

## **Chapter 15**

### **Town of Fremont Zoning Ordinance**

#### **15.1.1 Interpretations and Purposes**

##### **15.1.2 Objectives**

To achieve the objectives outlined in Sections 60.10(2) 60.62, 60.63, 60.627, 61.35, 62.23, 66.0401, 66.0403 Wis. Stats., and implement the Town of Fremont Comprehensive Plan, the Board of Supervisors of Town of Fremont ordains zoning regulations as follows:

##### **15.1.3 Short Title**

This ordinance may be known as and may be cited as The Town of Fremont Zoning Ordinance.

##### **15.1.4 Purpose and Intent**

This ordinance is adopted in order to promote and protect public health, safety, comfort, convenience, prosperity, aesthetics, and other aspects of the general welfare; and, more specifically, to fix reasonable standards to which buildings and structures shall conform, to regulate and restrict buildings in all of the unincorporated areas of the Town, to guide the proper distribution and location of various land uses, to promote the safety and efficiency of the streets and highways, to provide for adequate light, air, sanitation and drainage, to conserve natural resources, to provide safety from fire and other hazards, to define the powers and duties to the administrative bodies as provided hereinafter, and to prescribe penalties for the violation of the provisions of this ordinance or any amendment thereto.

##### **15.1.5 Application of Overlapping Regulations**

This ordinance shall not repeal, impair or modify private covenants or other public ordinances, except that it shall apply whenever it imposes stricter regulations. All areas of the Town located in shoreland shall be regulated by the Waupaca County Shoreland Zoning Ordinance of most current adoption.

##### **15.1.6 General Interpretation**

The following rules of construction shall apply to this ordinance: The particular shall control the general; in case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control; the word "shall" is always mandatory, whereas the word "may" is permissive; words used in the present tense shall include the future, and words used with singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary; building or structure include any part thereof; the phrase "used for" includes arranged for; the person includes an individual, a corporation, a partnership, an incorporated association or any other similar entity; unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or

events connected by the conjunction and, or, either, or, the conjunction shall be interpreted as follows; and indicates that all the connected items, conditions, provisions or events shall apply, or indicates that the connected items, conditions or events may apply singly or in any combination; either/or indicates that the connected items, conditions, provisions or events shall apply singly but not in combination; all measured distances shall be to the nearest integral foot, if a fraction is one-half foot or more, the integral foot next above shall be taken; the masculine gender includes the feminine and the neuter.

### **15.1.7 Definitions of Words or Phrases**

The following words, phrases and terms, wherever they occur in the ordinance, shall be interpreted as herein defined (Definitions for land uses are outlined in Section 15.6.0):

1. Accessory Use: A use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use except for such accessory parking facilities as are specifically authorized to be located elsewhere (as distinguished from a principal use).
2. Base Farm Tract: All contiguous parcels within the Agriculture Enterprise (AE) Zoning District that are part of a single farm.
3. Buildable Area: The specified portion of a lot within the building and setback lines.
4. Building: Any structure which is built for the support, shelter or enclosure of person, animals, chattels or movable property of any kind and which is permanently affixed to the land.
5. Building, Accessory: A subordinate building or a portion of a principal building, the use of which is incidental and customary to that of the principal building, and located on the same lot as the principal building. No accessory building or part thereof shall be used for living, sleeping, or eating quarters.
6. Building Area and Coverage: The area bounded by the exterior dimensions of the outer walls at the ground line and the percentage of area covered by these buildings.
7. Building, Principal: The main building on a lot, intended for primary use as permitted by the regulations of the zone in which it is located.
8. Building, Public and Semi-Public: Public and semi-public buildings, in the sense of this ordinance, are structures principally of an institutional nature and serving a public need such as: churches, hospitals, rest homes, schools (including private academic schools and nursery schools), libraries, museums, post offices, police and fire stations, public and private utilities, and other public services, but not including the operation of a public bar, restaurant, or recreational facility as commercial enterprise.
9. Building, Service: A structure which may contain a toilet, lavatory, and such other facilities as may be required by this ordinance. Such structures shall be primarily designed and used for the operation of a manufactured/mobile home park, campgrounds, or camp. This shall include those buildings of a commercial nature which may be permitted by the Town Plan Commission and office of the management.
10. Committee: Plan Commission.
11. Condominium: As defined in Wis. Stats. Chapter 703.
12. Town Board: Fremont Town Board of Supervisors.
13. Density: The number of residential dwelling units located within a specific land area (expressed as the number of units per acre(s) or square feet). For the purpose of this

Ordinance, the minimum density required or maximum density allowed is calculated based on the gross acreage of the parcel(s). Existing residential dwelling units within the parcel are included in the calculation. See Attachment A for examples.

14. Dwelling, Unit: A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers, and which included complete kitchen facilities permanently installed.

15. Family: One or more persons related by blood, marriage or adoption, or a group of not more than five persons not so related, maintaining a common household in a dwelling unit.

16. Farm and Farm Residence: For the purposes of the Agriculture Enterprise (AE) Zoning District, farm shall mean: Land under common ownership that is primarily devoted to agricultural. If a farm owner splits a parcel from the farm, and deeds it to another person, that parcel is no longer part of the original farm. A farm residence is a one or two family residence that is the only residence on the farm or is occupied by the owner or operator of the farm or is occupied by a parent, child or employee of the owner operator of the farm owner who earns more than 50% of his or her gross income from the farm.

17. Floor Area, Gross: For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities to the production or processing of goods, or to business or professional offices.

18. Height, Building: Building height is the vertical distance measured from grade to the highest point of the roof adjacent to the street wall for flat roofs; to the deck line of managed roofs; and, to the mean height between eaves and ridges for gable, hip, gambrel or pent roofs.

19. Kitchen Facilities: A room or area within a room whose primary purpose is to store, prepare and cook food. A kitchen will have a refrigerator to store food, counter space and a sink to prepare food, and a stove and/or range to cook food.

20. Lot: A parcel of land, whether legally described or subdivided as one or more lots or parts of lots, and which is occupied or intended for occupancy by one principal building or principal use, together with any accessory buildings and such open spaces as are required by this ordinance; and having its principal frontage upon a street or road.

21. Lot Area: The area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfares.

22. Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

23. Lot Lines: A property boundary of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

24. Lot Width: The average horizontal distance between the side lot lines of a lot measured within the lot boundaries or the minimum distance between the side lot lines within the buildable area.

25. Navigable Water: Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial

limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stats. s. 281.31(2)(m), notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under Wis. Stats. s. 59.692, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- a. Such lands are not adjacent to a natural navigable stream or river.
- b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- c. Such lands are maintained in nonstructural agricultural use.

26. Nonconforming Use or Structure: Any structure, land or water, lawfully used, occupied or erected at the time of the effective date of this ordinance or amendments thereto, which does not conform to the regulations of this ordinance or amendments thereto.

27. Parcel: A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.

28. Person: Any individual, firm, trust, partnership, public or private association or corporation; or, an individual, partnership, firm, company, corporation, municipality, town, state, federal agency, whether tenant, owner, lessee, licensee, or their agent, heir, or assign.

29. Zoning Administrator: The official appointed to administer this ordinance and whose duties are outlined in the administration section of the ordinance.

30. Private Sewage Disposal System or Private Onsite Wastewater Treatment System (POWTS): A sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks, and privately owned common sewerage facilities including package treatment plants, lagoons and irrigation systems.

31. Principal Use: The primary or predominant use of land or a building (as distinguished from an accessory use).

32. Public Open Space: Any publicly owned open area; including but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

33. Public Sewage Disposal System: Sewers and sewage treatment facilities used in connecting therewith which are maintained and operated by a municipality or sanitary district.

34. Setback: The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of-way, waterline, or prospective line to the nearest vertical wall or other vertical element of a building or structure.

35. Sign: A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land; and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices nor shall it include a sign located completely within an enclosed building unless the context shall be exposed to view from a street. Each display surface of a sign shall be considered to be a separate sign.

36. Street (Avenue, Place, Road, Terrace, Parkway, Boulevard or Court): A right-of-way of a required width, which affords a primary means of access to abutting property.

37. Street Line: The dividing line between a lot and a continuous street.

38. Structural Alteration: Any change in the supporting members of a building such as bearings, wall columns, beam or girders or any substantial changes in the roof and exterior

wall in excess of \$500 in value. Such change shall require a Land Use or Conditional Use Permit.

39. Structure: Anything constructed, erected or placed on property that has shape, form and utility and which is temporarily or permanently attached to the ground; or attached to something having a permanent location on the ground.

40. Temporary or Temporary Use: Any period of time or use not to exceed thirty(30) days during the calendar year.

41. Water Line: The shortest straight line at the waterfront end of a lake or stream lot that lies wholly within the lot, provided that not less than 75% of the length of such line shall be on, or on the landward side of, the high-water mark of such lake or stream.

42. Water Setback: The distance which a building shall be required to be setback, placed, located or erected from the water line.

43. Yard: An open space on a lot which is unoccupied and obstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

44. Yard, Front: A yard extending along the full width of the front lot line between side lot lines.

45. Yard, Rear: the portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot.

46. Yard Side: A yard extending along a side lot line between the front and rear yards.

47. Zoning and Land Use Planning Committee: This committee of Town of Fremont as created by the Town of Fremont Board of Supervisors to serve as the Town planning agency.

### **15.1.8 Severability Clause**

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

If any application of this ordinance to a particular structure, land, or water, is adjudged 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.

Zoning regulations adopted by Town of Fremont, which incorporate by reference Wisconsin State Statute, also include existing or future amendments. This ordinance shall be deemed to be in strict conformity, and not contrary to or inconsistent with such chapters or rules as the result of statutory amendments.

## **15.2.1 General Provisions**

### **15.2.2 Compliance**

Except as may be otherwise specifically provided, the use, size, height, and location of buildings now existing or hereafter erected, converted, enlarged or structurally altered, the provisions of open spaces, and the use of land, shall be in compliance with the regulations established herein

for the district in which such land or building is located.

### **15.2.3 Permits**

1. All uses shall comply with all zoning ordinance standards on land use and dimensional requirements. Some uses require permits as a means of assuring compliance. See Section 14.03.5 for identification of these. It is a violation of this ordinance for such a use to occur without a permit, regardless of whether the use is in compliance with the land use and dimensional standards of the ordinance.
2. Land Use Permit: Unless exempted under Section 14.03.5.a (1) or the use is a Conditional Use for which a Conditional Use Permit is required, a Land Use Permit is required.
3. Conditional Use Permit: When the use being applied for is a conditional use as identified in Sections 5.0 and 6.0, a Conditional Use Permit is required.
4. Application Procedure: The application procedures for Land Use Permits and Conditional Use Permits are outlined in Section 14.03. Site Plans are required for Conditional Uses and may be required for Land Use Permits according to Section 9.0.
5. Expiration: Within one year from issuance of a permit for new construction, the project shall have progressed at least to the point of the exterior shell being completed. Unless extended as provided herein, the original permit shall lapse if this state of completion is not accomplished within the one-year period. A new permit shall be required to recommence work on the project. The one-year rule can be extended or modified upon application to the Zoning Administrator. Requests for extension or modification shall avoid an unsightly appearance in the interim. Persons wishing to move into a residence before it is completed must first obtain an occupancy permit from their local building inspector. Permits shall not be issued if the facility does not have running water, proper sanitary arrangements and electric service installed to code.

### **15.2.3 Exemptions**

The following uses are exempted by this ordinance and permitted in any zoning district: Poles, wires, cables, conduits, vaults, laterals, pipe mains, valves or any other similar distributing equipment for telephone or other communications and electric power, gas, water, and sewer lines. The provision regarding filling and grading shall not apply to the construction and repair of public roads, flood control structures, or conservation practices such as terracing, installation of diversions, grass waterways, subsurface drainage, non-navigable drainage ditches, stream stabilization by rip-rapping or vegetative cover, ponds used for agricultural purposes or, non-floating docks accessory to private dwellings.

### **15.2.4 Use Regulations**

1. Uses Restricted: In any zone no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except for one or more of the uses as hereinafter stated for that zone and in compliance with the regulations hereinafter established for that zone.
2. Accessory Uses: In any zone accessory buildings and uses customarily incident to the permitted uses in that zone shall be permitted subject to such requirements as may be hereinafter designated for that zone in which they are located.
3. Unclassified Uses: In case of question as to the classification of a use, the question shall be submitted to the Plan Commission for determination.

### **15.2.05 Area Regulations**

1. Lot Reduction: After adoption of this ordinance, no lot area shall be so reduced that the dimensional and yard requirements required by this ordinance cannot be met.
2. Existing Lot Use: Lots existing and of record prior to adoption of this ordinance, but of substandard size, may be devoted to uses permitted in the zone in which located.
3. Lot Divisions: No improved lot shall hereafter be divided into two or more lots and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform to all the applicable regulations of the zone in which the property is located.
4. Yard and Open Space Regulations: All yards and other open spaces allocated to a building shall be located on the same lot as such building. The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building. The allowance of more than one principal use structure on a lot shall require conditional use approval.
5. Average Setback Determination: A setback equal to the average setback of existing principal buildings located within 500 feet of a proposed building site and on the same side of the street shall be permitted where five of these buildings do not conform to the appropriate setback line.
6. Required Lot Grouping: If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this ordinance, or at time of development, the lots involved shall be considered to be an individual parcel for the purpose of this ordinance.
7. The Town of Fremont and the Waupaca County Subdivision Ordinance shall also regulate the creation of new lots.

### **15.2.6 Height Regulation Exceptions**

Heights of the following structures may exceed ordinance limits (as identified in Section 4.0) for the zone in which it is to be located: Cooling towers, stacks, lookout towers, silos, windmills, water towers, spires, radio and television aerials, masts, antenna and mechanical appurtenances and barns and other buildings designed for the storage of agricultural products.

### **15.2.7 Visual Clearance**

1. All State and Federal Highways in the Town are hereby designated Class A highways.
2. All Town Trunk Highways not designated Class A are hereby designated Class B highways.
3. All other roads in the Town are hereby designated Class C highways.
4. In each quadrant of every street intersection there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them 300 feet from a Class A highway intersection, 200 feet from a Class B highway intersection, and 150 feet from a Class C highway intersection. Within this triangle, no object or structure over 2 feet in height above these streets shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Natural vegetation and agricultural crops shall also be exempt from this provision.
5. An exception to the dimensional requirements for the visual triangle shall be made in a registered and approved platted area where Class C roads only are involved. Here, the visual triangle shall be bounded by the street centerlines and a line connecting them, 126 feet from the

intersection.

### **15.2.8 Setback**

Class A highway setback shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater. Class B highway setback shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way line, whichever is greater. Class C highway setback shall be 63 feet from the centerline of the highway or 30 feet from the right-of-way line, whichever is greater.

### **15.2.9 Setback Exceptions for Essential Service Facilities**

Overhead and underground essential service facilities installed as of the adoption of this ordinance including but not limited to sewer and water utilities, electric power, and telecommunications, but not including any buildings, towers, or antennas, may be located within any required setback on the condition that the owner of such facilities within front yard setbacks shall remove all construction, additions, and replacements of these facilities at the owner's expense, when necessary for the improvement of the highway.

Essential service facilities that are in place on private property within the front yard setback prior to the adoption of this ordinance shall not be entitled to an exception to the setback requirement of the Zoning Ordinance.

The Town of Fremont Town Board at their discretion may grant a waiver to the owner of an essential service facility when the coordination of projects by the utility and the Town reveals that no Town project exists in the five-year plan for the location where essential services facilities are to be placed or rebuilt or where the Town is unable to determine the necessary right-of-way widths needed to avoid conflict with the service facility in the future.

### **15.2.10 Principal Residential Structures**

Not more than one (1) principal residential structure shall be allowed on parcel except for:

1. Multi-family developments within the Sewered Residential Multi-family (SR-M) and the Planned Development (PD) Districts; and
2. A secondary farm residence as described in Section 6.10.6.c and d.

### **15.2.11 Nonconforming Uses and Structures**

1. Nonconforming Use: A nonconforming use is a principal use of land or premises that does not conform to the terms of this ordinance, but which was lawfully in existence prior to the adoption of this ordinance. Later amendments to this ordinance may also create nonconforming situations.
2. Nonconforming Structure: A nonconforming structure is a structure that does not conform to the terms of this ordinance, but which was lawfully in existence prior to the adoption of this ordinance. Later amendments to this ordinance may also create nonconforming situations.
3. Premises: A premise may be nonconforming both as to use and structure.
4. Provisions: Provisions of this ordinance shall not be construed to prevent the customary and necessary maintenance or repairs of buildings, utilities, and property that are legally

nonconforming.

