Except as provided by law any requester has a right to inspect a record and to make or receive a copy of any record as provided in §19.35(1), Wis. Stats.

- (2) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours advance notice of intent to inspect or copy.
- (3) Each authority shall provide any person who is authorized to inspect or copy a record which appears in written form under §19.35(1)(b), Wis. Stats., or any person who is authorized to and requests permission to photograph a record, the form of which does permit copying under §19.35(1)(f), Wis. Stats., with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. An authority is not required by this subsection to purchase or lease photocopying, duplicating, photographic, or other equipment or to provide a separate room for the inspection, copying or abstracting of records.
- (4) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (5) Each authority shall impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law. Subject to the limitations of the preceding sentence, the cost of photocopying shall be \$0.25 per page. Such cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
- (6) Each authority shall impose a fee upon the requester of a copy of a record for the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.
- (7) Except as otherwise provided by law or as authorized to be prescribed by law, an authority shall impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.
- (8) Each authority shall impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.
- (9) An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiver or reduction of the fee is in the public interest.
- (10) Each authority shall require prepayment by a requester of any fee or fees imposed under this subsection if the total amount exceeds \$5.
- (11) Under §19.34, Wis. Stats., and the guidelines therein listed, the Town shall adopt, prominently display and make available for inspection and copying at its Town Hall and website, for the guidance of the public, a notice containing a description of its organization and the established times and places at which the legal custodian from whom and the methods whereby the public may obtain information and access to records in its custody, make requests for records or obtain copies of records, and the costs thereof.

## **2.74 - ACCESS PROCEDURES.**

- (1) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the

request is commenced under §19.34, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 2.72(10). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

- (2) Each authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefore. If the legal custodian, after conferring with the Town Counsel, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize the request in a manner which would permit reasonable compliance.
- (3) A request for a record may be denied as provided in Section 2.74. If a request is made orally, it may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, the determination is subject to review by mandamus under §19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

#### **2.75 - LIMITATIONS ON RIGHT TO ACCESS.**

- (1) As provided by §19.36, Wis. Stats., the following records are exempt from inspection under this section:
  - (a) Records specifically exempted from disclosure by State or federal law or authorized to be exempted from disclosure by State law.
  - (b) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the State.
  - (c) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to the right of examination and copying, except as otherwise provided by §19.35(1), Wis. Stats., or this chapter.
  - (d) A record or any portion of a record containing information qualifying as a common law trade secret.
  - (e) Identities of applicants for public positions.
- (2) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with Town Counsel, may deny the request, in whole or in part, only if he or she determines the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples for which disclosure may be refused include, but are not limited to, the following:
  - (a) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.

- (b) Records of current deliberations after a judicial or quasi-judicial trial or hearing.
  - (c) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Town officer or employee or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.
  - (d) Records concerning current strategy for crime detection or prevention.
  - (e) Records of current deliberations or negotiations on the purchase of Town property, investing of Town funds or other Town business whenever competitive or bargaining reasons require nondisclosure.
  - (f) Records concerning consideration of financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  - (g) Communications between legal counsel for the Town and any officer, agent or employee of the Town, when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agents or employees is or is likely to become involved or communications which are privileged under §905.03, Wis. Stats.
- (3) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Town Counsel prior to releasing any such record and shall follow the guidance of the Town Counsel when separating out the exempt material. If in the judgment of the custodian and the Town Counsel there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

## CHAPTER 3 PUBLIC SAFETY

### 3.0 FIRE PROTECTION

#### 3.1 EMERGENCY SERVICE PROTECTION CHARGES

#### 3.2 OUTDOORS BURNING PERMIT

#### 3.3 AMBULANCE SERVICE

### 3.0 FIRE PROTECTION

**3.01 FIRE PROTECTION AGREEMENT.** As authorized in Wisconsin State Statute 60.55, fire protection for the Town is provided by contract with the Durand Rural Fire Department.

#### 3.02 FIRE CHIEF, POWERS AND DUTIES

**(a) Police Authority at Fires.**

(1) The Fire Chief and Assistant Chiefs or officers in command of a Fire Department at any fire are hereby vested with full and complete police authority at fires. Any officer of a Fire Department may cause the arrest of any person failing to give the right-of-way to a Fire Department in responding to a fire.

(2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting fireman and law enforcement officers and those admitted by order of any officer of the Department, shall be permitted to come.

(3) The Fire Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Fire Department during the progress of a fire.

**(b) Firemen to Have Powers of Traffic Officers.** Members of a Fire Department, when at the scene of a fire or other emergency, or when Fire Department vehicles are upon the street pursuant to an emergency call, shall have the authority and duty of traffic officers to direct traffic, as conditions require, notwithstanding any other provision of this Chapter.

#### 3.03 IMPEDING FIRE EQUIPMENT PROHIBITED.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of a Fire Department along the streets, roads or alleys of the Town of Frankfort at the time of a fire or when a Fire Department is using such streets or alleys in response to a fire alarm or for practice

#### 3.04 FIRE INSPECTIONS.

The Fire Chief and Assistant Chiefs of the Durand Rural Volunteer Fire Department shall be the Fire Inspectors of the Town of Frankfort and shall have the power to appoint one (1) or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the Department of Commerce, particularly Sec. 101.14, Wis. Stats. State Law

Reference: Sec. 101.14(2), Wis. Stats.

### 3.05 FUNDING

The Town Board may:

- (1) Appropriate money to pay for fire protection in the Town.
- (2) Charge property owners a fee for the cost of fire calls made to their property.
- (3) Levy taxes on the entire Town to pay for fire protection.
- (4) Levy taxes on property served by a particular source of fire protection, to support the source of protection.

### 3.06 FIREMEN MAY ENTER ADJACENT PROPERTY.

**(a) Entering Adjacent Property.** It shall be lawful for any fireman while acting under the direction of a Fire Chief or any other officer in command, to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any fireman in the discharge of his duty as hereinbefore provided, the person so offending shall be deemed guilty of resisting firemen in the discharge of their duty.

**(b) Destruction of Property to Prevent the Spread of Fire.** During the progress of any fire, a Fire Chief or his assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire; provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

### 3.1 EMERGENCY SERVICE PROTECTION CHARGES *(ORDINANCE NO. 2009-1 repealed April 27, 201. Replaced with Ordinance No. 2017-1 )*

WHEREAS, the Town of Frankfort desires to repeal and replace Ordinance No. 2009-1, Chapter 3.1 of the Town of Frankfort Code of Ordinances adopted on November 19, 2009.

NOW THEREFORE, the Town of Frankfort Town Board does ordain as follows:

Ordinance No. 2009-1, "Adopting Emergency Service Protection Charges" and Chapter 3.1 of the Code of Ordinances Town of Frankfort is HEREBY REPEALED AND REPLACED with the following:

#### 3.101 – TITLE/PURPOSE

This ordinance is entitled the Town of Frankfort Emergency Service Protection Charges Ordinance. The purpose of this Ordinance is to establish a fee to recover the costs of emergency service protection made anywhere within the Town of Frankfort pursuant to Sec. 60.55 Stats. and Sec. 66.0703 Stats.

#### 3.102 – AUTHORITY

The Town Board of the Town of Frankfort has been granted village powers pursuant to Sec 60.10 Wisconsin Statutes. Pursuant to Sections 60.55, 60.555, 60.557 and 60.565 of Wisconsin Stats., the Town of Frankfort, Pepin County, hereby establishes the following policy and procedure for the payment of emergency service costs incurred by the Town of Frankfort for fire protection services and ambulance services.

#### 3.103 – ADOPTION OF ORDINANCE

The town board of the Town of Frankfort, by this ordinance, adopted with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the town



to impose a charge for each fire protection or ambulance service call made to persons, property or public highways within the Town of Frankfort.

### **3.104 – LIABILITY FOR EMERGENCY SERVICE PROTECTION COSTS**

- A. The Town of Frankfort hereby imposes a charge for each emergency service call made within the Town of Frankfort. Such charge shall not exceed the actual cost to the Town for the particular fire protection or ambulance call.
- B. Any charges incurred by the Town for emergency service calls involving the protection of real estate or personal property (including but not limited to fire calls) shall, in each case, be imposed on all of the owners of the real estate or personal property to which the particular call is made.
- C. Emergency service call to vehicles located in town: In the event that a fire call is not made to real estate located within the town but instead is made to a vehicle located on a public highway within the Town of Frankfort, then, in that case, such charges provided for under this Ordinance shall be imposed on all owners of such vehicle(s) that are the subject of the emergency service call.
- D. Any charges incurred by the Town of Frankfort for ambulance services provided for under section 3.104 A. shall be imposed on the person or persons served by the ambulance call.

### **3.105 – LIABILITY FOR EMERGENCY SERVICE PROTECTION COSTS FROM FIRE DEPARTMENTS OTHER THAN AUTHORIZED FIRE DEPARTMENT**

It is the policy of the Town of Frankfort to contract with the Durand Rural Fire Department. Any property owner receiving emergency service protection directly from any fire department other than the Durand Rural Fire Department shall be responsible in full for any costs billed to the Town from that fire department.

### **3.106 – BILLING AND PAYMENT PROCEDURE**

- A. In each case, the emergency service call charges provided for in this Ordinance shall be billed by the Town Treasurer and paid in full to the Treasurer of the Town of Frankfort no later than 60 days after the date of the billing. If not paid within that period, then such fee shall be deemed to be delinquent.
- B. Hardship Cases. Hardship cases may come before the Town Board or to request a variance on the 60 day delinquency policy. This request must be made before the end of the 60 day period. The Town Board reserves the right to determine payment extensions or payment plans on a case by case basis.
- C. If full payment of an emergency service call fee is not made within the 60 day period, such delinquent charge shall become a lien on such real estate to which the emergency service call is made, as of the date of such delinquency, and shall automatically be extended upon the current or next tax roll as a delinquent special assessment against the property under Sec. 66.0703 Stats. All proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to the special assessment.

- D. Other Remedies. The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution, collection and reasonable attorneys' fees.

## **SECTION 7 – SEVERABILITY**

Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

### **3.2 OUTDOOR BURNING PERMIT.**

#### **3.200 AUTHORITY**

The Town Board has the specific authority under ss. 66.555 (2003-2004), Wis. stats., to adopt regulations to prevent, detect and suppress fire and fire related hazards.

#### **3.201 COVERAGE**

No person shall set or cause to be set any outdoor fire within the Town of Frankfort except as exempt in Section 5 or has obtained a permit from the Durand Rural Fire Department or a Town Board Officer.

#### **3.202 EXEMPTIONS**

These exemptions do not apply upon a declared public fire emergency by the State Department of Natural Resources or the Durand Rural Fire Department

- A. Persons who burn charcoal or other combustible materials for domestic cooking outdoors in a grill or similar cooking equipment.
- B. Attended campfires or bonfires if they are cleared of flammable materials.
- C. Attended fires in burn barrels that are 25 feet or more away from flammable structures.
- D. Burning in stoves, furnaces, legal incinerators, fireplaces and other devices which are approved by the Underwriter's Laboratories for combustible materials.
- E. Cut brush piles or bon fires of 10 feet in diameter or less.

#### **3.203 REQUIREMENT FOR A BURNING PERMIT**

- A. Every person who undertakes burning that is not exempt shall first obtain a permit for the activity from either a Town of Frankfort Town Board Officer or the Durand Rural Fire department.
- B. A permit shall be valid only for the date and time for which it is granted.
- C. A permit granted on the basis of false or erroneous information is invalid.
- D. The Town Board may decline to issue a permit on the basis of prior incidents of improper burning by the applicant
- E. There shall be no fee for burn permits.

#### **3.205 BURNING PROHIBITIONS**

The Durand Rural Fire Department may, during conditions of dry weather, high winds or other circumstances, which make burning unusually hazardous, prohibit all open burning and revoke granted permitted. All burning shall be prohibited at any time when the Wisconsin Department of Natural Resources has declared a fire emergency in the Town.

Any violation of a burning permit shall be deemed a violation of this ordinance and will void the permit.

No person issued a permit for open burning may use the permit to burn materials under any of the following circumstances:

- A. On the road or streets.
- B. On public property

### **3.206 OPEN BURNING PROCEDURES**

All allowed burning shall be conducted in a safe manner, when wind and weather conditions are such as to minimize adverse effects and in conformance with local and state fire protection regulations.

The following actions are allowed by those holding valid open burning permits:

- A. Burning of standing brush or weeds on agricultural lands.
- B. Burning of grass pastures or large grass expanses.
- C. Burning of abandoned buildings
- D. Fires set for practice and instruction of fire fighters.
- E. Burning of explosive or dangerous material for which there is no other safe means of disposal.

### **3.207 MANAGEMENT AND CONTROL**

- A. All persons engaged in open burning are responsible for containing the fire in the place which it was set, including suppression of sparks and embers.
- B. All persons engaged in open burning are responsible for assuring that the fire is properly and completely extinguished after the burning is concluded.
- C. All open burning conducted in the Town shall be under the control of a responsible adult.
- D. All persons who start a fire in the Town are strictly liable for any and all damages caused by that fire.

### **3.208 ENFORCEMENT AND PENALTIES**

- A. The Fire Chief and Town Officers are authorized to enforce the provisions of this ordinance
- B. Any person who violates the provisions of this ordinance shall be punished by a forfeiture of not less than \$25 nor more than \$250 plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.

