

**ORDINANCE NO. 2025-03**

**VILLAGE OF YORKVILLE  
COUNTY OF RACINE, STATE OF WISCONSIN**

**AN ORDINANCE TO AMEND SECTIONS 20-1141 TO 20-1184, TO REVISE THE TITLE OF CHAPTER 20, ARTICLE VIII, DIVISION 7, AND TO CREATE SECTION 20-1266 OF THE RACINE COUNTY CODE OF ORDINANCES AS ADOPTED BY THE VILLAGE OF YORKVILLE UNDER SECTION 55-1(A) OF THE CODE OF ORDINANCES OF THE VILLAGE OF YORKVILLE, COUNTY OF RACINE, STATE OF WISCONSIN, RELATING TO CONDITIONAL USES AND LIVESTOCK FACILITY SITING**

**WHEREAS**, the Village of Yorkville Long-Range Planning Committee (“LRPC”) reviewed and discussed various materials related to conditional uses, as well as Exhibit A of this draft ordinance, on February 9, 2021, March 9, 2021, October 8, 2024, and November 12, 2024.

**WHEREAS**, the LRPC is comprised of residents of the Village as well as officials of the Village and is tasked with reviewing ordinances that impact the long-term plans and growth in the Village.

**WHEREAS**, the LRPC approved a motion at their meeting on November 12, 2024, to forward Exhibit A of this draft ordinance to the Village Plan Commission and Village Board for their consideration.

**WHEREAS**, the Village Board reviewed both exhibits of this draft ordinance on February 10, 2025, and held a public hearing to receive public input on this draft ordinance on February 10, 2025.

**WHEREAS**, the Village Plan Commission reviewed both exhibits of this draft ordinance on February 10, 2025, and attended the public hearing to receive public input on this draft ordinance on February 10, 2025.

**THE VILLAGE BOARD OF THE VILLAGE OF YORKVILLE, COUNTY OF RACINE, STATE OF WISCONSIN, ORDAINS AS FOLLOWS:**

1. That Sections 20-1141 to 20-1184 of the Code of Ordinances of the Racine County Code of Ordinances as adopted by the Village of Yorkville under Section 55-1(A) of the Code of Ordinances of the Village of Yorkville, be, and hereby are, amended to read as follows on the attached **Exhibit A** incorporated herein by reference.

2. That Chapter 20, Article VIII, Division 7 of the Code of Ordinances of the Racine County Code of Ordinances as adopted by the Village of Yorkville under Section 55-1(A) of the Code of Ordinances of the Village of Yorkville, be, and hereby is, revised to be “Livestock Facility Siting.”

3. That Section 20-1167 of the Code of Ordinances of the Racine County Code of Ordinances as adopted by the Village of Yorkville under Section 55-1(A) of the Code of Ordinances of the Village of Yorkville, be, and hereby is, moved, renumbered to Section 20-1266, and amended to read as follows on the attached **Exhibit B**, incorporated herein by reference.

4. That this ordinance shall become effective upon adoption and publication as provided by law.

Adopted by the Village Board of the Village of Yorkville, County of Racine, State of Wisconsin, this 10<sup>th</sup> day of February, 2025.

**VILLAGE OF YORKVILLE**

Ayes: 5

By: /s/ Douglas Nelson  
Douglas Nelson, President

Nays: 0

Attest: /s/ Janine Carls  
Janine Carls, Clerk

Abstentions: 0

Absences: 0

## EXHIBIT A

### ARTICLE VIII. - CONDITIONAL USES

#### DIVISION 1. - GENERALLY

##### **Sec. 20-1141. - Time limitations for decision and expiration of use.**

- (a) The Village Board, after consideration of the recommendations of the Plan Commission, and acting in accordance with the provisions of section 20-1181 et seq., shall decide all applications for a conditional use within sixty (60) days after the public hearing, unless the time is extended with the concurrence of the applicant, and shall transmit a signed copy of its decision to the applicant.
- (b) Conditional use or temporary use permits shall expire within nine (9) months unless substantial work has commenced pursuant to such grant.
- (c) Any conditional use granted under this article that is discontinued or terminated for a period of twelve (12) consecutive months or eighteen (18) cumulative months in a three (3) year period shall be considered abandoned and any future use thereof will require additional Plan Commission and Village Board review and approval. A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.).

##### **Secs. 20-1142—20-1159. - Reserved.**

#### DIVISION 2. - PERMITS<sup>161</sup>

##### **Sec. 20-1160. – Authority.**

The Village Board, after consideration of the recommendations of the Plan Commission, shall hear and decide applications for conditional uses or special exceptions to the terms of this zoning code and may authorize the issuance of a conditional use permit after its review and determination. The Village Board is designated the “Zoning Board” for purposes of Wis. Stat. §62.23(7)(de).

