

Town of Freeman

## **FARMLAND PRESERVATION DISTRICT AMENDMENT**

### **TO THE TOWN OF FREEMAN ZONING ORDINANCE AS OF 02-28-2022**

#### **Introduction**

Proposed Amendment to Freeman Township Zoning Ordinance 01-26-2015, as Amended 02-28-2022  
Industrial Animal Production Facilities.

The purpose of this amendment is to add a Farmland Preservation Zoning District for the majority of the Township. Currently under Section 2B, Freeman Township has a single combined district titled Agriculture/Residential.

This zoning amendment creates a “Farmland Preservation (FLP) Zone” in the Township of Freeman.

With this new zoning district, the Township of Freeman will have two (2) land use zones/districts: a) an agriculture / residential land use district, wherein conditional use permits are allowed as defined in section 2.A.4 and b) a Farmland Preservation (FLP) Zone/ district, wherein conditional use permits are defined relative to FLP.

Conditional Use Permit requests from either land use zone/district, require review and approval by the Planning and Zoning Commission, and final approval by the Township Board of Trustees.

The 2022 zoning map for the Town of Freeman, showing both the FLP zoned regions and the non-FLP zone regions, is given in Figure 2-B-1. Note: DATCP provided the map, dated 2017, showing non-FLP land owned by the “Army Corp of Engineers, Wisconsin DNR, and all residential subdivisions as of 2017.” The May 2022 updated FLP map excludes a) all landowners with 20 acres of land or less; b) new residential subdivision since the 2017 map was created; and c) landowners who have requested their land NOT be in the FLP zone/district – see Figure 2-B-2 for those named landowners. NOTE: New landowners can be added to this figure if the landowner provides a written request to the Town Clerk. Likewise, a landowner, on this list, who decides at a later date desiring to be included in the FLP zone can submit a request to the Town Board for approval. Landowners with 20 acres or less may request to be added to the Farmland Preservation District by written request to the Town Board for approval. The updated total zoning map for the Township of Freeman shall be updated annually and shall be available on the Towns’ Website and the Town Hall.

The 2022 Township of Freeman updated zoning ordinance shall be submitted to the Wisconsin DATCP agency to be certified as a FLP zone in the Township. For landowners in the FLP zone to receive state tax credit, they are required to have a DATCP certified land management plan (State Statute 91).

This FLP zoning map satisfies the DATCP requirement of 75% of the Township land being in the zone based on the DATCP Township map of 2017.

#### **FARMLAND PRESERVATION (FLP) ZONE/DISTRICT**

- A. Purpose. The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses. The purpose of this District is to further supplement the implementation of the Crawford County Farmland Preservation Plan as well as

meet the minimum requirements of Chapter 91, Wis. Stats., to the extent applicable, in order that the town's farmers may qualify for tax credits.

B. Definitions. The following definitions apply in the Farmland Preservation District and to the extent applicable the exclusive agricultural district:

(1) "Accessory Use" means any of the following land uses on a farm:

- a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- c) A farm residence.
- d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (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.
- e) Any other use that the department, by rule, identifies as an agricultural use.

(1m) "Agricultural enterprise area" means an area designated in accordance with s. 91.84.

(2) "Agricultural Use" means any of the following:

1. Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production. 4m. Floriculture.
5. Aquaculture.
6. Fur farming.
7. Forest management.
8. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

2. Any other use that the department, by rule, identifies as an agricultural use.

(3) "Agriculture-related use" means any of the following:

- a) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
  - b) Any other use that the department, by rule, identifies as an agriculture-related use.
- (4) "Base Farm Tract" means one of the following:
- a) All land, whether one parcel or 2 or more contiguous parcels, that is in a farmland preservation zoning district and that is part of a single farm on the date that the department under s. 91.36(1) first certifies the farmland preservation zoning ordinance covering the land or on an earlier date specified in the farmland preservation zoning ordinance, regardless of any subsequent changes in the size of the farm.
  - b) Any other tract that the department by rule defines as a base farm tract.
- (5) "Certified farmland preservation plan" means a farmland preservation plan that is certified as determined under s. 91.12.
- (6) "Certified farmland preservation zoning ordinance" means a zoning ordinance that is certified as determined under s.91.32.
- (7) "Chief elected official" means the mayor of a city or, if the city is organized under subch. I of ch. 64, the president of the council of that city, the village president of a village, the town board chairperson of a town, or the county executive of a county, or, if the county does not have a county executive, the chairperson of the county board of supervisors.
- (8) "Comprehensive plan" has the meaning given in s.66.1001 (1) (a).
- (9) "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a political subdivision.
- (10) "County land conservation committee" means a committee created under s. 92.06 (1).
- (11) "Department" means the department of agriculture, trade and consumer protection.
- (12) "Farm" means all land under common ownership that is primarily devoted to agricultural use.
- (13) "Farm acreage" means size of a farm in acres.
- (14) "Farmland preservation agreement" means any of the following agreements between an owner of land and the department under which the owner agrees to restrict the use of land in return for tax credits:
- a) A farmland preservation agreement or transition area agreement entered into under s. 91.13, 2007 Wis. Stats., or s. 91.14, 2007 stats.
  - b) An agreement entered into under s. 91.60(1).
- (15) "Farmland preservation area" means an area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:
- a) Identified as an agricultural preservation area or transition area in a farmland preservation plan described in s. 91.12(1).
  - b) Identified under s. 91.10(1)(d) in a farmland preservation plan described in s. 91.12(2).