5. Legal Rights: The legal rights of a nonconforming use or structure are defined below.

### **15.2.12 Premises Conforming as to Use but Nonconforming as to Structural or Dimensional Standards**

1. Expansion: A structure that is nonconforming as to structural or dimensional standards may not be expanded or enlarged if doing so would increase dimensional nonconformity.
2. Damage: When such structure is damaged to the extent of more than 50% of its estimated full market value at the time of such damage, the structure may be rebuilt in a way that continues nonconformity only if a variance is granted by the Board of Adjustment. Any lawful nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation on or after March 2, 2006 may be restored or reconstructed, provided that the structure will be restored to the size, location and use it had immediately before the damage or destruction occurred, except if otherwise necessary to comply with federal, state or county requirements.
3. Moving Structure: Should such structure be moved, it shall thereafter conform to the regulations of the zone to which it is moved.
4. Lot Size: Size and shape of a lot shall not be altered in any way so as to increase the degree of nonconformity of a building or use.

### **15.2.13 Nonconforming Use of Structures or Premises**

1. Limitations: No such use shall be expanded or enlarged. No use shall be expanded within a structure which, as of the effective date of this ordinance or amendment, was only partially designed for or devoted to carrying on such use.
2. Discontinuance: If such use is discontinued for 12 consecutive months, any future use of the structure shall conform to the regulations of the zone in which it is located.

### **15.2.14 Accessory Uses and Structures**

1. Accessory buildings, structures and uses shall be compatible with the principal uses on a parcel. An accessory structure may be placed on a parcel prior to a principal structure if approved by the Zoning Administrator or designee, and if the following conditions are met:
  - a. No human habitation shall be allowed in this structure.
  - b. No commercial use shall be allowed in this structure.
  - c. Must be according to the site plan and meet all the required setbacks.
  - d. Provided all other sections of this ordinance are met.
2. Location: No accessory building or structure shall be erected or altered or moved to a location within the required setback area of a front or side yard. An accessory building, structure or use in a rear yard shall be not less than seven and one-half feet from any property line, except that on a corner lot, a reversed corner lot or a through lot, such accessory building, structure or use shall be set back from the property line adjoining a street the distance required for a front yard, unless otherwise required herein for a specific permitted or conditional use.
3. Encroachment: No accessory building, structure or use shall encroach upon that side yard of a corner lot which is adjacent to the street, upon the side yard of a reversed corner lot which is adjacent to the street, upon that part of a rear yard of a through lot, which is within 35 feet from the street line abutting the rear lot line or upon a front yard, except as permitted herein for

specific uses.

### **15.2.15 Yard Regulations**

The following shall not be considered to be obstructions when located in required yards specified:

1. In Any Yards: Marquees and awnings adjoining the principal building's overhanging roof eaves; chimneys, if they do not exceed ten percent of the depth of the yard; and ornamental light standards, flag poles, arbors, trellises, shrubs, retaining walls for landscaping purposes, coin operated telephones, permitted signs, outdoor fuel dispensing equipment, and fences. Roofs, overhangs or other architectural features that have vertical or near-vertical faces within side yards are not permitted.
2. In Side Yards: Open accessory off-street parking spaces, except in a side yard abutting a street.
3. In Rear Yards: Enclosed attached or detached off-street parking spaces; open off-street parking spaces; and balconies, breezeways and open porches.
4. Accessory Buildings or Structures: See Section 2.14.
5. Waterfront Lots: (See Waupaca County Shoreland Zoning Ordinance)
6. Pools: Swimming pools, aboveground or in-ground, may not encroach on required side space.

### **15.2.16 State Permit**

A permit shall be obtained from the state agency authorized by law to issue such permits when required under Sections 30.19, 30.12, 30.195 and 30.20 or the Wisconsin Statutes or other applicable state regulations.

### **15.2.17 Shoreland Zoning**

See Waupaca County Shoreland Zoning Ordinance, Waupaca County Code of Ordinances.

## **15.3.1 Zoning Districts and Maps**

### **15.3.2 Establishment of Base Zoning Districts**

1. In order to carry out the purpose and provisions of this ordinance, the following base zoning districts in Sections 3.02 through 3.17 and their purposes are hereby established, and may be known by the accompanying abbreviations.
2. Regulations for each District including Density, Lot Size, Setbacks, and Building Height are identified for each District in Section 4.0.
3. Permitted and Conditional Uses are identified for each District in Section 5.0. Definitions, additional regulations and parking requirements for each land use are within Section 6.0.
4. The statement, *“Please refer to the Town of Fremont Density Management Tracking System maintained by the Town of Fremont Town Clerk for current information on available residential development rights on this/these parcels,”* shall be recorded on each certified survey map, plat, and plat of survey created for parcels within the following zoning districts:
  - a. PVRF: Private Recreation and Forestry
  - b. AE: Agriculture Enterprise

- d. AWT: Agriculture and Woodland Transition
- f. RR: Rural Residential

### **15.3.3 RP: Resource Protection District**

Purpose: To identify, conserve and protect valued natural and cultural resources that contribute to the Town's character, natural environment and history which may include regulatory wetlands and floodplains, wetland buffers, floodplain buffers, surface water buffers, steep slopes, exposed bedrock, wellhead protection areas, woodlots, scenic vistas, wildlife habitat, historic sites, archeological sites, and similar resources.

### **15.3.4 PURF: Public Recreation and Forestry District**

Purpose: To accommodate and maintain publicly owned property for the purpose of natural resource management and public outdoor recreation, parks and open space.

### **15.3.5 PVRF: Private Recreation and Forestry District**

Purpose: To maintain privately owned large tracts of forest and woodland areas that are managed to produce sustainable forest products and to provide quality outdoor recreation experiences.

Selective cutting, sustained yield, and other practices of good forestry management shall be encouraged within the district.

Residential development shall be limited and placed on the landscape in a fashion that minimizes the fragmentation of large forest tracts and prevents conflicts between forest management, outdoor recreation, and residential land uses.

### **15.3.6 AE: Agriculture Enterprise District**

Purpose: To preserve and promote a full range of agricultural uses in areas where soil and other conditions are best suited to cultivation and livestock.

Non-farm development shall be limited and placed on the landscape in a fashion that prevents conflicts between agricultural and residential land uses, and minimizes the loss of prime agricultural soils as identified by the Natural Resource Conservation Service.

### **15.3.7 AR: Agriculture Retention District**

Purpose: To preserve and promote a full range of agricultural uses in areas where soil and other conditions are best suited to cultivation and livestock.

Non-farm development shall be limited and placed on the landscape in a fashion that prevents conflicts between agricultural and residential land uses, and minimizes the loss of prime agricultural soils as identified by the Natural Resource Conservation Service. Though still limited, residential densities are generally higher in the AR District than the AE District.

### **15.3.8 AWT: Agriculture and Woodland Transition District**

Purpose: To accommodate agricultural uses and woodlands but also allow for land use change

or “transition” to residential and compatible uses within these areas driven primarily by market forces or land sale trends.

Non-farm development shall be placed on the landscape in a fashion that prevents conflicts between agricultural, forestry, and residential land uses.

**15.3.9 RR: Rural Residential District**

Purpose: To accommodate existing and planned residential development including compatible neighborhood uses that relies on private on-site wastewater treatment systems and private wells in a rural setting.

Residential development shall be placed on the landscape in a fashion that allows the concentration of local services while minimizing the consumption of agricultural land, forested land, and open space.

**15.3.10 SR-10: Sewered Residential Single-Family District**

Purpose: To accommodate existing and planned single and two-family residential development including compatible neighborhood uses that are currently served by public sewer or have the potential to be served by public sewer in the future. Lots may be as small as 10,000 square feet and shall be established in a fashion that maximizes the use of existing infrastructure and allows for the efficient expansion of infrastructure in the future.

**15.3.11 SR-20: Sewered Residential Single-Family District**

Purpose: To accommodate existing and planned single and two-family residential development including compatible neighborhood uses that are currently served by public sewer or have the potential to be served by public sewer in the future. Lots may be as small as 20,000 square feet and shall be established in a fashion that maximizes the use of existing infrastructure and allows for the efficient expansion of infrastructure in the future.

**15.3.12 SR-M: Sewered Residential Multi-Family District**

Purpose: To accommodate existing and multi-family residential development including compatible neighborhood uses that are currently served by public sewer or have the potential to be served by public sewer in the future. Development shall be established in a fashion that maximizes the use of existing infrastructure and allows for the efficient expansion of infrastructure in the future.

**15.3.13 PD: Planned Residential Development District**

Purpose: To provide the means whereby land may be planned and developed as a unit for residential uses under standards and conditions which encourage good design and promote a stable, desirable living environment. This district is intended to permit flexibility and variety in development, to encourage the preservation of natural features and open space, and to minimize the present and future burdens upon the community as a whole which result from poor planning. Such developments shall be site designed as a total unit development and may be actually developed by sub-units in accordance to the approved overall site plan. All rezone applications

must be accompanied by a Site Plan according to Section 9.0.

**15.3.14 RC-N: Rural Commercial - Neighborhood District**

Purpose: To accommodate rural commercial development that is generally neighborhood or locally oriented in areas well-served by the transportation system, do not conflict with adjacent land uses in terms of use or generated traffic, and are properly buffered from residential or other potentially conflicting land uses.

**15.3.15 RC-G: Rural Commercial - General District**

Purpose: To accommodate rural commercial development that includes uses that are generally more intensive than allowed in the RC-N District in areas that are well-served by the transportation system, do not conflict with adjacent land uses in terms of use or generated traffic, and are properly buffered from residential or other potentially conflicting land uses. These uses are generally oriented to the greater Town and region rather than the neighborhood or community level.

**15.3.16 RI-G: Rural Industrial - General District**

Purpose: To accommodate rural industrial development with a variety of lot sizes that is generally light intensity (in terms of noise, dirt, smoke, odor, physical appearance, traffic generated, etc.) in areas that are well-served by the transportation system, do not conflict with adjacent land uses in terms of use or generated traffic, and are properly buffered from residential or other potentially conflicting land uses.

**15.3.16. RI-I: Rural Industrial - Intensive District**

Purpose: To accommodate rural industrial development with a variety of lot sizes that is generally more intensive than the RI-G District in areas that are well-served by the transportation system, do not conflict with adjacent land uses in terms of use or generated traffic, and are properly buffered from residential or other potentially conflicting land uses.

**15.3.17 Incorporation of Map**

The locations and boundaries of the Town's zones are shown on the zoning map, and referred to by references as the Zoning Map, Town of Fremont, Wisconsin.

This map together with all explanatory matter and regulations thereon are an integral part of this ordinance. In the event of a conflict between zone boundaries shown on the map any adopted Town zoning detail maps, the latter shall govern and prevail.

Official copies of the zoning maps, together with a copy of this ordinance, shall be kept by the Town Clerk and shall be available for public inspection during official hours. These maps shall be certified by the Chairman of the Town Board and attested by the Town Clerk. Any changes or amendments affecting zoning boundaries or explanatory matter shall be recorded on the applicable maps. All such changes shall be made in accordance with provisions of Wisconsin Statutes, Sec. 60.10(2), and as subsequently amended, and of this ordinance.

### **15.3.18 Boundaries of Zones**

When uncertainty exists with respect to the boundaries of the various zones as shown on the zoning maps, the following rules shall apply:

1. When the width or lengths of boundaries are not clear, the scale of the map shall determine the approximate dimensions.
2. Zone boundaries are normally lot lines; section and quarter section lines; center lines of streets, highways, railroads or alleys.
3. When uncertainty exists as to the precise location of the floodplain zone boundary line, the floodplain boundary maps shall govern in general and the zoning text shall govern specifically.
4. The Board of Adjustment, in accordance with the provisions of this ordinance, shall hear and decide the precise location of a zone boundary line when such line cannot otherwise be determined.

## ct Regulations

Zoning District	Residential Density		Lot Size			Setbacks		Maximum Building Height
	Minimum	Maximum (See Appendix A for Examples)	Minimum Area	Maximum Non-Farm Residential Lot Area <sup>2</sup>	Minimum Width	Front Yard: Per Section 2.068		
						Minimum Side Yard	Minimum Rear Yard	
RP Resource Protection	-	-	1 Acre	-	-	25 Ft	50 Ft	35 Ft
PURF Public Recreation and Forestry	-	-	1 Acre	-	-	25 Ft	50 Ft	35 Ft
PVRF Private Recreation and Forestry	-	1 Unit / 10 Acres	1 Acre	-	150 Ft	25 Ft	50 Ft	35 Ft
AE Agriculture Enterprise	-	1 Unit / 40 Acres	1 Acre	2 Acres	100 Ft	20 Ft	20 Ft	35 Ft
AR Agriculture Retention	-	1 Unit / 10 Acres	1 Acre	-	100 Ft	20 Ft	20 Ft	35 Ft
AWT Agriculture and Woodland Transition	-	1 Unit / 2 Acres	1 Acre	-	100 Ft	15 Ft	20 Ft	35 Ft
RR Rural Residential	-	1 Unit / 1 Acre	1 Acre	-	100 Ft	15 Ft	20 Ft	35 Ft
SR-10 Sewered Residential Single-Family	1 Unit / 1 Acre	-	10,000 / 15,000 SF <sup>4</sup>	1 Acre	75 / 80 Ft <sup>5</sup>	10 Ft	20 Ft	35 Ft
SR-20 Sewered Residential Single-Family	1 Unit / 1 Acre	-	20,000 SF	1 Acre	100 Ft	10 Ft	20 Ft	35 Ft
SR-M Sewered Residential Multi-Family	1 Unit / 1 Acre	-	15,000 / 20,000 SF (Per Unit: 5,000 / 10,000 SF) <sup>6</sup>	-	75 / 100 Ft <sup>5</sup>	10 Ft	20 Ft	35 - 60 Ft <sup>7</sup>
PD Planned Residential Development	To be determined through the Site Plan Review Process According to the County and Local Comprehensive Plans				75 Ft	10 Ft	20 Ft	35 - 60 Ft <sup>7</sup>
RC-N Rural Commercial - Neighborhood	-	-	-	-	50 Ft	None <sup>8</sup>	20 Ft	35 - 60 Ft <sup>7</sup>
RC-G Rural Commercial - General	-	-	10,000 SF	-	75 Ft	None <sup>8</sup>	20 Ft	35 - 60 Ft <sup>7</sup>
RI-G Rural Industrial - General	-	-	20,000 SF	-	150 Ft	20 Ft	20 Ft	35 - 60 Ft <sup>7</sup>
RI-I Rural Industrial - Intensive	-	-	10,000 SF	-	75 Ft	10 Ft	20 Ft	35 - 60 Ft <sup>7</sup>

Notes:

<sup>2</sup> Maximum lot areas, where required through base zoning district regulation or overlays, may be increased up to 10 acres in area for the purpose of consolidation of farm structures. Site plan review (Level 1) is required.

<sup>3</sup> Within the AE district the following shall apply:

- The ratio of non-farm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.
- There will be no more than four (4) dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than five (5) dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
- The location and size of the proposed nonfarm residential parcel, and for a new nonfarm residence, the location of the nonfarm residence on that nonfarm parcel, will not do any of the following: 1) convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence, or 2) significantly impair or limit the current or future agricultural use of other protected farmland.

<sup>4</sup> Single-family residential minimum lot area: 10,000 square feet; Two-family residential minimum lot area: 15,000 square feet.

<sup>5</sup> Single-family residential minimum lot width: 75 feet; Two-family residential minimum lot width: 80 feet

<sup>6</sup> Lots served by public sewer/water: minimum lot area: 15,000 square feet; minimum lot area per residential unit: 5,000 square feet. Lots served by private sewer/water: minimum lot area: 20,000 square feet; minimum lot area per residential unit: 10,000 square feet.

<sup>7</sup> Lots served by public sewer/water: minimum lot width 75 feet. Lots served by private sewer/water: minimum lot width 100 feet.

<sup>8</sup> One additional foot of extra height may be added above 35 Ft for each additional foot of side or rear yard.

<sup>9</sup> Minimum side yard setback shall be the same as neighboring lot zoning unless the neighboring lot is zoned RC-N or RC-G.

## 15.5.0 Zoning District Permitted and Conditional Uses

The following table identifies the Permitted (P), Permitted with Site Plan Review (SP) and Conditional (C) uses within the Town of Fremont Zoning Districts. Definitions and additional requirements for these land uses are included in Section 6.0.