##### **Sec. 20-1161. - Application.**

Applications for conditional use permits or amendments to existing conditional use permits provided for in this chapter shall be made to the zoning administrator on forms furnished by the zoning administrator and shall include the following:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.

- (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; a parking plan and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor showing all of the information required under section 20-81 et seq. for a zoning permit and, in addition, the following: mean and historic high-water lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping.
- (4) For floodland conditional uses, the applicant shall include information that is necessary for the Plan Commission and Village Board to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations, lowest floor elevations of structures, size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.
- (5) Additional information as may be required by the Plan Commission, Village Board, engineer, or building inspector for the purpose of assisting the Plan Commission and Village Board in their review of the application.
- (6) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the village board from time-to-time.

**Sec. 20-1162. – Publication and public hearing.**

- (1) Upon receipt of an application for a conditional use permit and payment of the required fee, a notice of public hearing on the application shall be published as a Class 2 notice pursuant to Wis. Stat., Chapter 985.
- (2) Prior to the public hearing the zoning administrator shall provide written notice to all property owners of land adjacent to or within five hundred (500) feet of the property which is the subject of the application for a conditional use permit.
- (3) A public hearing shall be held before the Plan Commission and Village Board prior to the issuance of the Plan Commission's recommendation and the Village Board's decision to approve or deny an application for conditional use permit.

**Sec. 20-1163. - Notice to DNR of hearings on shoreland, shoreland-wetland and floodplain uses.**

A copy of all notices for public hearings on applications for shoreland and shoreland-wetland conditional uses or for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the State Department of Natural Resources for review and comment at least ten (10) days prior to the hearing. Final action on floodland applications shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of any decision on any such conditional use shall be mailed to the DNR district office within ten (10) days after it is granted or denied.

**Sec. 20-1164. - Failure to comply.**

- (a) No person, firm or corporation shall violate, disobey, neglect or refuse to comply with or abide by the terms and conditions of a conditional use permit.
- (b) The failure of any person, firm or corporation to obtain a conditional use permit when required shall constitute a violation of this chapter.
- (c) In the event of a violation of subsection (a), above, the zoning administrator or designee may revoke any conditional use permit, whether or not a citation is issued or injunctive relief is sought. Before the zoning administrator may revoke a conditional use permit, the Plan Commission and Village Board shall follow the revocation procedure set forth below.

**Sec. 20-1165. - Modification of existing conditional use permit.**

Should the conditions of the area in which a conditional use exists change such that the conditional use allowed by the permit presents an imminent and substantial threat to public health, safety, or property, the Plan Commission and Village Board may review such conditional use permit upon notification and hearing as set forth in this chapter. Any review conducted hereunder shall be limited to revision of the permit to eliminate the threat(s) to public health, safety, or property. Revision of the permit may include addition and/or deletion of specific conditions.

**Sec. 20-1166. - Conditional use permit revocation.**

Should a permit applicant, or the applicant's heirs or assigns, fail to comply with the conditions of the conditional use permit issued by the Village Board or should the use, or characteristics of the use be changed without prior approval by the Village Board, the conditional use permit may be revoked. The process for revoking a permit shall follow the same procedures as those required for granting a conditional use permit as set forth in this Section. Additional grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety, and welfare since adoption of the conditional use permit; or

- (2) Fraudulent, false, or misleading information supplied by the applicant or his agent for the conditional use permit; or
- (3) Improper public notice of the conditional use permit public hearing(s) when the permit was considered by the Plan Commission and Village Board.

**Secs. 20-1168—20-1180. - Reserved.**

### **DIVISION 3. - REVIEW PROCEDURE AND APPROVAL STANDARDS**

#### **Sec. 20-1181. - Standards in reviewing conditional uses.**

In reviewing the proposed conditional uses, the Plan Commission and the Village Board shall consider all factors relevant to the issuance of the conditional use including but not limited to the following:

- (1) All conditional uses must be in accordance with the purpose, intent and specific conditions of this chapter and the particular zoning district in which the property is located and which authorizes the conditional use.
- (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat.
- (3) Reasonable conditions necessary to protect adjacent properties, uses and structures and to protect the health, safety and welfare of the public, To the extent practicable, conditions must be measurable and may include conditions such as the permit's duration, transfer, or renewal. Conditions may include, without limitation, the following subject matters:
  - a. Landscaping; existing topography, and vegetative cover; planting screens.
  - b. Drainage facilities, including drain tile, swales, retention/detention basins, terraces, stream bank protections and storm water piping;
  - c. Architectural design;
  - d. Type of construction, construction commencement and completion dates;
  - e. Sureties or letter of credit;
  - f. Lighting;
  - g. Fencing;
  - h. Location, size and number of signs;
  - i. Operation control;
  - j. Hours of operation;