- (16) "Farmland preservation plan" means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.
- (17) "Farmland preservation zoning district" means any of the following:
- a) An area zoned for exclusive agricultural use under an ordinance described in s. 91.32 (1).
  - b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in an ordinance described in s. 91.32 (2). 13
- (18) "Farm residence" means any of the following structures that are located on a farm:
- a) A single-family or duplex residence 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.
  - b) A migrant labor camp that is certified under s. 103.92.
- (19) "Gross farm revenues" has the meaning given in s. 71.613 (1) (g).
- (20) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- (21) "Nonfarm residence" means a single-family or multi-family residence other than a farm residence.
- (22) "Nonfarm residential acreage" means the total number of acres of all parcels on which nonfarm residences are located.
- (23) "Overlay district" means a zoning district that is superimposed on one or more other zoning districts and imposes additional restrictions on the underlying districts.
- (24) "Owner" means a person who has an ownership interest in land.
- (25) "Permitted use" means a use that is allowed without a conditional use permit, special exception, or other special zoning permission.
- (26) "Political subdivision" means a city, village, town, or county.
- (27) "Prime farmland" means any of the following:
- a) An area with a class I or class II land capability classification as identified by the natural resource's conservation service of the federal department of agriculture.
  - b) Land, other than land described in par. (a), that is identified as prime farmland in a certified farmland preservation plan.
- (28) "Prior nonconforming use" means a land use that does not conform with the farmland preservation zoning ordinance but that existed lawfully before the farmland preservation zoning ordinance was enacted.

(29) "Protected farmland" means land that is located in the farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

(30) "Taxable year" has the meaning given in s. 71.01 (12). History: 2009 a. 28. Wisconsin's Working Lands: Securing Our Future. Matson. Wis. Law. Dec. 2009.

C. Land Use in the Farmland Preservation District; General. Only the following land uses are allowed in a farmland preservation zoning district:

1. Uses allowed under Section (D) as a permitted use.
2. Uses allowed under Section (E) with a Conditional Use Permit.
3. Prior nonconforming uses, subject Section 62.23(7)(h), Wis. Stats. and any amendments thereto.

D. Permitted Uses.

1. Agricultural Uses
2. Accessory Uses
3. Agriculture-related Uses 14
4. Nonfarm residences constructed in a rural residential district in accordance with an approval of the district as a Conditional Use under Section e.(2)(b).
5. Undeveloped natural resource and open space areas.
6. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.

E. Conditional Uses.

1. Creation of a nonfarm residence or conversion of a farm resident to a nonfarm residence through a change of occupancy, subject to the following requirements:
  - a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1:20 after the residence is constructed or converted to a farm residence.
  - b) There will not be more than four dwelling units in nonfarm residences, nor more than five dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
  - c) 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 residential 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 a nonfarm residence.

2. Significantly impair or limit the current or future agricultural use of other protected farmland.

2. Creation of a nonfarm residential cluster that covers more than one nonfarm residence if all of the following apply:
  - a) The parcels on which the nonfarm residences would be located are contiguous.
  - b) Each nonfarm residence constructed in the nonfarm residential cluster must satisfy the requirements of Section b.(1).
  
3. Transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
  - a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - c) The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
  - d) 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.
  - e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
  
4. Governmental, institutional, religious, or nonprofit community uses, if all of the following apply:
  - a) The use and its location in the Farmland Preservation District are consistent with the purposes of the farmland preservation zoning district.
  - b) The use and its location in the Farmland Preservation District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
  - d) 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.
  - e) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

F. Rezoning Land Out of a Farmland Preservation District.

1. Except as provided in sub. (2), the Town of Freeman may not rezone land out of the farmland preservation zoning district unless the Town of Freeman Town Board finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
  - a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  - b) The rezoning is consistent with any applicable comprehensive plan.
  - c) The rezoning is substantially consistent with the Crawford County Farmland Preservation plan, which is in effect at the time of the rezoning.
  - d) The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection (1) does not apply to any of the following:
  - a) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Chapter 91, Wis. Stats. 16
  - b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
3. By March 1 of each year the Town of Freeman by its Town Board or designated Town Official shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection a report of the number of acres that the Town of Freeman, Crawford County, Wisconsin, has rezoned out of the farmland preservation zoning district under sub. (1) during the previous year and a map that clearly shows the location of those acres.

Adopted this 30<sup>th</sup> day of May, 2022

**On Record with Town Clerk**

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John Leirimo, Chairman

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Al Thompson, Supervisor

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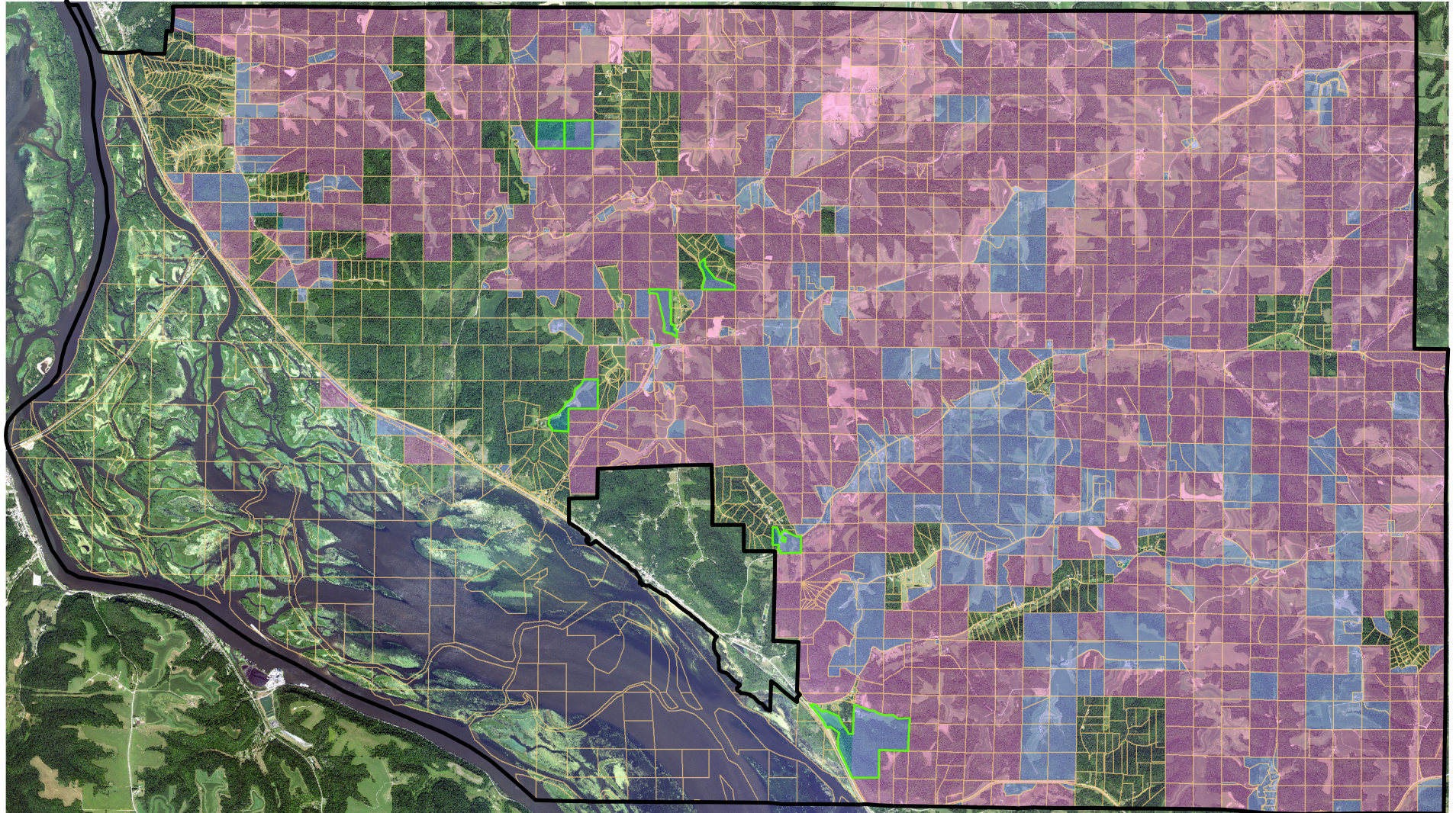
David Olson, Supervisor