Land Uses	Zoning Districts													Land Use Definition and Requirements (Section #)		
	RP	PURF	PURF	AE	AR	AWT	RR	SR-10	SR-20	SR-M	PD	RC-N	RC-G		RI-G	RI-I
<b>RESIDENTIAL LAND USES</b>														<b>6.06</b>		
Single Family Residence (Nonfarm)			P	C		P	P	P	P	P	SP					1
Two Family Residence (Nonfarm)			P	C		P	P	P	C	C	SP					2
Multiple Family Residence										SP	SP					3
Single Family Residence - Accessory to a Principal Commercial Use												C				4
Outstanding Residential Accessory Structure			P	P		P	P	P	P	P	SP	C				5
Substantial Residential Accessory Structure			P	C		P	C	C								6
Home Occupation			P	P		P	P	P	P	P	P					7
Family Day Care Home			C	C		C	C	C	C	C	C					8
Mobile Home			SP	SP		SP	SP	SP								9
Manufactured/Mobile Home Community or Park										C	C					10
<b>COMMERCIAL LAND USES</b>														<b>6.06</b>		
Personal or Professional Service												SP	SP			1
Indoor Sales and Service												SP	SP			2
Medium Indoor Sales and Service												C	SP			3
Large Indoor Sales and Service													C			4
Long Term Outdoor Display and Sale												C	C			5
Indoor Maintenance Service												SP	SP	SP	SP	6
Outdoor Maintenance Service													C	C		7
In-Vehicle Sales and Service												C	C			8
Indoor Commercial Entertainment and Service												SP	SP			9
Commercial Indoor Lodging Facility												C	SP			10
Resort Establishment												C	SP			11
Bed and Breakfast Establishment												SP	SP			12
Group Day Care Center Facility												SP	SP			13
Commercial Animal Boarding or Breeding Facility													C			14
Sexually-Oriented Business													C			15
Personal Storage													C			16
Portable Storage													C			17
Indoor Storage or Wholesaling													C			18
Outdoor Storage or Wholesaling													C			19
Indoor Retail Sales Activity as an Accessory to Industrial or Indoor Storage and Wholesaling														C	C	20
Marinas and Boat Liveryes													C			21
Communication Tower <sup>1</sup>	C	C	C	C		C	C	C				C	C	C	C	22
Commercial Wind Energy Systems	C	C	C	C		C	C	C				C	C	C	C	23

## 15.6.0 Land Use Definitions and Requirements

### **15.6.01 Land Use Interpretation**

Section 5.0 broadly categorizes potential land uses in Town of Fremont as Permitted (P), Permitted with Site Plan Review (SP) or Conditional (C) within the Zoning Districts. Definitions, and additional requirements, for these land uses are included in Sections 6.05 through 6.10. The Town Zoning Administrator or Plan Commission will be required in some instances to provide interpretation of these definitions in order to determine whether a proposed use is allowed in the applicable district. Land uses that are not specifically listed are not necessarily excluded from locating within a given Zoning District.

### **15.6.2 Conditional Uses**

Certain uses are of such special nature where their effects are dependent upon specific circumstances as to make it impractical the determination in advance of where and when and under what conditions they should be permitted. These Conditional Uses may be appropriate within a specific zone provided conditions can be met that ensure no adverse effects to the Town's and immediate vicinity's health, general welfare, safety, and economic prosperity. These uses may be authorized upon application to the Plan Commission and subject to the commission's authorization of a conditional use permit. Considerations for these uses include, but are not limited to, established character and quality of the area, architecture and aesthetics, general compatibility with surroundings, traffic impact and circulation, environmental impacts, the demand for related services, the possible hazardous, harmful, noxious, offensive, or nuisance effects resulting from noise, dust, smoke, or odor.

### **15.6.3 Site Plan Review**

Applications for Conditional Uses must be accompanied by a Site Plan outlined under Section 9.0. and must also meet any additional requirements specified under each use. Some Permitted Uses may also require a Site Plan and are identified within Section 5.0.

### **15.6.4 Parking and Loading Requirements**

1. Adequate off-street parking facilities shall be provided for all uses which generate vehicular traffic and all required parking spaces shall have adequate access to a public road or street. Specific parking requirements are identified for the land uses defined in Sections 6.05 through 6.10. When a particular use is not listed, the parking requirement shall be that of the most similar use. When two or more uses are combined, the total parking requirement shall be equal to the sum of the spaces required for each use, unless it is demonstrated by the applicant to the satisfaction of the Zoning Administrator that the combined uses result in a reduction of necessary parking spaces.

2. Parking access aisles shall have the following minimum widths:

- a. Two-way aisles:
  - (1) Perpendicular parking: 24 feet
  - (2) Angled or parallel parking: 18 feet
- b. One-way aisles:
  - (1) Perpendicular parking: 20 feet
  - (2) 60° angled parking: 18 feet
  - (3) 45° angled parking: 13 feet

- (4) 30° angled parking: 11 feet
- (5) Parallel parking: 12 feet
- c. If the degree of angle of parking provided is not listed, the aisle width required shall be the next largest angle of parking shown above.
- 3. All required parking spaces shall have minimum area of 162 square feet with a minimum width of nine (9) feet and a minimum length of 18 feet.
- 4. Parking that meets the number, location, and configuration required by the Americans with Disabilities Act (ADA) Standards for Accessible Design shall also be provided. These spaces count toward the number otherwise required for each use.
- 5. All commercial and industrial uses shall provide sufficient off-street loading space so that no public street, road or alley will be blocked by such activities.

### **15.6.5 Residential Uses**

- 1. Single-Family Residence (Non-farm): Land uses consisting of a single detached building containing one dwelling unit.
  - a. Parking Required: Two (2) parking spaces per dwelling unit
  - b. This land use includes modular homes as defined in the Wisconsin Statutes Section 101.71 (6) and manufactured homes as defined in the Wisconsin Administrative Code Comm 27. This does not include mobile homes as defined in the Wisconsin Statutes 101.91(10).
  - c. All homes shall meet the following requirements:
    - (1) All homes shall have a minimum width of 22 feet.
    - (2) Roof pitch shall not be less than a nominal 3:12 (rise to run).
    - (3) Roof overhang shall not be less than a nominal 6 inches excluding any gutter.
    - (4) Any home not meeting the above standards can be approved by a Conditional Use Permit.
  - d. Within the AE zoning district:
    - (1) A single conditional use permit may be issued for an entire non-farm residential cluster if the parcels on which the non-farm residences would be located are contiguous.
    - (2) That existed legally as a non-farm residence prior to being zoned AE qualify as prior non-conforming uses and do not require a conditional use permit.
- 2. Two-Family Residence (Non-farm): Land uses consisting of a building containing two (2) dwelling units. This includes dwelling units that are enclosed within a building or attached by a common floor or wall.
  - a. Provisions of Section 6.05.1.a. through d. apply.
- 3. Multi-Family Residence: Land uses consisting of a building holding 3 or more dwelling units. This includes apartment buildings and other dwelling units that are enclosed within a building or attached by a common floor or wall. Each dwelling unit may be owner-occupied or renter-occupied, with the building, lot, and/or unit in fee simple or condominium ownership.
  - a. Parking Required: Two (2) parking spaces per dwelling unit.
- 4. Single-Family Residence – Accessory to a Principal Commercial Use: Land uses consisting of a single-family residence that is accessory to a principal commercial use (for shopkeeper or employee for example). This residence may be attached to the commercial building or freestanding.

- a. Parking Required: Two (2) parking spaces per dwelling unit
- 5. Customary Residential Accessory Structure: Land uses clearly incidental to the primary residential use and includes such uses as garages, carports, storage sheds, and decks.
- 6. Substantial Residential Accessory Structure: Land uses not clearly incidental to the primary residential use due to scale (size), intensity of use, or inconsistent architecture. Substantial residential accessory structures include pole buildings, barns, large storage buildings, and the like, that exceed the height or floor area of the residence.
- 7. Home Occupation: Land uses consisting of economic activities performed as an accessory to a residential use and are compatible with the character of nearby rural and residential areas.
  - a. These uses shall have limited outward appearance, including limited signage, outdoor storage, parking, and customer traffic. Examples include personal and professional services, handicrafts and other items produced on-site, and the sale of direct marketing products or other similar activities that are customarily conducted from a residence.
  - b. Home occupations shall include the employment of no more than two (2) additional persons other than the resident occupants.
  - c. The use shall not involve the serving of any beverage, food, the on-lot retail or wholesale of goods or materials; nor the removal of sand, gravel, stone, topsoil, peat or moss for commercial purposes.
  - d. Any off-street parking area provided shall be maintained reasonably dustless, and adequately screened from adjoining residential properties.
  - e. The use shall not include the operation of any machinery; power tools or other appliances, or produce excessive noise or odors unless a conditional use permit is obtained.
  - f. The use shall not involve more than 20 percent of the classified floor area of the principal building or utilize any secondary buildings or structures unless a conditional use permit is obtained.
- 8. Family Day Care Home: Land uses consisting of an occupied residence in which a qualified person or persons provide child care for four to eight children. The care of less than four children is not subject to the regulations of this Ordinance.
- 9. Mobile Home: Land uses meeting the definitions and requirements of the Wisconsin Statutes 101.91(10).
  - a. Parking: Two (2) parking spaces per dwelling unit.
  - b. All mobile home units shall have skirts around, or other product which makes the home appear to be built upon a basement or foundation, the entire manufactured/ mobile home made of plastic, fiberglass, aluminum, metal or vinyl, and shall be of a permanent color or painted to match the manufactured/mobile home so as to enhance the general appearance thereof.
  - c. No person shall keep or locate a mobile home upon any lot or parcel in the Town at any time when such mobile home is occupied or available for occupancy, except in a manufactured/mobile home community or as a secondary farm residence. This provision applies to mobile home condominiums. Exceptions include:
    - (1) Emergency or temporary stopping or parking of a trailer or mobile home is permitted on any street, alley, or highway, for not longer than one hour, subject to any further prohibitions, regulations or limitations imposed by the traffic or parking ordinances for that street, alley or highway. Additionally, when a legally established

residential structure is rendered uninhabitable by fire, wind, flooding or other calamity, a mobile home may be located on site during the period of reconstruction. No such mobile home may remain in use for more than 24 months.

(2) An existing mobile home placed on land outside of a manufactured/mobile home community or park on the effective date of this Chapter shall be permitted to remain in its original location subject to the following conditions:

(a) The mobile home may not be extended, enlarged, reconstructed, moved or structurally altered, or replaced with a different mobile home, unless the Planning and Zoning Administrator determines that such action will be an aesthetic improvement to the mobile home and will be in fundamental harmony with surrounding uses; and will comply to the extent feasible with requirements for mobile home installation in manufactured/mobile home parks.

(b) In the event the existing mobile home is damaged by fire, explosion, flood or other peril to the extent of more than fifty percent (50%) of its current value, it shall not be reconstructed or repaired, but instead, shall be demolished or removed.

(3) A business engaged in the sale or service of mobile homes, provided the mobile homes located at such business are unoccupied and are only temporarily placed, and further provided that said business complies with the zoning requirements of this Code.

(4) The parking of only one travel trailer in an accessory private garage or building, or in a driveway of an existing residential unit, is permitted, provided no living quarters shall be maintained in excess of 30 days during the calendar year, and further provided no business is conducted there. The parking of a travel trailer either occupied or unoccupied, on a vacant parcel in excess of 30 days during the calendar year, will require a conditional use permit.

(5) A mobile home or manufactured home used as a temporary office by a contractor.

(6) Any club or group of persons wishing to park travel trailers for a special, short-term event within the Town shall apply to the Zoning Administrator and public health sanitarian for a permit, which it may grant upon finding that such use is compatible with uses of adjacent property and general public health, safety and welfare.

10. Manufactured/Mobile Home Community or Park: Land uses meeting the definitions and requirements of Wisconsin Administrative Code Comm 26.

The following standards shall apply to the design, construction and maintenance of any new manufactured/mobile home community or park and to the enlargement or addition to an existing community or park after the effective date of this Chapter. These standards shall be additional to all state statutes, codes and regulations. Although the following standards are mandatory, nothing herein shall be construed to prevent or limit the submission of unique, innovative designs to the Plan Commission.

a. The minimum size of any manufactured/mobile home park shall be 10 acres.

b. Lots Dimensions and area shall not be less than as follows:

(a) Minimum width: 50 feet

(b) Minimum depth: 100 feet

(c) Minimum area: 6,500 square feet

c. All lots shall abut on a street within the park for at least 15 feet and shall have unobstructed street access. No lot shall abut on a public street, right-of-way, or property

line of the park.

d. Corner lots located on the inside of any corner shall be of extra width sufficient to maintain front set back requirements on both streets.

e. No more than one manufactured/mobile home shall be placed on a lot.

f. No manufactured/mobile home unit shall be parked outside of a designated lot.

g. The minimum width of each manufactured/mobile home shall be a nominal 14 feet.

h. Setbacks applicable to each lot:

(1) Minimum front yard setback: 20 feet (All yards which abut a street are "front yards".)

(2) Minimum rear yard setback: 10 feet

(3) Minimum distance between homes: 20 feet

i. Streets:

(1) Each street and parking area shall be paved.

(2) A streetlight shall be placed at each street corner within the park, at each entrance to the

park, and at such other places along the street so that the distance between each light does not exceed 225 feet as measured down the centerline of the street.

(3) All streets shall be maintained and plowed by the owner.

j. Parking:

(1) Each lot shall have an off-street parking space having either (a) a minimum width of 20 feet and a minimum depth of 24 feet, or (b) a minimum width of 12 feet and a minimum depth

of 40 feet.

(2) If parking on any street is prohibited within the park, an additional parking area within the

park shall be established containing one parking space for every 5 lots (of fraction thereof) which abut on a street where parking is prohibited.

(3) No parking shall be permitted on lot yards.

k. Walkways not less than 3 feet wide and comprised of a hard surface shall be provided from the parking area of each lot up to and including the steps to the front door of each mobile and manufactured home.

l. Utilities:

(1) Water, domestic waste disposal, natural gas (where available) and electrical utilities shall be provided to each lot.

(2) All utilities, including telephone and cable TV, shall be placed underground.

(3) Each lot shall be furnished with a minimum 200 amp electrical service.

(4) The owner shall install one large water meter for the entire park contained in a manhole. The design and construction of the park water distribution systems, the water meters, and the manhole shall meet such requirements as may be established.

m. Open Areas:

(1) Each park shall have one or more designated open area which shall be easily accessible to all park residents, which shall not include a street or the Park Boundary, and which shall be so located as to be free of traffic hazards.

(2) The total size of such open areas shall be a minimum of 5% of the total land area of the park.

(3) For every 25 lots in the park, there shall be at least one open area in the park having a minimum size of 50 feet by 100 feet.

n. Landscaping:

- (1) Each lot shall be planted with at least 1 tree and 1 shrub. The tree shall be a deciduous tree.
- (2) All lots shall be sodded or planted in grass.
- (3) Trees, grass and landscape material shall be properly maintained and replaced to conform to the approved landscape plans and specifications.

o. Park Boundary/Buffer:

- (1) A 30-foot wide buffer zone shall be established around the entire perimeter of the park.
- (2) The buffer zone shall not be part of any lot.
- (3) A visual screen of compact hedges, decorative fences, coniferous trees and shrubs and other landscape materials approved by the Plan Commission, shall be installed and maintained in the buffer zone, to substantially hide the interior of the park from view from any adjacent street or property.
- (4) The buffer zone shall be maintained by the owner free of rubbish, debris and weeds.

l. Home Installation:

- (1) Each manufactured/mobile home shall be secured with tie-downs and anchoring equipment.
- (2) All manufactured/mobile home units shall have skirts around, or other product which makes the home appear to be built upon a basement or foundation, the entire manufactured/mobile home made of plastic, fiberglass, aluminum, metal or vinyl, and shall be of a permanent color or painted to match the manufactured/mobile home so as to enhance the general appearance thereof.

m. Out-buildings:

- (1) Only one (1) out-building may be placed on each lot.
- (2) The following set back requirements apply to each out-building:
  - (a) Minimum front yard setback: 20 feet
  - (b) Minimum rear yard setback: 3 feet
  - (c) Minimum side yard setback: 3 feet
- (3) All outbuildings, except for automobile garages, shall be located in the rear one-half (1/2) of the lot.
- (4) No out-building shall exceed one story in height or 400 square feet in area.

n. No structure may be attached or added to any manufactured/mobile home (additions), except as follows:

- (1) The proposed design and construction standards shall be submitted to the Zoning Administrator before commencement of work on the structure.
- (2) The Zoning Administrator shall review and approve the project only if the structure is designed to architecturally blend with the manufactured/mobile home.

### **15.6.6 Commercial Uses**

1. Personal or Professional Service: Land uses that are exclusively indoor whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include, but are not limited to, professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary

clinics, barber shops, beauty shops, and related land uses.

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principle building(s).

2. Indoor Sales and Service: Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint smaller than 20,000 square feet. This includes general merchandise stores, grocery stores, bait shops, sporting goods stores, antique stores, gift shops, Laundromats, artisan and artist studios, bakeries, and the like. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as “light industrial activities as an accessory to retail sales or service.”

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principal building(s).

3. Medium Indoor Sales and Service: Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint of 20,000 square feet to less than 50,000 square feet.

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principal building(s).

4. Large Indoor Sales and Service: Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint of 50,000 square feet or greater.

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principal building(s).

5. Long Term Outdoor Display and Sale: Land uses which conduct sales or display merchandise or equipment on a long term basis outside of an enclosed building as a principal accessory use of the lot. Examples of such land uses would include vehicle and equipment sales and rental, manufactured housing sales, monument sales, and garden centers. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junk or salvage yard or other permanent outdoor land uses specifically defined by the zoning Ordinance.

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principal building(s), plus one space per 2,000 square feet of outdoor sales or display area.

6. Indoor Maintenance Service: Land uses which perform maintenance services (including repair) and contain all operations (except loading) entirely within an enclosed building.

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principal building(s).

7. Outdoor Maintenance Service: Land uses which perform maintenance services, including repair, and have all, or any portion, of their operations located outside of an enclosed building.

a. Parking Required: One (1) parking space per 300 square feet of gross floor area in the principal building(s), plus adequate parking for the storage of vehicles awaiting service or pick-up.