- k. Road access restrictions;
  - l. Deed restrictions;
  - m. Parking requirements; adequacy of existing and proposed parking areas and driveway locations.
  - n. Traffic movement and control; existing and proposed traffic generation and circulation.
  - o. Impact on water, sanitation, and utilities; adequacy of existing and proposed public services; adequacy of proposed water supply and waste disposal systems;
  - p. Higher performance standards;
  - q. Street dedication;
  - r. Land divisions;
  - s. Police and fire Protection.
  - t. Other reasonable conditions required by the specific proposed use.
  - u. Any harmful, offensive or otherwise adverse impacts on the environment.
  - v. Duration of the permit if granted.
  - w. Transfer of the permit if granted
  - x. Renewal of the permit if granted.
  - y. Compatibility of the use with other uses on adjacent properties.
  - z. Flood proofing.
  - aa. Increased yard setbacks or additional parking to comply with this chapter and state law, including the provisions of the state's floodplain and shoreland management programs.
- (4) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in section 20-31 et seq.
- (5) With respect to conditional uses within shorelands, the standards set forth in W.S.A., § 144.26(5)(a), in particular as they relate to the avoidance or control of pollution.

**Sec. 20-1182. – Determination.**

- (a) The Village Board may issue a conditional use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application. The decision must be supported by substantial evidence.
- (b) All conditions imposed by the Village Board must be related to the purpose of the ordinance and shall be based on substantial evidence.
- (c) The Village Board shall grant a conditional use permit if the applicant meets or agrees to meet the requirements and conditions established by the Village.
- (d) “Substantial evidence” means facts and information, other than merely personal

preferences or speculation, directly pertaining to the requirements an applicant must meet to obtain a conditional use permit and that a reasonable person would accept in support of a conclusion.

- (e) The applicant must demonstrate that the application and all requirements and conditions established by the Village are or shall be satisfied, both of which must be supported by substantial evidence.

### **Sec. 20-1183. – Appeal.**

If the Village Board denies an application for a conditional use permit, the applicant may appeal the decision to circuit court under the procedures set forth in Wis. Stat. Section 62.23(7)(e)(10).

### **Sec. 20-1184. - Review and approval of minor additions and accessory structures.**

- (a) Approval of minor additions, expansions or alterations to principal or accessory structures, where such structures were previously approved after a conditional use public hearing, may be granted without further public hearing as a site plan review function of the planning and development committee and the appropriate village board. Such additions, expansions or alterations may be approved in this manner provided that total lifetime additions, alterations or expansions do not exceed fifty (50) percent of the current equalized assessed value of the structure to which they are being attached. Further accessory structures for such previously approved uses/structures may also be approved via site plan review.
- (b) The applicant may request a public hearing if he does not agree with the provisions of the conditions of approval or feels that a public hearing is in the applicants' best interest.
- (c) The planning and development committee through the zoning administrator may request technical assistance from the county land conservation office, county park department, county highway engineer, county environmental control department or other county officers, departments, commission, and boards in reviewing a site plan approval application prior to setting forth the provisions of site plan approval. Such provisions shall be in compliance with the standards set forth in this division.
- (d) The zoning administrator shall mail a copy of the application together with all maps, plans, and other documents submitted by the applicant to the village board within which the subject land lies. The village board shall have the power to impose conditions on site plan approval applications which are more strict than those imposed by the planning and development committee or may approve or deny the request. The village board shall have twenty (20) days from the receipt of the application to notify the zoning administrator of the more strict conditions being imposed or if the request is approved or denied.

**Sec. 20-1185. – Reserved.**

## EXHIBIT B

### DIVISION 7. – LIVESTOCK FACILITY SITING

#### Sec. 20-1266. - Procedures for siting livestock facilities.

- (a) These procedures apply to livestock facilities that require a conditional use permit under this chapter which are all new or expanded livestock facilities that will have five hundred (500) or more animal units.
- (b) *Permits for existing livestock facilities.*
  - (1) A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
    - a. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.
    - b. The maximum number previously approved or, if no maximum number was previously approved, a number that is twenty (20) percent higher than the number kept on May 1, 2006, or on the effective date of the permit requirement, whichever date is later.
  - (2) A permit is not required for livestock facility that existed before May 1, 2006, or before the effective date of the permit requirement in this division, except as provided in subsection (1).
  - (3) A permit is not required for livestock facility that was previously issued a conditional use permit or other local approval, except as provided in subsection (1). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.
- (c) *Application procedures.* In addition to the standard conditional use application requirements of section 20-1161, a livestock operator must complete the application and worksheets prescribed by § ATCP 51, including any authorized local modifications. The application requirements specified in § ATCP 51, Wis. Adm. Code, are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this division.