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Attested: Peggy Thompson, Clerk

# Town of Freeman, Crawford County

## Farmland Preservation Planning/Zoning Consistency, July 26, 2022



-  Town Boundary
-  Parcel Boundary
-  Tracts < 20 acres or opted out of FPZ
-  Farmland Preservation Plan Area
-  Partially Planned Parcels

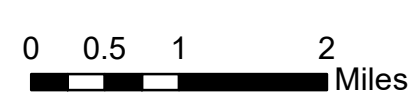




Figure 2-B-2

Landowners who have requested their land NOT be in the FLP zone/district:

	<b>NAME</b>	<b>APPROXIMATE ACRES</b>
1.	ANDERSON, BARRY	70.40
2.	BAETEN, BRUCE	66.04
3.	BOLAND, FLOY LF EST	48.11
4.	BOLSTAD, DONNA	144.85
5.	DUMMANN, MARK	64.50
6.	EHLERT, EDITH	39.59
7.	EICK, ERVIN	295.46
8.	ELLEFSON, RANDALL	178.64
9.	FAIT, RYAN	112.68
10.	FERRYVILLE FISH FARM LLC	209.46
11.	HACKETT, MARLA REVOCABLE LIVING TRUST	225.71
12.	HEATH, ROGER/MARY	144.84
13.	HOSEMANN, JOHN/CHERYL	27.44
14.	KVIGNE, AMY, LISA	38.32
15.	MIKKELSON, LOREN	242.50
16.	MOORE, DUANE	134.46
17.	SAMPSON, THOMAS/PAUL	155.70
18.	SANDY, DAVID	24.07
19.	SCHENK TRUST	138.53
20.	SEVERSON VALLEY HILL FARMS LLC	569.90
21.	SHILTS, MATTHEW	140.59
22.	SLACK, TRAVIS	33.82
23.	SLETTEN, LARRY LF EST	76.10
24.	STEVENSON, JEFFREY NO TRESPASSING LLC	360.65
25.	TROUT CREEK INVESTMENTS LLC	40.94
26.	WOLF, CINDY LF EST	137.70
27.	YANKE, SCOTT	21.95
	<b>TOTAL</b>	<b>3742.95</b>

**AMENDMENT**  
**LAND USE ZONING ORDINANCE**  
**TOWNSHIP OF FREEMAN, CRAWFORD COUNTY, WISCONSIN**

**The following changes shall be incorporated:**

1. Section 1.E Definitions of Terms:

Add the following definition:

“Industrial Confined Animal Feeding Operation (CAFO): 300 Animal Units (AU) or greater for at least 45 days per year. One AU is approx. 1000 lbs. Industrial characteristics typically include: 24 hr operation, animals and other inputs are shipped in, animals and animal products are shipped out, large volumes of animal waste products are generated (holding, treatment and dispersal) that have proven to negatively impact the natural resources of Townships with vulnerable topography/geology (Karst in Freeman.)”

2. Section 2.A.1.1.1:

Strike the existing paragraph and insert:

“Proposed confined animal feeding operations (CAFOs) are, for the purposes of this ordinance, considered an industrial activity, and therefore shall require submission and approval of a conditional use permit.”

3. A.1.2 Non-farm residences.

Add the following:

“Any subdivision of property resulting in a residence on less than a one (1) acre parcel shall require a variance.”

4. 2.A.1.2 Non-farm recreational.

Add the following:

“Any subdivision of property resulting in a residence on less than a one (1) acre parcel shall require a variance.”

EFFECTIVE DATE:

The amendment is effective on \_\_\_\_\_

Adopted this \_\_\_\_\_ day of \_\_\_\_\_

Signatures of Board: **On Record with Town Clerk**

Town Chair \_\_\_\_\_

Town Supervisor \_\_\_\_\_

Town Supervisor \_\_\_\_\_

Attest By Town Clerk \_\_\_\_\_

1 **LAND USE ZONING ORDINANCE**

2 **TOWNSHIP OF FREEMAN, CRAWFORD COUNTY, WISCONSIN**

3 Approved: 01-26-2015

4 **SECTION 1: General**

5 **1.A OVERVIEW NARRATIVE**

6 The Freeman Township zoning ordinance is an effort to bring some order and local residents and  
7 landowner input to the changing uses of land, water, air and natural resources in the township. It  
8 will guide decision making by property owners, future property owners and/or developers. The  
9 ultimate objective of this zoning ordinance is to protect the resources and natural beauty and  
10 attractiveness of the township.

11 To accomplish the goal, the zoning ordinance establishes a legal process for any altering of present  
12 land, water and air uses. This ordinance defines one zoning district for Freeman Township:

13 **Agricultural/Residential, with provisions for additional zoning districts.**

14 The ordinance grandfathers all present land and/or property uses as of the adoption date. It  
15 defines current and future permitted uses for agricultural and residential development in terms  
16 consistent with state and county statutes and regulations.