### **3.3 AMBULANCE SERVICE.**

The Town Board shall contract for or operate and maintain ambulance services unless such services are provided by another person. The Town Board may purchase equipment for medical and other emergency calls.

State Law Reference: Sec. 60.565, Wis. Stats.

## CHAPTER 4 PUBLIC WORKS

### 4.1 TOWN HIGHWAYS

**Statutory Requirements.** The laying out of highways and roads shall be provided in chapters 80 and 86, Wis. Stats., except that, in the case of subdivisions and certified surveys, the provision of Sec. 236.29(2), Wis. Stats., shall apply.

### 4.2 (RESERVED FOR) DRIVEWAYS AND CULVERTS

### 4.3 TOWN ROAD ACCESS RESTRICTIONS *(Ordinance No. 2005-3)*

**4.301 PERMITS** Permits are required to construct new town road accesses.

**4.302 AUTHORITY** The town board has the specific authority under ss. 66.0425 and 86.07, Wis. stats., to adopt a Town Highway Access Permit Ordinance, and has the general authority under its Village powers under s. 60.22, Wis. stats., to adopt this ordinance.

### 4.303 DEFINITIONS

In this ordinance:

- A. "Prime or productive agricultural or forestry land" means any land within the town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.
- B. "Private Driveway" means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any public highway, and will provide service to a residence, business, recreational site, or other similarly appropriate use.
- C. "Field Road" means a road regularly used only for agricultural purposes or to access agricultural land. Also temporary roads used less than 6 months for timber harvesting, construction projects and other short-term projects. (Pepin County)
- D. "Private Road" means a road on private property which is accessed by 2 or more private driveways and which provides access to a public highway.
- E. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the Town.
- F. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe
- G. "Town" means the Town of Frankfort, Pepin County, Wisconsin.
- H. "Town board" means the board of supervisors for the Town of Frankfort, Pepin County, Wisconsin and includes any designee of the board authorized to act for the board.
- I. "Town clerk" means the clerk of the Town of Frankfort, Pepin County, Wisconsin.
- J. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

#### 4.304 COVERAGE

- A. No person shall establish or construct a highway access or reconstruct, reroute, or alter the existing slope of any town or other highway or highway right-of way in the Town without first obtaining a Town Highway Access Permit to be issued by the Town Board.
- B. No person shall establish or construct a highway access or reconstruct, reroute, or alter any highway access onto a town highway without first obtaining a Town Highway Access Permit to be issued by the Town Board.
- C. Any person prior to and at the time of seeking a Town Highway Access Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.
- D. Existing Driveways.
  - 1. Any landowner that has existing driveways and field roads; which cause washing or other conditions, which obstruct or become a potential hazard to a public highway or driveway/private road, shall be notified by the Town Board. Any property owner failing to correct such conditions within 30 days after shall be subject to the penalties described in the penalty section.
- E. Field roads shall access public highways only at locations approved by the Town Board.

#### 4.305 SPECIFICATIONS

All new highway accesses onto Town roads in the Town of Frankfort for which a Town Highway Access Permit is required under Section 4.34 shall meet all of the following minimum requirements. No permit shall be issued unless the materials submitted as required under Sections VII and VIII demonstrate compliance with the requirements of this section:

- 1. **Access Juncture with a Town Road;** a minimum of 33 feet from the Town road centerline shall be perpendicular and have a slight dip sloping down from the Town road.
- 2. **Minimum Access Width;** the driveway access surface shall be constructed to have a minimum finished width of 14 feet.
- 3. **Minimum Access Surface;** shall consist of 6 inches of crushed aggregate base course. Additional stone may be required based on actual soil conditions.
- 4. **Access Drainage;** the driveway shall have ditches on both sides with a slope of 3 to 1. In the case where a culvert is necessary it shall be 15 inches in diameter with a length to meet required sloping.
- 5. **Access Visibility Requirement;** a minimum of 300 feet visibility shall be required, 500 feet is recommended. In order not to present a transportation safety hazard on a public road, a driveway may connect to a private road only if the location of the connection allows significant advance visibility of on-coming traffic from both directions to vehicles exiting the driveway, and sufficient braking distance to any vehicle traveling the road which encounters a vehicle slowed to enter the driveway. In making this determination, the slope of the road, whether it is straight or curve, and the posted speed limit shall be considered.
- 6. **Beyond the access right-of-way,** it is recommended that the construction follow Pepin County Ordinance #179, Chapter 26, specifications for safe passage of transportation and emergency vehicles.

#### **4.306 APPLICATION/PERMIT PROVISIONS**

The town board shall approve a form for application for both the Town Highway Access Permit, which shall be available from the town clerk.

- A. The applicant for a Town Highway Access Permit shall submit to the town clerk a completed application with the appropriate fee, \$25.00, and with the following attachments:
  - 1. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions. The sketch map may be submitted to the town board prior to the preparation or submission of the other supporting documents in order for the town board to provide initial comments and review of the proposal. However, formal approval for a Town Driveway Permit or Town Highway Access Permit will not be granted without the submission of complete supporting documents.
  - 2. Plat Map. A plat map indicating the location and dimensions of the desired highway access locations, if any, as well as the parcels immediately adjacent to the applicant's property. The applicant may first submit only a sketch plat. Once the town board has reviewed the sketch plat, the applicant may be asked to submit an additional preliminary plat or final plat, or both.
  
- B. Procedures for the evaluation of any required Town Highway Access Permit Application by the Town Board, including any required site inspection of the proposed access, are as follows:
  - 1. Site inspection upon receiving permit application
  - 2. Site inspection during construction
  - 3. Site inspection upon notification of completion of construction
  
- C. The Town Board shall approve or deny any Town Highway Access Permit Application and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the applicant/permittee. Reasons for denying a Town Highway Access Permit Application may include, but are not limited to:
  - 1. The inconsistency or nonconformance of the proposed highway access with this ordinance, with any existing town comprehensive plan, master plan, or land use plan, with town ordinances, rules, regulations, or plans, or any applicable County, State, or Federal laws, ordinances, rules, regulations, or plans.
  - 2. The highway access when constructed, rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the town.
  - 3. The application as filed and submitted is incomplete or contains false material as determined by the Town Board.
  - 4. Alternative highway access locations will be safer for persons by motor vehicle ingressing or egressing on the access point.

5. Alternative highway access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.
  6. Alternative access highway locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or environmentally sensitive parcels of land or facilities in the Town, including land adjacent or near the proposed driveway.
  7. The access will not provide timely and adequate ingress and egress for emergency vehicles.
- D. In the event of a denial of a Town Highway Access Permit Application, the Town Board shall recite in writing the particular facts upon which it bases its denial of the permit. The Town Board shall also afford the applicant an opportunity to review the Town Board's decision and present evidence at a public hearing after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the town board refuting the determination. Thereafter, the Town Board may affirm, reverse or modify its decision. The Town Board shall recite in writing findings for any decision to modify or reverse its initial determination.
  - E. If the town board denies two consecutive applications for a Town Highway Access Permit on the same parcel, no subsequent re-application for a permit of the same type that was denied for that parcel will be considered within 12 months of the second denial of either.
  - F. The Town Highway Access Permit is effective for 12 months from the date of issuance. Each permit shall expire after 12 months unless renewed.
  - G. Each permit may be renewed for an additional period of 6 months. If the highway access has not been constructed by the end of one 6-month renewal period, a new application and fee must be submitted and approved.
  - H. The applicant shall notify Town Clerk within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the highway access. Within 30 days of notification, the Town will conduct an inspection of the highway access to ensure full compliance with all of permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the Town Board shall issue the appropriate permits.
  - I. No building permit for any construction of buildings or structures will be issued by the town until the highway access is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued and this ordinance.
  - J. An application fee that is non-refundable will be charged for each permit application. These fees are specified as follows: \$25.00.

#### **4.307– CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN**

- K. The Town Board may in writing require a highway access plan prior to any proposed highway access construction, reconstruction, rerouting, or alteration.
- L. A highway access plan is required for all sections of any proposed driveway by the applicant that will enter onto a town highway.
- M. If required by the Town Board or its designee, a highway access plan will include a scale plan showing all of the following:
  1. Other Access Points. The location of any other access points onto the town highway within one mile of proposed access point.

- N. No construction, reconstruction, rerouting, or alteration of a highway access onto a town highway may commence until all of the following conditions are met:
  - 1. The highway access plan, if required, is approved by the Town Board.
  - 2. A Town Highway Access Permit is issued by the town.
  - 3. When applicable, any other necessary approvals are obtained from Pepin County or the State of Wisconsin.
- O. The preparation of a highway access plan does not guarantee the approval of a Town Highway Access Permit by the Town Board.
- P. As a condition of any Town Highway Access Permit, the highway access shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.
- Q. The approval of a Town Highway Access Permit application by the Town Board does not constitute a determination that a driveway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant or permittee is in compliance with this Ordinance. No person may rely on the issuance of either permit to determine that a highway access location is fit or safe for any purpose or that they are in compliance with the ordinance or any State or County laws or ordinance. The approval of the Town Highway Access Permit application does not establish or commit the Town to future approval of any driveway as a public road or highway in the Town.

**4.308 WAIVER OF SPECIFICATIONS**

Any specification in this Ordinance may be waived or modified by the Town Board if it determines the specifications would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any provision in this Ordinance must accompany the initial application and must state the reason for the request.

**4.309 REGULATING AUTHORITIES' APPROVAL**

The Town Board's approval of a highway access permit application does not constitute a determination that the driveway is safe, suitable for use, or otherwise passable for the public. No person may rely on the issuance of a permit to determine that a driveway is fit for any purpose

**4.310 PENALTY PROVISION**

The Town shall issue a written warning, to be signed by the issuing authority and the offender and kept on file with the Town Clerk, to any person who fails to comply with the provisions of this Ordinance. Failure to obtain a permit or immediately stop construction of the highway access upon receipt of the written warning shall result in a fine of \$25 payable to the Town of Frankfort. Any person who fails to obtain a permit or abandon all construction within 3 business days upon receipt of the written warning, shall, upon conviction, pay a forfeiture of \$25 plus the current court costs, which will be listed on the warning ticket, for each violation. Each day a violation exists or continues shall be considered a separate offense under this Ordinance. In addition, the Town Board may seek injunctive relief from a Court of record to enjoin further violations.

**4.4 (RESERVED FOR) DAMAGE TO TOWN ROADS**

**4.5(RESERVED FOR) SNOW AND ICE REMOVAL**



#### **4.6 ALL-TERRAIN/ UTILITY TASK VEHICLES USE ON TOWN ROADS** (*Ord. NO 2019-1, Amended 10-12,2021, Amended 5-9-2023*)

##### **4.601. STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authority of Wisconsin Statutes sections 23.33(11) and 59.02, as amended. In addition, the provisions of Wisconsin Statutes section 23.33, and the provisions of Wisconsin Administrative Code NR 64 regulating All-Terrain Vehicles and Utility Terrain Vehicles (ATV/UTV) operations are hereby incorporated by reference.

##### **4.602. PURPOSE AND INTENT**

The Town of Frankfort enacts this ordinance to authorize operation of ATV/UTVs upon town roads designated for such use in paragraph 3 of this ordinance. Pepin County has adopted its Ordinance 7.07 which authorizes recreational use of ATV/UTVs on designated routes within the County, some of which are located in the Town of Frankfort. After considering the recreational value of ATV/UTV use to the Town of Frankfort and the potential impacts to the public's health, safety and welfare, this Ordinance is enacted. A copy of a map showing the location of ATV/UTV routes shall be kept on file at the Pepin County Highway Department.

##### **4.603. AUTHORIZED ROUTES** (*Am. Ord. NO. 2021-3, Am. Ord. NO. 2023-1*)

All roads under the jurisdiction of the Town of Frankfort and all **Pepin County approved ATV/UTV routes within** the Town are open to ATV/UTV use unless otherwise posted. ATV/UTV routes are open 24 hours a day, 7 days a week unless otherwise posted.

A **resident or** property owner on any Town Road may submit a request to the Town Board to close that Town Road to ATV/UTV use. A **resident or** property owner on any Town Road that has previously been closed to ATV/UTV use by the Town Board may submit a request to the Town Board to open that Town Road to ATV/UTV use. The Town Clerk will prepare a form for a request to close or open a Town Road and any request by a resident or property owner must be submitted on that form.

The Town Board will consider the request and determine in its sole discretion whether to grant the request. Requests may be made at any time, but the Town Board will consider requests only at its regular meeting in January, February or March. The Board shall create a policy that lists the criteria for making decisions to open or close ATV/UTV routes. Criteria for determining the request may include but are not limited to: public health and safety; preservation of rural quality of life; fair access to publicly owned resources.

##### **4.604. CONDITIONS** (*Am. Ord. NO. 2023-1*)

Operation of ATVs and UTVs on any Frankfort Township Town Road designated as an ATV/UTV route shall be subject to the following conditions:

- A. All provisions of Wisconsin Statutes section 23.33 are incorporated into this ordinance by reference pursuant to authorization of Wisconsin Statutes section 23.33(11),
- B. All ATV/UTV operators shall observe a speed limit of not more than 35 miles per hour or the posted roadway speed limit whichever is lower,
- C. All ATV/UTV operators shall ride single file on the extreme right hand portion of the road, not in the ditch,
- D. All ATV/UTV operators shall maintain liability insurance for their ATV/UTV use on town roads in the amount established by the State of Wisconsin for motor vehicle operation,

- E. All ATVs and UTVs must be equipped with functioning brake lights and headlights and tail lamps must be illuminated at all times during operation,
- F. All ATV/UTV operators born on or after January 1, 1988 must possess a valid DNR issued ATV safety certificate,
- G. No person under the age of 12 years may operate an ATV/UTV under this ordinance,
- H. A person who is at least 12 years old but not yet 16 may operate an ATV on routes designated by this ordinance only if he or she is under the direct supervision of a parent or legal guardian,
- I. No person under the age of 16 may operate a UTV under this ordinance,
- J. All ATV/UTV operators who are under the age of 18 must wear a helmet as required by Wisconsin Statutes section 23.33.