8. In-Vehicle Sales and Service: Land uses which perform sales and/or services to persons in vehicles, or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through

facilities, vehicular fuel stations, and all forms of car washes.

a. Parking Required: One (1) parking space per 150 square feet of gross floor area in the principal building(s).

9. Indoor Commercial Entertainment and Service: Land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. Such land uses do not include sexually-oriented businesses. See the definition of a sexually-oriented business for applicable regulations.

a. Parking Required: One (1) parking space per every three (3) patron seats or one (1) space per three (1) persons at the maximum capacity of the establishment, whichever is greater.

10. Commercial Indoor Lodging Facility: Land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

a. Parking Required: One (1) parking space per room or suite, plus one (1) space for every employee on the largest working shift.

11. Resort Establishment: Land uses which provide overnight housing in individual rooms, suites of rooms, cabins, or cottages. Such land uses may also provide indoor and outdoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

a. Parking Required: One (1) parking space per room, suite, cabin, or cottage, plus one (1) space for every employee on the largest working shift.

b. The maximum number of occupancy units in a resort shall not exceed a density of 10 units per acre in any zoning district.

12. Bed and Breakfast Establishment: Land uses which provide lodging facilities that are operator-occupied residences providing accommodations for a charge to the public with no more than five guest rooms for rent, in operation for more than 10 nights in a 12 month period, provide meals only to renters of the place, and are clearly residential structures in design, scale, and appearance. Such land uses may provide indoor recreational facilities for the exclusive use of their customers.

a. Parking Required: One (1) parking space per bedroom.

13. Group Day Care Center Facility: Land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.

a. Parking Required: One (1) parking space per every six (6) person capacity of the

- center, plus one (1) space for each employee on the largest working shift.
14. Commercial Animal Boarding or Breeding Facility: Land uses where five (5) or more animals six (6) months of age or older are bred by a person providing facilities for breeding and the offspring are sold, or where such animals are received for care, training, and boarding for compensation, not including a small animal hospital, clinic, or pet shop. These uses include exercise yards, fields, training areas, and trails.
- a. Parking Required: One (1) parking space per every 1,000 square feet of gross floor area.
15. Sexually-Oriented Business: Land uses that include any facility involving the display of sexually-oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas.
- a. Parking Required: One (1) parking space per every 300 square feet of gross floor area in the principal building(s) or one (1) space per person at the maximum capacity of the establishment, whichever is greater.
  - b. The outward appearance of an adult-oriented business shall not detract from the ability of neighboring businesses to attract customers.
  - c. No sexually-oriented business shall be located within a one thousand foot (1,000') radius of any place of worship, park, school, residential zoning district, residential use, or licensed child daycare center, as measured in a straight line, without regard to intervening structures, streets or other barriers from the nearest point of the property line of the school, park, place of worship, residential zoning district, residential use, or licensed child daycare center, to the nearest point of the property line of the sexually-oriented business.
  - d. No sexually-oriented business shall be allowed within a one thousand foot (1,000') radius of another sexually oriented business.
16. Personal Storage Facility: Land uses oriented to the indoor storage of personal items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as “mini-warehouses.”
- a. Parking Required: One (1) parking space for each employee on the largest work shift.
17. Portable Storage Facility: Land uses that include shipping containers, semi trailers, portable on demand storage (PODS), and store and move (SAM) containers that are intended for temporary storage while an individual or business is relocating. Such storage facilities shall need a permit which regulates the length of time a portable storage facility is allowed on the specified premise.
18. Indoor Storage or Wholesaling: Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. Does not include uses described in the “personal storage facility” land use category. Retail outlets associated with this principal use shall be considered an accessory use.
- a. Parking Required: One (1) parking space per 2,000 square feet of gross floor area in the principal building(s).
19. Outdoor Storage or Wholesaling: Land uses primarily oriented to the receiving, holding,

and shipping of materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include equipment yards, lumber yards, coal yards, landscaping materials yard, tank farms, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard.

Contractors' storage yards are considered accessory in the "contractor shop" land use category. Retail outlets associated with this principal use shall be considered an accessory use.

- a. Parking Required: One (1) parking space for every 10,000 square feet of gross storage area, plus one (1) space per each employee on the largest work shift.

20. Indoor Retail Sales Activity as an Accessory to Industrial or Indoor Storage and Wholesaling: Land uses that include any retail sales conducted exclusively indoors which is clearly incidental to an industrial facility or indoor storage and wholesaling facility, on the same site.

21. Marinas and Boat Liveries: Land uses including a dock or basin providing secure moorings for watercraft or the rental of watercraft. This use may also include boat repair, chartering, supply, fueling, boat ramps, and other facilities.

- a. Parking Required: One (1) parking space for every two slips or berths plus one (1) space per each employee on the largest work shift. Facilities that include a boat ramp should provide an additional 15 parking spaces per launching lane.

- b. Facilities shall be located at least 500 feet from public bathing beaches, parks and boat access points.

- c. Facilities shall be designed and constructed as to not interfere with adjacent riparian owner's uses of the water for swimming, fishing or boating; nor interfere or obstruct the public's free navigation.

- d. Fueling pumps and tanks shall be located two feet above the normal water elevation, and no fuel hose shall extend beyond a point necessary to fuel boats as the closest proximity to land.

- e. Marinas shall be equipped with facilities for the disposition of domestic waste from boats.

- f. The following standards shall apply to marinas:

- (1) Minimum lot area in square feet: 43,560 feet (1 acre)
- (2) Minimum lot width at the building or waterline: 200 feet
- (3) Maximum building height: 20 feet

- g. The following standards shall apply to boat liveries:

- (1) Minimum lot area in square feet: 25,000 feet
- (2) Minimum lot width at the building or waterline: 125 feet
- (3) Maximum building height: 20 feet

- h. Holding tanks shall be located above the normal high-water elevation. Holding tanks located on sites subject to flooding shall be flood-proofed.

- i. If located within the (F-P) Floodplain Zone or (RP) Resource Protection Zone, subject to periodic flooding, the provisions of The Waupaca County Floodplain Ordinance (Chapter 36) and Waupaca County Shoreland Zoning Ordinance (Chapter 32) shall also apply.

22. Communication Tower Facility: Land uses that include free-standing broadcasting,

principal land uses; and any office, studio or other land  
the tower. See Section 11.0 for requirements.

a. For the purposes of the Agriculture Enterprise (AE)

Zoning District, this use is allowed only if the following apply:

- (1) The use and its location in the AE zoning district are consistent with the purposes of the AE zoning district.
- (2) The use and its location in the AE zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (3) The use is reasonably designed to minimize the conversion of land, at and around the site of use, from agricultural use and open space.
- (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural

use.

- (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

23. Commercial Wind Energy Systems: See Section 12.0 for requirements.

a. For the purposes of the Agriculture Enterprise (AE)

Zoning District, the requirements of Section 6.06.22.a. apply.

### **15.6.7 Industrial Uses**

1. Light Industrial Activity as an Accessory to Retail Sales or Service: Land uses that include any light industrial activity conducted exclusively indoors which is clearly incidental to indoor sales or service, on the same site.

2. Light Industrial: Land uses which operations (with the exception of loading operations): (1) are conducted entirely within an enclosed building; (2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; (3) do not pose a significant safety hazard (such as danger of explosion); and (4) comply with all of the applicable performance standards. Light industrial land uses may conduct retail sales activity as an accessory use.

a. Parking Required: One (1) parking space per each employee on the largest work shift.

3. Heavy Industrial: Land uses which meet one or more of the following criteria: 1) are not conducted entirely within an enclosed building; 2) are potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) pose a significant safety hazard (such as danger of explosion). Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.

a. Parking Required: One (1) parking space per each employee on the largest work

shift.

4. Contractor Shop: Land uses that include businesses engaged in contract services or labor, such as contractors involved with landscaping; building construction or carpentry; and electrical, plumbing, or heating systems. Often involves accessory equipment storage yards and rental of equipment commonly used by contractors. Retail outlets associated with this principal use shall be considered an accessory use.

a. Parking Required: One (1) parking space per each employee on the largest work shift.

5. Truck, Freight or Bus Terminal: Land uses that include facilities oriented to the short-term storage and trans-shipment of materials, and/or the outdoor storage of trucks and related equipment.

a. Parking Required: One (1) parking space per each employee on the largest work shift.

b. All parking, loading and vehicle circulation areas shall be surfaced with a hard surface, all weather material such as pavement or concrete.

c. All buildings, trucks and activity areas shall be set back from all residential zoning district boundaries a minimum of 100 feet.

6. Mineral Extraction (Non-Metallic): Land uses include operations or activities for extraction from the earth, for sale or use by the operator, of mineral aggregates such as stone, sand and gravel, and nonmetallic minerals, related operations or activities such as drilling and blasting, excavations, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.

a. Mineral extraction of metallic minerals, including extractions for exploratory and testing purposes are not allowable under this use or under any section of this ordinance. To engage in such activities, an applicant shall petition the Plan Commission for a study and possible ordinance text change to establish rules for such use.

b. Processing of nonmetallic minerals off the mining site is covered under this land use only where established to serve a limited term construction project. Where permanently established "Rural Industrial – Intensive" zoning shall be required. Processing for construction project purposes physically separate from a mining site requires a permitted use permit. Town staff shall meet with interested parties and then shall issue a permit with conditions to give reasonable operational and restoration protections without making the permitted construction project infeasible because of costs of the processing.

c. Definitions:

(1) "Nonmetallic mining refuse" means waste soil, rock, mineral liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable byproducts resulting directly from or displayed by the nonmetallic mining operation.

(2) "Nonmetallic mining site" or "site" means the location where a nonmetallic mining operation is proposed or conducted including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.

(3) "Operator" means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under a nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(4) "Reclamation" means the rehabilitation of a nonmetallic mining site, and this may include but is not limited to removal, of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

(5) "Replacement of topsoil" means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purpose of providing adequate vegetative cover and stabilization of soil conditions.

d. Provisions of this land use do not apply to the following activities:

(1) Excavations or grading by a person solely for domestic use at his or her residence or place of business.

(2) Excavations or grading conducted for highway construction purposes within the highway right-of-way, or adjacent lands subject to construction easements or access agreements.

(3) Grading conducted for farming, repairing a construction site or restoring land following a flood or natural disaster.

(4) Excavations for building construction purposes.

(5) Any mining operation where reclamation is required and a permit obtained under Sections 293.01 to 293.95 of the Wisconsin State Statutes.

(6) A mining site or portion of a site that is under a permit and under reclamation requirements of the Department of Natural Resources under Sections 30.19, 30.195 and 30.20 of the Wisconsin State Statutes.

(7) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Chapter 289 of the Wisconsin State Statutes or a hazardous waste disposal facility under Chapter 291 of the Wisconsin State Statutes, but these provisions do not apply to activities to obtain nonmetallic minerals to be used for lining, capping, covering or the construction of berms, dikes or roads.

e. These provisions apply to nonmetallic mining operations conducted by or on behalf of the state, the Town, a city or village, provided, however that financial assurance requirements shall not apply to mining operations conducted by or on behalf of the state, the

Town, a city or village.

f. To obtain a conditional use approval for mineral extraction operation, the applicant must submit a site plan, operation plan, and be in compliance with the Waupaca County Non-Metallic Mining Reclamation Ordinance, Chapter 43.

g. The Committee shall impose conditions deemed necessary by the Committee to protect public health and safety. Additional conditions for aesthetic or other public welfare purposes shall be imposed if compliance is deemed by the committee to be feasible,

reasonable and capable of accomplishment (as to re-contouring) with soil reserves readily available. Sites zoned "Rural Industrial – Intensive" are subject only to public health and safety standards. Where a project is under state or federal contract as to reclamation, Town standards shall conform fully to the state and federal standards.

h. The committee shall place limitations and conditions, backed by performance guarantees, and may limit hours and days of operation, methods and duration of operation to achieve these purposes.

i. Mineral extraction operations and reclamation thereof shall stabilize soil conditions, establish vegetative cover, control surface and groundwater conditions, prevent environmental pollution, protect public health and safety and habitat of plant, fish and wildlife.

j. For the purposes of the Agriculture Enterprise (AE) Zoning District, the requirements of Section 6.06.22.a. apply. The owner shall also restore the land to agricultural use, consistent with an approved reclamation plan, when extraction is completed.

7. Salvage or Junk Yard: Land uses that include any land or structure used for a salvaging operation including, but not limited to: The above-ground outdoor storage, collection, recycling, dismantlement, and/or sale of items listed in Section 6.07.7.b. Licensed recycling facilities involving on-site outdoor storage of salvage materials are not included in this land use.

a. Parking Required: One (1) parking space for every 20,000 square feet of gross storage area, plus one (1) space for each employee on the largest work shift.

b. "Junk" shall include, but is not limited to: old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; inoperable appliances and machinery; and three (3) or more motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business or materials or objects held and used by a manufacturer as an integral part of his own manufacturing process.

c. The area on the premises where junk is kept (other than indoors) shall be enclosed by a wall or fence except for entrances and exits.

(1) Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the business.

(2) When two or more vehicle dismantling yards, junk and salvage yards, and/or vehicle impounding yards have a common boundary line, a solid wall or solid fence shall not be required on such common boundary line; provided, however, that a solid wall or solid fence shall enclose the entire combined area devoted to such uses.

(3) Fences and walls shall be of uniform heights in relation to the ground upon which they stand. They shall be a minimum of 8 feet high or a height sufficient to screen salvage from view and shall not exceed 12 feet in height. They shall be of wood or metal painted one inconspicuous earth-tone color, and shall enclose the entire site.

(4) Junk or salvage materials shall not be piled higher than the height of the fence, not against the fence.

(5) An unobstructed interior firebreak 16 feet in width shall be maintained adjacent to the fence or wall and completely surrounding the junk or salvage yard.

d. A vegetated buffer area is required to create additional screening and containment of

salvage and to soften the appearance of the fence or wall.

(1) The buffer area cannot substitute for a fence or wall and berms cannot substitute for either.

(2) No buildings, structures, outdoor storage areas or other facilities shall be located in any part of a buffer area.

(3) The buffer area must be at least 25 feet wide adjacent to the exterior of the fence or wall.

(4) The buffer area shall be planted and maintained with a continuous stand of mixed trees and shrubs sufficient to extend above the fence or wall and obscure the majority of it from view within 5 years.

e. All buildings, structures, outdoor storage areas, other facilities and the required fence or wall shall be set back at least 300 feet from public roadways and 100 feet from rear and side lot lines.

f. No oil, grease, tires, gasoline, rubber, plastic asphalt or similar material shall be burned at any time, and all other burning shall be in accordance with applicable state and local regulations.

g. All junk and salvage yards shall be maintained so as to avoid creating a public or private nuisance, including but not limited to any offensive or noxious sounds or odors and breeding or harboring of rats, flies, mosquitoes, or other vectors.

h. Drainage facilities shall be established to protect surface and groundwater resources.

i. Noxious weeds shall be controlled.

j. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects may be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

k. No materials or wastes shall be deposited on a site so as to allow their transportation off the site by normal natural causes.

l. No such facility shall discharge at any point into any public or private sewage disposal system or waterway, or into the ground, any liquid or solid materials except in accordance with the regulations of the Wisconsin Department of Natural Resources and the Wisconsin Department of Public Health.

m. Toxic and hazardous materials including, but not limited to, gasoline, oil, antifreeze, brake fluids, freon and transmission oil shall be removed from any scrapped engines, vehicles, appliances or containers on the premises and shall be recycled or disposed of in compliance with applicable regulations.

8. Solid or Hazardous Waste Facility: Land uses that include any area, lot, land, parcel, building, or structure, or part thereof, used for deposit, disposal, processing, or transfer of solid, demolition, or hazardous waste.

a. The following expansions and uses shall not require a conditional use.]

(1) Existing facilities and expansion of existing facilities by adding not more than 50 percent additional capacity, provided that continuing operations and operations of expanded areas follow basically the same operating patterns as current and comply with applicable laws and rules.

(2) Transfer, treatment and disposal of farm manure and similar farm animal waste generated from farms in Town of Fremont or immediately adjoining lands.

(3) Solid or hazardous waste facilities that otherwise would meet the tests of

applicability, but that are on the same land where the waste is generated and are conducted as part of the farm or business (other than waste treatment/disposal business) on that land.

- b. Any waste facility to which this ordinance applies must have advance approval and the issuance of a conditional use permit by Town of Fremont before operations may be commenced.
- c. To approve such a facility, the Plan Commission must determine that the facility will not harm the health, safety and welfare of the community and the good order and convenience of the community and the public.
- d. In making approvals, the committee is encouraged to impose reasonable requirements on applications in order to avoid nuisance conditions.
- e. The intent of this ordinance is that dumps and waste facilities will be regulated within the process of the Wisconsin Waste Facility Siting Law and that precise application of standards and conditions will be determined within that process.