17 It establishes a legal process for adding new zoning categories. The ordinance does not prohibit  
18 the addition of new zoning categories, but defines the requirements the Township Planning and  
19 Zoning Commission will follow for the addition of new zoning districts.

20 The zoning ordinance is not prescriptive in terms of telling farmers, landowners, and residents  
21 what they can or cannot do with their respective property holdings. Rather, the ordinance is an  
22 effort to transition from the status quo of 'no zoning' and haphazard development to a more  
23 orderly process of development consistent with the Township Land Use Plan for conserving the  
24 abundant land, water, air and natural beauty of the township while preserving the rural lifestyles  
25 attractive to present and potential new residents.

26 Freeman Township needs economic development in order to maintain schools and services, but  
27 any development must not negatively impact the land, water, air and natural resources and  
28 lifestyles of its residents.

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1 TOWN OF FREEMAN LAND USE ZONING ORDINANCE

2 1.B Preface:

3 Why is Freeman Township considering land use zoning?

4 Recent development issues in neighboring or nearby townships have raised issues with  
5 potential long term implications for the Township. These issues relate specifically to the  
6 interest of township residents and property owners in protecting and conserving the  
7 natural resources – land, water and air – including the rural lifestyle valued by permanent  
8 residents and those who enjoy our township on a seasonal basis. These concerns were  
9 outlined in the Freeman Township Land Use Plan (e.g., Smart Growth Plan) approved by  
10 the Town Board in 2009. In approving the “land use plan”, the Town Board left open the  
11 possibility of studying future issues and concerns as they arise. The Town Board activated  
12 the Land Use Planning and Zoning Commission to develop a land use zoning ordinance  
13 considering the above related issues.

14 The commission was guided by three goals:

- 15 1. Protecting and conserving the land, water, and natural resource beauty of  
16 the township;
- 17 2. Encouraging economic development that protects the agricultural, forestry,  
18 recreational, and scenic resources and values; and
- 19 3. Minimizing governmental interferences with property owners to make  
20 decision addressing their land use consistent with the Township’s “Smart  
21 Growth Plan” and the associated land use maps. The Township’s Land Use  
22 Plan designated Freeman Township as “agricultural and residential”,  
23 recognizing existing land uses and future compatible uses, developed in a  
24 managed fashion and according a “land use zoning ordinance”.

25 Prior to Town Board adoption, the ordinance was:

- 26 1. Published for review by Township landowners and residents; and
- 27 2. A public hearing(s) held on the proposed ordinance to receive comments  
28 from landowners and residents; and
- 29 3. Incorporated ordinance modification(s) based on Town Board’s direction  
30 after the public hearing(s).

31

# Land Use Ordinance

The ordinance promotes the health, safety, and general welfare of the landowners and citizens of the Town of Freeman, Crawford County, Wisconsin through the regulation of land use, based on the "Town of Freeman Smart Growth Plan" adopted by the Town of Freeman Town Board on December 21, 2009. All applicable county, state and federal regulations and definitions apply to this document unless otherwise noted.

All existing Town of Freeman ordinances, prior to the adoption of this ordinance, are incorporated by reference. All existing non-conforming land uses are grandfathered as of the adoption of this ordinance, with the conditions as given in section 1.C.

## 1.C Purpose:

1. Providing for the regulation of land "use" in an orderly manner;
2. Ensure the use of land for agricultural purposes;
3. Regulate buildings and structures;
4. Recognize pre-existing land use conditions prior to the adoption of this land use zoning ordinance;
5. Provide provisions for future land use and related regulations as may be required in future years.

## 1.D Authority:

This ordinance and associated regulations are adopted under the authority granted by sec.60.61 Wis. Stats., the Town of Freeman, Crawford County, Wisconsin. The Freeman Town Board is the final authority to this ordinance. A Land Planning and Zoning Commission can be appointed by the Town Board to assist with the administrative processes associated with this ordinance.

The ordinance jurisdiction shall include all lands and waters within the legal boundaries of the Town of Freeman, Crawford County, and State of Wisconsin.

This ordinance acknowledges the rules and regulations established by the Flood Plain Ordinance of Crawford County, Wisconsin. This zoning ordinance will comply with Crawford County flood plain regulations, and the County flood plain map will be as an overlay to the Town of Freeman zoning map(s). Separate permits must be obtained from each jurisdiction as applicable.

This ordinance acknowledges the rules and regulations established by the Subdivision

1 Ordinance of Crawford County, Wisconsin. This zoning ordinance will comply with those  
2 subdivision regulations per the Town of Freeman zoning map(s). If land use and structures  
3 are regulated by both the Crawford County Subdivision Ordinance and this ordinance,  
4 separate permits must be obtained from each jurisdiction.

## 5 1.E Definitions of Terms:

6 Conditional Use: A use permit granted by the Town Board following consideration and  
7 recommendation from the Planning and Zoning Commission. Stipulations and  
8 conditions can be attached to the non-conforming land / property / structure  
9 use. The conditional use permit allows usage as prescribed by the permit in the  
10 zoning district for which the request was made. The conditional use permit  
11 should not be harmful to the environment and should minimize the potential for  
12 land use conflict and any adverse effects on the public health, safety or general  
13 welfare for the zoning district for which the request is made.

14 Conforming Use: Any lawful use of land that complies to the provisions of this Ordinance.

15 District: A specific land area designated with reference to this code and the official zoning  
16 map(s) within which the regulations governing the land use and erection of  
17 structures and the use of premises are uniformly applied.

18 Pre-existing Non-conforming Use: The use of land, dwelling or building existing lawfully  
19 before the current zoning ordinance was enacted and which uses do not  
20 conform to the use restrictions in the current ordinance.

21 Permitted Use: Land and structure uses which comply with the zoning ordinance. Permits  
22 maybe required per the ordinance

23 Variance: The granting of a land and/or property and/or structure use which does not  
24 conform to the regulation(s) of the zoning ordinance which is granted by the  
25 Town Board after a recommendation from the Planning and Zoning Commission.  
26 A Variance shall be only be granted in circumstances of "unique" hardship to the  
27 applicant. A variance is permanent for the associated land and/or property  
28 and/or structure use.