**4.604. SIGNAGE**

The Town of Frankfort is required to post signs on designated ATV/UTV routes in accordance with Wisconsin Statutes section 23.33 (8)(e), The Town will follow its usual procedure to have the Pepin County Highway Department erect and maintain signs required by the statute on the designated routes. The Pepin County ATV/UTV Club has agreed to purchase or reimburse the Town for signs required by statute on designated routes and pay for installation and maintenance of required signs as necessary for them to continue to conform to statutory requirements.

**4.605. ENFORCEMENT**

This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.

**4.607. PENALTIES**

The penalties set forth in Wisconsin Statutes section 23.33(13)(a) are incorporated by reference.

**4.608. SEVERABILITY**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons' circumstances shall not be deemed affected.

**EFFECTIVE DATE**

This ordinance becomes effective on the passage by the Town Board and publication by the Town Clerk as required by Wisconsin Statutes section 59.14.

**CHAPTER 5 (RESERVED FOR PUBLIC UTILITIES)**

**CHAPTER 6 (RESERVED FOR HEALTH AND SANITATION)**

## CHAPTER 7 LICENSING AND REGULATION

### 7.1 LICENSING OF DOGS

### 7.2 (RESERVED FOR ALCOHOLIC BEVERAGES)

### 7.3 NON-METALLIC MINING OPERATOR'S LICENSE

### 7.1 LICENSING OF DOGS

#### 7.101 DOG LICENSES REQUIRED;

It shall be unlawful for any person in the Town of Frankfort to own, harbor or keep any dog for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

#### 7.102 DEFINITIONS.

In this Chapter, unless the context or subject matter otherwise require:

- (1) "Owner" shall mean any person owning, harboring or keeping a dog and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog within the meaning of this Section.
  - (2) "At large" means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog, shall be deemed to be upon the owner's premises.
  - (3) "Dog" shall mean any canine, regardless of age or sex.
  - (4) "Cat" shall mean any feline, regardless of age or sex.
  - (5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
  - (6) "Animal" means mammals, reptiles and birds.
  - (7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
  - (8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
  - (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (10) "Pet" means an animal kept and treated as a pet.
- State Law Reference: Sections 174.05 Through 174.10, Wis. Stats.

#### 7.103 RABIES VACCINATION REQUIRED FOR LICENSE.

**Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of Frankfort after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within (30) days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.

## **7.104 ISSUANCE OF DOG AND KENNEL LICENSES.**

### **(a) Dog License.**

(1) It shall be unlawful for any person in the Town of Frankfort to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.

(3) The fee for the license shall be that established by the County. The license year shall commence January 1 and end December 31.

(4) Notwithstanding the foregoing, a license fee will not be charged for any dog specifically trained to lead blind or deaf persons and annually upon application every person owning such a dog shall receive a free dog license from the Town.

### **(b) Kennel Licenses.**

(1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. The fee for the license shall be that established by the County. The license year shall commence January 1 and end December 31.

(2) The term "kennel" means any establishment wherein or whereon four (4) or more dogs are kept. State Law Reference Sec. 174.053, Wis. Stats.

## **7.105 LATE FEES.**

The Town Treasurer shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to January 31 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

## **7.106 RABIES QUARANTINE.**

**(a) Dogs Confined.** If an area of the Town is quarantined for rabies, all dogs within such designated area shall be kept securely confined, tied, leashed or muzzled. Any dog not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Town Clerk shall promptly post in at least three (3) public places in the Town notices of quarantine.

**(b) Exemption of Vaccinated Dog Town Quarantine.** A dog with is immunized currently against rabies, as evidenced by a valid certificate of rabies, vaccination or other evidence, is exempt from the Town quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tags is attached to the dog's collar.

**(c) Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**

(1) Quarantine or sacrifice of dog. An officer shall order a dog quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If quarantine cannot be imposed because the dog cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner that avoids damage to the animal's head.

(2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog if the officer has reason to believe that the animal bit a person or is infected with rabies

**(d) Quarantine of Dog.**

(1) Delivery to isolation facility or quarantine on premises of owner. An officer who orders a dog to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but not later than twenty-four (24) hours after the original order is issued.

(2) Health risk to humans. If a dog is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In the paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) Destruction of a dog exhibiting symptoms of rabies. If a veterinarian determines that a dog exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

**(e) Delivery of Carcass; Preparation: Examination by Laboratory of Hygiene.**

An officer who kills an animal shall deliver the carcass immediately to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Town, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

**(f) Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Town, the laboratory of Hygiene, the local health department, the officer involved and , if the animal is suspected to have bitten a person, the person's physician.

**(g) Responsibility for Quarantine and Laboratory Expenses.**

The Owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

## 7.2 (RESERVED FOR) ALCOHOLIC BEVERAGES

### 7.3 NONMETALLIC MINING OPERATOR'S LICENSE *(ORDINANCE 2012 – 1)(amended 4-15-2014)*

#### 7.301 FINDING, PURPOSE AND AUTHORITY

(1) Findings. While nonmetallic mining is a legitimate and permissible part of the state and local economy, the activities, processes and chemicals employed can have adverse effects on groundwater and surface water, including soil erosion when changed terrain is not managed in a way that mitigates soil damage from movement of surface water, and generate harmful levels of dust and noise. Nonmetallic mining operations can have negative impacts on the landscape and aesthetics when a mine site is not properly screened, operated or reclaimed, and can present safety concerns to members of the public when not properly secured. Truck traffic generated by nonmetallic mining operations can damage public roads and lead to off-site adverse effects on the safety and well-being of community residents and landowners. Property values may be adversely affected by nonmetallic mining operations. Other potential impacts from nonmetallic mining and processing include logging of bluffs and hilltops, excavation of sandstone ridges, loss of agricultural land, equipment noise, dust, exposure to respirable silica dust, excessive groundwater use and additional potential sources of surface and ground water contamination.

Although selected aspects of nonmetallic mining operations are subject to state or federal regulation, there is no comprehensive state or federal system of regulations concerning nonmetallic mining operations. Regulated and unregulated aspects of nonmetallic mining operations create a risk of significant adverse effects on the health, safety and welfare of the public, local landowners and residents, especially those in close proximity to nonmetallic mining operations.

(2) Purpose. This ordinance is enacted to establish minimum local standards for all nonmetallic mining operations in the Town of Frankfort ("Town") and is intended to protect and preserve the scenic beauty, ecological balance and aesthetics of the Town's landscapes and environment, preserve and protect the quantity and quality of local ground and surface waters, minimize adverse economic effects on Town residents and taxpayers from the effects of nonmetallic mining operations, and to protect the health, safety, welfare and prosperity of the people and communities in the Town.

(3) Authority. This ordinance is adopted pursuant to Town authority under Wis. Stats. §§ 60.10, 60.22, 61.34, 66.0415, and other authority available under state statutes. The amendment, repeal or recreation of any statute affecting or related to this Ordinance and made after the effective date of this ordinance is incorporated herein by reference as of the effective date of the statutory amendment, repeal or recreation.

### 7.302 APPLICABILITY

- (1) This ordinance shall apply to all nonmetallic mining operations in the Town except those described below.
- (2) Nonmetallic mining operations that do not exceed the following minimum levels of operation and production are exempt from application of this ordinance:
  - (a) Production of not more than 20,000 ton of nonmetallic minerals on average in a calendar year using a three-year rolling average, but no more than 30,000 ton in any single year;
  - (b) That generate hauling truck travel over public roads averaging not more than sixteen trucks per day over the course of a five-day week;
  - (c) That blast not more than four times on average in a calendar year using a three year rolling average; and
  - (d) That do not involve the washing or processing of nonmetallic minerals brought in from off-site or of nonmetallic minerals mined on-site.
- (3) This ordinance does not apply to the following nonmetallic mining operations:
  - (a) Excavation or grading solely for domestic or farm use at a person's residence or farm.
  - (b) Excavation or grading for the construction, reconstruction, maintenance or repair of a public highway, railroad, or other transportation facility where the area in which excavation or grading conducted is located entirely within the boundaries of the highway right of way or is owned by the railroad or other transportation facility.
  - (c) Grading to prepare a reconstruction site or to restore land after a flood or natural disaster.
  - (d) Excavation for building construction purposes located and conducted entirely on the building site.
  - (e) Nonmetallic mining at any site where less than one acre will be affected during the life of the mine.
  - (f) Removal from the earth of products or commodities for non-mining purposes that contain minor or incidental amounts of nonmetallic minerals. Examples include production of commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
- (4) All persons or business entities that intend to engage in nonmetallic mining in the Town shall either apply for a license or provide information to the Town to establish an applicable exemption under the ordinance. An entity or person that is exempted from application of the Ordinance under Sections 2(2) or (3) and then changes its nonmetallic mining operation so that it no longer qualifies for the exemption shall immediately apply for an operator's license.
- (5) An exemption from the requirements of this ordinance does not prevent the Town from requiring the operator of the exempt nonmetallic mining operation to enter into a highway use agreement under Wis. Stats. §349.16 or other authority available to the Town.



### 7.303 DEFINITIONS

- (1) “Nonmetallic minerals” means a product, commodity or material consisting principally of naturally occurring organic or inorganic nonmetallic material including but not limited to mineral aggregates or nonmetallic minerals including stone, sand, industrial sand, silica sand, gravel, asbestos, beryl, diamond, clay, feldspar, peat, talc and topsoil.
- (2) “Nonmetallic mining” includes all of the following:
- (a) Operations or activities at a nonmetallic mining site for extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale. This includes the use of mining equipment or techniques to remove nonmetallic minerals from the in-ground deposit, including drilling, blasting, excavation, grading, dredging, scalping and dewatering.
  - (b) Manufacturing or processing operations carried out at the nonmetallic mine site or elsewhere that involves the use of machinery or equipment and where the operations include the crushing, screening, or blending of mineral aggregates or nonmetallic minerals obtained by extraction from a mining site or brought to the operation from off-site.
  - (c) Stockpiling of nonmetallic mineral products for processing, sale or use off-site; also stockpiling of nonmetallic mining waste material.
  - (d) Transport of extracted nonmetallic minerals, finished products or waste material to or from a nonmetallic mining, manufacturing or processing site.
  - (e) Disposal of nonmetallic waste material.
  - (f) Reclamation of the extraction site.
- (3) “Nonmetallic mining waste material” means the non-marketable waste soil, rock, mineral, sand and other natural material that results directly from the operator’s licensed nonmetallic mining, and that is designated for disposal at the operator’s designated nonmetallic mining site, or elsewhere when authorized by the operator’s reclamation plan.
- (4) “Nonmetallic mining site”, “mine”, “site” or “mine site” means the land from which the operator will extract mineral aggregates or nonmetallic minerals for sale or use, and also includes the land on which is or will be located stockpiles, berms, haul roads, washing or screening facilities. A nonmetallic mining site also includes storage and processing facilities; areas where nonmetallic mining waste material is deposited; areas affected by nonmetallic mining activities such as private roads or haulage ways; areas where grading or re-grading is necessary pursuant to nonmetallic mining or reclamation; and areas where reclamation activities are carried out such as topsoil stockpiling areas, re-vegetation test plots or channels for surface water diversion are located. Contiguous processing or stockpiling (as for transport) areas are also considered nonmetallic mining sites under this ordinance.
- (5) “Adjoining landowner” means a person or entity who is an owner of land located within one-half (1/2) mile of the perimeter of a proposed nonmetallic mining site and not a part of the area for which an operator's license is being sought, regardless of whether there is a residence or structure

on the land and regardless of whether the land is contiguous to the nonmetallic mining site.

(6) "Landowner" means one who holds title to land in fee simple or as purchaser on a land contract.

(7) "Operator" means all persons or entities that engage in nonmetallic mining in the Town under a Town license or an applicant for a Town license to engage in nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.

(8) "Operator's license" or "license" means the license issued by the Town authorizing nonmetallic mining operators to conduct nonmetallic mining activities in the Town and required to conduct such activities in the Town.

(9) "Town" means the Town of Frankfort and/or the Town Board of the Town of Frankfort, the Town Chair or any other authorized representative of the Town.

### **7.304 OPERATOR'S LICENSE**

(1) License Requirement. Nonmetallic mining is allowed in the Town only as provided for in this ordinance. No person or entity shall start work on any nonmetallic mine site, mining structure or facility or operate a nonmetallic mine in the Town of Frankfort without first obtaining an operator's license from the Town, or establishing qualification for exemption under the ordinance.

(2) License Term

(a) An initial operator's license extends from the date of issuance until the June 30 following the first twelve (12) months of nonmetallic mining. After the successful conclusion of the initial operator's license term, a renewal operator's license may be granted for up to five (5) year period at the discretion of the Town.

(b) An operator's license is renewable under the procedure in Section 8, except that a temporary operator's license may not be renewed.