### **15.6.8 Public/Institutional Uses**

- 1. Community Living Facility – 1 to 8 Residents: Land uses which serve the function as a transitional residential setting which provides guidance, supervision, training, and other assistance to ambulatory or mobile adults with a mild or moderate developmental disability with the goal of eventually moving these persons to more independent living arrangements. Community living arrangements do not include day care centers, nursing homes, general hospitals, special hospitals, prisons, or jails.
  - a. Parking Required: Three (3) total spaces.
- 2. Community Living Facility – 9 to 15 Residents: See definition for 6.08.1.
  - a. Parking Required: Four (4) total spaces.
- 3. Community Living Facility – 16 or More Residents: See definition for 6.08.1.
  - a. Parking Required: Five (5) total spaces.
- 4. Outdoor Institutional: Land uses that include cemeteries, religious and historical shrines, outdoor education and interpretive centers, and similar privately held permanently protected open areas. May include buildings supporting the principal outdoor institutional use, such as accessory educational and interpretive facilities and equipment storage sheds.
  - a. Parking Required: One (1) parking space per three (3) expected patrons at maximum capacity.
- 5. Airport: Including landing strips, control towers, hangars, aircraft maintenance and refueling facilities, and accommodations for passengers and cargo.
  - a. Parking Required: One (1) parking space per three expected patrons at maximum capacity.
- 6. Minor Indoor Institutional: Land uses that are generally compatible with residential land uses and that do not exceed the parking or overnight accommodation thresholds that would instead classify such use as a “major institutional use.” Includes uses such as small churches, small elementary or middle schools, small clinics, post offices, libraries, City Hall, police stations, fire stations, training centers, nursing homes, funeral homes, and recreational or fraternal facilities such as gyms, swimming pools, museums, clubs and lodges, meeting halls, and community centers, provided that the thresholds are not exceeded.
  - a. Parking Required: Follow standards for Major Indoor Institutional uses.

b. For the purposes of the Agriculture Enterprise (AE) Zoning District, the requirements of Section 6.06.22.a. apply.

7. Major Indoor Institutional: Land uses that include large scale and/or intensive institutional uses that are generally not compatible with residential land uses and that exceed one or both of the following thresholds: required parking exceeds 50 or more motor vehicles (following the parking standards below), or the use is intended to provide overnight accommodations for 15 or more persons.

a. Parking Required:

- (1) Church: One (1) space per five (5) seats at the maximum capacity.
- (2) Community or Recreation Center: One (1) space per 250 square feet of gross floor area, or one (1) space per four (4) patrons to the maximum capacity, whichever is greater.
- (3) Funeral Home: One (1) space per three (3) patron seats at the maximum capacity.
- (4) Hospital or Clinic: Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee on the largest work shift.
- (5) Library or Museum: One (1) space per 250 square feet of gross floor area or one (1) space per four (4) seats to the maximum capacity, whichever is greater.
- (6) Elementary and Middle School: One (1) space per teacher and per staff member, plus one (1) space per two (2) classrooms.
- (7) Senior High School: One (1) space per teacher and staff member, plus one (1) space per five (5) non-bused students.
- (8) College or Trade School: One (1) space per staff member on the largest work shift, plus one (1) space per two (2) students of the largest class attendance period.
- (9) Nursing Home: One (1) space per six (6) patient beds, plus one (1) space per employee on the largest work shift.
- (10) Monastery or Convent: One (1) space per six (6) residents, plus one (1) space per employee on the largest work shift, plus one (1) space per five (5) chapel seats if the public may attend.
- (11) Assisted Living Facility or Retirement Community: One (1) space per dwelling unit.
- (12) Other Elderly or Congregate Residential Facility: One (1) space per six (6) residents or patient beds, plus one (1) space per employee on the largest work shift.
- (13) All other indoor institutional uses, one (1) space per three (3) expected patrons at maximum capacity.

b. For the purposes of the Agriculture Enterprise – (AE) Zoning District, the requirements of Section 6.06.22.a. apply.

8. Public Service and Utility: Land uses that include City, Town, State and Federal facilities (except those otherwise defined in this section), wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses.

a. Parking Required: One (1) parking space per employee on the largest work shift, plus one (1) space per vehicle normally stored or parked on the premises, plus one (1) space per 500 gross square feet of office area.

### **15.6.9 Park/Recreational Uses**

1. Outdoor Public Recreation - Passive: Land uses that include recreational uses located on public or private property which involves passive recreational activities that are open to the

public or to customers, patrons, or members.

a. Passive uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, ski trails, horse trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas, and similar land uses.

b. Parking Required: One (1) parking space per four (4) expected patrons at maximum capacity. Additional paved, graveled, or grassed area for overflow parking may be provided for occasional outdoor assembly land uses (i.e., special events) located on outdoor public recreation sites.

c. Waterfront recreational uses shall adhere to the following provisions:

(1) The area shall be compatible with adjacent land or water uses.

(2) The provisions of The Waupaca County Shoreland Zoning Ordinance (Chapter 32) shall apply.

(3) Entrances and exits are designed and located as to not interfere with the public's or adjacent landowner's access to public waters.

(4) Any lighting facilities are designed as to minimize reflection or glare on or over the water except navigation aids.

(5) Maintenance and storage buildings, parking lots and sanitary facilities are effectively screened from the water and adjacent properties by vegetative growth.

2. Outdoor Public Recreation - Active: Land uses that include recreational uses located on public or private property which involves active recreational activities that are open to the public or to customers, patrons, or members.

a. Active uses include playcourts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, golf courses, and similar land uses.

b. Provisions of 6.09.1.b. and c. apply.

c. Waterfront recreational uses that include bleachers, spectator stands, motor driven rides, concession stands and similar uses are effectively screened from the water and adjacent properties by vegetative growth.

d. Shooting ranges for firearms require a conditional use permit and shall adhere to the following provisions:

(1) The Plan Commission shall evaluate:

(a) Potential hazards to adjacent uses

(b) Topography and ground cover

(c) Noise

(2) The firing of rifled arms and shotgun slugs shall not be permitted directly toward or over navigable waters, public or private roads or drives; toward any building or structure not directly toward any population concentration which is located within one half (1/2) mile.

(3) There shall be:

(a) An adequate shotfall or bullet impact area

(b) A defined firing line or firing direction

(c) Adequate target backstops for the firing of rifled arms

3. Campgrounds and Camping Resorts: Land uses designed, maintained, intended or used for

the purpose of providing camping sites for nonpermanent overnight use to accommodate not more than one (1) recreational vehicle (RV), motor home, pick-up coach, travel trailer, camping trailer, park model, or tent per site. This use also includes facilities for use by campers including restrooms/showers, active and passive recreation areas, office/convenience store buildings, and necessary accessory uses. Any public or private parcel of land containing two (2) or more recreational vehicles used for habitation and occupied twenty-four (24) hours or longer shall be deemed a campground or camping resort. In any residential zone each home or cottage owner shall be permitted only one recreational vehicle to be parked on his premises for storage purposes only. These units are not to be rented, leased, or used for habitation purposes at any time.

- a. Parking Required: One and one half (1.5) parking spaces per camping site plus one (1) space per employee on the largest work shift. Each recreational vehicle camping area shall provide sufficient parking and maneuvering space so that the parking, loading or maneuvering of recreational vehicles, incidental to parking shall not necessitate the use of any public street, sidewalk or right-of-way or any private grounds not part of the recreational vehicle parking area.
- b. Wisconsin Administrative Code DHS 178 entitled "Campgrounds" shall apply until amended and then shall apply as amended; except the provisions of this Code of Ordinances shall d. Minimum camping site space: 1,200 square feet per camping site. (All of allotted individual lot area shall be in one contiguous parcel exclusive of roadways). Each space shall be suitably landscaped, and all areas fronting a park and any buildings or recreational areas shall be suitably landscaped.
- e. The density shall not exceed 20 camping sites per acre of gross camp area.
- f. Exposed ground surfaces in all parts of every parking area shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- g. Each walkway shall have a minimum width of 36 inches. No recreational vehicle lot or space shall ingress or egress directly upon a State, Federal, or Town road.
- h. Except for the interior road system, all recreational vehicles shall be set back from any park area boundary line abutting upon a public street or highway according to set back requirements in Section 2.08.
- i. Every camp shall be located in a well-drained area not subject to intermittent flooding and properly graded so as to prevent the accumulation of storm or other waters that may create hazards to the property or the health and safety of the occupants. No camp shall be located in an area that is situated so that drainage from any source of filth can be deposited thereon.
- j. There shall be one or more recreational areas which shall be easily accessible to all camp residents. The aggregate size of such recreational areas shall be in an amount equal to, but not less than two hundred (200) square feet multiplied by the number of camping sites, or 2,500 square feet, whichever is greater. The design and placement of such recreation area(s) shall be approved by the Plan Commission.
  - k. Proof of ability to install a satisfactory private sewage disposal system, if public sewer and water facilities are not available, shall be presented to the Plan Commission at the time of application.

l. Convenience establishments of a commercial nature may be permitted in a camp grounds providing that such establishments and their related parking areas, shall not occupy more than 10 percent of the total camp area, shall be subordinate to the recreational character of the camp, shall be located, designed and intended to serve the specific needs of the camp occupants, and shall present no visual evidence of commercial character from any portion of any residential district outside the camp. Such convenience establishment building shall adhere to any service building requirements. Recreational vehicle sales and service offices, display areas, or buildings may be permitted on the campground premises by special permission of the Plan Commission. In granting such permission, the committee shall take into consideration the location and appearance of such activities and shall require that display areas not detract from the aesthetic value of the camp and that all display stock and materials be kept under cover. No repair of service facilities shall be permitted in any case where by reason of excessive noise, odor, unsightliness, etc., would detract from the recreational character of the camping area.

m. There shall be a minimum of 10 camping sites completed and ready for occupancy before the first occupancy is permitted.

n. The camp management shall adopt and include into their leases or camp rules, by reference, such rules and regulations as shall be reasonably required by the Plan and Commission for the general health, safety and welfare of such campgrounds and of the Town of Fremont and shall cause the eviction of any tenants of said campgrounds who violate the same.

o. The person or organization to whom a permit for a campground is issued shall operate the camp in compliance with this Ordinance and shall provide adequate supervision to maintain the camp, its facilities and equipment in good repair and in a clean and sanitary condition. The camp management shall notify camp occupants of all applicable provisions of this Ordinance and inform them of their duties and responsibilities under this Ordinance.

c. Minimum campground/camping resort size: 5 acres.

### **15.6.10 Open Land/Agriculture Uses**

1. Agriculture - Cultivation: Land uses that include crop or forage production, nursery, sod, or Christmas tree production, floriculture, and any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an agricultural use.

2. Agriculture – Animal Husbandry: Land uses that include keeping livestock, beekeeping, aquaculture, fur farming, and any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an agricultural use.. Total animal units shall not exceed 500 as of the effective date of this ordinance: June 3, 2010, according to Wisconsin Administrative Code ATCP 51.

Note: In zoning districts where Animal Husbandry is listed as a conditional use (PVRF and RR) and non-farm residential lots within AE, AR, and AWT zoning districts, one (1) animal unit per acre of lot area shall be permitted. Animal units are defined in the Wisconsin Administrative

Code Section 243.05(2). Any animal units above this limit shall be considered through the conditional use process in these instances.

3. Agriculture – Animal Husbandry – 500 or More Animal Units: Land uses that include those described under Section 6.10.2., but where animal units total 500 or more as of the effective date of this ordinance: June 3, 2010, according to Wisconsin Administrative Code ATCP 51.

4. Agriculture-Related Use: An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, facility for processing agricultural wastes, and any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an agriculture-related use.

a. Parking Required: One (1) parking space per employee on the largest work shift or one (1) space for every 200 square feet of product display area, depending on the specific land use type.

b. Farm equipment sales, service and repairs shall be conducted on a site of no less than 20,000 square feet. All storage of equipment shall be at least 100 feet from highways or roads and at least 200 feet from any residential property. If the Plan Commission deems the operations will take on characteristics of a junkyard, they may require a hedge planting of sufficient size to screen the area from the public right-of-way.

5. On-Site Agricultural Retail: Land uses that include operations associated with the sale of agricultural products grown exclusively on the site or exclusively by the farm operator. Consolidation of sales from nearby farms and farm operators on a single parcel may be considered as a conditional use. Considerations will at a minimum include: the size of the operation, traffic and access, and parking availability.

Packaging and equipment used to store, display, package, or carry products for the convenience of the operation or its customers (such as egg cartons, baskets, containers, and bags) shall be produced off-site.

a. Parking Required: One (1) parking space per employee on the largest work shift or one (1) space for every 200 square feet of product display area, depending on the specific land use type.

b. Any roadside stand or similar use shall conform to setback, sign and other provisions of this ordinance, but may be ordered removed by the Town Board of Supervisors, if they determine that it constitutes a traffic hazard or nuisance. Such removal shall be at the landowners cost if such stand was established after the effective date of this ordinance, otherwise the removal cost shall be a consideration of the highway committee and the landowner, but the Town shall in no way be obligated to pay the cost of removal of such stands.

6. Agricultural Accessory Use: Land uses that include:

a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.

b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.

c. A farm residence consisting of a single-family or two-family dwelling unit (see Sections 6.05.1. and 2. for definitions) that is the only residential structure on the farm or is occupied by any of the following:

(1) An owner or operator of the farm

(2) A parent or child of an owner or operator of the farm

(3) An individual who earns more than 50 percent of his or her gross income from the farm.

d. A secondary farm residence (occupied by any of those described under Sections 6.10.6.c. (1),

(2), or (3)) consisting of a mobile home after review by Town staff, unless staff or the town board requests Committee review and decision. Applications shall be reviewed against:

- (1) Parcel size standards
- (2) Whether the parcel was legally created
- (3) Sanitary requirements
- (4) Setback standards
- (5) Arrangements for road and drive access must be reasonably safe.

e. A farm residence consisting of a migrant labor camp certified under Wis Stats. 103.92.

f. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of the farm, that requires no buildings, structures, or improvements other than those described in Sections 6.10.6.a. or c., that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland. See also Section 6.05.7. for Home Occupations.

g. Any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an accessory use.

7. Outdoor Storage of Motor Vehicles, Farm Machinery and Collectibles: Land uses that include the outdoor storage of disabled or unused motor vehicles, farm machinery, buses, heavy duty trucks and their bodies, semi-trailers, mobile homes, appliances, collectibles, and similar items.

a. Definitions:

(1) Motor Vehicles – Any conveyance that moves on wheels under power whose primary purpose is transportation of persons or commodities.

(2) Disabled Motor Vehicle – Any motor vehicle which is in a dismantled, inoperative or abandoned condition or which cannot legally be driven on a public highway; including its component parts.

(3) Untitled Motor Vehicle – Any motor vehicle which is not registered with the State Department of Transportation.

(4) Disabled/Unusable Agricultural Machinery – Any equipment originally designed and constructed for agricultural purposes which is in a dismantled, inoperative or abandoned condition; including its component parts.

(5) Collectibles – Any vehicle (collector car), bus, heavy duty truck and their body, semi-trailers, mobile home, agricultural machinery, snowmobile, motorcycle, appliance, or similar large item (including its component parts), that is being retained for historic reuse, restoration or other collection purposes.

b. Storage shall be consolidated at a single location not to exceed one-half (1/2) acre in area and a 20-foot setback shall be required for side and rear yard as well as the road setback based upon road classification. Storage areas exceeding one-half (1/2) acre in area are regulated under Section 6.07.7., Junk and Salvage Yards.

c. Disabled or untitled motor vehicles, disabled/unusable farm machinery, or similar items or collectibles as described above shall be screened from view from public roadways and adjacent properties by opaque fencing (earth-tone colors), walls, earthen berms, coniferous vegetation or a combination thereof. Adjacent parcels of common ownership shall be considered a single lot. A screening plan, prepared by the landowner, shall meet approval by the Plan Commission, Zoning Administrator, or his/her designee.

d. All lubricants, coolants, and similar substances shall be removed and recycled or disposed or

in compliance with applicable state regulations.

e. Buses, heavy-duty trucks and their bodies, semi-trailers, mobile homes, and similar items which are no longer in use for their designated purpose shall not be used for human habitation. When these items are used for storage or as collectibles, they must be screened from public view as referenced in Section 6.07.7.c. (3).

f. No more than two (2) titled motor vehicles may be offered for sale on a lot unless the lot is located in a commercial zoning district.

g. In addition to the site plan requirements set forth in Section 9.0, the following additional information shall be included on the conditional use permit application and site plan:

(1) The size and location of the storage area showing distances to property lines and building on the subject and adjacent properties.

(2) Proposed type and dimensions of visual screening.

(3) All current uses of the subject and adjacent properties.

h. The following activities are exempted from the provisions under Section 6.10.7.

(1) Storage facilities that meet the requirements of Section 6.07.7., Junk and Salvage Yards.

(2) Storage of untitled and disabled motor vehicles at properly zoned motor vehicle sales and repair facilities.

(3) Up to two (2) untitled motor vehicles; and disabled/unusable farm machinery offered for sale on a lot.

(4) A single motor vehicle, piece of farm machinery or similar item displayed along a public roadway or a greater number of such items displayed along a private drive as artwork, sculpture, or focal point. (Questions of interpretation will be resolved by the Board of Adjustment through the appeals process.)