29 Two common variance are:

- 30 1. Area Variance: Is one that does not involve a use, which is prohibited by the  
31 zoning ordinance. Area variances involve matters such as setback lines,  
32 frontage requirements, height limitations, lot size restrictions, density,  
33 density regulations, and yard requirements.
- 34 2. Use Variance: Is one which permits a use of land other than that which is  
35 prescribed by the zoning ordinance. It is primarily a grant to erect, alter or



1 use a structure or land for a use in a manner other than that prescribed by  
2 the ordinance.

3 Zoning Permit: A permit issued by the Zoning Administrator, indicating that the submitted  
4 plans comply with the zoning ordinance and that the land use, property, or  
5 structure proposed is allowed by the ordinance.

6 Re-Zoning: A process whereby a new land use district is add and / or other changes are  
7 either added, modified, or deleted. Re-zoning requires an update to the Land  
8 Use Map(s) as appropriate.

## 9 SECTION 2: Land Use Districts

10 The Town of Freeman “Smart Growth Plan” and the associated “Township Land use  
11 map(s)” define the “land use within the Township”, as of the date of the adoption of this  
12 ordinance, as a single land use zoning district - “agricultural / residential”. The ordinance  
13 also recognizes the addition of future land use district(s). The land use map shall be  
14 designated the Town of Freeman Land Use District Map(s). All notations and references  
15 shown on the District Map(s) are a part of this ordinance as though specifically described  
16 herein.

17 The zoning districts are:

- 18 A. Agriculture / Residential
- 19 B. Reserved (for future use)

### 20 2.A Agricultural / Residential District:

21 The purpose of this zoning district is to protect productive farms and support agricultural  
22 processing and services as appropriate, manage residential land use, manage potential  
23 conflicts between incompatible land uses, recognize pre-existing land uses, manage the  
24 use of land topographically inconsistent with productive farms, accommodate the  
25 provisions of the county agriculture plan (if and when adopted and as periodically revised),  
26 comply with the provisions of The Farmland Preservations Law to permit eligible  
27 landowners to receive tax credit under sec. 71.59., Wis. Stats., and to allow compatible  
28 land uses through the granting of land use variances or conditional use permits.

29 This District recognizes permitted uses, and pre-existing non-conforming uses as of the  
30 date of the adoption of this ordinance.

#### 31 2.A.1 Permitted Use:

32 **2.A.1.1 Agricultural land use (farming) for the production of food, fiber,**  
33 **and timber and agriculture services generating more than \$1,000 per year**

1 **of income.** These land uses includes all building, structures, and facilities employed as  
2 part of the agriculture land use including residence(s) and associated structures. All  
3 residency and associated facilities and structures shall comply with all residency and  
4 structure building codes of the Township, County, and State. All agriculture farms and  
5 agriculture related serves shall have a driveway compliant to the Township's Driveway  
6 Ordinance. Permanent fencing is permitted 33 ft from the centerline of Township Roads.  
7 Temporary fencing must be removed prior to snowfall and may be placed up to 10 feet  
8 from the edge of the Township roadway.

9 2.A.1.1.1 New Feed Lot or Confinement Agriculture operations of 300 animal units up to  
10 500 animal units require a conditional use permit. Greater than 500 animal unit permits  
11 are governed by Crawford County.

## 12 **2.A.1.2 Non-farm residencies.**

13 The minimal lot size for a single-family (or duplex) residence is one (1) acre of contiguous  
14 land. The property shall be identified as a separate Crawford County taxable property and  
15 shall have an approved Township driveway. Any structure shall be setback at least thirty  
16 (30) feet from any boundary of the land. Setback from Township, County, State and  
17 Federal roadways shall be in accordance with County, State and Federal Statutes. A  
18 mobile home qualifies as a non-farm residence when positioned on a permanent  
19 foundation with the wheels and tongue removed. All residency structures shall compile  
20 with all Township, County, and State Building applicable codes.

21 A garage or other outbuilding shall not be used as a dwelling for more than a period of one  
22 year, and then only when the residential dwelling structure is under construction.

## 23 **2.A.1.3 Non-farm recreational.**

24 The minimal lot size is one (1) acre of contiguous open and/ or wooded land used for  
25 owner recreation. The property shall be identified as a separate Crawford County taxable  
26 property.

27 A non-residence structure (seasonal use / occupancy only) is permitted along with one (1)  
28 accessory building of less than 1200 square feet. The non-residence structure and  
29 accessory shall comply with applicable Township, County, and State building codes.  
30 Township building permits are required for all structures. Any accessory building greater  
31 than 1200 square feet requires a conditional use permit. All structures shall be setback at  
32 least thirty (30) feet from any boundary of land. Setback from Township, County, State  
33 and Federal roadways shall be in accordance with County, State and Federal Statutes.  
34 Seasonal Recreation Vehicles (RVs) and Recreational Campers are permitted as temporary  
35 units and must be removed annually for a period of not less than 3 continuous months

36 A driveway permit is required for access.

1 **2.A.1.4 Land Preservation:** Federal, State, County, Native American, and / or  
2 private association “land preservation” acreage.

3 Access shall be by a roadway or driveway in compliance with Township ordinance and  
4 required a driveway permit.

5 No permanent or temporary structures shall be place on the acreage unless permitted  
6 under Federal, State, or County regulations. These acreages include Mississippi River land  
7 controlled and managed by the Army Corp of Engineers, and Native American Reservation  
8 Land. Wisconsin Department of Natural Resources (DNR) laws and regulations apply to  
9 this district sub-category.

10 **2.A.2 Non-Conforming Permitted Uses:**

11 **2.A.2.1 Non- Profit, Not-For Profit:** --- Public Schools, Public Recreational,  
12 Churches, Cemeteries, Government Buildings, and Non-Profit Religious Facilities.

13 Any structures and accessory buildings, and roadways, septic and water infrastructures  
14 shall comply with Township, County, and State applicable codes.

15 Township building permits are required for new structures or modification of existing  
16 structures spanning 20% of the platform square footage. Township driveway permits are  
17 required for new access roads.