The operator must file four (4) duplicate copies of the § ATCP 51 application form,

including worksheets, maps and documents (other than engineering design specifications) included in the application.

- (d) *Application fee.* In addition to the standard conditional use filing fee, a non-refundable § ATCP 51 application fee as established by board of supervisors resolution shall accompany an application.
- (e) *Application review procedure.*
  - (1) Within forty-five (45) days after the planning and development department receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within fourteen (14) days after the applicant provides all of the required information, the department shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
  - (2) Within fourteen (14) days after the department notifies an applicant that the application is complete, the department shall notify adjacent landowners of the application. The department shall use the approved notice form in § ATCP 51, and mail a written notice to each adjacent landowner.
  - (3) The economic development and land use planning committee shall grant or deny an application within ninety (90) days after the notice of a complete application is provided as required by subsection (2) above. The economic development and land use planning committee may extend this time limit for good cause, including any of the following:
    - a. The committee needs additional information to act on the application.
    - b. The applicant materially modifies the application or agrees to an extension. The committee shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the committee will act on the application.
- (f) *Public hearing.* The economic development and land use planning committee will schedule a public hearing on the application within ninety (90) days after issuing notice of a complete application.
- (g) *Standards.* The standards for issuing a permit are as follows:
  - (1) The state livestock facility siting standards adopted under § ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.

- (2) Setbacks authorized by this chapter.
- (h) *Criteria for issuance of a permit.*
- (1) A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in the ordinance. Note: If the application and worksheets prescribed by ATCP 51 are properly completed, there is a rebuttable presumption that the applicant has met the application requirements.
  - (2) A permit may be denied if any of the following apply:
    - a. The application, on its face, fails to meet the standard for approval.
    - b. The political subdivision finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this division.
    - c. Other grounds authorized by W.S.A., § 93.90, that warrant disapproving the proposed livestock facility.
  - (3) No conditions may be imposed on the permit other than the standards provided in this chapter.
- (i) *Record of decision.*
- (1) The economic development and land use planning committee shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
  - (2) In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.
- (j) *Notice to the department of agriculture, trade and consumer protection.* The Village, as required by § ATCP 51.34(5), within thirty (30) days of the decision on the application shall do all of the following:
- (1) Give the department of agriculture, trade, and consumer protection written notice of the decision.
  - (2) File with the ATCP a copy of the final application granted or denied, if the Village has granted or denied an application under this ordinance. (The copy

shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications).

- (3) If the Village has withdrawn a local approval under this division, file with the department a copy of the final notice or order withdrawing the local approval.
- (k) *Expiration of permit.* A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under the permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within two (2) years after the issuance of the permit:
- (1) Begin populating the new or expanded livestock facility.
  - (2) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.
- (l) *Permit modifications.* The operator may make reasonable changes that maintain compliance with the standards in this division, and the Village shall not withhold authorization for those changes. It is the Village's responsibility to determine what changes are reasonable.
- (m) *Compliance monitoring.* The Village shall monitor compliance with the chapter as follows:
- (1) Upon notice to the livestock facility owner, request the right of the zoning administrator to personally view the permitted facility at a reasonable time and date to ensure that all commitments of the application as approved are being complied with.
  - (2) If the livestock facility owner refuses the zoning administrator the right to view the permitted facility, the zoning administrator may request the assistance of the sheriff or deputy sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under W.S.A., § 66.0119.
  - (3) If a permitted facility is found not to be in compliance with the commitments made in the approved application, the zoning administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application be complied with in a reasonable amount of time stated in this notice.

- (4) If non-compliance of the permit conditions as described in the written notice given by the zoning administrator continue past the stated reasonable time to comply, the zoning administrator may take further action as provided in this division, including, but not limited to, issuance of a citation or seeking of injunctive relief.
  - (5) If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five (5) days of receipt of the notice of non-compliance. The economic development and land use planning committee shall schedule a hearing within five (5) days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists. The date of the hearing shall be based on the economic development and land use planning committee's published hearing schedule.
- (n) *Terms of the permit.* A permit and the privileges granted by a permit issued under this chapter are conditioned on the livestock operator's compliance with the standards in this chapter and with commitments made in the application for a permit. The Village is authorized to suspend a permit or seek other redress provided in this division for non-compliance.
- (o) *Transferability.*
- (1) A permit and the privileges granted by the permit run with the land and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.
  - (2) Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Village Clerk providing pertinent information, including, but not limited to, such information as the name and address of the new owner and date of transfer of ownership.

**Sec. 20-1267 – 20-1290. - Reserved.**