8. Forestry Management: Forest production, management and harvesting.

## **15.7.1 Zoning District Overlays**

### **15.7.2 Establishment of Zoning District Overlays**

1. The purpose of zoning district overlays is to allow the Town to establish special land use regulations or procedures in areas with unique land use, site planning, building design, or environmental resource issues. Zoning district overlays are intended to be applied only where special circumstances justify the modification of base zoning district regulations to achieve specific land use and design objectives based on the Town of Fremont Comprehensive Plan and applicable ordinances. Zoning district overlays are established in Sections 7.02 through 7.04.

2. Zoning district overlays are applied through rezoning and only in conjunction with base zoning districts. Letters, numbers, abbreviations or a combination thereof, shall be combined with other applicable district designations to the property or properties on which an overlay district is established and shown on the Town of Fremont Zoning Map.

3. Except as modified by the zoning district overlay, the provisions of the applicable base zoning district shall apply to all development within the boundary of the designated area. If regulations conflict, the applicable zoning district overlay regulations shall prevail.

4. Whenever an overlay district is established, any subsequent application to change the base zoning district shall not be construed to be an application to eliminate the overlay district for the property covered by the application. An intent to eliminate the overlay district on a given property or base zoning district shall be expressly stated to be part of the application.

### **15.7.02 Residential Density and Lot Size Management Overlays**

1. Purpose: Provide a range of residential density management, lot size, and lot configuration options to implement the Town of Fremont Comprehensive Plan preferred land use policies.

Where the base zoning districts implement the base density and lot size, the overlays provide a means to fine tune the base zoning to better match the individual town policies.

2. The Residential Density and Lot Size Management Overlays can be applied to the following base zoning districts:

- a. PVRF Private Recreation and Forestry Enterprise
- b. AE Agriculture Enterprise
- c. AR Agriculture Retention
- d. AWT Agriculture and Woodland Transition
- e. RR Rural Residential

**Note: In all cases, the minimum lot size, unless the lots existed prior to the adoption of this ordinance, shall be no smaller than 2 acres for unsewered areas and 1 acre for sewerred areas.**

3. If utilized, the overlays shall be applied uniformly to entire base zoning districts within the town. They cannot be used to modify the zoning requirement of specific properties under the same base zoning district.

4. Overlay designations shall be applied by use of letter or abbreviation and number combination. For each base zoning district listed within Section 7.02.2, not more than one (1) overlay from each of the following categories shall be applied:

a. Maximum Residential Density

- (1) **D-2:** 1 unit/2 acres
- (2) **D-5:** 1 unit/5 acres
- (3) **D-10:** 1 unit/10 acres
- (4) **D-20:** 1 unit/20 acres
- (5) **D-40:** 1 unit/40 acres

b. Minimum Lot Area

- (1) **MIN-20:** 20,000 square feet
- (2) **MIN-1:** 1 acre
- (3) **MIN-2:** 2 acres
- (4) **MIN-5:** 5 acres
- (5) **MIN-10:** 10 acres

c. Maximum Lot Area

- (1) **MAX-0:** none
- (2) **MAX-2:** 2 acres
- (3) **MAX-3:** 3 acres

d. Lot Clustering Requirements according to the provisions of Section 8.0.

- (1) **C1:** All lots created through land divisions must be clustered.
- (2) **C2:** All lots created as part of major subdivisions as defined in the Town of Fremont Subdivision Ordinance Chapter.
- (3) **C3:** Lot clustering is optional. If lots are clustered, then one (1) additional lot for every four (4) lots allowable per the base zoning or district overlay is possible by Conditional Use Permit.

5. Maximum Residential Density Overlays in Section 7.02.4.a. that are less restrictive than the Base Zoning District shall not be applied.

### **15.7.3 AUI Agriculture/Urban Interface Overlay**

1. Purpose: To further implementation of a multi-tiered agricultural zoning system in response to Wisconsin Act 235, known as the Livestock Facility Siting Law. This classification will help protect cities, villages, and rural sanitary districts from potential health and safety issues associated with close proximity to large livestock farming operations. This classification will also help protect agricultural operations from the land use conflicts associated with close proximity to urban and suburban growth and development areas.

2. This overlay will be utilized to establish an area (generally within one half mile) surrounding the current boundaries of cities, villages, and rural sanitary districts where new livestock farming operations with fewer than 500 animal units will be allowed, but new operations with 500 or more animal units will not be allowed. Animal units are defined by Wisconsin Administrative Code ATCP 51.

3. New non-farm residential structures shall not be allowed within 1,000 feet of structures (barns, manure storage structures, feed storage structures, etc.) related to livestock operations with 500 or more animal units. Residential structures for affiliated parties (house for child or farm employees) are exempted from this policy.

### **15.7.4 Floodplain Overlay**

See the Waupaca County Floodplain Ordinance Chapter 36.

## **15.8.1 Lot Clustering**

### **15.8.2 Purpose**

There are two basic strategies behind residential lot development. The traditional strategy distributes the lots across the development tract, maximizing the size of each lot and leaving little if any undeveloped land. The alternative, “cluster” or “conservation” land divisions, groups the lots together on a portion(s) of the development tract preserving the remainder of the tract in open space for the purpose of maintaining rural character, natural features, agricultural land, or similar features. The cluster or conservation development lots are usually smaller than those of the traditional strategy. The lot clustering requirements of this Section apply to the Lot Clustering Overlays outlined in Section 7.02.4.d.

### **15.8.3 Uses and Requirements**

All cluster developments shall conform to the allowable permitted and conditional uses, density, lot dimensions, setbacks, height, and other requirements of this Ordinance unless otherwise specified in this Section.

### **15.8.4 Lots**

1. The minimum residential lot area shall be 0.75 acres.
2. The maximum residential lot area shall be 2 acres.
3. Lots shall be located so that:

- a. They are grouped together to form clusters and surrounded by open space.
- b. Negative impacts to natural resources and environmentally sensitive areas are minimized including wetlands, floodplains, drainageways, woodlands, and slopes over twelve percent (12%).
- c. Negative impacts to historic and cultural resources are minimized.
- d. Negative impacts to prime agricultural land and large tracts of productive farmland are minimized. The location of lots should avoid interference with normal agricultural practices.
- e. Views of open space and natural resources are maximized. Lots should be hidden behind woodlands, hedgerows, and topography when possible. Lots should not be located in prominent, visible places like hilltops and ridgelines.

### **15.8.5 Open Space**

1. The minimum open space required is fifty percent (50%) of the total development tract. Open space includes all land within the tract that is not part of a residential lot, road or road right-of-way.
2. Open space shall:
  - a. Surround clusters of residential lots and provide a buffer between cluster groups.
  - b. Be interconnected to other open space both within the plat and beyond. Open space should not be isolated and disconnected.
  - c. Include natural resources, environmentally sensitive areas, and productive agricultural land (when the intent is to preserve the agricultural use) to the greatest extent possible.
  - d. Include all excess land not used for lots and roads.
  - e. Not be further subdivided for any use other than recreation, conservation or agriculture, except for easements for utilities and septic systems.
3. Ownership of Open Space. Open space shall be dedicated and restricted as such on the Certified Survey Map or Plat and shall be owned by the subdivider, conveyed in common to each of the owners of the lots in the development, or dedicated to the Town. The Town shall not be required to accept dedication. Lands dedicated to the public must be accepted by appropriate action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowners association or similar legally constituted body shall be created to maintain the open space land.

### **15.8.6 Maintenance and Management of Open Space and Facilities**

A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Town Board prior to Certified Survey Map or Final Plat approval.

## **15.9.1 Site Plan Requirements**

### **15.9.2 Intent**

It is the intent of this ordinance to require Site Plans that will provide sufficient information for the Town Zoning Administrator, Town Plan Commission, Town Board, and other interested parties to make more informed decisions regarding certain land use requests. Site Plans should promote greater understanding of the request and provide sufficient information to allow

informed decisions to be made.

### **15.9.3 Applicability**

1. A Site Plan is required for all Conditional Uses as identified in Section 5.0 and 6.0.
2. A Site Plan is required for certain Permitted Uses where specifically identified in Section 5.0.
3. A Site Plan is required for any development within the PD: Residential Planned Development Zoning District.
4. A Site Plan is also required for the expansion or modification of uses described in Sections 9.02.1, 9.02.2, and 9.02.03 established prior to the adoption of this Ordinance to the extent practical and reasonable. Specifically, only the expansion or modification itself would be considered, and the application of the review criteria may be limited such that the expansion or modification is not required to be substantially out of character with the features of the site that predate this Ordinance. However, this should not be construed to prevent an applicant from willingly making expansions or modifications that are substantial improvements to the character of the site.

### **15.9.4 Compliance**

All approved Site Plans become part of the official decision record. Failure to comply with all aspects of a Site Plan will constitute a violation of this Ordinance. Any changes to a Site Plan that result from the review process should be clearly indicated in the decision record. Also, any phasing or planned expansion that is intended to be a part of an approved site plan must be clearly identified in the decision record, or such expansion will require a new approval. All Site Plans shall comply with Chapter 3 Site Plan Review of the Town of Fremont Code of Ordinances.

Site plan components shall comply with the Town's adopted site plan ordinance.

## **15.10.1 Signs**

### **15.10.2 Enactment**

1. All signs hereafter located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, shall be in conformity with the Chapter 7 Billboard and Sign Ordinance of the Town of Fremont Code of Ordinances.

## **15.11.1 Telecommunication Towers, Antennas and Related Facilities**

### **15.11.2 Purpose**

The purpose of these regulations is as follows:

1. Accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare.
2. Facilitate the provision of wireless communication facilities and services to residents and businesses of the Town.
3. Minimize adverse visual effects of wireless communication facilities through siting and design standards.

4. Avoid potential damage to adjacent properties from the construction and operation of wireless communication facilities through structural standards and setback requirements.
5. Maximize the use of existing and approved towers, buildings or structures to accommodate new wireless communication antennas to reduce the number of towers needed to serve the Town.

### **15.11.3 Definitions**

1. ANS/TIA/EIA: American National Standard/Telecommunication Industry Association/Electronic Industrial Association.
2. Antenna: Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel) or parabolic antenna (disc).
3. Collocation: The location of more than one antenna or set of antennas on the same tower structure.
4. FAA: Federal Aviation Administration.
5. FCC: Federal Communications Commission.
6. Height: The vertical distance measured from ground level to the highest point on a tower or structure including any antenna.
7. High Power Transmission Line: A 69 kilovolt (kv) or greater electric transmission line with towers at least 75 feet in height.
8. Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including guy towers, monopole towers and self-supporting lattice towers. The term "tower" includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.
9. Tower Accessory Structure: Any structure located at the base of the tower for housing-based receiving transmitting equipment.
10. Wireless Communications: Any personal wireless services as defined in the Telecommunications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCA), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.

### **15.11.4 Applicability**

All telecommunication towers, antennas and related facilities shall comply with Chapter 11 Cell Tower Ordinance of the Town of Fremont Code of Ordinances.

## **15.12.1 Wind Energy Systems**

### **15.12.2 Authority**

This section of the ordinance is adopted pursuant to authority granted by Wis. Stats. Sec. 59.69 and 66.041

### **15.12.3 Purpose**

The purpose of this section of the ordinance is to:

1. Oversee the permitting of wind energy systems.
2. Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of wind energy systems. (Wis. Stats. 66.0401)

#### **15.12.4 Definitions**

In this section of the ordinance:

1. Administrator: The Town of Fremont Zoning Administrator.
2. Meteorological tower (met tower): is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize wind resource at a given location.
3. Owner: The individual or entity that intends to own and operate the residential wind energy system in accordance with this section of the ordinance.
4. Rotor diameter: The cross sectional dimension of the circle swept by the rotating blades.
5. Residential wind energy system: A wind energy system that:
  - a. is used to generate electricity;
  - b. has a nameplate capacity of 100 kilowatts or less; and
  - c. has a total height of 200 feet or less.
6. Commercial wind energy system: A wind energy system that:
  - a. is used to generate electricity;
  - b. has a nameplate capacity of greater than 100 kilowatts; and
  - c. has a total height of greater than 200 feet or,
  - d. is a wind energy system comprised of 2 or more residential wind energy systems.
7. Total height: The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
8. Tower: The monopole, freestanding, or guyed structure that supports a wind generator.
9. Wind energy system: Equipment that converts and then stores or transfers energy (as defined by Wis. Stats. 66.0403(1)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
10. Wind generator: Blades and associated mechanical and electrical conversion components mounted on top of the tower.

#### **15.12.5 Standards**

Both residential and commercial wind energy systems shall be a permitted use in all zoning districts subject to the following requirements:

1. Setbacks: A wind tower for a residential or commercial wind system shall be set back a distance equal to its total height, if it is of a height greater than 75 feet, from:
  - a. any public road right-of-way, unless written permission is granted by the affected utility;
  - b. any overhead utility lines, unless written permission is granted by the affected utility;
  - c. all property lines unless written permission is granted from the affected property owners.
2. Blade Clearance: The vertical distance from the ground level to the tip of a wind generator blade with the blade is at its lowest point shall be at least 30 feet.

3. Access:
  - a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
  - b. The wind tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
4. Electrical Wires: All electrical wires associated with a residential or commercial wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.
5. Lighting: A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
6. Appearance, Color, and Finish: The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
7. Signs: All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification of a wind generator, tower, building, or other structure associated with a residential wind energy system visible from any public road shall be prohibited.
8. Code Compliance: A residential or commercial wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
9. Utility notification and interconnection: Residential and commercial wind energy systems that connect to the electric utility shall comply with the Public Service Commission of the Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
10. Met towers: Shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a residential or commercial wind energy system.
11. Maintenance: Residential and commercial wind energy systems shall be maintained in good, operable condition free from excessive noise.

### **15.12.6 Permit Requirements**

1. Land Use Permit: A land use permit shall be required for the installation of a residential wind energy system.
2. Conditional Use Permit: A conditional use permit shall be required for the installation of a commercial wind energy system.
3. Documents: Both land use, and conditional use permits shall be accompanied by a plan which includes the following:
  - a. Property lines and physical dimensions of the property.
  - b. Location, dimensions, and the types of existing major structures on the property.
  - c. Location of the proposed wind system tower.
  - d. The right-of-way of any public road that is contiguous with the property.
  - e. Any overhead utility lines.
  - f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (freestanding or guyed).
  - g. Tower foundation blueprints or drawings.
  - h. Tower blueprint or drawing.

4. Critical Communications Study: The applicant shall submit a critical communications study prepared by a qualified professional engineer which affirmatively demonstrates that wind energy system will not interfere with critical communication signals.
5. Fees: The application for a land use or conditional use permit for a commercial wind energy system must be accompanied by the fee required for a permitted principal use.
6. Expiration: A permit issued pursuant to this section of the ordinance shall expire if:
  - a. The commercial wind energy system is not installed and functioning within twelve months from the date the permit is issued; or,
  - b. The commercial wind energy system is out of service or otherwise unused for a continuous 12-month period.

#### **15.12.7 Abandonment**

1. A residential or commercial wind energy system that is out-of-service for a continuous twelve-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the owner of a residential or commercial wind energy system that has been deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within thirty days from the Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the owner provides information that demonstrates the residential or commercial wind energy system has not been abandoned.
2. If the residential or commercial wind energy system is determined to be abandoned, the Owner of a residential wind energy system shall remove the wind generator from the tower at the Owner's sole expense within three months of the receipt of Notice of Abandonment. If the Owner fails to remove the wind generator from the tower, the Administrator may pursue a legal action to have the wind generator removed at the Owner's expense.

#### **15.12.8 Land Use or Conditional Use Permit Procedure**

1. An Owner shall submit an application to the Administrator for a commercial wind energy system. The application must be on a form approved by the Administrator and must be accompanied by two copies of the plot plan identified in Section 12.05.3. above.
2. The Administrator shall issue a permit or deny the application for a land use permit within one month of the date on which the application is received. The Administrator shall schedule any application for conditional use permit for hearing within one month of the date on which the application is received.
3. The Administrator shall issue a building permit for a residential or commercial wind energy system if the application materials show that the proposed wind energy system meets the requirements of this section of the ordinance.
4. If the application is approved, the Administrator will return one signed copy of the application with the permit and retain the other copy with the application.
5. If the application is rejected, the Administrator will notify the applicant in writing and provide a written statement of the reasons why the application was rejected. The applicant may appeal the Administrator's decision pursuant to Section 14.04.2. The applicant may reapply if the deficiencies specified by the Administrator are resolved.
6. The Owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the residential wind energy system is

complete.

### **15.12.9 Violations**

It is unlawful for any person to construct, install, or operate a residential or commercial wind energy system that is not in compliance with this section of the ordinance or with any condition contained in a building permit issued pursuant to this section of the ordinance. Residential or commercial wind energy systems installed prior to the adoption of this section of the ordinance are exempt.