18 **2.A.2.2 Small Business:**

19 The Township defines “small business” as a Residence Owner- operated business  
20 employing a maximum of 6 full-time equivalent individuals, which complies with  
21 Township, County, and State applicable codes and regulations and is in compliance with  
22 the Township’s Comprehensive Land Use Plan. Township building and driveway permits  
23 are required.

24 **2.A.3 Pre-Existing Non-Conforming Land Uses:**

25 All pre-existing non-conforming use of land, buildings, or premises at the time of the  
26 enactment of this ordinance are allowed and may continue although such use does not  
27 conform to the provisions and regulations of this ordinance.

28 All pre-existing non-conforming land and structure uses are subject to the following:

- 29 1. If no structural alterations are made, a nonconforming use of a building may be  
30 changed to another nonconforming use of the same or a more restricted  
31 classification. When changed to a more restrictive nonconforming use or a  
32 conforming use, such use shall not thereafter be changed to a less restricted  
33 use;

2. If a nonconforming use of the land, building and/or premise is discontinued for a period of 12 consecutive months, any future use of the land, building and/or premise shall conform to the regulations of this ordinance and the district in which the use is located;
3. Whenever a nonconforming use structure is damaged by fire, explosion, an act of God or the Public Enemy to the extent of more than 50 percent of its current assessed value, it shall not be restored except as a permitted use as in sec.60.61(5m), Wis. Stats.;
4. Any changes in the plans, construction size or designated use of any building or part thereof for which a building site permit has been issued before the effective date of this ordinance and the construction of which shall have been started within six months from the date of such permit is permitted; and
5. All churches and other places of public gathering hereafter erected, except such as are rebuilt on the sites occupied at the time of this adoption of the ordinance, shall provide an accessible parking space of sufficient size to accommodate at least one car for every five seats provided.

#### 2.A.4 Conditional Use Categories:

Conditional Land Use Permits may be granted by the Town of Freeman Town Board after review, public hearing, and upon recommendation from the Freeman Township Planning and Zoning Commission.

##### **2.A.4.1 Expired Non-Conforming Permitted Uses:**

When a non-conforming permitted use, under Section 1.C, expires or become non-applicable, the Town Board may grant a “conditional use permit” for the previous use if the use complies with the regulations of this ordinance and any County and State regulations and/or codes.

##### **2.A.4.2 Infrastructure:**

Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law are allowed, unless such use is shown to be incompatible with this ordinance.

##### **2.A.4.3 Nonmetallic mining of road and/or construction aggregate:**

The Township reserves the right to annually review the application and require additional permit conditions as appropriate for reclamation, road use, hours of operations, nominal annual tonnage above 150,000 cubic yards per year (5 yr average), public notification of

1 affected residents/land owners, and other conditions as deem beneficial to the Township.

2 The Township may provide more stringent reclamation suggestions to the County.

3 Any expansion of an existing non-metallic mine requires a conditional use permit.

4 **2.A.4.4 New Nonmetallic mining of road and/or construction**

5 **aggregate:** Conditional Use permit will be required.

6 **2.A.4.5 All other land and/or structural uses** require either a:

- 7 1. Conditional use permit. or
- 8 2. Zoning variance, or
- 9 3. Rezoning.

10 **2.B Reserved:**

11 This section is reserved for future land use District(s) as may be defined by The Town  
12 Board pursuit to the land use change process and as recommended by the Township  
13 Planning and Zoning Commission.

14 **SECTION 3: General Ordinance Administrative Provisions**

15 The following provisions apply to the administration of this ordinance. These provisions  
16 are defined and / or empowered by the Town Board. The provisions and processes can be  
17 modified and adopted at a regular meeting of the Town Board.

18 **3.A. The Freeman Town Board’s powers and responsibilities:**

19 The Town Board is the final authority for decisions related to this zoning ordinance and is  
20 responsible for establishing processes and procedures for the enactment of this ordinance  
21 which:

- 22 1. Advise applicants as to the provisions of the ordinance;
- 23 2. Issue permits and inspect properties for compliance with this ordinance;
- 24 3. Keep the official records of all non-conforming uses and changes thereto,  
25 permit applications, permits, appeals, variances and amendments related to  
26 the zoning ordinance.

27 The Town Board may designate and empower an individual to act as the “zoning  
28 inspector”. The zoning inspector may enter, at a reasonable time, onto any public or

1 private lands or waters to make a zoning inspection.

2 The Town Board may establish a Land Use Planning and Zoning Commission to fulfill the  
3 administrative processes and procedures for this ordinance on behalf of the Town Board.  
4 The Town Board can delegate the administrative processes noted above to this  
5 commission. The commission shall consist of 4 appointed Township citizens by the Town  
6 Board and a member of the Town Board. This commission is authorized by Wisconsin  
7 Statute 60.61(4). Each commission member shall be elected for a 3 year period, with the  
8 initial members having staggered terms. The Town Board shall designate one member as  
9 the chair. Zoning Commission members serve at the pleasure of the Town Board.

10 The Town Board shall appoint a Zoning Administrator.

11 **3.A.1 Land Use Planning and Zoning Commission (if established by the Town Board)**

12 The duties and responsibilities are to:

- 13 1. Review the Land Use Plan and Zoning Ordinance on an annual basis;
- 14 2. Recommend any zoning changes to the Town Board for approval and  
15 adoption after holding one or more public hearings to receive residents and  
16 landowners comments;
- 17 3. Establish processes and procedures for receiving landowner requests for  
18 variances, conditional use, and / or zoning changes including publication of  
19 said request;
- 20 4. Publish the official notice for the zoning 'request' and hold one or more  
21 public hearings to receive testimony and input from residents and  
22 landowners;
- 23 5. Prepare the documentation and rationale for either accepting or denying  
24 the request;
- 25 6. Forwarding the commission's recommendation to the Town Board for  
26 approval or denial or modification; and
- 27 7. Maintain a current version of the "Town of Freeman District Zoning Map",  
28 hereafter called Zoning Map, with all County, State, and Federal overlays as  
29 appropriate.