(3) License Amendment. An operator seeking to expand or otherwise change its licensed operation during the license term shall seek an amendment to its operator's license during by following the same process as for an initial license application.

(4) License Transfer. Licenses are not transferable without the prior written approval of the Town Board. The Town shall approve license transfer by an operator in good standing with respect to the requirements of this Ordinance during the license term after a proposed transferee operator first demonstrates that it meets all Town license requirements; that the proposed transferee operator will continue to meet all County, State and Federal laws and regulations that apply to it; that the proposed transferee operator is an individual or entity properly formed and authorized to do business in Wisconsin; a written assignment is presented that requires and obligates the proposed transferee operator to assume each and every obligation of the licensed

operator and to which the proposed transferee operator has agreed; the Town determines that proposed transferee operator is of comparable creditworthiness to the licensed operator; that the proposed transferee operator has obtained the transfer of any Pepin County Reclamation Permit required to assume the operation; the proposed transferee operator has posted the full financial security required by the County Reclamation Permit; that the proposed transferee operator has assumed each and every responsibility under any Town or County Road Agreement related to the nonmetallic mining operation and posted the full financial security required under any such Road Agreement; and the transfer is approved by the Town Board, after a public hearing preceded by not less than thirty (30) days notification of the proposed transfer to adjoining landowners from the proposed new operator.

(5) License Revocation. Operator's licenses are revocable by the Town in the manner set forth in Section 9 of this ordinance.

(6) Temporary License. Operators engaged in nonmetallic mining on the effective date of this ordinance have a temporary initial operator's license for the size and extent of the nonmetallic mining operation on that date, once the operator certifies that its nonmetallic mining operation will comply with the minimum standards in Section 7 during the term of the temporary license and submits a complete license application to the Town within sixty (60) days of the effective date of this ordinance. Operators engaged in nonmetallic mining before the ordinance goes into effect and that are actively engaged in negotiations with the Town intended to produce a Mining Agreement authorized by Section 13 on the effective date of this ordinance shall have a grace period of thirty days after the ordinance's effective date to complete and enter into a Mining Agreement with the Town before being required to comply with this section of the ordinance. An operator that is unable to enter into a Mining Agreement with the Town during the grace period shall present an action plan for bringing itself into compliance with the ordinance with its license application.

(7) Registration License. Nonmetallic mining operations that meet all of the following criteria may apply for a registration license under Section 7.(7) in lieu of an operator's license:

- (a) Less than ten (10) acres of total affected acreage will be occupied by the nonmetallic mining operation during the life of the operation.
- (b) The nonmetallic mining operation will not involve blasting more than six times on average in a calendar year.
- (c) The nonmetallic mining operation will not involve the washing or processing of nonmetallic minerals brought in from off-site or of nonmetallic minerals mined on-site.
- (d) The nonmetallic mining operation will not remove nonmetallic minerals or excavate below the point one hundred (100) feet above the groundwater table.

- (e) No settling agents, chemical additives, treatment of nonmetallic minerals, or nonmetallic material that has been treated with chemicals, will be employed on-site in the nonmetallic mining operations or stored on-site.
- (f) No steep slopes (averaging greater than 3:1 when measured horizontally for a distance of not more than fifty (50) feet) will not be occupied or adversely affected by the nonmetallic mining being proposed for the registration license.

### **7.305 LICENSE APPLICATION PROCEDURE**

(1) Application. Applications for nonmetallic mining operator's and registration licenses shall be filed in the office of the Town Clerk. Applications shall provide all information and materials required by this Ordinance.

(2) Application Submittal. Applicants shall provide the Town Clerk with the original plus ten (10) copies of the application and all required supplemental documentation, an electronic/digital set of all application materials, the application fee and the initial administrative fee deposit in the amounts established by the Town Board. Applications shall be signed by all persons or entities seeking licensure as operator, by all owners of the location on which nonmetallic mining is proposed to take place, and certified as true and correct by the applicant. The Town may periodically review and revise the amounts required for the application fee and initial administrative fee deposit. The Town's objective is that application review and license administration shall be fully funded by license applicants and operators.

(3) Application Review.

- (a) Preliminary Review. The Town Clerk shall preliminarily review an application for completeness and forward the application to the Town Chair to determine whether additional information or expertise is necessary or will be of assistance to the Town Board as it reviews the application.
- (b) Additional Information. At any time during the application process that the Town determines that an application is incomplete or that additional information will be of assistance the applicant shall submit the requested additional information before further proceedings take place. The Town shall retain qualified person(s) with appropriate expertise ("retained experts") as the Town deems prudent to review the application, to determine whether additional information is necessary or will be of assistance, to assist the Town in deciding whether the nonmetallic mining operation for which application is being made will meet the standards of this ordinance, to assist the Town in evaluating any special exception requests, and to assist the Town in administering and enforcing the ordinance.
- (c) Administrative Fee Deposit. Maintaining an adequate administrative fee deposit at all times is a condition of maintaining an application and a license. Amounts so deposited shall be held by the Town and used to pay for its application review, for oversight and monitoring by state agencies as

requested by the Town when municipal payment is expected or required for state agency assistance, for ongoing Town administration and enforcement, retained experts and legal fees associated with the evaluation of the application at issue and the administration, enforcement, renewal or revocation of any license issued by the Town. Applicants and license holders shall replace depleted administrative fee deposits within fourteen (14) days of being notified to do so by the Town.

The Town shall provide an applicant or license holder with an annual accounting for Town use of administrative fee deposits related to its application or license.

(4) Public Hearing and Decision.

- (a) Hearing Notice. When an application has been deemed initially complete and all retained expert reports have been delivered to the Town, the Town Clerk shall place the nonmetallic mining operator's license application on the next regular agenda for public hearing and action. If a special Town Board meeting is convened for this purpose, the applicant shall pay the cost of such special meeting. The Town Clerk shall give thirty (30) days public notice of the application and public hearing and separately mail hearing notices to each adjoining landowner.
- (b) Town Board Decision. Public comment on the application may be filed before and at the public hearing. The applicant may provide additional information. When additional information is provided, written public comment may be submitted for a reasonable time after the applicant provides the additional information. After the hearing the Town Board may take immediate action or set a date for a later meeting at which the Town Board shall make a final decision on the nonmetallic mining operator's license application. If a later special meeting is convened for such purpose, the applicant shall pay the cost of the special meeting. The Town Board shall consider the retained expert reports as well as information and public comments received, and may request, receive and consider additional retained expert reports to address issues raised by the public. A license application may not be denied on the basis of the size of the proposed nonmetallic mining site or its proximity to different land uses. The Town Board's decision under this ordinance shall be based upon its determination of whether the nonmetallic mining operation will be conducted in conformity with the requirements of this ordinance or, in the case of a registration license, with all applicable minimum standards. The Town Board shall grant a nonmetallic mining operator's license if it determines that the applicant has established that it will operate the nonmetallic mining operation that is the subject of the application before it in compliance with the minimum standards in this ordinance or, if the application is for a registration license, with all applicable minimum standards.

### **7.306 LICENSE APPLICATION CONTENTS**

All applications for a nonmetallic mining operator's license shall provide the following information. Additional information may be required when identified by the Town's retained expert as necessary or useful to fully evaluate the operation for which license application is being made.

(1) Ownership Information.

- (a) The name, address, phone number(s), and e-mail address of all proposed operator(s) of the nonmetallic mining operation for which application is being made.
- (b) The name, address, phone number(s), and e-mail address of all owners, lessors, lessees, mortgagees, mineral rights owners, and holders of any interest in all land in the nonmetallic mining site where the applicant will exercise the license for which application is being made, holders of any financial interest in the mining operation, location and operator of the processing facility or transportation depot to which the nonmetallic minerals will be sent and the owner/operator of such facility or depot.
- (c) When any portion of the proposed nonmetallic mining site is subject to an easement, lease or other agreement, a fully executed copy of each such document affecting the proposed nonmetallic mining operation.

(2) Site Information

- (a) An ATLA land survey or certified survey map(s) with property boundaries staked every fifty (50) feet, showing the tax parcel identification number(s) of all parcels included in the applicant's proposed nonmetallic mining site and of all parcels adjoining it, signed by a registered land surveyor or professional engineer.
- (b) An aerial photo of the proposed nonmetallic mining site at a scale of one (1) inch equals two hundred (200) feet, showing the location of all existing and proposed interior roads, buildings, structures (including earthen structures), equipment, stockpile, storage and parking areas.
- (c) A topographic map of the proposed nonmetallic mining site extending one-half (1/2) mile beyond the site boundaries with contour intervals no greater than two (2) feet and showing the boundaries of the site, the location and full acreage of the site, the name of all roads within one mile of the site, the names and addresses of all adjoining landowners and the location of all residences in the full map area.
- (d) A map on which the location of all private residential, agricultural and municipal wells within one-half (1/2) mile of the site perimeter is marked, labeled as regular or high capacity and with each location given a numeric identifier.
- (e) The location and names of all surface waters including lakes, private or public ponds and streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on

- the site and in the area one-half mile beyond the site perimeter.
- (f) A description of the distribution, depth and type of topsoil on the proposed nonmetallic mining site and the location, geological composition and depth of nonmetallic mineral deposits to be removed over the planned life of the mine.
  - (g) A map of the location of all non-contiguous nonmetallic mining sites in the Town and in any adjacent town that will contribute extracted material to the same manufacturing, processing or transport facility as the nonmetallic mining site for which the operator's license application is being made.
  - (h) Certification that no boundary discrepancies or disputes exist, or disclosing the nature of all such discrepancies or disputes, the landowners involved and certification that all such discrepancies or disputes will be resolved at the applicant's expense prior to the issuance of the license for which application is being made.
  - (i) A copy of any Notice of Intent/Information Summary for Nonmetallic Mining Operations concerning any area of the nonmetallic mining site for which operator's license application is being made under this ordinance and that has been or will be submitted to the Wisconsin Department of Natural Resources (WI DNR) for any permits over which it has jurisdiction, the WI DNR response, and any permits issued.
  - (j) Baseline information concerning surface water baseflows, well depth and casing condition, and concerning turbidity total suspended solids, coliform bacteria levels, lead, arsenic, chlorides, nitrates and acrylamides in private wells belonging to all property owners who consent and located within one-half (1/2) mile of the perimeter of the site, with documentation concerning the manner and identity of landowners who refuse consent.
  - (k) A site specific Stormwater Pollution Prevention Plan (SWPPP) modeled on WI DNR Model SWPPP-NMM, version 4, or such more recent version as is in use by WI DNR at the time application is made and that will be implemented for the site, specifically including preparation of a site drainage map, identification of potential pollutant sources, implementation of pollutant prevention, pollutant treatment as needed, employing and using best management practices and providing for regular and periodic visual inspections by the Town or its retained experts at intervals set by the Town.
  - (l) A complete report of soil borings, showing at a minimum the soil types found, depth and duration, to a depth twenty (20) feet below the lowest depth for which excavation is proposed in the license application or as noted in the County reclamation permit or permit application materials. At least one soil boring shall be provided from each twenty (20) acre portion of property in the nonmetallic mining site described in the license application.
  - (m) Pre-blasting surveys to document the baseline condition of wells, well casings and buildings belonging to adjoining landowners who consent to the survey, with documentation of the manner and identity of any landowners who refuse consent.

(3) An Operation Plan That Includes:

- (a) The anticipated commencement and cessation dates of the nonmetallic mining operation, an explanation of when the planned nonmetallic mining operation will come to an end, by what standard the end of operations will be identified and when the applicant expects the proposed operation to end.
- (b) A detailed description of mining methods, machinery and equipment that will be used for extraction and on-site processing of extracted nonmetallic minerals and the nature, sequence and scope of the planned operation during the full anticipated life of the nonmetallic mining operation, in detail satisfactory to the Town.
- (c) Estimated volume of nonmetallic minerals that will be extracted, by calendar year, over the proposed licensing period and over the full planned life of the mine, the ownership, number and type of trucks that will be used to move mined nonmetallic minerals on and off the site and expected number of daily truck trips, correlated to the estimated volume expected to be extracted and returned to the site.
- (d) Identification of all public road access points to the site, preferred and all proposed alternate truck routes, traffic impact analysis on all town and county roads under consideration as preferred and alternate truck routes from origin to destination and all available route road agreements, planned frequency of all site-related traffic and schedule of travel over all routes used or to be used for transporting extracted nonmetallic minerals, nonmetallic mining waste material or processed products, to or from the nonmetallic mining site.
- (e) A water budget that describes all ways that water will be used in the nonmetallic mining operation including, but not limited to, sources of water and all processes in which the water will be used, projected volume of daily water use during the proposed licensing period and the anticipated life of the nonmetallic mining operation, and methods for treating, handling and disposing of water, including but not limited to methods and plans for infiltration and control of run-off and erosion from water used on site, from stormwater and from dewatering.
- (f) Description of all hazardous materials that will be stored or used on-site and projected quantities, including fuel, and a description of measures that will be used to secure, store and neutralize these materials in the event of spill or accidental discharge.
- (g) Description of all chemicals that will be stored or used in nonmetallic mining on-site or to control or suppress dust, and a description of measures that will be used to secure, store and neutralize these materials in the event of spill or accidental discharge.
- (h) A phasing plan, consistent with the applicant's County Reclamation Permit or permit application materials, showing for each year of operation which area(s) of the site will be used for mining operations and which areas will be



used for excavation, stock piling or processing, haul roads and showing area-specific SWPPD considerations for each year at issue.