### **15.12.10 Administration and Enforcement**

1. This section of the ordinance shall be administered by the Administrator or designee.
2. The Administrator may enter any property for which a building permit has been issued under this section of the ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
3. The Administrator may issue orders to abate any violation of this section of the ordinance.
4. The Administrator may refer any violation of this section of the ordinance to legal counsel for enforcement.
5. Disagreements regarding the interpretation of this section of the ordinance occurring between the administrator or designee and the owner are appealable to the Board of Adjustment as an administrative appeal.

### **15.12.11 Penalties**

1. Any person who fails to comply with any provision of this section of the ordinance or any permit issued pursuant to this section of the ordinance shall be subject to enforcement and penalties pursuant to Section 14.06.
2. Nothing in this section shall be construed to prevent the Town of Fremont from using any other lawful means to enforce this section of the ordinance.

### **15.12.12 Severability**

The provisions of this section of the ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this section of the ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

## **15.13.1 Validity**

### **15.13.2 Conflict**

All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

### **15.13.3 Court Invalidation**

Invalidation by a court of any part of this ordinance shall not invalidate the rest of the ordinance.

### **15.13.4 Force and Effect**

Following passage and publication by the Town Board of Supervisors, this Ordinance shall be in full force and effect in the town.

**15.14.1 Administration and Enforcement**

**15.14.2 General Provisions**

Section 14.0 contains provisions on the administration and enforcement of the requirements of the Town of Fremont land use ordinances. The provisions of Section 14.0 apply, as indicated, to all ordinances and are connected by reference to the substantive standards of the zoning, subdivision and sanitary sections of the Town of Fremont land use ordinances.

**15.14.3 Agencies and Offices Involved in Ordinance Administration and Enforcement: Definitions of Roles and Responsibilities**

- 1. Town of Fremont Board of Supervisors: The Town of Fremont Board of Supervisors is responsible for the enactment, amendment and repeal of the Town of Fremont land use ordinances.
- 2. Town of Fremont Plan Commission: The Town of Fremont Plan Commission is a committee of the Town Board, created pursuant to Sec. 60.62 (4) of the Wisconsin Statutes, and serves as the Town planning agency pursuant to Sec. 236.02(13) and 235.45 of the Wisconsin Statutes. The committee is responsible for overseeing the office of the Zoning Administrator and for other functions assigned to it by this ordinance or by state law.
- 3. Town of Fremont Board of Adjustment: The Town of Fremont Board of Adjustment is a board created by action of the Town Board of Supervisors pursuant to Section 62.23(7) (e) of the Wisconsin Statutes. The Board of Adjustment is responsible for hearing and deciding administrative appeals and variance applications as provided in this ordinance.
- 4. Office of the Fremont Zoning Administrator: The office of the Zoning Administrator is an administrative unit of the Town of Fremont government, created by the Town of Fremont Board of Supervisors. The office is headed by an administrator. The office shall consist of such other personnel as shall be provided for the office. In addition to duties and responsibilities specified elsewhere in this ordinance, the administrator shall be responsible for directing the work of the office for making periodic reports as required on the activities of the office, and for training and educational activities to assure that persons connected with ordinance administration are able to keep abreast of developments in the field of Town land use ordinances.

**15.14.4 Duties of the Zoning Administrator: Records, Inspections, Determinations, Permit Fees:**

In addition to the duties specified elsewhere in this ordinance, the administrator shall be responsible for the following administrative duties:

- 1. Advising Applicants: The administrator shall advise applicants for permits and approvals as to the provisions of this ordinance and shall assist them in preparing applications.
- 2. Keeping Records: The administrator shall keep records of applications received, committee or board of office actions on such application, permits issued, inspections made, enforcement actions undertaken and other similar activities.
- 3. Making Inspections: The administrator shall make such inspections of premises as are

required to determine compliance of land use activities with the terms of this ordinance. Except in case of emergency, such inspections shall be made only at a reasonable hour, with reasonable notice to the owner and/or occupant of the premises and with consent, unless it is made pursuant to an inspection warrant issued pursuant to Wisconsin Statutes.

4. Making Determinations: The administrator shall make those administrative decisions and determinations as are specifically assigned to the administrator by terms of this ordinance.

5. Permits, Approvals and Fees: The administrator shall receive applications for the following permits and shall process the applications and the fees collected in the following manner:

a. Land Use Permit

(1) When required: A land use permit shall be required to be issued before any of the following may occur:

(a) Before any building or structure, not exempted below, is erected, moved or structurally altered so as to increase its floor area; and

(b) Before any building or structure or any parcel or tract of land is substantially changed as to use.

(2) Exceptions: A land use permit shall not be required for the following:

(a) Structural alterations involving ordinary upkeep and maintenance.

(b) Signs, however they must comply with applicable regulations.

(3) Land use permits shall be issued only if the parcel is in compliance with the Town of Fremont Subdivision Ordinance.

(4) Application and issuance: Applications for land use permits shall be made on forms furnished by the administrator. Issuance of a sanitary permit is a pre-condition of issuance of a land use permit whenever applicable. Permits shall be issued if the application and information obtained through field inspections, if any, causes the administrator to conclude that the proposed use will comply with all applicable regulations.

(5) Fees: Fees shall be submitted to the Zoning Administrator when application is made for a land use permit. Fees shall be doubled if work is started before the permit is requested or issued. Fees may be changed by action of the Plan Commission and Resolution of the Town Board. Any such change of fees is effective upon posting of the Town Fee Schedule in the offices of the Town Clerk after action by the Plan Commission and Town Board.

b. Applications for Conditional Use Approvals, Variances, Administrative Appeals, and Applications for Rezoning.

(1) Application and referral: Applications for conditional use approvals, variances and administrative appeals shall be made to the Zoning Administrator or deputies on forms prepared by the administrator and approved as to form and content by the Plan Commission. Completed applications shall be referred by the administrator to the appropriate committee or board for processing and disposition. Applications for rezoning requests shall be made to the Zoning Administrator (acting for this purpose on behalf of the Town Clerk) on forms prepared by the administrator and approved by the Plan Commission. Completed forms shall be referred to the Plan Commission processing and disposition.

(2) Fees: Fees shall be submitted to the Zoning Administrator when application is made for public hearings. Fees shall be doubled if work is started before the permit is requested or issued. Fees may be changed by action of the Plan Commission and Resolution of the Town Board. Any such change of fees is effective upon posting of the Town Fee Schedule in the

offices of the Town Clerk after action by the Plan Commission and Town Board.

(3) Disposition of Fees: All fees received by the Zoning Administrator shall be placed within the Town general fund or transmitted to state agencies as required by the Town Board or State Statutes. Fees are collected at the time of application and are not refundable if the application is denied.

(4) Sanitary and Land Use Permits for Conditional Use and Variances Uses: Issuance of a conditional use approval or a variance shall not relieve the applicant of the obligation to obtain sanitary and land use permits.

(5) Effect and Posting of Permits: Permits or conditional use approvals and other permits issued on the basis of plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or constructions without that authorization shall be deemed a violation of this ordinance.

(6) Permits shall be placed in a prominent location on the premises during construction, alteration or moving.

(7) Permits shall lapse and become void if operations described in the permit are not commenced within one year of issuance of the permit.

(8) Footings inspections: Inspections at the footings stage may be conducted at property owner's request or upon decision of the Zoning Administrator, but are not required.

(9) Owner consent: Whenever a permit or approval carries conditions, the permit or approval shall not be effective until the owner of record of the subject parcel personally signs acknowledgment of the conditions.

(10) No variances for highway setback are needed where the nonconforming structure resulted from a highway reconstruction project commencing after April 17, 1996, if they are relocated on the same footprint.

#### **15.14.5 Duties of the Board of Adjustment: Variances: Administrative Appeal**

1. General Operating Rules for the Board of Adjustment (Hereinafter referred to as the "Board").

a. Appointment and Term: The Board shall consist of five members and two alternate members who shall be appointed for staggered three year terms, commencing on July 1, by the Chair of the Town Board. Vacancies shall be filled in like manner for the unexpired term of any member whose term becomes vacant. Members shall all reside in the Town.

b. Operating Process

(1) The Board shall choose its own Chair, Vice-Chair and Secretary.

(2) The Board shall meet at the call of the Chair or at such other times as the Board may determine.

(3) The Board shall comply with all requirements of the Wisconsin Open Meeting Law in the conduct of the business before it. The nature of the Board's proceedings are quasi-judicial. The Board may, therefore, deliberate in closed session, after a hearing on the matter, provided legal requirements are complied with.

(4) The Board may conduct on site inspections of premises and surrounding areas which are the subject of matters before the Board, provided that when the Board - as a unit or individual members - are engaged in such site inspections that they shall not allow interested parties to present arguments or advocacy materials. Such arguments and materials shall be received only

at hearings before the Board.

(5) The Board shall conduct a public hearing on all administrative appeals, and variance matters before it and shall cause a Class 2 Notice under Chapter 985 of the Wisconsin Statutes to be published and shall give due notice of the hearing to all parties in interest. Any party may appear in person or by agent at such hearing. The Chair may administer oaths to parties testifying and may compel attendance of witnesses.

(a) Due notice to parties in interest shall mean that the office of Zoning Administrator will mail, by ordinary postage, reasonable advance notice of all hearings and meetings on any pending matter to the applicant, to owners of record of properties which are located within 300 feet of the parcel involved in the application, and to other parties who have made known to the office their specific interest in the matter and their request to receive such notices.

(b) Failure of the office to accomplish such provision of notice shall not invalidate or prejudice the proceedings, provided the Board concludes that reasonable efforts were made or that the parties who subsequently complain of not having been sent or of not receiving notice did, in fact, know of the proceedings and had reasonable opportunity to attend or be represented, or to convey their views prior to the Board's decision.

(6) Notices shall be sent to state agencies when and if required by state law or rule, or as a matter of information at the discretion of the Administrator.

(7) All testimony before the Board by persons other than Board members and written or documentary evidence or material pertaining to matters before the Board shall be received at the hearings conducted by the Board, provided, however, that the content of relevant ordinances or statutory materials shall be deemed to be before the Board in all cases and need not be entered into the record. All parties in interest shall be afforded reasonable opportunity to comment on all materials or information so received. Board members who are in possession of facts which may have a bearing on the matter before the Board shall enter same into the record of the hearing and opportunity shall be allowed for comment.

(8) If, following the close of a hearing, the Board finds it necessary or desirable to receive additional information, evidence or arguments which may have a bearing upon the Board's decision it shall reconvene a public hearing, with notice given in the same manner as for the initial hearing.

(9) The Board shall deliberate on matters before it. The concurring vote of a majority of the Board shall be necessary to approve any appeal or variance before the Board. The vote of each member of each matter decided by the Board shall be recorded in the minutes. If a member is absent or if a member fails to vote, such fact shall similarly be recorded. The minutes of the Board shall show the Board's decisions and votes of members thereon. Each decision of the Board to approve a variance or to grant an appeal, shall be accompanied by written statement shall be signed or acknowledged by the members and entered into the minutes.

(10) All decisions by the Board shall be made pursuant to the standards of the ordinance. The Board shall decide all matters before it within a reasonable time.

(11) The Board shall cause complete records to be kept of its examinations on matters before it, of public hearings, site inspections, decisions and other official actions, which shall be immediately filed in the Town Zoning Office and shall be a public record.

(12) The Board may adopt procedural rules not in conflict with this ordinance or state law.

2. Powers of the Board of Adjustment: Administrative Appeals.

a. Appealable Matters:

(1) Decisions by the Zoning Administrator that consist of interpretations of the terms of Town of Fremont land use ordinances and which are made in the course of determining whether a permit or approval will be issued by said administrator are appealable to the Board of Adjustment as administrative appeals.

(2) Decisions by the Zoning Administrator to issue an enforcement demand or to commence other ordinance enforcement activities, where the administrator has determined that violation of the ordinance exists, is appealable to the Board of Adjustment as an administrative appeal.

(3) Decisions by the Plan Commission that consist of interpretations of the terms of the Town of Fremont Zoning ordinance and which are made in the course of determining whether a permit or approval will be issued by said committee are appealable to the Board of Adjustment as administrative appeals. The Plan Commission decisions on zoning amendment matters are not appealable to the Board of Adjustments.

b. Procedures for Initiating an Administrative Appeal.

(1) Eligible appellants: Administrative appeals may be initiated by any person aggrieved by the decision or interpretation being appealed, or by any officer, department, board or committee of the Town of Fremont government.

(2) Time for appeals: An appeal shall be commenced within 30 days after making of the decision or interpretation being appealed.

(3) Initiating an appeal: An appeal shall be commenced by filing with the administrator a notice of appeal specifying the decision being appealed and the grounds for the requested relief and payment of the fee specified by the Town Fee Schedule. Upon receipt of such a notice, the administrator shall immediately notify the Board of Adjustment and shall make available to the Board all papers and files constituting the record of the decision being appealed.

(4) Stays: An appeal of a decision to issue an enforcement demand or to commence other ordinance enforcement proceedings shall cause the permit or approval action to be suspended or shall stay further enforcement prosecution unless the Zoning Administrator or Town Attorney shall file with the Board of Adjustment a certificate, supported by a statement of facts, alleging that suspension or stay will cause imminent peril to life or property. If such a certificate is filed, proceedings shall not be stayed except upon a restraining order issued by a court.

(5) Decisions by the Board of Adjustment: Following a public hearing and other investigation, the Board shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from, and may make such decision as ought to have been made, and to that end shall have all powers of the officer from whom the appeal is taken. All decisions by the Board on administrative appeals shall be based upon the terms of the ordinance and evidence as to intent of the Town Board.

3. Powers of the Board of Adjustment: Variances

a. Nature of Variances: Variances are waivers in the terms of the zoning ordinance. In a variance case, the terms of the ordinance are not in dispute. An applicant for a variance acknowledges that the ordinance forbids the development for which approval is sought. Two avenues of relief can be pursued in such a case. One is for the applicant to seek an amendment to the ordinance. The second possible avenue of relief, one that is available only under strictly defined circumstances, is to seek a variance. Variances are an available form of relief only where the use in question is allowed in the zoning district, but the dimensional standards (setbacks, minimum lot area, building height, etc.) block or hinder the desired form of

development. Where dimensional standards create a hardship which can be relieved by modifying the standards for that parcel of land without destroying the basic intent of the ordinance, a variance procedure allows the impact of general rules to be varied in response to unusual local circumstances without involving the Town Board in amendment procedures for each such localized situation.

b. Applicants for Variances: Applications for variances in the applicable zoning regulations may be filed with the Zoning Administrator, along with payment of the application fee. The administrator shall make the application available to the Board.

c. Board Review and Decision: Following a public hearing and other investigations, the Board shall decide the matter based upon the following standards:

(1) No variance may be granted that would have the effect of allowing, in any district, a use not permitted in that district.

(2) No variance may be granted that would have the effect of allowing a use of land or property that would violate state laws or administrative rules.

(3) The burden is upon the appellant to prove the need for a variance.

(4) Financial hardship, loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales, are not sufficient reasons for granting a variance.

(5) The Board is bound to accept the zoning ordinance and map as being correct.

(6) The plight of the appellant must be unique, such as a shallow or steep parcel of land, or situation caused by other than his own action.

(7) The hardship justifying a variance must apply to individual appellant's parcel or structure and not generally to other properties in the same district.

(8) The variance must not be detrimental to adjacent properties.

(9) The Board of Adjustment in fulfilling its duties may modify, alter, or change any application.

(10) Variances shall not permit a lower degree of flood protection than a point two feet above the regional flood or be contrary to state law or administrative code.

(11) Subject to the above limitations, variances may be granted where strict enforcement of the terms of the ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated.

d. Conditions: Conditions shall be attached in writing to all approved variances where such conditions will achieve compliance with the standards of this ordinance.

#### **15.14.6 Duties of the Plan Commission**

The Town of Fremont Plan and Commission shall have those duties and responsibilities assigned to it by this ordinance, by other actions of the Town Board.

##### **1. Conditional Use Decisions**

a. Nature of Conditional Uses: Certain uses are of such special nature of their effects are so dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this ordinance for the determination of such cases as conditional uses as identified in Sections 5.0 and 6.0 by zoning district. They may be established in such district only upon approval by the Plan Commission.

b. Application for Approval of a Conditional Use: Any person holding an interest in lands

within an area included within a Town of Fremont zoning district may apply for a conditional use approval by filing an application and fee as specified in the Town's Fee Schedule. Conditional use applications can include single parcels of land or groupings of parcels, contiguous or noncontiguous. The application shall be transmitted by the administrator to the committee. The committee shall conduct a public hearing, preceded by a Class 2 Notice, on the conditional use application.

c. Committee Review and Decision: Following a public hearing and other investigations, the committee shall decide the matter based upon the following standards:

- (1) Whether the use is listed as a conditional use in the zoning district where the lands are located, or is a use which is not reassigned by this ordinance to any zoning district and which is similar in character to uses allowed in the district in which the site is located and which is compatible with the purpose and intent of such zoning district.
- (2) Where the regulations of the zoning district in which the lands are located contain specific standards for the class of conditional use under consideration, those standards shall be applied by the committee.
- (3) In addition, or where the zoning district contains no standards unique to that district or use, the committee shall apply the following general standards:
  - (a) No grant of a conditional use shall violate the spirit or intent of this ordinance.
  - (b) No conditional use shall be allowed which would be contrary to the public health, safety, or general welfare, or which would be substantially adverse to property values in the neighborhood affected.
  - (c) No use shall be permitted that would constitute a nuisance by reason of noise, dust, smoke, odor or other similar factors.

d. Conditions: The Plan Commission may make the granting of an application for a conditional use contingent upon such express conditions as it considers necessary to further the aims of this ordinance. These conditions may include, but are not limited to, specification of:

- (1) The period of time in which all or part of the use may be permitted.
- (2) Setback and yard dimensions.
- (3) Specified sewage disposal and water supply facilities.
- (4) Landscaping and planting screens.
- (5) Lighting
- (6) Environmental protections
- (7) Operational controls
- (8) Sureties
- (9) Deed restrictions
- (10) Location of structures, docks, piers, or signs
- (11) Location and amount of parking facilities
- (12) Vehicular access locations
- (13) Site and building design to ensure compatibility with neighboring properties
- (14) Type of construction
- (15) Type of shore cover

#### **15.14.6 Town Review**

The Town Clerk shall process all rezonings and conditional use permits.