30 The Planning and Zoning Commission shall meet at least twice per year or as required by  
31 zoning applicant requests or as directed by the Town Board. Meeting notices and agenda  
32 items shall be published per Town of Freeman requirements.

1           **3.A.2 Zoning Change Requests – Conditional use permit, zoning variance, or zoning**  
2           **district change**

3           Individual(s) or organization(s) seeking land use changes, shall request an application from  
4           Town Clerk and/or zoning administrator for either:

- 5                     1.    Conditional use permit; or
- 6                     2.    Variance ; or
- 7                     3.    Zoning change.

8           (Note: the Planning and Zoning Commission shall develop said application forms and the  
9           associated processes and procedures for these 3 types of application requests).

10          The Planning and Zoning Commission will review the application at its next meeting and  
11          shall schedule a public hearing for the applicant’s request when the necessary data and  
12          information is available. Notices of any Planning and Zoning Commission public hearing  
13          shall be published per Town of Freeman notification requirements. In addition, all  
14          landowner(s) / resident(s) who adjoin the land parcel for which a zoning application is  
15          being heard shall be notified by US Mail to the mailing address on record with the Town of  
16          Freemen. After the public hearing, the commission can amend the application with  
17          conditions and/or restrictions or request additional information. The commission will then  
18          vote to approve, disapprove, or continue the process if additional information is needed  
19          prior to a final vote. The approval or disapproval of the application request is then sent to  
20          the Town Board. The Town Board will add the application request to its monthly meeting  
21          agenda and schedule the associated public hearing. The Town Board will either approve  
22          or disapprove the application, with or without modification to the recommendation  
23          received from the Planning and Zoning Commission.

24          **3.A.3 Ordinance Changes and Amendments**

25          Ordinance changes and amendments to this zoning ordinance can be adopted by the Town  
26          Board following the process and procedures addressed in Section 3 used for a variance,  
27          conditional use permit or zoning request change.

28          A zoning change request can be initiated by the Town Board to the Planning and Zoning  
29          Commission, or from a request of the Zoning Commission itself, or from a petition signed  
30          by 20% of the landowners and residents of the Township. The process and procedures  
31          described in Section B.2 apply to said zoning change requests.

32          The Town Board receives ordinance change recommendations from the Planning and  
33          Zoning Commission, schedules a public hearing, and votes to accept or deny the ordinance  
34          change. The Town Clerk or Zoning administrator is responsible for updating the ordinance  
35          as amended by the Town Board.

1           **3.A.4 Board of Adjustment**

2           The Town Board shall appoint a Board of Adjustment in accordance with Wisconsin Statute  
3           § 60.65. The purpose of the Board of Adjustment is to hear appeals to Town Board land  
4           use and structure zoning decisions.

5           The authority of the Board of Adjustment, as granted by the Town Board, is limited to  
6           granting non-land use variances. The Board of Adjustment can recommend land use  
7           zoning changes to the Town Board. If the Board of Adjustment grants an applicant a non-  
8           land use zoning variance, the variance is recorded with the zoning administrator.

9           The decision of the Board of Adjustment is final.

10          No variance to the provisions of this Ordinance shall be granted by the Board of  
11          Adjustment unless it finds that all the following facts and conditions exist and so indicates  
12          in the minutes of its proceedings.

13                   1.   Exceptional Circumstances: There must exist exceptional, extraordinary, or  
14                   unusual circumstances or conditions applying to the lot, or parcel, structure,  
15                   land use, or intended use of the subject of the appeal. If granted, the variance  
16                   must be specific to the land, property or structure of the taxable property in  
17                   the zoning district. If granted, the variance shall not apply to other uses similar  
18                   in nature in the same district. A variance is unique unto itself and shall not be  
19                   granted to a general or recurrent appeal and shall not suggest the Zoning  
20                   Ordinance should be changed.

21                   2.   Absence of Detriment: The variance shall not create substantial detriment to  
22                   adjacent property and shall not materially impair or be contrary to the purpose  
23                   and spirit of this Ordinance or the public interest.

24                   3.   Findings of Fact: The Board of Adjustment shall be accompanied by findings of  
25                   fact and conclusions of Town of Freeman Zoning Ordinance and associated  
26                   zoning laws.

27           **SECTION 4: ADMINISTRATIVE PROCESSES**

28           **4.A Planning and Zoning Commission**

29           The Planning and Zoning Commission consists of 4 at large residents of the Town of  
30           Freeman appointed by the Town Board, per the Town Board’s process, and the Chair of  
31           the Town Board. The Town Board will also appoint a Planning and Zoning Commission  
32           zoning administrator.



#### 4.A.1 The Planning and Zoning Commission Process

The process starts when a resident(s), a potential resident(s), or an agent for a resident, or a potential business, requests from the Town Clerk, an application for any permit required by the Town of Freeman Zoning Ordinance, e.g., any action proposed by the applicant(s) which is not in compliance with the ordinance at the time of application.

The actions include:

1. Request for a conditional use permit;
2. Request for a variance to a specific element of the zoning ordinance; or
3. A request for rezoning, e.g., a request to add a new Town of Freeman land zoning district or to rezone within an existing district.

Process:

- a. The Town Clerk or the zoning administrator will provide the applicant with the appropriate process definition and application form(s) for the specific request.
- b. The Town Clerk will inform the Chair of the Planning and Zoning Commission of the application request.
- c. The Chair will inform the commission of the application request at its next commission meeting.
- d. When the Town Clerk receives the form(s), including other applicant supplied data, the Clerk will forward the material to the Chair and the members of the commission. The Chair shall inform the Town Clerk of the date the commission will review the applicant's material and the Town Clerk shall inform the "applicant" of the meeting date and invite the "applicant" to attend the meeting. (The review meeting.)
- e. At the "review meeting", the Chair will review the application with the commission members, solicit commission question(s), and offer the "applicant" the opportunity to describe the request and to respond to commission questions.
- f. At the conclusion of the "review meeting", the Chair shall, with the agreement of the commission:
  1. Declare the application's request as an appropriate request and if not, inform the applicant as to the type of request to be made. If the later occurs, the applicant can decide to submit the appropriate request (and data) and the process will start over at step (d) above.