- (i) A description of all materials, compounds or substances that will be used in onsite or offsite processing of nonmetallic minerals when treated nonmetallic mining waste material containing such substances will be returned to the mine site for final deposit in that location and providing anticipated levels of concentration of such substances in the nonmetallic mining waste material.

(4) Information Demonstrating Compliance with Minimum Standards.

- (a) License applicants are responsible for providing all information necessary to demonstrate to the satisfaction of the Town Board that the nonmetallic mining operation for which application is being made will continuously meet or exceed all minimum operation standards in this ordinance or as required for registration licenses under Section 7.7.

- (5) Special Exception. A license applicant can request a special exception from any application requirement of this ordinance when it can demonstrate to the satisfaction of the Town Board that the information being required can be provided by alternate means or is not necessary for deciding on its license application for a particular nonmetallic mining operation, and that the public health, safety and welfare will not be adversely affected thereby. The Town Board shall consider information and conclusions provided by the public, the applicant and the Town's retained experts in making this determination.

### **7.307 MINIMUM STANDARDS OF OPERATION**

The Town Board shall grant or renew a nonmetallic mining operator's license when it determines that the applicant has demonstrated that it will, and has (in the case of a license renewal), operate(d) the nonmetallic mining operation in compliance with all of the following minimum standards for its nonmetallic mining operation during the term of the license for which application is being made:

(1) General Standards.

- (a) The borders of the entire nonmetallic mining site are visibly marked, the site is secured by fencing or other secure and appropriate measures as determined by the Town, and a plan is in place to ensure that by the time reclamation activity is complete, all remaining areas that have been mined and that have a sheer vertical drop of 36 inches are fenced in a manner that protects the safety of people, animals, and machines, unless waived by the Town due to other site conditions or alternate measures taken that adequately serve the same purpose in the judgment of the Town.
- (b) The operator and the proposed nonmetallic operation will meet or exceed all requirements of this ordinance and has met or exceeded all requirements during any prior license term.
- (c) Surveys and blasting logs shall be provided to the Town and any adjoining landowner within forty-eight (48) hours of written request. All

blasting and bumping shall be conducted strictly in compliance with Wis. Admin. Code Ch. SPS. 307 and be preceded by twenty-four (24) hours notice to adjoining landowners and any other Town resident who files written request for notification with the operator. Blasting shall occur only between 10:00 a.m. and 3:00 p.m., except that blasting may occur after 3:00 p.m. when required for safety reasons beyond the reasonable control of the operator. The ground vibration requirements of SPS 307 shall apply to protect all adjoining landowners when that area is greater than the area defined by the blasting level chart in SPS 307.44 (Figure 7.44).

- (d) All other federal, state, county and local requirements, licenses and approvals required for the nonmetallic mining operation have been or will be obtained prior to commencement of operation, filed with the Town on a continuous basis and maintained in good standing during the term of the license.
- (e) The operator will promptly disclose to the Town every notice received of any of every violation, citation, or other enforcement action affecting or related to the site, site operations, the operator or the site owner(s) from any other government body or agency.

(2) Standards Mitigating Off-Site Impacts.

- (a) The operator shall take all measures necessary to control surface water runoff from nonmetallic mining operations in a manner that will prevent pollution, erosion or deposit of sediment from the nonmetallic mining site onto adjoining landowners' properties, in off-site surface water or in groundwater, and shall also comply with all applicable standards for erosion control under Wis. Admin. Code Chapters NR 216 and NR 151 and in its Stormwater Pollution Prevention Plan (SWPPP).
- (b) The operator shall take all measures necessary to prevent surface water runoff from any adjoining agricultural, commercial or residential area or use from coming onto the nonmetallic mining site or otherwise causing contamination of surface water and groundwater.
- (c) The operator shall maintain buffer space in which no nonmetallic mining occurs that is no less than five hundred (500) feet from any existing residence, one hundred (100) feet from all property lines, two hundred (200) feet from public road right-of-way lines and fifty (50) feet from the edge of slopes on the site that are greater than 3:1. as defined in the Town's zoning ordinance.
- (d) The operator shall screen the nonmetallic mining site from public view and to abate noise or dust to the maximum extent practicable through the use of berms, additional setbacks, vegetation planting and other measures acceptable to the Town. The operator shall leave intact any existing perimeter tree canopy at a mine site to preserve visual appearance and aesthetics and to reduce particulate matter leaving the site. Screening berms

and/or landscaping are required to mitigate dust, noise and visual disruptions to the neighbors and passers-by. Berms and landscaping may be placed within designated setback buffer space so long as the outer edge of the landscaping or berm is placed no less than 100 feet from a property line or 30 feet from a public right-of-way. Unless a lesser height is acceptable to the Town due to the topography at issue in relationship to the adjoining property being screened, such berms shall be at least 20 feet high, with slopes not to exceed 3:1, shall be planted with ground cover, trees and shrubs and shall be maintained according to a vegetation plan approved in advance by the Town Board and implemented by the operator and successor property owner. If the required berm cannot provide the desired level of visual and or audible screening due to topography, a setback distance from the property line or right-of-way of up to 300 feet may be required instead of and/or in addition to a berm at the discretion of the Town Board. Berms shall be planted with material that will serve to prevent erosion from encroaching into the buffer area. Stockpiling of excavated nonmetallic mining material and nonmetallic mining waste materials shall be limited to a height of 40' measured from the base of the stockpile to avoid the need for higher perimeter berming.

- (e) The operator shall limit hauling routes used by trucks hauling excavated nonmetallic minerals intended to be processed into industrial sand from the mine site and returning industrial sand nonmetallic mining waste material to the mine site when authorized to do so by its reclamation permit to specifically designated routes. The operator shall limit the hours of presence on public roads in the Town of such trucks, for hauling and all related purposes, to no more than ten consecutive hours daily, Monday through Friday, beginning no earlier than 7:00 a.m. and ending no later than 5:00 p.m. No excavated nonmetallic minerals or nonmetallic mining waste material shall be hauled by trucks from a nonmetallic mining site before or after these hours or on Saturdays, Sundays or federal legal holidays, to minimize off-site impacts on area residents. On-site operations not involving truck hauling may be conducted for up to two (2) additional hours daily, after public road hauling hours have ended, at the discretion of the Town Board. The operator may submit a plan for different days or times of hauling or on-site operation as a special exception if it can show how different hours are necessary for the nonmetallic mining operation and are consistent with the public health, safety and welfare and with minimizing off-site impacts on area residents.
- (f) Trucks arriving at and leaving the nonmetallic mining site shall defer and not interfere with the safety of children being taken to or returned from school, or with the safety of area residents and commuters using public road haul roads. Trucks hauling nonmetallic minerals and/or nonmetallic mining waste material to and from a nonmetallic mine site shall have the loaded material completely covered, as by a mechanical tarp or covering device specific to

- the hauling truck, and maintained in good condition.
- (g) Absent specific contractual arrangements to mitigate road impacts and adverse effects on affected residents, no more than 80 truck round trips per day, over specified haul route within the Town of Frankfort, are allowed for trucks hauling excavated nonmetallic minerals and/or nonmetallic mining waste material to and from a nonmetallic mine site. A round trip is defined as one truck, traveling from the mine site to one off-site destination and returning to the mine site.
  - (h) Night lighting on the nonmetallic mining site shall be limited to what is minimally necessary for security and shall shield from illuminating off-site areas by using full cut-off shrouds on all lights. Portable lighting shall be used only where necessary to illuminate temporary work areas. Access and internal roads shall be designed to minimize light from operations and traffic from going onto neighboring properties. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky.
  - (i) The operator shall utilize all applicable particulate matter emission control measures specified in Wis. Admin. Code § NR 415, including ambient air monitoring when required, the preparation and implementation of a fugitive dust control plan and required recordkeeping, all of which shall be made available to the Town. The operator shall notify the Town and provide it with a copy of any application for an exemption or a variance from the air monitoring requirements of NR 415 related to the operator's nonmetallic mining site and shall facilitate the Town's participation in the exemption or variance application and review procedure.
  - (j) Operators of nonmetallic mining operations that process silica sand for industrial use shall monitor the ambient level of airborne particulate matter of 2.5 microns in size (PM<sub>2.5</sub>) and Total Suspended Particulates (TSP), measured by the method described in Appendices L and B, respectively, of 40 CFR part 50 (2011) or by a method approved by the Town in consultation with the Town's retained experts. The type and number of monitors, location, frequency and duration of the monitoring program shall be determined by the Town after consultation with its retained experts and the operator. Air monitor results inclusive of any applicable regional background concentration and showing more than 35 micrograms of PM<sub>2.5</sub> or over 150 micrograms of TSP per cubic meter of air in a twenty-four (24) hour period shall require the operator to evaluate and implement additional best management practices to minimize the PM<sub>2.5</sub> emissions or TSP. All costs of air monitoring and corrective measures shall be borne by the operator. The operator shall compile summaries of air monitoring results that shall be provided to the Town within ten days of when the test results become available to the operator.

- (k) The operator shall use best management practices to keep the noise generated by all nonmetallic mining operations at or below sixty (60) decibels at the site perimeter. The use and regulation of compression release engine brakes, commonly known as jake-brakes, is at the discretion of the Town Board, where posted.
- l) Before an operator's license will be issued by the Town there must be in place fully executed road agreements between the applicant and each town and county with jurisdiction over all roads designated as preferred or alternate routes in the applicant's Operational Plan and located between the nonmetallic mining site, any processing plant for the nonmetallic minerals removed from the mine site, and the state or federal highway or railroad spur used to transport processed or unprocessed nonmetallic minerals out of the area.
- (m) Nonmetallic mining waste material shall be returned after any off-site processing only to the mine site from which it originated, and only when authorized or required to be returned pursuant to the mine site's County Reclamation Permit. The Town's retained experts shall regularly and periodically test the nonmetallic mining waste material to determine whether the material and the volume of material being returned is reasonably likely to have originated from the licensed operation and to determine whether the returned nonmetallic waste material has been treated with unauthorized or undisclosed substances after extraction. Operators are responsible for identifying for the Town all substances being used in the processing of nonmetallic minerals and for providing load and weight information that will allow the Town to determine whether the quantities of material being returned are reasonably likely to have originated from the licensed operation.

(3) Standards Regarding Groundwater and Surface Water.

(a) Impact on Groundwater Quality.

- (i) When recommended by the Town's retained experts, nonmetallic mining operators shall install groundwater monitoring wells on the site to densities and in the locations recommended after review of the submitted application materials and any independent review deemed necessary. The operator shall provide the required initial well baseline information and regular, periodic test results thereafter, as recommended by the Town's retained experts, of water from all private wells within one-half (1/2) mile of the perimeter of site whose owners will cooperate with the testing process and of any on-site monitoring wells for levels of coliform bacteria, arsenic, total suspended solids, turbidity, chlorides, acrylamides, nitrates and any other toxic substance reasonably believed by the Town's retained experts to be present in the area, in the type of deposit from which the extraction will be made, and in the base flow of water within one-half (1/2) mile of the

site. Follow-up testing shall be for substances and at frequencies determined by the Town and its retained experts after review of the baseline testing. All installation and equipment for on-site wells shall be at the operator's sole expense. Testing of on-site or off-site monitoring wells shall be conducted by the Town at the operator's sole expense. At the Town Board's discretion, testing costs may be paid by the Town out of the licensee's Financial Assurance account, as specified in section 10 of this document, or billed directly to the operator.

- (ii) Nonmetallic mining operations shall not be the cause of exceeding the preventative action limits for public health groundwater quality standards as established in Wis. Admin. Code Ch. NR 140 in any adjoining landowner's private well or in any on-site monitoring well, for those conditions and substances being monitored with the baseline and periodic testing required under this Ordinance. If test results do exceed preventative action limits in any on-site or private well, groundwater quality testing shall immediately be undertaken in an expanded area as recommended by the Town's retained experts.
- (iii) Nonmetallic mining operations shall not extract nonmetallic materials to any depth below a point that is thirty (30) feet above the groundwater table, or below a site-specific lesser depth recommended by the Town's retained expert, after review of the application materials submitted and any independent review deemed necessary.
- (iv) Nonmetallic mining waste material processed with polyacrylamide flocculants may be returned and used as fill in any area on a mine site only when permitted or required under the mine's Reclamation Plan and Permit, and only after the Town Board, in consultation with the Town's retained experts, has determined that the flocculants contained in the nonmetallic mining waste material being returned to the site meet the same standards for ANSI/NSF Standard 60 certification as flocculants used in public drinking water systems. Before any such material is returned the Town Board, in consultation with the Town's retained experts, shall provide the operator with a Fine Materials Handling Plan for the licensed operation. The Fine Materials Handling Plan shall require periodic third-party testing to determine and monitor the presence and levels of flocculants in the nonmetallic mining waste material being returned to the site and that takes into account the manner of application and the designated location(s) in the mine site for deposit of the treated nonmetallic mining waste material being returned, with allowable concentrations, application methods and application locations specified in a manner intended to avoid the introduction of acrylamides into the groundwater.

The applicant or operator shall ensure that the monitoring plan required here is consistent with any related requirement in its Pepin County Reclamation Permit. All expenses related to the creation, execution and administration of the Fine Materials Handling Plan (including but not limited to retained experts' fees, attorney fees, and the costs of sampling, testing, and analysis) shall be born by the applicant or operator. At the Town Board's discretion, these costs may be paid by the Town out of the licensee's Financial Assurance account, as specified in section 10 of this document, or billed directly to the operator.