1. Town Recommendation: The Town Plan Commission shall review all applications and provide a written recommendation to the Town of Fremont Board of Supervisors.
2. Town Action: The Town Board of Supervisors shall render a decision following review of recommendations from the Town Plan Commission and staff.

### **15.14.7 Enforcement**

1. Declarations of Unlawful Conduct, Activities and Conditions.
  - a. Violation of Land Use Ordinances
    - (1) It shall be unlawful for any building or structure to be erected, constructed, place, moved or structurally altered, or for any use of land, premises, building or structure to be established or changed in violation of the provisions of this ordinance.
    - (2) It shall be unlawful to fail to comply with any standard of this ordinance or with any condition or qualification placed upon the issuance of a permit or approval or variance granted, in due course, under this ordinance.
    - (3) It shall be unlawful to fail to apply for and obtain, in timely manner, permits and approvals as specified herein.
  2. Liability
    - a. Owners of lands or properties, occupiers of land or premises, and agents of owners or occupiers including, without limitation because of enumeration, building contractors, surveyors, plumbers, installers, soils technicians, road builders, grading and excavating contractors and their agents, and lending institutions and insurers and their agents are responsible for compliance with all provisions of this ordinance which bear upon their area of competency and responsibility.
    - b. Any such party who violates or aids or abets in a violation shall be liable to prosecution or remedial action.
    - c. This ordinance applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activities unless specifically exempted by state or federal law.
  3. Investigation of Compliance, Notice of Violations
    - a. The Zoning Administrator and deputies are responsible for inspecting and investigating compliance of land use activities with the terms of this ordinance.
    - b. If, upon such inspection or investigations, the Zoning Administrator becomes aware of a condition which he concludes is or likely to become unlawful, the Zoning Administrator shall immediately notify the parties, to whom he deems to be responsible and potentially liable of the situation. Such notice shall include:
      - (1) A demand that the condition that is alleged to constitute the present or potential violation be halted, prevented from occurring or remedied; or
      - (2) A statement that a complaint on the condition and demand for prosecution has been or will be transmitted to the Town Attorney and/or to enforcement officials, state agencies, or both.
    - c. If an enforcement demand is issued and is not complied with, the Zoning Administrator shall forthwith file a complaint and demand for prosecution, unless an administrative appeal has been commenced and a stay order has been issued.
  4. Prosecution; Injunctions and Penalties in Court Proceedings
    - a. The responsibilities of the Town Attorney include prosecution of violations of this ordinance.
    - b. Nothing in this section shall be deemed to prevent private prosecutions of violations.

c. The following forfeitures and penalties are hereby established for violations of this ordinance:  
Any person, firm, or corporation that fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than ten dollars (\$10.00) or more than five hundred dollars (\$500.00) for each violation, plus the costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.

(2) As a substitute for an addition to forfeiture actions, the Town Attorney may, on behalf of the Town, seek enforcement of any and all parts of this ordinance by court actions seeking injunctive orders or restraining orders, or remedies may be sought.

#### 5. Other Enforcement Provisions

a. Where a conditional use or variance has been approved subject to specified conditions, and where such conditions are not complied with, the Board of Adjustment or the Plan Commission may entertain and conduct a hearing upon a petition to revoke the special exception approval or variance. Such hearing and action upon a petition shall follow procedures similar to those followed in considering the noncompliance with the conditions originally imposed and shall be grounds for revocation.

b. Relationship to Deed Restrictions: It is not otherwise intended by this ordinance to repeal, abrogate, or impair any deed restrictions, easements, or covenants. However, where this ordinance imposes greater restrictions than are imposed by deed restrictions, easements, or covenants, the provisions of the ordinance shall prevail.

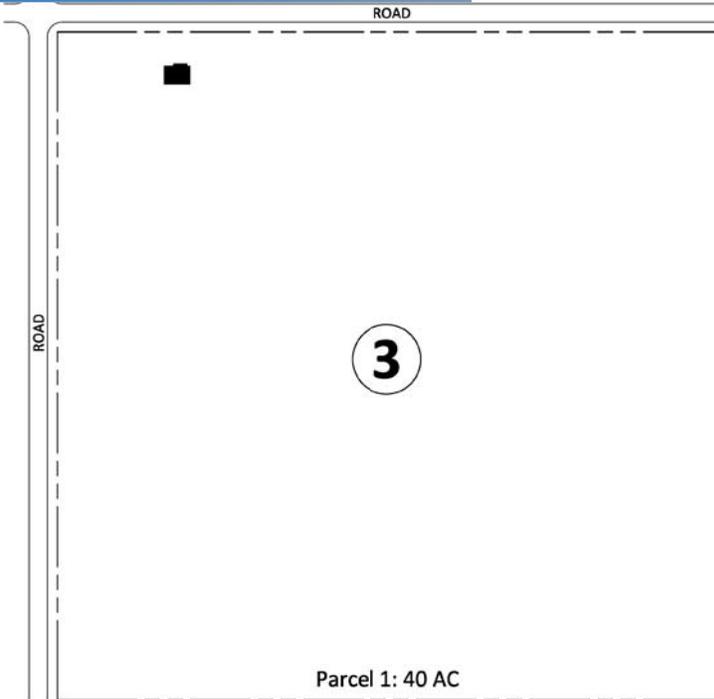
c. Relationship to Nuisance Actions: No provision of this ordinance shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the laws of the state of Wisconsin.

## **Attachment A – Residential Density Management Diagrams**

The following diagrams provide examples of how residential density is managed in Town of Fremont within the following zoning districts: Private Recreation and Forestry (PVRF), Agriculture Enterprise (AE), Agriculture Retention (AR), Agriculture and Woodland Transition (AWT), and Rural Residential (RR).

The size and zoning of a parcel limits the maximum number of residential dwelling units within these zoning districts. The number of land divisions that can occur are not limited, however, as long as the number of dwelling units does not exceed the maximum residential density.

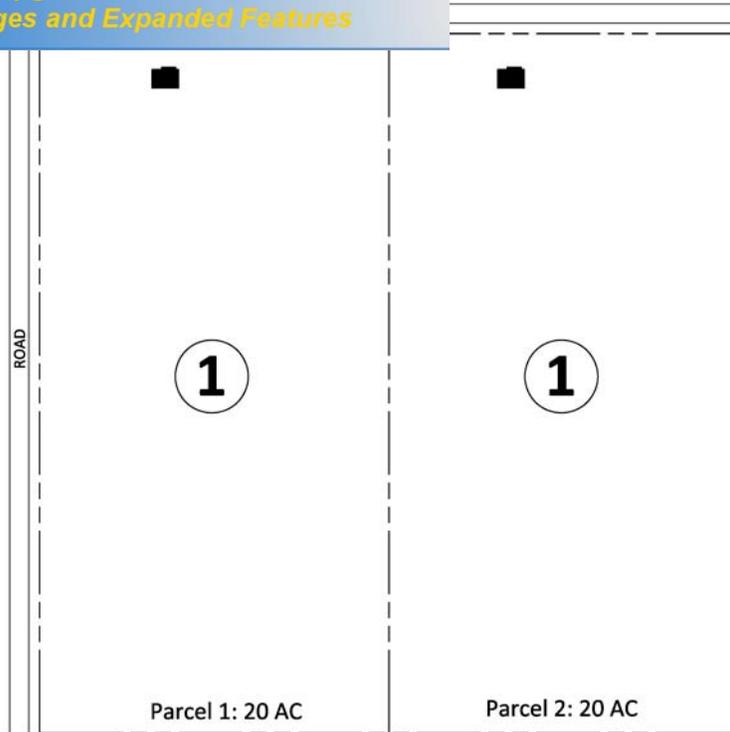
Figure A-1 shows a 40-acre parcel that limits residential density to 1 residential unit per 10 acres (the Agriculture Retention (AR) zoning district uses this maximum density for example). A maximum of 4 residential units ( $40 \text{ acres} \div 10 \text{ acres/unit} = 4 \text{ units}$ ) could be constructed on lots split from the parcel. Since there is already an existing home on the parcel, however, only 3 residential additional units can be built. This is represented by the “3” shown in the middle of the parcel. The 3 residential units or “development rights” are tracked by the Town for each parcel as part of the Town Density Management System.



Maximum Residential Density:  
1 unit per 10 acres

Development Rights:  
3 remaining  
Figure A-1

Figure A-2 shows the same 40-acre parcel depicted in Figure A-1, but split into two parcels along with the construction of another house. As a result, only 2 development rights remain. In this example, the remaining development rights are divided between the two parcels, meaning each parcel could support one additional housing unit.

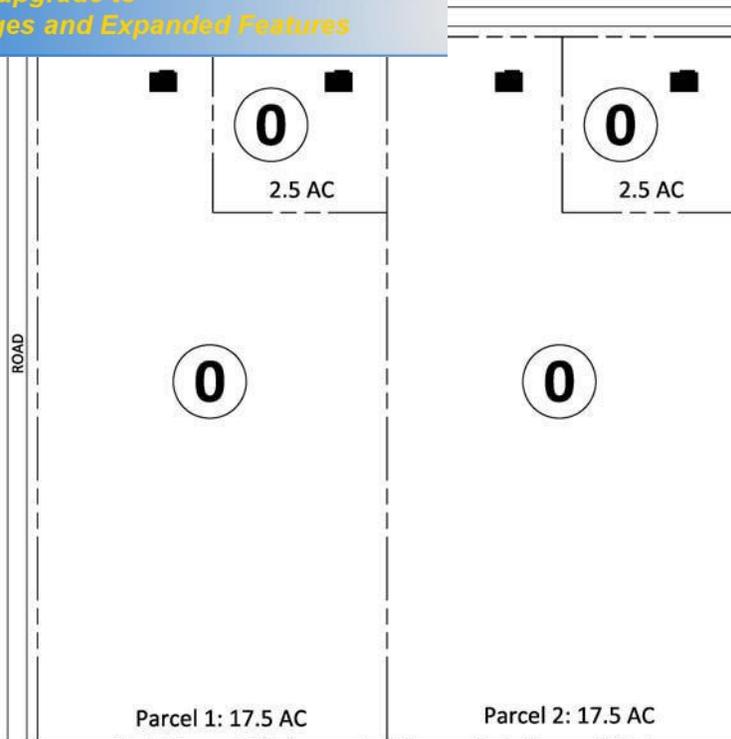


Maximum Residential Density:  
1 unit per 10 acres

Development Rights:  
2 remaining (1 on each parcel)

Figure A-2

Figure A-3 shows one more lot with an additional home split from each parcel. This effectively depletes the remaining development rights from the original 40-acre parcel. No additional homes can be built unless property is rezoned to allow a greater residential density.



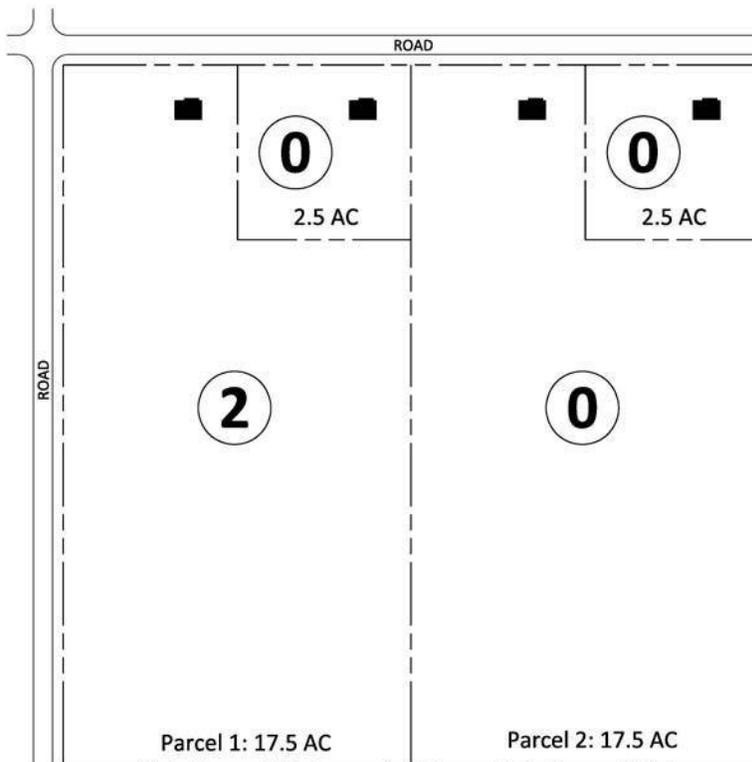
Maximum Residential Density:  
1 unit per 10 acres

Development Rights:  
None remaining

Figure A-3

Figure A-4 shows how development rights would change if property was rezoned to allow a greater residential density. If Parcel 1 was rezoned to a district that allowed a maximum of 1 unit per 5 acres instead of 1 unit per 10 acres, the development rights on that parcel would increase.

The new development rights for Parcel 1 are calculated as follows:  $17.5 \text{ acres} \div 5 \text{ acres/unit} = 3.5 \text{ units}$  (3.5 would be rounded down to 3 units). Since there is already one existing home on the parcel, however, 2 development rights are created.



Maximum Residential Density:  
1 unit per 5 acres (rezoned Parcel 1)  
1 unit per 10 acres (remaining parcels)

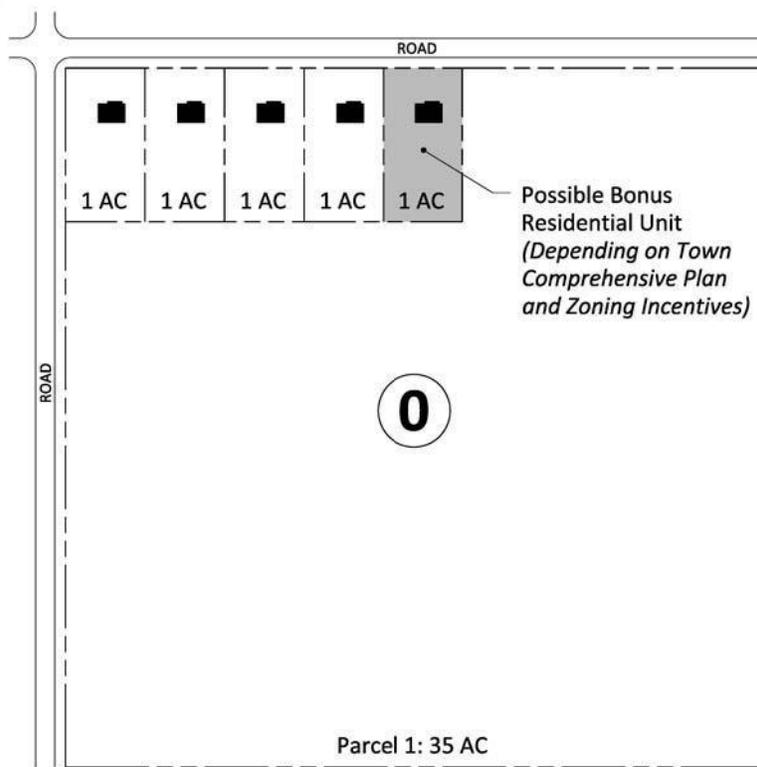
Development Rights:  
2 created on Parcel 1

Figure A-4

Figure A-5 shows a different scenario. This is the same original 40-acre parcel depicted in Figure A-1, but with an alternate development approach. In this example, the land divisions and homes are coordinated and clustered together to preserve the maximum amount of contiguous open space. This open space may be agricultural land, woodland, or natural area.

If the zoning allows a maximum residential density of 1 unit per 10 acres, then 4 total homes are possible (including the home from the original 40-acre parcel). The example here, however, shows a total of 5 homes. This is possible in certain zoning districts through the provision of bonus density. Granting bonus density is considered when lots and homes are clustered together with a minimum of 50% open space (see Section 8.0). Bonus density when allowed is indicated on the town zoning map.

The maximum bonus possible is 1 additional lot (and home) for every 4 lots allowable per zoning (see Section 7.02.d (3)).



Maximum Residential Density:  
1 unit per 10 acres

Development Rights:  
None remaining