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2. If the application type is correct, the chair shall schedule a public hearing on the applicant's request; and if the commission is requesting additional information / data from the applicant, request the applicant to supply the additional information/data to the commission 2 weeks prior to scheduled public hearing date -- the applicant and chair shall agree on the date for the public hearing based on the additional information or data requested by the commission.

g. Notice of the public hearing on the request shall be published by the standard notification procedures for the Township. In addition, all adjoining property owners and those within one-half (½ ) mile of the property being addressed shall be notified by US Mail by the Town Clerk or Zoning Commission Administrator of the pending public hearing.

h. At the public hearing, the Chair will introduce the applicant's request, summarize any concerns from the commission as a result of the 'review meeting', allow the applicant to address the commission and to answer questions from the commission, including any potential conditions to be attached to the request, if any, if the application moves forward. The chair shall solicit comments from the public with each speaker stating their proximity to the property in question along with name and address, and their specific concern or support of the application. The commission shall listen to the public input without comment. After an appropriate time, the chair shall close the public hearing.

i. At the conclusion of the public hearing, the chair shall ask the commission for their comments, including any conditions, lead any discussion on specific topics, and then ask the commission to:

- 1. Recommend approval of the application with any conditions attached;
- 2. Recommend denial of the application with the reason(s) stated; or
- 3. Recommend a continuation of the process to obtain additional information from the applicant and to continue the public hearing to another date. The recommendation from the commission shall be moved and seconded and voted on, with a majority of the commission required for moving the application forward.

j. If the public hearing is continued, a specific request for the additional information or data from the commission shall be made to the applicant and any other source the commission desires to receive the specific information or data from. If this occurs, the process shall be continued at step (h) above,

1 unless the applicant withdraws the application.

2 k. If the commission recommends approval of the application, including any  
3 conditions, the chair shall direct the zoning administrator to forward the  
4 Planning and Zoning Commission any recommendations to the Town Board for  
5 approval, per their process.

6 l. If the commission recommends denial of the application, the commission shall  
7 document the rationale for the denial and the chair shall direct the zoning  
8 administrator to forward to the Planning and Zoning Commission any  
9 recommendations to the Town Board for approval, per their process.

10 **4.A.2 Duties and Responsibilities of the Zoning Administrator**

11 Functions and responsibilities include:

12 a. Receive, validate, issue, and record or file driveway, building, and land use  
13 permits which meet the Township’s ordinances or as directed by the Town  
14 Board after receiving the recommendation from the Planning and Zoning  
15 Commission.

16 b. Refer applications for septic and well permits to the appropriate department of  
17 Crawford County.

18 c. Advise applicants when their land use request or building request is required to  
19 go to the Township Planning and Zoning Commission. Provide applicant with  
20 the appropriate application form(s) and a summary of the Planning and Zoning  
21 Process.

22 d. Advise the Chair of the Planning and Zoning Commission, on a monthly basis, of  
23 applications requiring Planning and Zoning Commission action. Inform the  
24 Town Board of items being forwarded to the Planning and Zoning Commission.

25 e. Provide legal notices of Planning and Zoning Commission meetings and the  
26 agenda items for said meeting working with the Chair of the Planning and  
27 Zoning Commission.

28 f. Receive any and all decisions from the Planning and Zoning Commission for  
29 inclusion on the Town Board agenda.

30 g. Record and file Town Board Planning and Zoning decisions.

31 **4.B. Board of Adjustment:**

32 **4.B.1 Authority:**

1 The authority of the Board of Adjustment, as granted by the Town Board, is limited to  
2 granting non-land use variances. The Board of Adjustment can recommend land use  
3 zoning changes to the Town Board. If the Board of Adjustment grants an applicant a  
4 zoning variance, the variance is recorded with the zoning administrator.

5 **4.B.1 Functions, Responsibilities and Process:**

- 6 a. Receives, from the Zoning Administrator or the Town Chair, requests from  
7 Zoning Applicant(s) who disagree with the decision by the Town Board, after  
8 completion of the Planning and Zoning Commission process and the  
9 Commission’s recommendation on the applicant’s request, to review the  
10 applicant’s request, the recommendation to the Town Board from the Planning  
11 and Zoning Process, and the Town Board’s denial of the applicant’s request.
- 12 b. The Board of Adjustment shall review all correspondence on the application  
13 and shall schedule a public hearing, with the applicable notices, to receive and  
14 question the Town Board, and Planning and Zoning Commission members on  
15 the applicants request and to receive and question the applicant(s).
- 16 c. The Board of Adjustment shall render a decision and send their decision to the  
17 Town Board, the Planning and Zoning Commission and the Zoning  
18 Administrator. The decisions are either to: 1) grant a variance; 2) deny the  
19 variance; or 3) recommend the Town Board consider a potential change to the  
20 zoning ordinance – either land use, property size, structure, or other item(s)  
21 addressed by the zoning ordinance.
- 22 d. In denying a request for a variance, the “use” is as approved by the Town Board  
23 upon recommendation of the Land Use and Zoning Commission.

24 **SECTION 5: SEVERABILITY CLAUSE**

25 If any provision of this Ordinance or its application to any person or circumstance is held  
26 invalid, the invalidity does not affect other provisions or applications of this Ordinance that  
27 can be given effect without the invalid provision or application, and to this end the  
28 provisions of this Ordinance are severable.

29 **SECTION 6: PENALTY PROVISION**

30 Any person, partnership, corporation, or other legal entity that fails to comply with the  
31 provisions of this Ordinance shall, upon conviction, pay a forfeiture as defined and  
32 published by the Town Board on an annual basis, plus any additional surcharges,  
33 assessments, and costs for each violation. Each day a violation exists or continues  
34 constitutes a separate offense under this ordinance. In addition, the Town Board may  
35 seek injunctive relief from a court of record to enjoin further violations.

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**SECTION 7: EFFECTIVE DATE**

The ordinance is effective on publication.

The town clerk shall properly publish this ordinance as required under Sec. 60.80 (2) of Wisconsin Statutes as a Class I Notice in a newspaper.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Signatures of Town Board:

\_\_\_\_\_  
Town Chairperson

\_\_\_\_\_  
Town Supervisor

\_\_\_\_\_  
Town Supervisor

Attest:

By: \_\_\_\_\_  
Town Clerk