- (v) Any sedimentation ponds on a nonmetallic mining site shall have concrete liners.

(b) Impact on Groundwater Quantity.

Nonmetallic mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one-half mile of the mine site. A significant reduction is a drop in the water table that results in a substantial adverse impact to a private and/or high-capacity well including but not limited to the inability of the well to provide potable water on a continuous basis. Any proposal that required the installation of a high capacity well shall be reviewed by the Town's retained experts for withdrawal rates and potential effect on nearby wells and surface waters.

(c) Impact on Surface Water Baseflow. Nonmetallic mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one-half (1/2) mile of the perimeter of the nonmetallic mining site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below baseflow levels at the beginning of nonmetallic mining operations.

(d) Impact on Surface Water. Nonmetallic mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters that serve as a source of water for agricultural or municipal functions such as fire protection within one-half (1/2) mile of the border of the nonmetallic mining site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below baseflow levels at the beginning of nonmetallic mining operation.

(e) Mitigation of Impact of Nonmetallic Mining on Groundwater and Surface Water.

- (i) When groundwater test results exceed the preventative action limits for public health groundwater quality standards as established in Wis. Admin. Code Ch. NR 140 in an adjoining landowner's private well or in any on-site monitoring well for those conditions and substances being monitored, the remedies available under Section 11 shall be provided to the affected landowner(s) or resident(s).

- (ii) When adverse effects on surface waters are established to the satisfaction of the Town utilizing its retained experts, which effects are initially and reasonably attributable to water consumption by the operator of a licensed nonmetallic mining operation, the Town shall issue a notice and order to stop the operation until the water use and water needs of the operation have been reassessed, the WI DNR has been notified and given the opportunity to undertake any investigation or permit review under its jurisdiction, options have been identified and evaluated to correct the adverse impact and a timeline can be developed for adequate mitigation and future monitoring and evaluation measures to be put into place. During the time a stop order is in effect the affected operator can present and seek Town approval for an interim operating plan that does not involve the withdrawal of ground or surface water from the affected water table.

(4) Town Roads.

When Trucks used in the nonmetallic mining operation will haul nonmetallic minerals (excluding agricultural lime and/or sand, gravel or crushed rock used for construction purposes) or nonmetallic mining waste material over Town roads as a designated haul route, the operator shall first enter into a separate road use agreement pursuant to Wis. Stats. § 349.16, the purpose of which shall be to fund a complete traffic impact analysis of the Town road at issue and the highway upgrades, maintenance and repair of the road during the license term for the convenience and safety of the traveling public and to prevent financial burdens from being imposed on Town taxpayers due to road use in association with a nonmetallic mining operation. The road use agreement shall be in place before a license is issued or renewed under this ordinance.

(5) Hazardous materials.

- (a) All hazardous materials shall be contained, stored, used and disposed of in accordance with applicable state and federal laws.
- (b) The operator shall not store, place or dispose of nonmetallic mining waste materials onsite that contain any hazardous materials. Nonmetallic mining waste materials shall not be moved onto the mine site described in an operator's license that have been extracted from a nonmetallic mining operation other than the licensed site, and shall only be returned in the amounts authorized by and following the procedures specified in the site-specific Pepin County Reclamation Permit.
- (c) The operator shall develop and provide its written plan for responding to spills or releases of any hazardous materials on the site to the Town, Pepin County and all area emergency service providers who may be involved in responding to such spills or releases.



(6) Special Exceptions.

- (a) An operator can request a special exception from selected minimum standards of operation in this section if it can demonstrate to the satisfaction of the Town Board that the intent of this Ordinance will be achieved through the use of alternate measures and that the public health, safety and welfare will not be adversely affected thereby. The Town shall consider information and conclusions provided by the public, the operator and by the Town's retained experts in making this determination.
- (b) The Town Board can impose requirements in addition to or exceeding the minimum operation standards of this ordinance when it has evidence that the public health, safety and welfare will not be adequately protected without the imposition of additional measures. The Town shall consider information and conclusions provided by the public, the operator and by the Town's retained experts in making this determination.

(7) Registration License.

- (a) For nonmetallic mining operations that meet the criteria for a registration license set out in Section 4.(7), the Town Board shall grant a registration license after the operator applies, pays an application fee and administrative deposit and submits the following information to the Town Board:
  - (i) Certification from the operator that the operation meets the applicable requirements in Section 7. of this Ordinance, concurred in by the Town's retained expert.
  - (ii) Ownership information required by Section 6.(1) of this Ordinance.
  - (iii) A copy of the Pepin County reclamation plan(s) and reclamation permit and any licenses or permits issued by other federal, state or local agencies for the nonmetallic mining operation on that site.
  - (iv) An operation plan that applies best management practices to control noise, dust, light, surface water runoff and other off-site impacts from the operation. The Town's retained expert shall determine whether best management practices are present in the operation plan.
- (b) The Town may require additional operation-specific information after application review.
- (c) Registration licenses shall be subject to renewal every five years and are subject to all observation and enforcement provisions of this ordinance.

**7.308 ANNUAL REPORT AND LICENSE RENEWAL**

(1) Annual Report.

- (a) On or before March 1 of each calendar year in which a Town license is in effect, the operator shall submit an annual report to the Town Board for nonmetallic mining

operations regulated by each license an operator has from the Town.

- (b) The annual report shall include the following information:
- (i) Identification of the licensed operator and map showing the location of the nonmetallic mining site at which the license is exercised, active nonmetallic mining areas on the site, anticipated areas of nonmetallic mining activity and reclamation presently and during the coming year, showing the number of acres for each, and disclosure of any ways in which the coming year's plan differs from the information in the license application materials.
  - (ii) A description of activities and operations on the nonmetallic mining site during the previous calendar year including actual days and hours of operation, and of hauling on public roads, volume of nonmetallic minerals mined, volume transported off-site, and volume and location of stockpiled nonmetallic minerals and nonmetallic mining waste materials returned and placed onsite, with load counts, weights, and tickets available on request, and disclosure of any ways in which the coming year's plan differs from the information in the license application materials.
  - (iii) A description of activities and operations on the site anticipated for the following calendar year, and disclosure of any ways in which the coming year's plan differs from the information in the license application materials.
  - (iv) A written report describing how the operator has been in compliance with all terms and conditions of its license and this ordinance, including all groundwater, surface water, dust and other monitoring results.
  - (v) Full disclosure of all areas of non-compliance with the operator's license and a plan for bringing all currently non-compliant areas of operation into compliance or a description of how compliance was achieved; also summaries of all complaints from adjoining landowners and members of the public since the last annual report, explaining how and when each complaint was received and mitigated or otherwise addressed.
  - (vi) Operator certification that the nonmetallic mining operation continues to meet or exceed the minimum standards of this ordinance.

(2) License Renewal.

- (a) The operator shall make written application to the Town Clerk for a renewal of its operator's license no later than March 1 of the year in which the license will expire. The application shall fully describe the manner and extent of operation being proposed during the renewal period and be accompanied by the payment of the license renewal fee and an administrative fee deposit.
- (b) The written request for renewal shall include the annual reports for all years during a past license period for which an annual report is not already on file with the Town.
- (c) The Town Clerk shall review the renewal application for completeness and forward the complete renewal application to the Town Board.

- (d) The Town Board or Town Chair shall review the renewal application to determine if additional information from the operator is necessary to properly evaluate the renewal application. The Town's retained experts and a Town representative shall physically inspect the licensed mine operation.
- (e) The Town's retained expert and legal fees related to processing the renewal application shall be paid from the administrative fee deposit, which shall be replenished by the license renewal applicant upon written notice from the Clerk. Maintaining the administrative fee deposit is a condition of Town processing of the license renewal application. Amounts so deposited shall be held and used by the Town to pay its administrative costs and for its retained experts and legal fees. All requirements of Section 5(3)(c) of this ordinance apply to the license renewal application administrative fee deposit.
- (f) When the operator has submitted all additional information requested and all retained experts have reported to the Town Board on the review of the renewal application, site inspection and whether the nonmetallic mining operation has met and will continue to meet the requirements of this Ordinance, the Town Clerk shall place the license renewal application on the agenda of the next regular meeting or notice a special meeting of the Town Board if necessary for action prior to the expiration of the current license. The operator shall pay the cost of any special meeting. Members of the public can submit written comment on the renewal application in advance of the meeting. The public and the license renewal applicant may be allowed to submit information at the meeting, at the discretion of the Town Board.
- (g) The Town Board shall grant an application for renewal of an operator's license when it finds that:
  - (i) there have been no material or recurring violations of the ordinance or the license which have not been promptly and fully remedied by the operator;
  - (ii) the operator has not received multiple or recurring citations or corrective orders for violations of its operator's license under this ordinance;
  - (iii) all applicable fees and deposits have been paid and maintained and all financial responsibility requirements have been and are being met; and
  - (iv) the nonmetallic mining operation as proposed will meet or exceed the minimum standards of this ordinance.
- (h) If the Town Board denies an application for license renewal, the Town Board shall notify the operator of the denial and the stated grounds for denial, in writing. The operator shall have fifteen (15) days from receipt of notification to request a public hearing, provide additional information and request that the Town Board reconsider its denial.

## **7.309 ACCESS, OBSERVATION, ENFORCEMENT PROCEDURES AND PENALTIES**

(1) Access, Observation. In addition to mine site access and observation by the Town's retained experts and the designated Town representative related to license renewal, the Town Board, its retained expert or any Town representative has access to a licensed operator's nonmetallic mining site at any time to protect the health and safety of the public, to observe operations and/or to evaluate compliance with the minimum operation standards and other requirements of this ordinance, with or without advance notice to the operator and upon showing proper identification.

(2) Violations. The following are violations of this ordinance:

- (a) Engaging in nonmetallic mining in the Town without an operator's license.
- (b) Noncompliance with the minimum operation standards and other requirements of this ordinance during a license term.
- (c) Providing incorrect or false information or statements on documentation submitted during the Town licensing process or during Town inspection of the nonmetallic mining site or operation.
- (d) Failure to timely file an annual report.
- (e) Failure to take prompt and appropriate remedial or other action in response to a notice of water or air testing results in excess of allowable standards, notice of violation, citation, request for additional administrative fee deposit or financial assurance or other directive from the Town.
- (f) Failure to comply with all federal, state, county and local laws and regulations that govern or affect the operator's nonmetallic-mining operation.

(3) Remedies. The Town Board or Town Chair may take any appropriate action or proceeding against any operator or the landowner of any portion of a nonmetallic mining site when the operator is deemed by the Town Board to be in violation of this ordinance, including any one or more of the following actions:

- (a) Issue a stop work order.
- (b) Issue a notice of violation and order that specifies the action to be taken to remedy the situation within the deadline set to do so in the notice and order.
- (c) Take action to complete action specified in a notice of violation and order after notice deadline has expired, and recover the cost of doing so from the operator.
- (d) Issue a citation.
- (e) Refer the matter to legal counsel for consideration and commencement of legal action including the assessment of penalties under sub. (5) and injunctive relief.
- (f) After notice and a hearing, suspend or revoke any operator's license for any violation of this Ordinance.

(4) Hearings.

- (a) Any operator or license applicant who receives a notice or order issued under Section 9 of this Ordinance or is denied an operator's license, license transfer, license amendment, registration license or license renewal may request a public hearing before

the Town Board by filing a written petition with the Town Clerk requesting the hearing, setting forth the name, address and phone number of the person requesting the hearing, the person's interest in the operator's license or application at issue, the grounds for requesting the hearing, outcome being requested and reasons in support of the requested outcome. The petition shall be filed within fifteen (15) days after the date of mailing of notice or order under Section 9 or within fifteen (15) days after mailing to the operator or applicant the written denial of application for a license, transfer, amendment, registration license or license renewal application. Upon receipt of a hearing request, the Town Clerk shall set a time and place for the hearing and shall give the petitioner written notice thereof, which hearing shall be scheduled for a date within thirty (30) days of filing the request.

- (b) At or within fourteen (14) days after the hearing, the Town Board shall vote to sustain, modify or withdraw the previously issued notice or order or action to grant or deny the license, transfer, amendment, registration license application or license renewal at issue, based on its findings as to whether the Ordinance has been violated or whether the applicant can meet the standards and requirements of this Ordinance. The person who requested the hearing shall be notified in writing of the Town's findings within ten (10) days of the Town Board's decision.
- (c) The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore, shall be summarized in writing, entered as a public record in the office of the Town Clerk, and shall include a copy of every notice and order issued in connection with the hearing and decision.
- (d) When an operator's license is revoked, all rights thereunder shall terminate immediately. The only nonmetallic mining operation that may be engaged in after license revocation shall be reclamation activity conducted in compliance with the requirements of the operator's reclamation permit from Pepin County.

(5) Penalties.

- (a) An operator, landowner, person or entity adjudicated to have violated this ordinance shall pay a forfeiture of not less than \$1,000.00 per violation nor more than \$5,000.00 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation.
  - (b) An operator, landowner, person or entity adjudicated to have violated this ordinance shall pay court costs, the Town's actual attorney's fees and the actual costs of the Town's retained experts to the extent not paid from an administrative fee deposit, in addition to any forfeiture.
- (6) The failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present or future violations(s).

### 7.310 FINANCIAL ASSURANCE

(1) In addition to requirements related to minimum standards of operation, financial assurance shall be provided to the Town as a condition of issuance or renewal of an operator's license, in the amount determined by the Town's retained experts to be 130% of amounts necessary for the following:

- (a) Road repair: Amounts necessary for the repair and extraordinary maintenance of Town roads due to truck traffic transporting materials, supplies or equipment to or from the nonmetallic mining site at which the operator's license is in effect during the duration of the license term. Repairs and extraordinary maintenance is defined as everything other than crack filling, minor surface repair, chip seal, shoulder pull-up, mowing and less than annually required pavement marking on every Town road used as a haul route for nonmetallic minerals, nonmetallic waste material and for empty trucks returning to the mine site.
- (b) Water Supply: Amounts necessary to provide an alternate water supply to affected residences or agricultural operations when the groundwater is shown to have been adversely affected by the nonmetallic mining operation, as determined from the ongoing groundwater testing.
- (c) Groundwater Testing: Amounts necessary to pay all costs associated with monitoring water quality through periodic water testing in on-site or off-site monitoring wells.
- (d) Fine Materials Handling Plan: amounts necessary to draft and implement a plan intended to avoid contamination of groundwater by acrylamides or other potentially toxic substances found in, or resulting from the degradation of, flocculents used to process industrial sand at the mine site or that are being returned to the mine site. This may include, but is not limited to, sampling, testing and analysis of fine materials at the processing plant or at the mine site, before, during, and after reclamation; and all associated fees of attorneys and retained experts used by the Town to develop or to implement the Plan.

(2) Financial assurance to the Town shall be in the form of a cash deposit or irrevocable letter of credit in favor of the Town from an accredited financial institution, in a form and for a term acceptable to the Town.

(3) In the event the Town determines that the amount of financial assurance must be replenished or increased to meet specific road repair or water supply needs, or when the deposited amount has been depleted, the Town shall notify the operator of the additional amount needed and the basis for the request. The operator shall provide the additional amount within fourteen (14) days of notification.

(4) The operator shall also provide proof to the Town that it has provided and maintains full financial assurance to Pepin County for site reclamation as required under Wisconsin law and the County's Reclamation Permit.

### **7.311 REMEDY FOR DAMAGE TO PRIVATE WATER SUPPLY**

- (1) Landowners have a remedy under this ordinance for damage to their private water supply:
  - (a) When the preventative action limit for public health groundwater quality standard in Wis. Admin. Code Ch. 140 is exceeded in the private well serving the owner's property for substances, solids, turbidity and properties being tested for;
  - (b) When a substantial adverse impact on the quantity of water available for reasonable use from a private well on the owner's property occurs, including but not limited to the inability of the well to provide potable water on a continuous basis; and
  - (c) When lowering of surface waters that serve as a source of water for personal functions on the owner's property occurs, to levels below the baseflow levels at the beginning of nonmetallic mining operations.
  
- (2) When an operator receives test results for a well subject to baseline and periodic testing that exceed a preventative action limit for public health groundwater quality it shall immediately notify the Town, the affected property owner and resident, if different, and take immediate steps to provide an adequate interim potable water supply as required under (4) of this section.
  
- (3) A property owner seeking a remedy under this section of this Ordinance shall serve notice on the operator of the occurrence of the event giving rise to a remedy, explaining in detail the nature and extent of the problem and providing verification by private test result if available, and shall simultaneously serve a copy of the notice on the Town.
  
- (4) Within twenty-four (24) hours of receipt of such a notice or operator notification under (2) and absent earlier operator action to do the same, the Town may use the financial assurance funds held as required under Section 10 of this ordinance to provide an adequate interim potable water supply to an affected landowner for personal use, for livestock and for any food producing garden(s) served by the well at issue. The Town shall also use the said funds to indemnify the Town for any claims filed under Wis. Stat. § 281.77(4) and to reimburse verified cost of testing or test verification measures undertaken by the affected landowner. The interim water supply shall continue to be provided until the Town has received any report or plan required by sub. (5).
  
- (5) Within forty-five (45) days of receipt of notice under sub. (2) or (3), the operator shall provide the property owner and the Town with a report that can be verified by the Town's retained experts and/or the affected landowner, demonstrating that the impact to the property owner is either not attributable to the nonmetallic mining operation or, if the impact is or is likely attributable to the nonmetallic mining operation, a plan for a permanent alternate water supply or adequate modification to the existing one, the cost of which shall be paid by the operator, and the operator shall continue to provide the interim water supply until the permanent alternate water supply or modification is installed and operating satisfactorily.
  
- (6) This remedy is in addition to any other legal remedies available to the affected landowner.

### **7.312 SEVERABILITY, INTERPRETATION, AND ABROGATION**

- (1) Severability.
  - (a) Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.
  - (b) If any application of this ordinance to a particular nonmetallic mining operation is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment is not applicable to nonmetallic mining operation not specifically included in said judgment.
  
- (2) The provisions of this ordinance shall be liberally construed in favor of the Town and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town.
  
- (3) This ordinance is not intended to repeal, nullify or interfere with any easements, covenants, deed restrictions or agreements created prior to its effective date.

### **7.313 USE OF MINING AGREEMENT**

The provisions of this Ordinance may be modified in a written Mining Agreement between the Town and an operator when it provides an application-level administrative fee deposit to the Town prior to beginning negotiations to defray the Town's cost of negotiations including experts. The Town Board must determine that the Agreement will protect public health, safety and welfare at least as well as the protections provided by this Ordinance as a condition of entering any such Agreement. The Town Board shall consider information and opinions from the Town's retained experts in making this determination.



**CHAPTER 8      MOTOR VEHICLES AND TRAFFIC**

**8.0 (RESERVED FOR TRAFFIC AND PARKING)**

**8.1 (RESERVED FOR SNOWMOBILES)**

**CHAPTER 9      (RESERVED FOR PUBLIC NUISANCES)**

## **CHAPTER 10 BUILDING CODES/EROSION**

### **10.1 BUILDING PERMIT** *(Rescinded February 11, 2014)*

### **10.2 UNIFORM CODE OF DWELLING/BUILDING PERMIT** *(ORDINANCE NO. 2012-4)*

#### **10.2 Authority**

These regulations are adopted under the authority granted by Wisconsin Statute § 101.65.

#### **10.201 Purpose**

The purpose of this ordinance is to promote the general health, safety and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

#### **10.202 Scope**

The scope of this ordinance includes the construction and inspection of one-and-two family dwellings built since June 1, 1980.

#### **10.203 Adoption of Wisconsin Uniform Dwelling Code**

The Wisconsin Uniform Dwelling Code, Chapters Comm. 20-25 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this ordinance.

#### **10.204 Building Inspector**

There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Safety & Buildings, as specified by Wisconsin Statutes, Section 101.66(2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing.

#### **10.205 Building Permits Required**

No person shall build, add onto or alter any dwelling in excess of Ten Thousand Dollars (\$10,000.00) value or 400 square feet, in any twelve (12) month period, within the scope of this ordinance without first obtaining a building permit for such work from the building inspector. Any structural changes or major changes to mechanical systems that involve extension shall require permits. Restoration or repair of an installation to its previous code-compliant condition as determined by the building inspector is exempted from permit requirements. Residing, re-roofing, finishing or interior surfaces and installation of cabinetry shall be exempted from permit requirements. Building permits are valid for 2 years from the date of issuance.

#### **10.206 Building Permit and Inspection Fees**

Inspection fees shall be determined by the Town Board and collected by the UDC certified building inspector contracted to the Town of Frankfort, and shall include the current amount

determined by the Department of Commerce, to be forwarded to the Wisconsin Department of Commerce for a UDC permit seal that shall be assigned to any new dwelling.

**10.207 Penalties**

The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures, injunctive action, together with the costs for such action, including, but not limited to all costs, disbursements and attorneys fees incurred by the Town. Forfeitures shall not be less than \$25.00 nor more than \$500.00 for each day of noncompliance.

**10.5 (RESERVED FOR EROSION AND STORMWATER RUNOFF CONTROL)**

**CHAPTER 11 (RESERVED FOR SUBDIVISION)**

**CHAPTER 12 (NOT DESIGNATED)**

**CHAPTER 13 (NOT DESIGNATED)**

**CHAPTER 14 (NOT DESIGNATED)**

**CHAPTER 15 (NOT DESIGNATED)**

**CHAPTER 16 (NOT DESIGNATED)**

**CHAPTER 17      ZONING (ORDINANCE NO. 2013-3)(amended 6-2020)**

**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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SECTION 17.06 (6) WIND ENERGY SYSTEMS  
SECTION 17.07 PERFORMANCE STANDARDS  
SECTION 17.08 CONDITIONAL USE PERMITS  
SECTION 17.09 GENERAL CRITERIA FOR EVALUATING CONDITIONAL USE PERMITS, CHANGES TO ZONING DISTRICTS AND VARIANCE REQUESTS  
SECTION 17.10 BOARD OF ADJUSTMENT  
SECTION 17.11 NONCONFORMING USES, STRUCTURES, AND LOTS  
SECTION 17.12 CHANGES AND AMENDMENTS  
SECTION 17.13 EFFECTIVE DATE

- FIGURE 1 – DISTRICT ZONING MAP Dated July 15,2013
- FIGURE 2 – STEEP SLOPES
- FIGURE 3 – FLOODPLAIN
- FIGURE 4 – POTENTIAL AREAS OF KARST

## 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 it's 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:

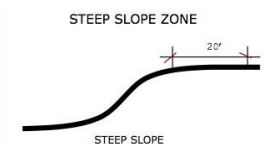
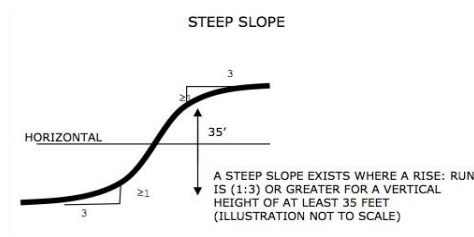
- a) Guard against property damage and personal injury.
- b) Minimize the potential for erosion, slope failure, stream siltation, increased runoff, flooding and contamination of surface waters caused by the adverse effects of site preparation and construction on steep slopes.
- c) Conserve existing woodlands 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.

**SECTION 17.13 EFFECTIVE DATE**

This Ordinance is effective on publication or posting. The town clerk shall properly post or publish this ordinance as required under §60.80 Wis. Stats.

Adopted this 31<sup>st</sup> day of July 2013.

/s/ Bryce Black  
Bryce Black  
Town Board Chairman

Date 7/31/13

Attest:

/s/ Maureen Manore  
Maureen Manore  
Town Board Clerk

7/31/13  
Date

Published this 8<sup>th</sup> day of August, 2013

Posted this 2<sup>nd</sup> day of August, 2013.

FIGURE 1 – DISTRICT ZONING MAP Dated July 15, 2013

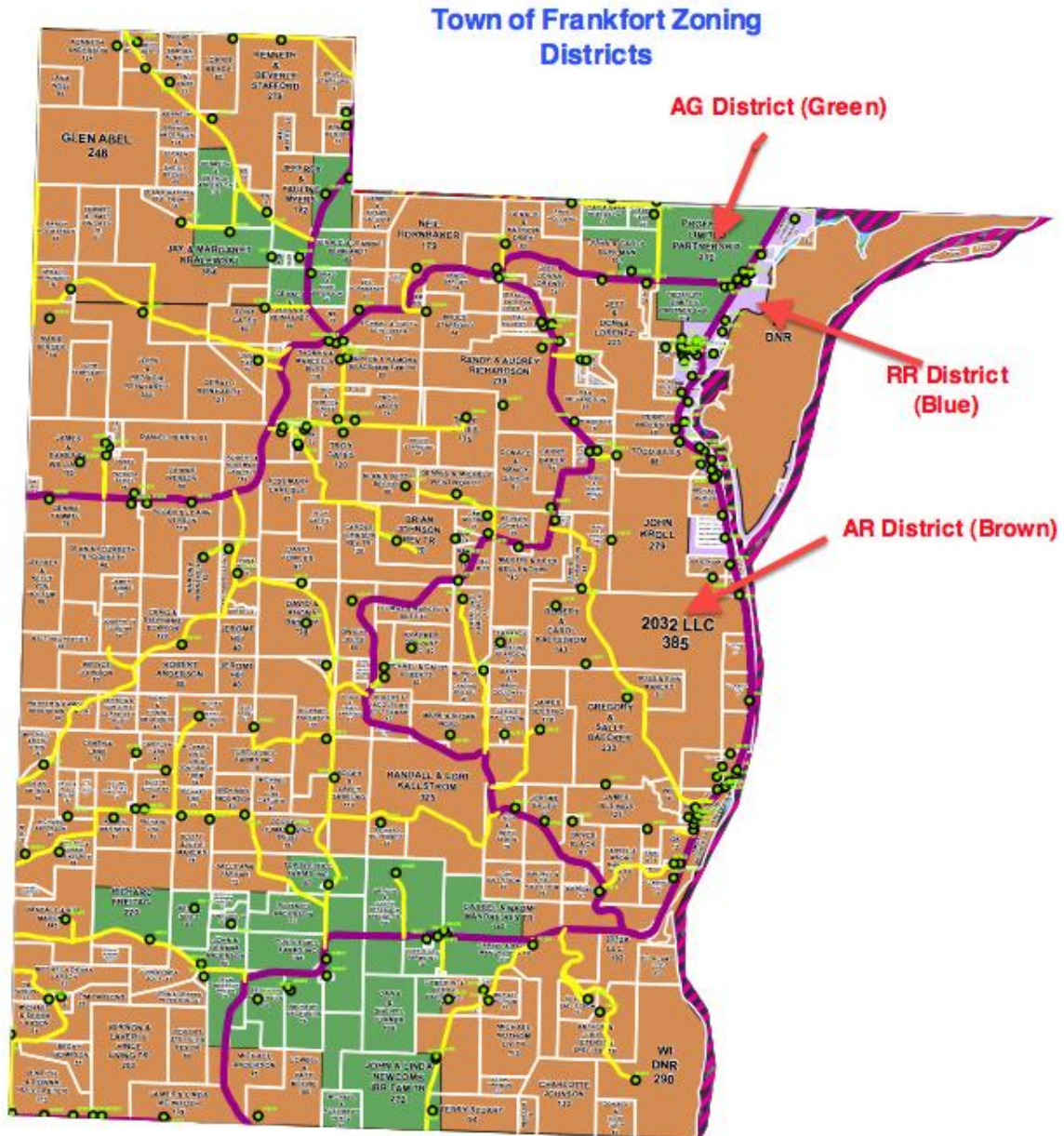


FIGURE 2 – STEEP SLOPES

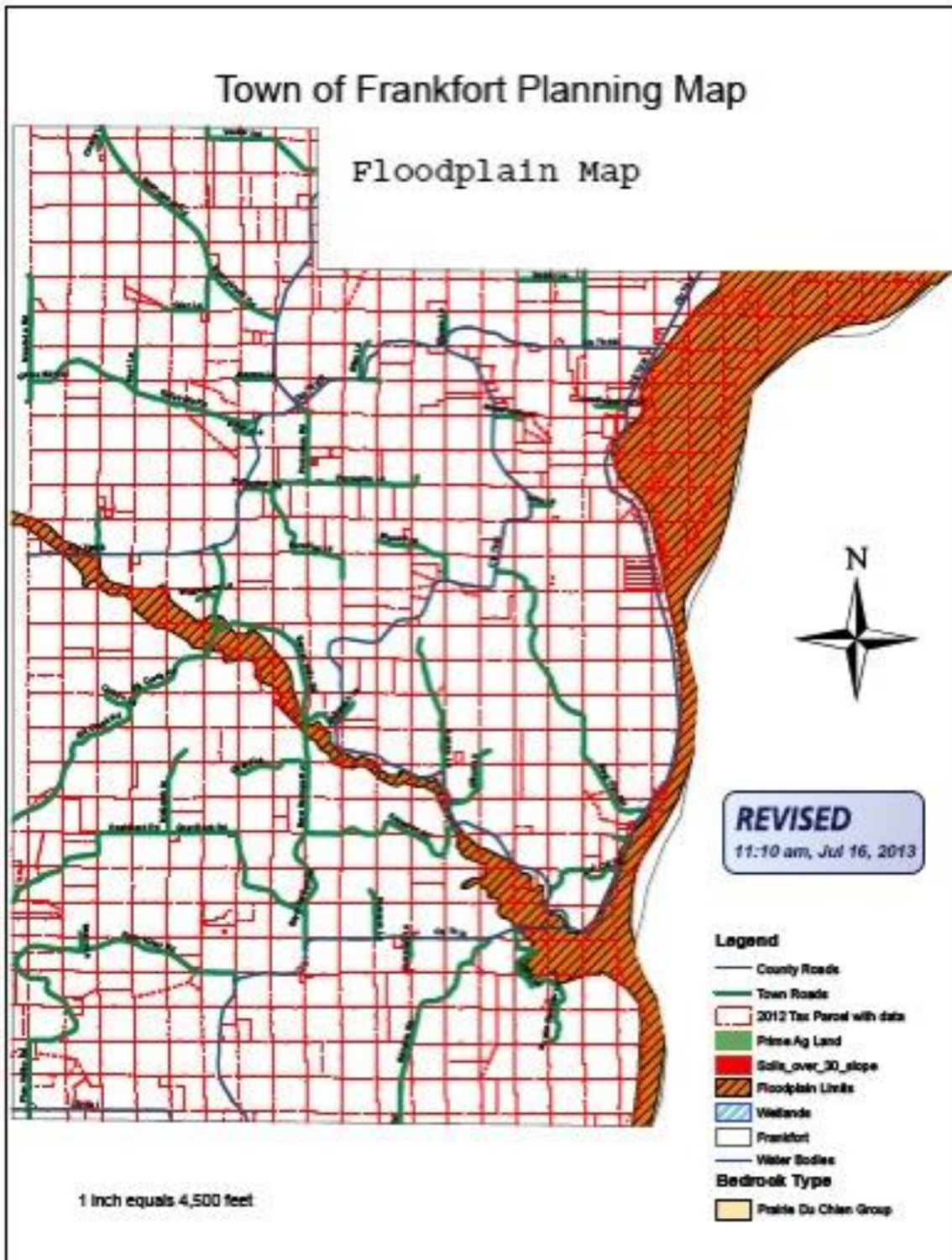
SOURCE: PEPIN COUNTY GIS





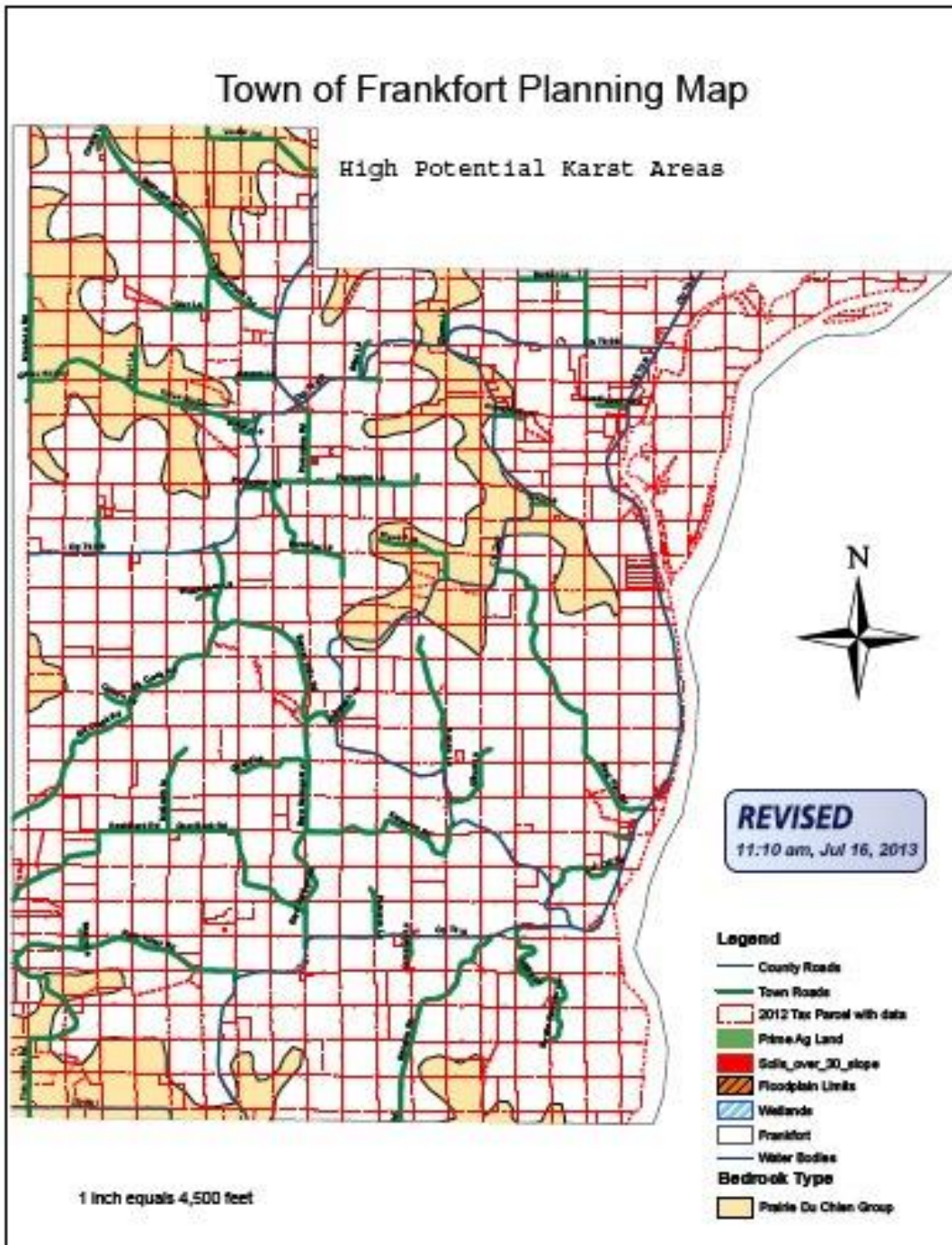
FIGURE 3 – FLOODPLAIN

SOURCE: FEMA/WDNR



**FIGURE 4 – POTENTIAL AREAS OF KARST**

Source: Wisconsin Geological Survey University of Wisconsin – Extension 2013



## **SCHEDULE OF DEPOSITS**

*(CITATION ORDINANCE 2006-1 (amended November 2013))*

1. Building Permits – \$25.00 *(Section 10.1) rescinded February 2014*
2. Highway Access – \$25.00 *(Section 4.3)*
3. Nonmetallic Mine Operator’s License - \$1,000.00-\$5,000.00 *(Section 7.309(5))*
4. Uniform Dwelling Code - \$25.00-\$500.00 *(Section 10.207)*
5. Zoning Permits - \$50.00-\$1,000.00 *(Section 17.02(4))*

### **ORDINANCE NO. 2006-1**

**SECTION I – TITLE/PURPOSE** - The title of this Ordinance is the Town of Frankfort **Citation Ordinance**. The purpose of this ordinance is to authorize the town board of the Town of Frankfort, or its designees, to issue citations for violations of Town of Frankfort ordinances, including ordinances with statutory counterparts.

**SECTION II – AUTHORITY** -The town board of the Town of Frankfort has the specific authority under s. 66.0113, Wis. stats., to adopt this ordinance.

**SECTION III – ADOPTION OF ORDINANCE**-The town board of the Town of Frankfort, by this ordinance, adopted on proper notice with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the Town of Frankfort to issue citations for violations of Town of Frankfort ordinances, including ordinances with statutory counterparts.

### **SECTION IV – COVERAGE**

- A. Except as provided in subsection E and F [if applicable]. of this Section IV, the town board prescribes the form for citations to be issued in the Town of Frankfort by the town board, or its designees, for violations of Town of Frankfort ordinances shall be as provided in this subsection and shall include all of the following:
1. The name and address of the alleged violator.
  2. The factual allegations describing the alleged violation.
  3. The time and place of the offense.
  4. The section of the ordinance violated.
  5. A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so.
  6. The time at which the alleged violator may appear in court.
  7. A statement that in essence informs the alleged violator of all of the following:
    - a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.
    - b. That if the alleged violator makes a cash deposit, he or she need not appear in court unless subsequently summoned.
    - c. That if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, Wis. stats., not to exceed the amount of the deposit, or will be summoned

into court to answer the complaint if the court does not accept the plea of no contest.

- d. That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment under s. 66.0113 (3) (d), Wis. stats., or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, Wis. stats.
  - e. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093, Wis. stats.
  - 8. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement that accompanies the citation to indicate that he or she read the statement required under s. 66.0113 (1) (b) 7., Wis. stats., and shall send the signed statement with the cash deposit.
  - 9. Any other information as may be deemed necessary
- B. The town board adopts the following schedule of cash deposits that are required for the various Town of Frankfort ordinance violations, which includes for each listed violation costs, fees, and surcharges imposed under ch. 814, Wis. stats.:

Ordinance No. 2005-2, Building Permits- \$154.55  
(Reference section 9- Penalties)

Ordinance No. 2005-3, Highway Access- \$154.55  
(Reference Section 11- Penalties)

- C. The town board names the following court, clerk of court, or other official to whom cash deposits are to be made and require that receipts be given for cash deposits: PEPIN COUNTY CLERK OF COURT.
- D. The town board requires that in traffic regulation violation actions, except for parking regulation violations, the uniform traffic citation specified in s. 345.11, Wis. stats., shall be used by the Town of Frankfort in lieu of the citation form noted above in subsection C.
- E. The town board requires that in actions for violations of Town of Frankfort ordinances enacted in accordance with s. 23.33 (11) (am) or s. 30.77, Wis. stats., the citation from specified in s. 23.54, Wis. stats., shall be used in lieu of the citation form noted above in subsection C.

## SECTION V – ISSUANCE AND SERVICE OF CITATION

- A. The Town of Frankfort citations may be issued by the Town Board of the Town of Frankfort or the Town Board of the Town of Frankfort may designate certain Town of Frankfort, Pepin County or other municipal officials, with their written approval, to issue such citations.
- B. The Town of Frankfort Town Board has designated the Town Chair or any person approved by the Town Board to serve any citations for the Town of Frankfort upon issuance. Any

person specifically authorized by the Town Board to issue citations by the Town Board of the Town of Frankfort may also serve such citations.

SECTION VIII – EFFECTIVE DATE

This Ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 8<sup>th</sup> day of May 2006.

/s/ Brad Anderson, Chairman

/s/ Glen Peterson, Supervisor

/s/ Denny Richardson, Supervisor

Attest: /s/ Maureen Manore, Clerk